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## MISSION REPORT

following the Ad - hoc delegation to Slovakia and Malta 17-20 September 2018

Committee on Civil Liberties, Justice and Home Affairs

Members of the mission:

Sophia in 't Veld

(ALDE) (Leader of the mission)

Roberta Metsola

(PPE)

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## **Summary account of meetings**

The Head of the delegation opened all meetings by recalling the two-fold objective of the ad hoc fact-finding mission, i.e. the investigations on the murders of journalists and the way these are progressing, and on the status of the rule of law and corruption in the two visited countries.

**Monday, 17 September 2018**

### **12:00 - 13:30 Round table discussions with NGOs active in the fight against corruption**

Venue: EP Information Office, Palisády 29, SK-811 06 Bratislava

The Members of the delegation had an exchange of views with:

- Mr Milan ŠAGÁT - VIA IURIS - Civil society organisation in the field of justice, rule of law and democracy
- Mrs Zuzana WIENK and Peter KUNDER - Fair Play Alliance, Civil society organisation in the area of transparency and anti-corruption
- Mr Matej HRUŠKA, Bring to a Halt of Corruption – Foundation in the field of fight against corruption.

In the exchange the representatives of the NGOs underlined, among others, that:

- they would be surprised if the investigations would be closed, underlined that at the beginning they had doubts regarding the competence of the police, but with time they developed quite some confidence in the professionalism of the investigative team;
- they pointed out that not much has changed in the way government approaches the rule of law, in spite of legislative initiatives; raised their concerns as to what they regards as deep State capture by oligarchs, penetrating all hierarchical level and that all the replacements in public office are done by close people; mentioned that the current Minister of Interior is a close acquaintance of the previous one and that there is no will to make the rule of law functional; they shared their perception that the rule of law is deteriorating, the feeling of trust is deteriorating and the current state remains very alarming; they mentioned the case of Prosecutor Špirko that went public regarding the harassment he was submitted to;
- it was underlined that the independent bodies, such as the National Bank have high credibility, but even here the President of the National Bank is considering resigning; as a general remark it was mentioned that institutions are not becoming more independent, quite the contrary;
- it was underlined that after the murder there was a strong demand from the civil society for the Police President to resign, the Minister of Interior could have asked the resignation, but he did not; with the new draft legislation, it is more difficult to ask

such a resignation. In reply to questions whether this new legislation will bring more independence to the institution, it was noted that in Slovakia the best practices were taken in terms of securing independence, but unfortunately the system is not characterised by high integrity, independence has to be balanced out with the possibility of exerting control but also with the possibility to intervene, especially if there are indications that an institution is not prepared to act independently. In general, it was noted that there is a formalistic approach that allows the same people to stay in power and to secure their own nominees within the system.

- following questions about possible safeguards to democracy, it was pointed out that there should be a real checks and balances system, a separation of powers, a rotation system within public authorities, without copying the electoral cycle or limiting the competition;
- on specific cases such as “promissory notes”, the kidnapping of the Vietnamese national, and whether enough is done in view of the investigations, the perception is that there is no real will to investigate. On the kidnapping case of the Vietnamese national, it was noted that it was managed by those responsible to cover tracks and remain in power for such long time that a feeling of immunity was reached. Principles and root causes are not changing. It was underlined that a healthy political environment is needed where the political alternative is trustworthy. On the recent NAKA allegations published by a blogger, no specific comments were made as the situation presented had not been fact-checked yet;
- concerns on the public statements made by officials were raised, such as that the protests were organised by George Soros; it was underlined that everything is put under doubt, with a narrative very close to Hungary and Russia; preferred topics touch on conservative beliefs and relate to dangerous ideologies, such as LGBTI issues, , gender equality and the position of women undermining traditional values and include migration, with the assumption that George Soros is organising migration to destroy EU;
- on questions related to the follow-up of the journalistic investigation done by Ján Kuciak, it was mentioned that he worked on concrete cases, he was a data analyst, that in their view the murder investigation should have been accompanied by the finalisation of the article, that hints to very high political figures. It was also mentioned that one of the involved persons was Mr Kočner, as some of his businesses were suspected of fraud, and connections between Italian mafia to Slovak politicians were mentioned, but no successful investigation yet.
- concerns over corruption cases, such as contracts linked to the construction of a highway around Bratislava, corruption in the construction sector, on public procurement and agricultural subsidies, concerns over the role and power of some security firms, as regards the vulnerability of the sector of generation and sale of data have also been raised and it was noted that more control should be exercised by authorities on how competition rules are applied.

### **13:30– 15:00 Meeting with journalists**

Venue: EP Information Office, Palisády 29, Bratislava

The Members of the delegation had an exchange of views with:

- Pavla HOLCOVÁ, journalist
- Mr Attila LOVÁSZ, Vice General Director of RTVS - Radio and Television of Slovakia
- Xénia MAKAROVÁ, TREND magazine
- Peter BÁRDY, Editor-in-chief, Aktuality SK
- Peter DEMECS, journalist, Új Szó
- Matúš KOSTOLNÝ, Editor-in-chief, Denník N
- Beata BALOGOVÁ, Editor-in-chief of SME
- Vladimír AMRICH, Hospodárske noviny

In the exchange, the following aspects were pointed out:

- the public discourse is becoming more aggressive, giving way to attack on journalists; a public campaign stated that public protests were organised by foreign forces; generally speaking a very cynical treatment of the situation could be observed and the government was not perceived as showing a real interest for change. After the tragic murder changes in the government were expected, there were a few changes, but in fact highly “toxic” persons were replaced by less “toxic” persons. Journalists expressed disappointment that no major changes happened in the way appointments are done. As regards former President of the Police, Mr Gašpar, he is now advising the Minister of Interior Mr Jan Hamáček in the Czech Republic; Róbert Krajmer had resigned from his post as the head of the National Anti-Corruption Police unit at the National Criminal Agency (NAKA), but he is now back as advisor at the Ministry of Interior;
- there is a lot of talk on the protection of journalists, but no effective measure or legislation has been put in place;
- as regards the murders investigation, it was noted that the police made mistakes at the beginning of the investigation, doubts were also raised as to whether there is enough political will to investigate the murder properly;
- as regards the seizing of the phone of Ms Holcová, it was underlined that the police took the phone without following protocol and not in a sealed envelope; it was alleged that the Slovak police said that Europol had not enough capacity to analyse the content of the phone and this being the reason for not decoding it; according to journalists the impression was that Europol did not want to touch a phone that belonged to an investigative journalist; after questions on the way the investigation was held, it was noted that the investigation took eight hours, that there were three investigators and

that the feeling was that the police was interested more in the conversations held by the journalist after the murder and in who else is involved in the journalistic investigation;

- as regards the situation in RTVS and the people that left the public service TV, it was noted that these people had a reason to leave and this was considered by some of the journalists present as an error by the management of RTVS; also it was alleged that as a practice within the public TV reporters were told to speak with certain people, their editorial independence was subject to influence and they were advised not to be too critical; after they left also a change in the quality was perceived, for example public protests were ignored in the programs of RTVS; it was pointed out that public service media is taken as governmental media;
- the concern was expressed that an erosion of truth is happening, public trust in the media is diminishing, the journalist is pushed to be as neutral as possible; they acknowledged that that a journalist should be neutral, however they expressed the concern that when it comes to democratic values they are expected to be neutral to the limit of not respecting these values;
- the atmosphere in the society has worsened, as there have not been any major changes and a perception of corruption is spreading; it was noted that EU subsidies are seen as a gift, the EU is presented as distant in the tabloid media, people see that money from the EU is being stolen but they do not realise that it is their money which is being stolen;
- on questions regarding the Panama papers and access to information, it was alleged that the police got the offer from its German counterpart to get access to data on the Panama papers from the computer seized, but they were not interested;
- in regards to questions relating to the extent in which the opposition is effective in Slovakia, it was noted that pressure, in view of finding the truth and advancing the investigation is coming mostly from journalists, including international journalists; as regards the opposition parties their genuine interest is questionable; any new political forces that would challenge the current system would be welcomed;
- as regards the recent allegation published on NAKA by a blogger, it was mentioned that the information should be further fact-checked; as regards the Vietnamese kidnapping case it was mentioned that the police started the investigation only after the information was published in the press;
- The meeting ended on a general discussion on threats to which journalists are subject to, including on social media. Some journalists made complaints and police started investigations but the anonymous threats on social media continue; in general they do not feel more threatened than in the past, but in the last years the whole atmosphere deteriorated and became more and more aggressive against journalists;

### **15:30 – 16:30 Meeting with Andrej KISKA, President of the Slovak Republic**

Venue: Presidential palace, Hodžovo námestie 1, Bratislava

The President welcomed the LIBE delegation, sharing his hope that MEPs were coming with open minds and that he was looking forward to their conclusions and recommendations.

The President started by reflecting on recent changes in Slovakia. Convinced that restoring trust in government among the population is essential, notably to prevent the growth of extremism, he declared supporting every action going in that direction and publicly expressed his own faith in the government and State institutions. He noted however that the appointment of the new government did not solve all issues.

Responding to the LIBE delegation, the President turned to the topic of police and the nomination of judges to the constitutional courts. Regarding the police, he felt that real change was needed, particularly through independent police inspections, noting that this point is pushed forward by the Ombudsman. He recalled that when the new government was formed, he had opposed the nomination of the Ministry of the Interior, which he perceived as a signal that nothing would change for the police. Asked about the proposed reform in the nomination of the head of the police administration, he repeated his views already expressed to the Minister of the Interior. The President feared that appointing the president of the police with a fixed mandate for the next seven years could hinder possible structural changes. Appointed two years before the foreseen legislative elections, the new police president could end up protecting the existing police structure. The possible new Minister of the Interior could have difficulties to introduce changes in such a context. The President expressed his preference for not setting a fixed-term to the position.

With regard to the murders of Ján Kuciak and his partner, the President clarified that he is not authorised to get information from inside the investigation. Although each positive signal would be encouraging, he understood that this could be detrimental to the investigation. The President therefore declared himself patient. Since the case is so crucial, he believed that competent services would do their best to come to results as soon as possible. Asked about the cooperation of Slovak police services and Europol, the President declared not being particularly informed about this, but noted that such a cooperation had been mentioned at the press conference held in the morning.

As for the nomination of judges, the President explained that the Constitutional Court - a foundation of the Slovak State - is formed of 13 judges appointed for 12 years. This year, nine new members are to be appointed, upon President's proposal from a list of 18 candidates initially selected by the Parliament. The President recalled that on the previous occasion he had to put up nominations for three judges. He felt that candidates did not have the right experience. He had to press Parliament to come up with new candidates. The President nominated the selected ones after some time, but asked that rules be changed in Parliament. This did not happen. At the moment, discussions are going on in regards to possible constitutional changes regarding these nominations.

Invited to turn to the question of media freedom and the situation of journalism in the country, the President recused comparisons with Hungary. He noted that a lot can still be published and broadcast in his country from the opposition. However he expressed concern as to the growing influence of oligarchs on the media who tend to own more and more channels of expression. Asked about the influence of pro-Russian propaganda in the country, he also expressed concerns in this respect. He noted the recent agreement for a new law on extremism and anti-Semitism, also in the social media, based on a strong will in the country to fight hate

speech.

At the end of the meeting, the Head of the LIBE delegation and the President held a press conference.

#### **16:45 - 17: 45 Meeting with Europol representatives in Slovakia**

- Mr Jari LIUKKU, Head of European Serious Organised Crime Centre (ESOCC) at Europol
- Mr Robert KURZEWSKI, Europol colleague deployed in Slovakia
- Ms Kateřina FLAIGOVÁ, Team leader of External and EU Institutional Affairs Unit at Europol

Venue: EP Information Office, Palisády 29, Bratislava

Europol representatives indicated that the investigation on the two cases - Ján Kuciak and his fiancée in Slovakia and Daphné Caruana Galizia in Malta - going in the right direction.

On both cases, a similar kind of support is provided. Europol has no executive mandate to directly get into specific cases, therefore arrests or information requests such as banking information have to go via Member States. Europol has to rely on their capacity and willingness to cooperate. However homicide cases jeopardising the rule of law in the EU fall into Europol's general mandate. The agency supported 1,500 cases last year. The pressure is growing and therefore so is the need to prioritise.

Europol representatives turned then to the Maltese case. Europol had started proactively to discuss with national authorities when the agency heard about the cases. Europol has a liaison officer in the country and therefore has an easy access to law enforcement authorities on the ground. Then the Maltese authorities officially requested support and consequently, Europol sent its first representatives on the ground. Since then, support has increased. Europol provided financial support, also to other Member States involved in the investigation. Europol's presence varies from one to ten experts at a time in Malta, however support is also provided from the Headquarters. Significant meetings of operating authorities are held in Malta. The magisterial enquiry is also supported by Europol. Europol helped to identify forensic and explosive experts. Whenever providing support to Member States, Europol brings its own expertise but also assists with identifying other experts, from other Member States or even third countries, e.g. the USA.

In terms of results, Europol representatives clarified that the investigation did not stop with the arrest of the three suspected perpetrators. Other layers are also being sought as this is an international crime having international connections. The resolution of such cases takes time. In the absence of an executive mandate, Europol's capacity to act is limited. If there is reluctance on the part of national authorities, Europol cannot do anything. However Europol representatives clarified that at the moment, cooperation was good. They stressed that in general, if reluctance is observed, such as experts not being recognised and this could risk affecting their reputation, Europol would withdraw its support. The Europol representatives stressed that this was not the case at the moment and so far, they could see no reason why Maltese authorities would not share information. Asked whether any third-country was

involved in the Maltese case, the Europol representatives indicated that they were not authorized to answer this question related to operational information.

In relation to the Slovak case, Europol representatives were asked to clarify whether they had access to information extracted from Ms Holcova's phone which had been seized by the police. Europol replied that had they been asked, they would have provided support to analyse information extracted from the phone. They stressed the good relations they have at the moment with Slovak authorities.

In relation to the involvement of the FBI, Europol representatives clarified that they benefit from various expertise from the USA, including from the FBI, at their Headquarters. Slovak authorities indicated clearly that they accept Europol's support, including from the Headquarters. The investigation started with some mistakes. Negotiations were held at the beginning but now Europol is part of the investigation team.

Asked about the omission by the police to investigate on some elements which seem crucial for the investigation - e.g. Daphne Caruana Galizia's laptop or for Slovakia papers held by the German police; Europol replied that they paying attention to these issues. Generally speaking, if evidence is held by the German police, Europol could ask the German police to share them, however the request is up to the Member State's authorities.

Replying to a question from the delegation, Europol representatives could not confirm whether they could see or suspect people trying to sabotage or slow down the investigation. They insisted that they focus on facts and support to the authorities, without giving ground to speculations. As long as they see that the investigations are going in the right direction and follow guidelines agreed between the agency and the Member States, they provide support. They stressed that so far, Europol has never been so closely involved in Member States' investigations as with these two cases. Their assessment was that step by step, Europol is gaining trust from local authorities. They saw a difference between the two situations in the sense that the Slovak investigation is more complicated. In Malta, the initial and rather early break-through was more encouraging, however they acknowledged being a long way before contractors may be reached. On both cases, they reiterated their full confidence that the investigations are moving forward in a rather common rhythm for such cases. They reiterated their confidence in the upcoming resolution of the cases.

Asked to provide examples of powers that the agency lacks but would be very useful to solve those cases, Europol representatives pointed to the possibility to have a mandate to investigate and identify safe havens, in the case of organised crime. They saw this as needed to be considered, however their assessment was that Member States are not ready for this. Criminal organisations can identify safe third countries however Europol cannot get a mandate to investigate on third countries. Traffics in the EU are more and more linked to third countries. Altogether, in their view the mandate should be extended so that Europol could coordinate organised crime investigations as Member States have difficulties going after organised crime.

The EU should develop a mechanism to identify key individuals involved in organised crimes and then focus on them, rather than just on types of traffics (drugs, migrants, etc.). In relation to the system of information sharing between FIAUs, their assessment was that enough information is provided, the focus now has to be on implementing legislation.



Europol representatives also raised the issue of resources. Europol's budget is being increased for migrants' smuggling, terrorism, cybercrime, but the rest is decreasing. They saw this as affecting the credibility of law enforcement in the EU. For this year, 1.1 million EUR were allocated to support cross border investigations. Altogether, in their view both the mandate and the funding should be revised.

#### **18:00 - 19:00 Meeting with Mr Vasil' ŠPIRKO, Prosecutor, Special Prosecutor Office**

Venue: EP Information Office, Palisády 29, Bratislava

Asked about his views on latest developments since March, notably progress of the investigation on Ján Kuciak's murder, Mr Špirko pointed out at the outset that he was still working for the Special Prosecutor's office and clarified that he could not provide any information in relation to the journalist murder case. He referred Members of the delegation to their upcoming meeting with the General Prosecutor, the Special Prosecutor and the Prosecutor charged with oversight. He mentioned the press conference held in the morning on the update and repeated not being the best person to give information on the case. However, he was open to reply to questions and discussing other matters related to the functioning of his institution.

The Head of the LIBE delegation recalled that during the previous visit, six months ago, Mr Špirko had been cleared of charges of having circumvented the case. The delegation had learned of his case at the very moment they were in the office of the Prosecutor, which made their concern that the murder of Ján Kuciak and his fiancée was not ordinary grow even stronger. The investigation was then pointing to the Police President Tibor Gašpar and the anti-corruption Chief of the Police Force Róbert Krajmer. Both stepped down since then, but now the LIBE delegation was informed that both had just accepted new functions in the Ministry of the interior.

Mr Špirko recalled elements of the criminal prosecution he was subject to, which eventually proved unfounded. He mentioned that at that time he was proceeding against actors close to the Minister of Interior, and the Minister himself. Charges were brought against Mr Špirko for not having followed the rules for the investigation, hence related to his conduct. His analysis was that the possible aim of the criminal prosecution he had to face was to break his credibility as prosecutor on the case. Indeed, cases of prosecutors responding for criminal charges have to be transferred.

Regarding his safety, Mr Špirko confirmed having been threatened during a few months. It was his personal decision to ensure the security of himself, his child and wife, and to go public. He had noted repeated surveillance exercised over his personal life, for instance by monitoring himself and his family, taping of his phone or following his wife and mother. His intimate conviction is that this had to do a lot with the inquiries and cases he was working on. Asked about why he did not ask for protection by the authorities, he clarified that in Slovakia, protection is granted by the police. Since he was then pressing charges against the highest police authorities, he could not expect the offered protection to be sufficient. He therefore chose not to ask for protection, neither from the police nor from the prosecutor. Nowadays, he felt that since he was withdrawn from the case, some risks were eliminated.

Asked whether he was now free to investigate on whoever possible, Mr Špirko clarified his position as a regular prosecutor working at the Special Prosecutor office, which means that his hierarchy allocates cases to him. When he was under criminal prosecution, he was dealing with two cases, one being on tax evasion, the other one on the murders. By coincidence, the two cases had a common denominator. At some point, both cases revealed certain connections. Still bound by confidentiality, Mr Špirko could not provide any further details.

Regarding the fact that people who had resigned from top police position as a result of pressure related to the investigation, were now reappointed in the Ministry of interior, he could not comment more than assessing those nominations as a result of political decisions. Beyond specific persons and from a more structural perspective, his personal point of view based on 18 years in the field was that the main problem lied in the way the police functions. Prosecution proceeds on the basis of police work. The Prosecutor's office has to be evaluated on the basis of how the police works. He referred the delegation to higher authorities on those structural issues.

Asked whether by law, in cases of serious crime prosecutors should proceed with their own investigation or whether this had to go through the police, Mr Špirko referred the delegation to the General Prosecutor or the Special Prosecutor. On the basis of the criminal code, the investigation could proceed by the Prosecutor, to avoid leaks or obstructions. However typically, in this field, investigations are carried out by the police. The crux lies with the police. As for possible reforms, Mr Špirko saw the matter as being a highly political issue, since politicians adopt the mechanisms for nomination. His personal opinion was that even with the best piece of legislation, what matters is the people who are posted. He viewed legislation in the field as rather good but saw the staffing and implementation as being problematic.

**As an ad hoc meeting, at the end of the day, the Members of the delegation decided to meet and held a short exchange also with the lawyer of the family of Ján Kuciak, Mr Daniel Lipšic.**

**Tuesday, 18 September 2018**

**9:00 - 10:00 Meeting with Mr Dušan KOVÁČIK, Special Prosecutor**

Venue: Úrad špeciálnej prokuratúry GP SR, Suvorovova 4343/5A, Pezinok

Format: MEPs + 1

- Juraj NOVOCKÝ, Prosecutor, Special Prosecutor Office
- Vladimír KURUC, Director, General Criminal Matters Department
- Vladimír TURAN, HoU, Organised crime, Terrorism and International criminal matters Department

The Special Prosecutor asked for the confidentiality of the content of this meeting to be kept. The Members of the LIBE delegation agreed to the approach, but mentioned that

nevertheless, the report and the conclusions of the report will mention general aspects based also on this discussion, as part of the work of this delegation.

The prosecutors presented the main public facts since the murder happened and the steps taken in the investigation. They underlined the cooperation within the joint investigation team, in particular with Italy and also the strong support and involvement of Europol, as a constant partner during this process. They pointed out that in the limits of the Europol mandate, Europol has access to all the findings of the investigation. It was mentioned that significant steps were taken in the investigation and they expressed optimism in relation to the results. Other cases currently in the news were raised by the LIBE delegation and were briefly tackled during the exchange.

### **11:00 – 12:30 Meeting with Milan LUČANSKÝ, President of the Police**

Venue: Račianská 45, Bratislava

- Peter HRAŠKO Director of Slovak National Criminal Agency
- Martin FRITZ, Director of National Counter corruption Unit
- Pavol VOROBOV, Director of Slovak Financial Intelligence Unit
- Igor VOZÁRY, Director of the Office of International Criminal cooperation
- Rudolf URBANOVIČ, State Secretary of the Ministry of interior

The delegation was welcomed by the new President of the Police, Milan Lučanský, and his team of Directors, together with the State Secretary of the Ministry of interior. M. Lučanský pointed to his relatively recent appointment, having been in post for the last three months following Tibor Gašpar resignation, but stressed his long experience within the police administration. He was notably in charge of organising crime investigations linked to politics in the 1990s, an experience he can rely on for exercising his new duties. From the onset, Milan Lučanský stressed that he would not comment the work of his predecessor. He referred to the Ministry of Interior for questions related to Messrs Gašpar and Krajmer, who had just been appointed in the Ministry of Interior. In relation to recent changes in his administration, he indicated that more changes were to be expected in the future.

Coming to the murder itself, the President of the Police insisted on the professionalism and the independence of the whole team in charge of the investigation. The team was reinforced and benefits from all necessary technical equipment. He pointed to a number of international work process they are engaged in - a joint investigation team with Italy, the involvement of the FBI and close work with Europol. Recalling that information provided to the public is also available to the perpetrator, he stressed that he is not authorised to divulge any information on the case itself and referred to the Prosecutor for further information, pointing in particular to the press conference held the day before by the Prosecutor General. As for the length of the investigation, he noted that investigation which started late on the crime scene were always longer. The President of the Police expressed his hope that at the next meeting with the LIBE delegation, he could say that the murder was solved.

Asked about the way Ms Holcova's phone had been seized, the President of the Police

recalled that he was not in his current post at the time. He stressed that even the prosecutor had declared having no doubt about the legality of the procedure. No more detail could be provided, as the matter was part of the criminal investigation.

Other cases currently in the news were raised by the LIBE delegation. The police delegation indicated that no criminal proceedings were open with regards to the kidnapping of the Vietnamese national, however the General prosecutor, the Ministry of the Interior and NAKA are involved in international legal assistance with the German authorities. A plane of the Slovak government is implicated in this case, as well as witnesses of the security service of the government. As for the group of bikers (Night Wolves), criminal proceedings are open.

The discussion turned to more general questions related to the operation of the police, the LIBE delegation having brought forward that the trust of the people in institutions is very low and the purpose of their visit is to explore systemic issues such as the connections between the police and the ministry of interior.

The Police delegation clarified that the Ministry of interior cannot interfere with their procedures. The Minister is not informed of the details of their investigations. Communications with the Ministry focus for instance on resource-related issues, e.g. to beef-up teams or upgrade the IT system. For Ján Kuciak's case, the Ministry was asked to act as guarantor for upgrading their technical systems to be compatible, e.g. in their dealings with Europol.

The Police delegation pointed to the great success of Slovak police forces for solving murder, reaching a level of murder resolution which is one of the highest in the EU. They reckoned that their operation on crime scenes could be improved and their way to operate could differ, however they saw their resolution rate as a proof of their good work. As for convincing the public and raising trust, Milan Lučanský believed it is too early to judge, time is needed to ensure that changes provide results. Improvements should be made by the legislator to improve transparency. Other changes could be introduced, for instance on the burden of proof.

With regard to the fight against corruption, the Police reaffirmed that the country is based on the rule of law. They can adapt to new technology and new features of legislation, such as the European Public Prosecutor Office aimed at the protection of the financial interest of the EU. Slovakian police forces are following all measures for this type of investigation and abide by all rules. After a new unit was created, NAKA, for the fight against corruption and organised crime, very good results have been recorded, such as the saving of 3.8 billion euros in various operations. They praised the competence of people in charge and noted a success rate of 96.5%. In reply to questions related to the Panama papers and the Mossack Fonseca computers, the police delegation referred to FIAU on issues of international cooperation in this field but assured that every data and track is analysed, including cases related to agriculture subsidies. Examples were given of recently solved cases involving former ministers.

Figures were also given concerning the dismantling of organised groups, criminal gangs, and arrests of individuals. The Police delegation acknowledged that sometimes individuals within the police are subject of charges, like in any other country. The Slovak police is trying to adapt to new forms of criminal activities and to ensure that links between various cases are

made. They recalled that their activities are supervised by the Prosecutor.

Regarding the safety of journalists, the President of the Police did not consider that journalists were under any particular threat. Protection is offered by the police to journalists, in cooperation with them. Ján Kuciak's publishing house is protected nowadays. The level of protection offered to journalists is higher than in other countries, and higher than that offered to State representatives. On the growth of radicalisation and extremism, the Police delegation stressed that in Slovakia there is reactivity, notably with the creation of a new police unit for the fight against extremism. It was also pointed to the higher number of reports which also reflects the fact that more attention is devoted to those cases by the police.

### **16:15 - 16:45 Meeting with Oľga BAKOVÁ (journalist)**

Venue: Information Office

Ms Baková presented some background information as regards the situation of the public television. She pointed out that she was one of the several journalists who had left RTVS. As regards other colleagues, some people were fired, some decided to leave, some were somehow forced to resign and leave. She gave the example of a Chief Editor, one of the last editors, that was told that he was not needed anymore. As a general background, it was mentioned that for some of the colleagues the situation had reached a point where it was not possible to continue. She has still a contract with RTVS but not as a reporter.

As a major consequence of the fact that so many people left the RTVS, the impact on the quality of the programs was mentioned, as these people had experience as reporters. From her perspective the quality is deteriorating, as very important issues are not properly covered, the information is in the news, but not with the necessary quality to have an impact. The content of the news has to be balanced, the colleagues which are new and inexperienced can be more easily pressured.

On questions related to commercial media and to which extent they cover news, she pointed out that the interests of commercial media are different, RTVS has different responsibilities and she expressed her lack of optimism in relation to RTVS that seems to go back instead of advancing.

Concerns over the influence exerted by media controlled by oligarchs were also raised. Equally the situation in the society is perceived as lethargic, only journalists are active and bring important issues to public opinion, they could be even stronger if they acted together, but the reaction in the public is not very strong also due to the political context.

It was indicated that, although society - in general - in Slovakia is not very active in presenting disagreement or frustration in the streets, after death of Ján Kuciak part of society woke up, and took part in demonstrations in many cities all over country. It was mentioned that now the activity is not that much visible, and many people say they are tired of everything, but media are relentlessly trying to put the pressure on government and parliament and give publicity to alarming facts not only about Ján Kuciak's murder but also about other problems Slovakia has to deal with.

A raise in the populism was mentioned as a trend, also as the political spectrum is very

divided with more than 10 parties expected to enter the new Parliament.

### **17:00–17:45 Meeting with Gábor GÁL, Minister of Justice**

Venue: Župné námestie 13, 813 11 Bratislava

In the exchange, several aspects were mentioned as follows:

- The candidates for the European Court of Justice. The minister underlined that there were two proposals for the candidate for EUCJ, and briefly presented the reasons why those candidates were rejected. A third candidate who fulfilled all requirements could not continue the process due to personal reasons. As regards candidates for the EUCJ the Minister does not intervene, it is up to the Judicial Council to propose and there is a selection committee.
- As regards the candidate for EPPO, the law was adopted only recently, the selection committee is not yet set up. It was noted that they are in the initial phase and are waiting for guidelines from European Commission on the required competences.
- Questions were raised by the Chair of the delegation on the draft laws as regards the appointment of the President of the Police and as regards the nominations of Members of the Constitutional Court. It was pointed out that even if all the rules change, everything depends on the people who implement them. Moreover, an EP delegation was here six months ago and a lot of people stepped down since then. Now it was noticed that they are coming back through different doors e.g. former Police President or former anti-corruption Chief of NAKA. The commitment of his predecessor was also praised. The Minister replied that an answer would be beyond his remit as regards situations described as worrying, it is more in the hands of the specific ministries. He also expressed his reserves as regards the current rules on the nomination of the Members of Constitutional Court and that the new law proposes stricter requirements, every candidate being subject to selection criteria which would allow a better selection. Concerns were raised as regards the length of this process of reform, as the Constitutional Court should be able to function with all judges appointed.
- On questions regarding whether in the Slovak system the prosecutor is fully part of the judiciary, he answered that prosecution is not part of judiciary, they have a different budgetary line, but they are fully independent, the only stance when the Minister intervenes is about the remit of their competences, when the Minister should present a motion on their behalf. He praised the very good cooperation with the office of the Prosecutor General. He underlined that the judges are absolutely independent and with regard to allocation of cases, a random electronic system is applicable. As regards corruption among judges, he mentioned a recent case, and that there is a system of monitoring.

### **18.00– 19:00 Meeting with Peter PELLEGRINI, Prime Minister of Slovakia and Denisa SAKOVÁ, Minister of Interior`**

Also present at the meeting:

Vice-President of the Police –Jana MAŠKÁROVÁ

Director for Prevention of the Corruption at the Office of the government - Peter KOVAŘÍK  
Advisor to Prime Minister for International Relations - Peter KMEC

Venue: Námestie slobody 1, Bratislava

The Prime Minister (PM) welcomed the delegation to Slovakia and said that he invited the newly appointed minister of Interior to this meeting.

The Chair of the mission reminded of the previous delegation, the context in which that delegation came at that time after the brutal murder of the journalist and his fiancée and reiterated the objectives of this mission to look in the developments since then on that specific investigation but also as regards the situation of rule of law in a broader perspective, such as the cases corruption, misuse of EU funds, judiciary. She briefly mentioned the meetings held so far and some of the specific concerns raised during these meetings, including OLAF investigation, public procurement related cases, a system of revolving doors as regards appointments, the reforms of the legislation on the Police President appointment and the nomination of Members of the Constitutional Court.

The main points raised during the meeting were the following:

- The PM noted that after his appointment, the situation in Slovakia stabilised. He reassured that after receiving the vote of confidence, justice is the primary objective of this government and that he considers the undiluted truth as the only solution. As PM he reassured that the Slovak authorities do their utmost and that everyone who is fighting corruption has completely free hands to carry out their tasks.
- He clearly stated that the executive branch never intervened with prosecution which is totally independent, and that they are not preparing any piece of legislation to limit this. As regards nomination to the Constitutional court, the reform goes towards stricter selection criteria and even more narrow interpretation. Irrespective of any evolution, all measures are put in place for the judiciary to be fully operational, all resources needed are put in place. In this respect, he considers that his country is not acting as other countries that are interfering in the judiciary.
- He noted that since the last meeting a new PM, a new President of the Police, a new Vice President of Police are in place and that the President of the Police is a long acting police officer with very good results. As he has only been in this function very shortly, he needs more time, he will be judged by his actions, but it should be noted that since his nomination, due to the activity of the police, a well-known businessman, Mr Kočner is under arrest for his acts.
- As a follow up to questions regarding the investigation, he pointed out that the lawyer of the family does not question the professionalism of the investigative team. The need for more time was also underlined, to catch the perpetrators, bearing in mind that it is more important to find those who are behind the murder, the masterminds. He reassured that police will place all their efforts to this regard.
- As regards the system of revolving doors and some appointments in the Ministry of Interior, he mentioned that the circumstances have to be understood. For example for

the former President of the Police, the PM noted that there is no proof of misbehaviour and that he is not any longer an active police officer.

- As regards the Vietnamese national case, it was underlined that there are several countries involved and that their are important resources in terms of staff at the disposition of the prosecutor in charge of this investigation. Slovak authorities do their outmost to find the truth.
- He noted that his government was supported by sufficient trust among the population. The rate of trust in the government has raised after the changes.
- On specific questions on the fight against corruption, the National Strategy against Corruption was mentioned. It was reiterated that in the weeks to come a new act for the election of the President of the police was to be submitted to Parliament, which will be a transparent procedure of several rounds. Also as regards the inspection of the police, the head of the inspection of the police will be nominated by the government not by the Minister of Interior. He mentioned also that they should focus more on the person holding the office.
- On questions regarding a possible monitoring mechanism for all EU Member States on democracy and the rule of law, the PM underlined his agreement to such a system. He is confident that Slovakia is not under a proper rule of law threat, an external assessment of their judiciary could prove this.
- On questions linked to persons close to the PM office in the past that had an issue with the security clearance, he reassured that now all people that are close to his office have done the certification for security.
- As a general conclusion, the PM mentioned the perception among the public of widespread corruption and the hope that, following the actions taken, the perception on the fight against corruption as well as media freedom will improve in the months to come.

**Wednesday, 19 September 2018**

**14:15– 15:00 Meeting with journalists and representatives Daphne Project**

Venue: Europe House

- Jacob BORG (Times of Malta and Daphne Project);
- Yannick PACE (MaltaToday);
- Jurgen BALZAN (The Shift News)
- Chris PEREGIN (LovinMalta);



- Neil CAMILLERI (Malta Independent)

In the exchange with journalists the following aspects were noted:

- On specific questions regarding the reactions of the judiciary, and cases that did not lead to a proper reaction of the authorities, the journalists underlined that starting with the cases mentioned by the Daphne Project and particularly the money transfer towards 17 Black, there was no reaction from the police. In general, the perception was that no action is taken by police, no investigation is initiated after the new revelations of the Daphne Project, including as regards cases related to the Panama Papers. It was underlined that all these stories investigated by journalists are leading to the same persons which were never brought before police.
- Concerns were raised as regards the privatisation of large parts of the Maltese health service, and the leasing of health care services to Vitals Global Healthcare. This should be more scrutinised, as in these cases the owners are unknown and there are doubts about the transparency of the process.
- Concerns were raised over the perceived short term electoral designs, that last 5-6 years and the fact that all people appointed in public positions are responsible to the people in power; the widespread corruption that intensified over the last years, they mentioned that institutional weaknesses existed before, but now they are used at the most, becoming a systemic problem. On questions regarding the illicit sale of medical and/or Schengen visa for people coming from Libya, it was mentioned that there are new revelations now in particular after the allegations brought in court this year, but information provided by the police is scarce.
- As a general comment, it was emphasised that journalists have almost no access to information from the authorities, interviews are not allowed, questions not answered, they are shut down as soon as a question is put forward. This trend is all the stronger now, after the conclusion of the E- grant inquiry which is used as a legitimate answer why the questions should not be answered.
- They expressed concerns over journalists being ridiculed on social media, the difficult environment for their work.
- On the repeated questions regarding cases investigated by journalists and the possible follow-up given by authorities, e.g on oil smuggling, Daphne project cases etc., the journalists reiterated that there are no formal investigations, only in the case of the whistle-blower from Pilatus bank the authorities opened a case. Equally, as regards the alleged presence of Minister Christian Cardona in a bar with one of the suspects of the Daphne Caruana Galizia murder, it was mentioned that no follow-up was made by authorities. In general the alleged cases of fraud and corruption raised in the media such as regarding construction permits, the indications that more people were hired in public office just before the last general elections in 2017, all these are not properly followed up by authorities.
- On specific question on libel cases, they mentioned that they had to change some articles as a follow up of libel cases.

- As regards the atmosphere, it is perceived as more toxic, the country is very divided, the growing power of the government on media houses was perceived as being a real concern.

### **15:00 - 15:45 Meeting with Financial Intelligence Analysis Unit representatives**

Venue: Europe House

From FIAU the following representatives met the delegation

- Peter GRECH, Chairman of the FIAU's Board of Governors
- Kenneth FARRUGIA, Director, FIAU
- Anton BARTOLO, Deputy Chairman
- Alex MANGION, Head of legal Department

The FIAU Chairman underlined that if the delegation Members asked specific information on a case, for reasons of confidentiality they might not be able to reply.

As regards the EBA recommendation, during the exchange it was underlined that:

- Extensive information was provided to the EBA, including an Action Plan that FIAU was preparing in 2017.
- EBA was focused on Art 39 from Anti Money Laundering Directive III, sanctioning of Pilatus Bank, but then EBA also mentioned also Articles 34 and 37 of the same Directive. In their view apart from Article 39, there are no specific issues with the overall supervision.
- They are not in agreement with EBA that they are in breach of Union law. After the EBA recommendation, they provided a 12 page report as an answer. There are some actions still pending, but to date, they did not receive a feedback on their action plan by EBA. It was underlined that they are expecting feedback as regards their action plan on follow up to the 8 recommendations of EBA. They have mentioned that they hired an external audit provider from US to perform audit, to assess whether recommendations of EBA have been applied and an action plan implemented.

As regards Pilatus Bank:

- In the discussion that followed the FIAU representatives detailed the steps they took as regards Pilatus Bank, and mentioned that this led to an on-site visit in February 2018, where they took all documentation available at the bank and that they are reviewing the whole system of Pilatus Bank;
- It was acknowledged that indeed FIAU action “was not perfect” in the Pilatus case, but at that time, as they were faced with strong representations of the bank, supported

by high reputation consultancy firms, they were not on a sound legal basis to sustain an action and impose penalties. This was the reason for not taking action immediately but to plan further actions, which they took e.g, in 2017 after the E-grant magisterial inquiry was initiated, when they conducted a series of interviews, asked for documentation but they were asked not to go physically inside the bank premises because of the magisterial inquiry.

- Further questions were raised on the reason why no specific actions were taken after the first on site visit and why after the second visit in 2016, as mentioned also by EBA, the FIAU sought to narrow down the scope of the investigation. In this context, it was mentioned that they disagree with the EBA assessment. In their views, this was not a question of narrowing down the scope, as the various allegations were based on the missing documentation, such as missing customer due diligence information, but at the second visit the missing information was available. They expressed the feeling that their explanations were not taken into account by the EBA.
- In November 2017, FIAU started a process to identify a forensic expert, which was followed by the action in February 2018. The examination of all data taken is ongoing, all the accounts are being reviewed, all data taken, it is a forensic investigation.

Other aspects raised during the meeting were:

- On the specific question regarding STRs received and whether they could detail by the type of source, by bank or how many institutions ever filed an STR with FIAU, the representatives said that all the information is available in the annual report they produce. Approx. 51 % STRs came from credit institutions. The FIAU did not answer the question which part of all STRs came from only one credit institution.
- On the specific question regarding 17 Black and its owner, FIAU replied that this is case-specific information and they could not answer whether they know the beneficial owner of 17 Black. The need for confidentiality was also mentioned when being asked whether they can confirm that the Latvian FIAU gave them the beneficial ownership information concerning 17 Black and it was mentioned that FIAU Malta clarified all aspects directly with the Latvian institution.
- Asked about a Government strategy on AMLD actions and whether the number of staff was increased, it was mentioned that there are now approx. 44 officers in FIAU, which represents a major increase in comparison with 2016, also the budget is planned for 4.5 million EUR, which is also a major development. It was underlined that this is included in this action plan submitted to EBA.
- On the four leaked FIAU reports and the questions whether they were completed and handed to the police, it was mentioned that the compliance report on Pilatus Bank was completed, but this is not a confidential document and not usually a document that goes to police. The other two reports were leaked to the press, but they were handed to the police. On the fourth report, they cannot confirm if it is finished or given to the police, they are bound by law as this represents case-specific information.

- On the specific questions regarding allegations involving PEPs contained in the leaked FIAU reports, the ongoing magisterial inquiries were mentioned and that they cannot provide further information in this context.

### **15:45 – 16:30 Meeting with Attorney General Dr Peter GRECH**

Venue: Europe House

Philip GALEA FARRUGIA, Assistant Attorney General and Head of the Criminal Law & Prosecutions Unit

The Attorney General was first asked about his lack of action after the FIAU reports were leaked. Dr Grech acknowledged that the Attorney General has the power to launch magisterial enquiries, however this has to be done on the basis of solid proof and investigative powers are in the hands of the police. In his view, Article 4 of the Maltese Prevention of Money Laundering Act did not enable the Attorney General to issue an investigation order to the police, as evidence was not sufficient. The Attorney General alone does not have the means to carry out an investigation. FIAU gathers intelligence and, if reasonable suspicion is established, reports are passed on to the police. The police may decide to pursue if there is a reasonable chance of conviction. This is why the police has to do the whole investigative work again and cannot simply rely on FIAU's intelligence. Moreover, leaked documents may not be well grounded. The normal flow therefore is that facts are first gathered by FIAU, then investigated by the police, then transmitted to the Attorney General if reasonable suspicion is established. His two roles of member of the board of FIAU and of Attorney General have to be distinguished and information cannot simply pass from the one to the other to launch a magisterial enquiry.

The discussion then moved to the communication of the E-grant investigation report to the Prime Minister and the refusal to transmit it to other parties nor publish. The Attorney General clarified that those reports are very rarely published, being drawn up for the purposes of criminal investigation and then presented in court. He stated that in general, his office abides by this rule, because publishing could hinder further investigation. The Attorney General justified the transmission to the Prime Minister by the fact that the case involved the highest political person in the country. The police had asked for a magisterial enquiry; it could have been a case of non sequitur where the person occupying the highest post in the country would not know the content. The Attorney General decided therefore to share the report with the Prime Minister who was the main person having an interest in the case and publish the conclusions. He felt that the public interest was satisfied with this publication. He stressed that he had to weigh consequences of a possible full publication. Indeed, this report would contain private information on people who have nothing to do with people who are subject to the allegation. Asked about the fact that the investigation actually bore on the Prime Minister's wife, not the Prime Minister himself, the Attorney General reaffirmed that the communication of the report to the sole Prime Minister was justified.

Asked about the appeal that he filed against the constitutional ruling from the 12 July 2018 regarding the recusal of Mr Justice Antonio Mizzi from the appeal case involving the Panama Papers inquiry, the Attorney General replied that there is a clear pattern to appeal against rulings in first instance of the Constitutional Court, unless it is obvious that an appeal is totally useless and would be waste of time and money. In this case, judge Mizzi was of the opinion there was no reason to be recused, while another court consisting of one judge

deciding that there was enough reason, so it was decided to appeal and go before the Constitutional Court. Asked more generally about the perceived lack of judicial action, including for appeals, on a number of cases that arose in the last year, including cases raised by investigative journalists (money laundering, humanitarian and golden visas, journalist's murder, Panama papers...), the Attorney General did not see any systemic issue in the reactions of the law enforcement system. He referred again to the necessity to ground judicial action on a sufficient level of proof, stressing that journalistic work cannot always stand up before a court of law. In his view, it is more important for trust in the rule of law, within Malta and in the EU, that it is made clear that people should reply according to law and not to instinct, and that legal processes are duly followed.

**16:30 - 17:45 Round table with non-governmental organizations active in the field of Rule of law and Fight against corruption**

Venue : Europe House

- Neil FALZON (ADITUS)
- Michael SCICLUNA (ADITUS)
- Monique AGIUS (ACTIVISTS)
- Karl CAMILLERI (ACTIVISTS)
- Estelle SPITERI (KENNIESA)
- Emma PARIS (KENNIESA)
- Pia ZAMMIT (OCCUPY JUSTICE)
- Clemence DUJARDIN (OCCUPY JUSTICE)
- Anika PSAILA SAVONA (OCCUPY JUSTICE)
- Philippa GINGELL LITTLEJOHN (OCCUPY JUSTICE)

Individual activists and representatives of NGOs active in the field of human rights, the fight against corruption, or directly set up in relation to Daphne Caruana Galizia's murder, were invited to share their views on the general climate in which they operate.

Although some nuance was expressed as to the degree of respect of the rule of law by the authorities, on the whole civil society representatives described a climate of increasing tension between the government and activists, of growing polarisation between partisans of the majority government and the opposition, a general feeling of impunity of people in or close to government and of inaction or obstruction to the investigation of the journalist's murder.

They described the way authorities put obstacles to the expression of support and mourning to Daphne Caruana Galizia, with the regular cleaning up on account of public order and recent dismantling of the informal memorial set up in front of the Ministry of Justice. Beyond the lack of respect this demonstrates to the memory of the assassinated journalist, activists see

here a clear limitation to freedom of speech in the country. More generally they described a use of law to frustrate public protest. They reported being bullied, named in social media, oppressed, shamed, and more generally harassed by the authorities which also multiply identity controls. They saw this as an active attempt to silence a minority, in a country which is more and more politically polarised between the two main political parties.

Without unanimously talking about arbitrariness, activists shared an impression that the legal framework is more and more used as a weapon and the environment is increasingly volatile and dangerous. It was stressed that this could be detrimental also for the government, as people on their side seem to feel more and more authorised to go beyond moral but also legal limits.

In relation to the investigation on the journalist's murder, it was stressed that Daphne Caruana Galizia was not killed because of her opinions but because of her work and the stories she was working on. Activists were not all in agreement as to the regularity of the investigation, some feeling that it was carried out in accordance to the law, at least formally, others questioning the lack of information and stressing that appointments in the judiciary in particular were being done in accordance to party affiliation. However all agreed that an increasing sense of impunity was spreading, with a general incomprehension as to why people mentioned in the deceased journalist's blog are not at least heard in the context of the investigation. So far, concerning the cases published by the Daphne project the police only indicated willingness to investigate the fuel smuggler's track.

Also mentioned was a widely shared feeling that a person, who may have been controversial and not appreciated by all, but deserved protection due to her work did not receive it from the authorities. Moreover, it is becoming clear to representatives of civil society that the campaign to dirty the murdered journalist's reputation and that of her family is being concerted and orchestrated.

#### **17:45 – 18:30 Meeting representatives of the family of Daphne CARUANA GALIZIA**

- The delegation of representatives of the family included members of the family and lawyers.

Venue : Europe House

The representatives of the family of Daphne Caruana Galizia first expressed their wish that pressure is maintained on the authorities for the investigation but more generally, for the whole polarisation and hate climate to decrease. Moreover, they stressed that their call for justice goes beyond themselves as the family of the victim. They keep up the pressure also for journalists in general and the society as a whole, so that democracy can be protected in their country.

They reported what they saw as obstructions from the authorities to deepen investigations on persons quoted in the journalist's blog, some of whom being close to the government, even in the government or working in the Prime Minister's office. They stressed that no politician had so far been interrogated in relation to the case. They pointed also to their information that important material demanded by the magistrate from the secret service was not given to the murder investigation. Therefore, they demand that a public enquiry be opened. They do not trust that the current police investigation, nor the recently open magisterial enquiry which

relies on information provided by the latter, will achieve much. On the contrary, a public enquiry could lead to more results. The representatives of the family stressed that such an enquiry should aim at finding out whether the murder could have been prevented. In their view, the State had a legal obligation to protect Daphne Caruana Galizia given the sensitivity of her investigations, in order to maintain public order and prevent crime.

Regarding the general climate nurtured by the authorities, the family first referred to the harassment they are victims of which compelled some of its members to move abroad and live in exile. They also mentioned derogatory videos being posted on the web, sometimes by persons close to the authorities. They are also regularly sued for libel. More generally, they regret having to endure a general lack of consideration, respect and humanity from the authorities - an attitude which can be clearly observed in the way the memorial dedicated to the murdered journalist is treated.

The LIBE delegation expressed its respect and sympathy to the family and reaffirmed their commitment to maintain pressure so that justice can be served and conclusions reached for the whole democratic and institutional system.

### **18:45 – 19:30 Meeting representatives Henley & Partners**

Venue: Europe House

Meeting with Dr. Juerg STEFFEN, Henley & Partners

At the outset, the company representative stressed the position of Henley and Partners as the global leader on “citizenship planning”. They provide both private and public advising. Their main clients are entrepreneurs from emerging markets. Being the longest in the business, their reputation is a strong asset in a sector which is not properly regulated. Henley and Partners would actually welcome such a regulation. Clients have to disclose their wealth and how it was built therefore they prefer to turn to big and trustworthy companies.

The company runs offices around the world. Golden citizenship programmes within the EU are only run in Cyprus and Malta. In addition, ‘investment visa’ programmes are run in Portugal, the Netherlands and Greece. The company is no longer offering its programme in Hungary.

In Malta, most clients are from Russia and the Middle East. The rejection rate is going up for Russians at the moment. Altogether, since 2014, 1200 applications were received for the Maltese programme, 800 citizenships were granted, and for others the process is still running. Henley & Partners intermediates about 40% of the total. The rejection rate is currently over 25%, which is very high compared to other programmes. Even if rejected, the application fee is due and amounts on average to EUR 90,000. H&P stressed that only 3-4 banks open the needed bank account for the IIP applicants; they recommend the Bank of Valletta and the HSBC.

Asked about the fact that people who were on the black-list related to EU sanctions to Russia obtained citizenship through their programme, the representative of Henley and Partners insisted on the very reliable due diligence process applied by the company, talking about the ‘gold standard’. He stated that such people could not have been granted citizenship through

their programs. Their software checks those lists linked to sanctions. Then the Schengen security check is operated by government. Once the file is ready from the company's side, they hand it to government authorities. Two external companies are further involved for due diligence checks, checking for instance addresses in countries where applicants live or their possible criminal records.

It was underlined that the whole process is extremely serious and rather lengthy, so that it is not easy to get citizenship rapidly. Malta enjoys a good reputation in emerging markets, also thanks to its good reputation in terms of rule of law and certainly does not attract those 'talents' out of the simplicity and rapidity of the citizenship programme. They first have to obtain a residence permit, then the citizenship process starts. The government is responsible for assessing the residence criteria and looks for 'genuine links' with the country. In Malta, this can take the form of running a business in the country, employing people, making a donation, owning a flat or any other type of residence etc. Applicants have to note what they intend to do to establish this genuine link. Following discussions between the EU and the Maltese government about these genuine links, people have to spend a certain time in the country, in accordance to residence law. The less time applicants spend in the country, the more they have to prove a 'genuine link'. The representative of Henley and Partners recognised however that it is difficult to check whether wealthy applicants actually spend time in the country, as many travel on private aircrafts with no boarding pass, however he believed that applicants spend the requested time in the country.

With regard to the contract between his company and the Maltese government, the representative of Henley and Partners clarified that 95% of its content is public. He noted that the contract had been signed before he joined the company. The company is linked by contract to 52 governments in the world, who are interested in investing in talents to attract to their country, together with investments.

Turning to discussions with the European Commission, the representative of Henley and Partners confirmed that the company was consulted in the framework of the preparation of a communication on the whole issue of golden visa and citizenship. He indicated that the company had gained the status of official lobbyist to the Commission last spring, having followed the recommendation of DG NEAR and DG JUST. The first meetings were held in autumn 2017. He felt that those discussions are very useful as EU administration does not seem to understand their business. He compared the golden visas and citizenship delivered through the company's programs with the residence permits delivered in accordance to EU migration law, stressing that the EU allows for the entry of more than 800,000 third-country nationals through procedures which are much less secure than Henley and Partners' due diligence process.

Replying to a question on the relation between his company and Cambridge Analytica, the representative of Henley and Partners clarified that there had been contacts indeed. However, his company had refused Cambridge Analytica's offer of service as it involved the provision of client information.

The representative of Henley and Partners clarified that his company does not make donation to political parties, as this would be against strict anti-bribery rules as applied in the UK which is the standard followed by the company.



As for relations with Mr Keith SCHEMBRI, the representative of Henley and Partners commented that Mr Keith SCHEMBRI is the company's main contact in the Prime Minister's office but they do not have any contractual agreement with him personally. Asked about all allegations going around in Malta, in relation to corruption and money laundering, he indicated not having noticed anything in their dealings with the government and that this would not respect the rule of law. He stressed that the Maltese programme is the only one in the world which has an auditor.

In relation to the owner of Pilatus bank, he invoked confidentiality commitments. However, he stressed that it is a known fact that the owner of the bank bought a passport from Saint-Kitts and Nevis. Since then, no other link was developed. Pilatus bank approached Henley and partners in view of setting up a scheme to finance passport applicants that could apply for the programme. This practice is followed in Canada, where 80% of candidates finance their government bonds via bank loans. In the case of Malta though, Henley and Partners declined Pilatus' offer as they felt this would change the profile of the wealthy talents the Maltese programme aims to attract.

Asked about the e-mail written by the chairman of the company to the Maltese Prime Minister in relation to a possible libel case against Daphne Caruana Galizia, the representative of Henley and Partners acknowledged that such an e-mail had indeed been sent, in line with common practice in the industry. The company knew that Daphne Caruana Galizia's investigations were a political issue in the country, so since they had a contract with the government they felt it logical to consult the Prime Minister on a possible legal action against the journalist. They had to react since the journalist was, according to them, publishing false statements about the company, hence damaging its reputation and that of its staff members. Asked about the number of such legal cases brought to the courts by the company, its representative acknowledged that it was the only one. Asked about the familiar tone of the e-mail communication between the Chairman of the company and the Prime Minister, the representative of Henley and partners referred to the international business practice at such high level, where the use of first names is very common, especially in the case of important contracts with governments.

**Thursday, 20 September 2018**

**08:15 – 09:00 Meeting with Police Commissioner Lawrence CUTAJAR**

Venue: Police Head Quarters, St. Calcedonius Square, Floriana FRN 1530

*Staff to be added*

In this meeting the police commissioner reassured the delegation about their full engagement in the investigations, but he cannot disclose information that is sensitive and under court proceedings. The Chair of the delegation mentioned that this meeting will be mentioned in the report and that the aspects which are not public should be expressly mentioned.

**As regards progress in the investigation in the case of Daphne Caruana Galizia**

- Investigation reached a very delicate stage, they work very closely with Europol, in particular for the technical expertise. The Police Commissioner is confident that it will lead to results.
- Every step is done under the supervision of the inquiry magistrate, they have an entire section working on this.
- Europol has access to all the findings of the investigation.

Members of the delegation underlined the need for this investigation to lead to the actual mastermind. On the specific question on whether the police is also interviewing persons mentioned in the blog of Daphne Caruana Galizia, the Police Commissioner responded that the fact of being only mentioned in a blog it is not enough for a police interview and that the inquiry magistrate continues the work on this.

#### **Other aspects mentioned in the exchange:**

- As regards leaked FIAU reports, it was mentioned that reports from FIAU are intelligence reports and cannot be used as such in the court of law. The police has to further analyse this report, it takes time for the result of the analysis to be presented in court.
- As regards journalists' investigations contained in the Daphne Project, it was agreed that a list could be sent in his attention and that they will try to provide feedback on the status of investigations, in the limits of the required confidentiality.
- On the specific question related to how many people are working in the economic crimes' unit, it was mentioned that the number of persons working in economic crime has doubled, reaching 14 persons, two super intendants were engaged, which also includes an anti-money laundering unit. The unit will be further strengthened by 2020, it depends also on larger premises. For the moment they have two financial analysts employed this year, full time financial analysts. It was also noted that only the head of the economic crimes' unit had a financial degree, but the other officers have university degrees, or are undergoing legal studies or continuous training.
- Following specific questions, the issue of the laptop under the custody of the German Police was briefly discussed and the Police Commissioner asked for strict confidentiality on this part.
- As regards the European Birds Directive and its application, it was answered that a specific section of the police is dedicated to this issue, they cooperate fully with NGOs and that during open hunting season, they engage from police districts, to beef up the police forces to provide all necessary support. They expressed willingness to cooperate fully with NGOs and the MEPs on this subject.

#### **09:15 – 10:15 Meeting with Chief Justice Joseph AZZOPARDI**

Also present: Courts of Justice Director General, Frank Mercieca, Ministry of Justice

Venue: Courts of Law, Republic St, Valletta, Conference Room

The main elements underlined by the Chief of Justice were:

- Judges and magistrate in the Maltese system have a difficult role, they have also an investigative role, they decide how to proceed and at the end of the investigation they report;
- Magistrates do not give interviews, they do not talk to politicians, this is a guarantee of their independence. He underlined that he never had an interference in his job and this is in line with the long independence tradition of the Maltese judiciary;
- He expressed full confidence in all his magistrates, he mentioned that they are all lawyers, appointed by government, once they take the office they are responsible for the public, he is not aware of a serious case of interference; they are independent.
- As regards the appointments there is a committee in charge of judiciary appointments, all the applications are verified, criteria have to be fulfilled, indeed the final decision lies with government. On specific question in regards to judges appointed with possible previous party political affiliation, he mentioned that they always had these appointments, but this does not constitute a problem, there is a constitutional history, the government has the right to appoint judges, but there is a strong culture of independence of judiciary.
- As regards investigations that have not been started, he pointed out that if police does not do anything, an interested citizen can file a case with duty magistrate and have a prima facie case, but these are very difficult cases, and there is a problem as the number of magistrates is not so high. He underlined the general problem of resources and that magistrates work very hard because of these inquiries. He mentioned having asked for the appointment of a new magistrate. He underlined also a problem with backlogs at the level of the court of appeal and in general with the length of the procedures;
- As regards the powers of the Attorney General he mentioned that in Malta the AG has too many powers, which creates a difficult situation for any person holding that office. On cases that are not investigated, cases of corruption, cases that are raised in the press, he noted that it is the AG and Police Commissioner that have the power to initiate an investigation. For the Chief of Justice there is no such power.
- He expressed reservations as to whether a public inquiry could bring a result in the Daphne Caruana Galizia case, he considered that the magisterial inquiry in this case was in safe hands. The magistrate could have closed the inquiry when the three persons were arrested, but he continued, and then when he became a judge, very much attention was paid to whom replaced him, so that the person would have the necessary experience.
- As regards possible cases as a follow up of the Daphne project, he was not aware of any case before the courts, but he would not be surprised that the magistrate on the Daphne would also investigate those possibly related tracks. He did not know whether the police was conducting any investigations on those cases either.

- As a conclusion it was noted that the last instance of a democracy is an independent judiciary.

### **10:30 – 11:30 Meeting with MFSA**

Venue : Europe House

- Professor John MAMO, MFSA Chairperson
- Joseph CUSCHIERI, Chief Executive Officer/Deputy Chairman
- Anton BARTOLO, Responsible for supervision within MFSA, Vice-chairman of FIAU
- Mary Anne SCICLUNA, Director General

Discussions started with the enquiry of the European Banking Authority (EBA). Representatives of the MSFA clarified that two enquiries had been carried out on Maltese oversight financial authorities, one on the FIAU and the other one on MFSA. On the FIAU, the EBA already issued its recommendations and the FIAU made responding statements. As for the MFSA, the authority sent feedback to the EBA, however final conclusions of enquiries have not been issued yet. They insisted that the two enquiries are distinct, even though MFSA is sometimes involved in enquiries carried out with FIAU. They highlighted that the EBA case concerns one particular situation, institution, which does not reflect the MFSA full situation and anti-money laundering practices. The evaluation process started a number of months ago. A visit of the EBA is foreseen in November and the MFSA representatives look forward to fruitful exchanges. Committed to applying the law to the best of their abilities and knowledge, they declared that recommendations will be taken seriously and look forward to improving whatever the EBA will find. The MFSA was not ready to share its proposed action plan on AML, which they sent to the EBA, with the delegation.

The discussion turned to the influence of enquiries carried out outside Malta, for instance in the USA for Pilatus Bank -which led to the further freezing of the Bank's assets in Malta- and Mr Maduro's money laundering activities via a Maltese licensed company or revelations in Germany for financial consumer fraud via Ebay through fake accounts at the Maltese Satabank. Representatives of MFSA were asked why success investigations against financial crime seems to have to come from abroad. The MFSA chairperson saw these as allegations on which concrete evidence was missing. This applied also to the owner of Pilatus Bank who had been convicted in the USA for acts committed in breach of US law. He referred to the control process underway by Moneyval and the EBA. The representatives did not react to the hints of wrongdoing via Satabank accounts in Germany by one member of the delegation. Asked about possible new ambitions for the MFSA, the new chair of the organisation recalled having been appointed by the government with the approval of a solid majority in the Public Appointments Committee of the House of Representatives. He stressed his aim to do his job to the best of his ability. If he would come across something illegal, then he would strive to have this corrected.

The MFSA representatives further clarified that issues with banks referred to MFSA are taken

very seriously and as a prudential supervisor, the MFSA will take all necessary steps. This is the case for instance for Satabank, on which supervision is being conducted. The impression that the authority acts only after external pressure is not founded. A lot of internal work is not visible. MFSA collaborates with international authorities, including from the USA. MFSA can only act on the basis of proper evidence. MFSA closely works with EU institutions. They warned against mixing perceptions with facts. The little number of banking institutions mentioned by the LIBE delegation, when compared to the total number of banking institutions supervised, cannot be taken as a systemic problem that the institution is facing.

A discussion arose on the role of the Rule of Law Monitoring Group and its methods. It was clarified that the aim is to look across a large range of policy areas across the EU, not just in Malta, to identify failure of the EU to implement its values and law. National systems do not function in isolation and rule of law issues in one Member State impact on the functioning of the whole Union. Attention was drawn to Malta by the murder of a journalist and the same applies to Slovakia. The situation revealed by the Panama papers also played a role, having raised questions as to the functioning of self-control mechanisms.

Turning to crypto currencies, it was recalled that Malta is profiling itself as the centre for cryptal technology. However registration of crypto actors is due to start already in October 2018 when new EU money laundering rules on crypto currencies are not yet to be implemented. MFSA representatives were asked how they could ensure that the creation of this new centre of cryptal technology is not a new risk in terms of money laundering and whether sufficient resources, including specialised staff, was foreseen. They clarified that the anti-money laundering directive was implemented in Malta by the end of 2017 and legislation came into force in January 2018. Information was then provided to the Commission. Commissioner Jourova came to Malta and without having given feedback to the relevant authorities, told the media that the directive was not implemented and she would start infringement. MFSA representatives acknowledged that there was a delay but just like in many other Member State. A second reasoned opinion was issued on technical parts, to which it was replied arguing that most of the identified technical points are wrong. Exchanges ensued and to date, only one or two issues remain on which Maltese legislation needs to be fine-tuned.

A member of the delegation stressed that the transposed AMLD IV does not contain rules on crypto currencies but only the AMLD V which is not yet due for transposition and has not yet been transposed into Maltese law. Malta has been aiming to attract investment focusing on crypto currencies, and has taken steps to regulate the sector as from 1 November 2018, to stop unlicensed activity. MFSA representatives stressed that they adopted new rules setting a regulatory framework in place which protects consumers and users. New applicants will apply for license with MFSA. MFSA is working at full speed with FIAU to be able to apply rules. On 1 November, the new rules will enter into force. Working with FIAU on this. If operators do not succeed in getting a license, they will become illegal for this business. MFSA created a specific team to monitor this sector which is significantly different from current financial sectors.

The new Chief Executive Officer and Deputy Chairman stressed that the 200 officers working at MFSA are very diligent, demonstrating commitment and passion for their work. Incidents reported create a perception that there could be an issue. With the board, Mr Cushieri put together a plan on their supervising capacity. This is however not enough and change is foreseen for the recruiting policy. He acknowledged an urgent need to recruit skilled people and pointed to developing contacts with recruitment agencies to recruit from abroad. A reform

on remuneration implemented a few weeks earlier was also mentioned, aiming at competing with financial services where the level of remuneration is very high, especially for senior staff. The staff is due to grow considerably in the coming three years. Investments on modern technology are also foreseen in next year's budget as money laundering is becoming more and more sophisticated. He stressed the need for a supranational EU body for supervising money laundering. Joint inspections would also be welcome.

**12:00 – 13:15 Meeting with the Deputy Prime Minister of Malta, Hon. Christopher FEARNE, Minister for Justice, Culture and Local Government Dr. Owen BONNICI and Minister for Finance, Prof. Edward SCICLUNA**

Venue: Ministry for Health 15, Palazzo Castellania, Merchants Street, Valletta, VLT 1171

At the outset, the Head of the LIBE delegation regretted the impossibility to meet with Minister Mizzi who had declined without any explanation.

The Deputy Prime Minister clarified that the Maltese government surely recognised the oversight function of the European Parliament as a broad democratically elected institution, and the particular role of its Civil Liberties, Home and Justice Committee in this respect. Therefore they were ready to meet and assist the delegation in basing its reporting on facts rather than allegations. Mr Fearne recalled that Malta is a long-standing democracy, based on the rule of law, freedom of speech and accountability. Ministers are not appointed but elected directly and directly accountable to the electorate. He referred to recently adopted legislation strengthening institutions and rule of law in the country. Regulation on party financing was introduced to ensure that political parties prove provenance of their funds. Prescriptions for politicians in cases of corruption has been removed. Money laundering legislation has been strengthened and Malta is the first country to start regulation on crypto-currencies. Criminal libel was abolished and Mr Fearne observed that much more freedom of expression can be enjoyed in the country than a few years ago. A permanent appointment committee was recently established in Parliament to supervise appointments. Finally, it was stressed that Malta had recently decided to be part of the European Public Prosecutor Office.

All these steps were taken over the last years and presented as contributing to the strengthening of beliefs in values and accountability.

With regard the murder of Daphne Caruana Galizia, the Deputy Prime Minister stated that the government was very shocked and had taken all measures to ensure an efficient investigation which would enable courts to solve the case. He referred to the arrest of three suspects two weeks after the murder and the full cooperation with Europol. He pointed to one significant development since the latest visit of the LIBE delegation, i.e. the publication of the conclusions of the E-grant enquiry which showed that no one is above laws in the country as the Prime Minister would have been compelled to resign if allegations had proved real. On the contrary, the enquiry concluded that facts showed that allegations were not true. Mr FEARNE drew a parallel to the investigation on the journalist's murder, stating that all serious allegations are seriously investigated. He therefore asked the LIBE delegation to wait for the serious verification of these allegations. He repeated his call for patience and that LIBE's report be based on facts.

The Head of the LIBE delegation reiterated the two-fold focus of the mission, i.e. the

investigation on the journalist's murder but also more broadly, the functioning of the rule of law as part of a wider exercise carried out by the EU institutions, since failure of one Member State is an issue for the whole Union.

The discussion then turned to divisions and tensions in society, which according to representatives of civil society met by the delegation are nurtured by the government and its closed circles, notably through messages on social media against activists and the family of Daphne Caruana Galizia, but also by the constant clean-up of the memorial drawn-up to the murdered journalist. Minister Bonnici recalled here that Ms Caruana Galizia was a very controversial figure, having hurt a large part of the population, even though this did not minimise the shock created by her murder. The Minister reckoned that the duty of the government was to try to unite people, therefore the government is extremely careful to act in a balanced way to preserve national unity. He gave the example of the abolition of criminal libel which was a concrete way to further liberalise journalist activity.

As for the memorial, Minister Bonnici recalled that it had been installed on a monument commemorating the 'great siege'. A lot of people saw this changed use of a national monument as an offense. Therefore he had decided, in what he tried to make the most objective way, to send a message that anyone has right to protest however afterwards monuments have to be cleaned. Otherwise, other factions could do the same and use other monuments to their own purpose. He acknowledged that the Memorial could be set up somewhere else and that the government was willing to find a concerted solution with activists and the Caruana Galizia family.

The Ministers further rejected any allegations that the government would lead concerted actions and messages to discredit opponents and the family of the deceased journalist. They referred again to the conclusions of the E-grant report as an example of allegations that should not be taken for granted and handed copies in Maltese and English to members of the LIBE delegation. Even if they proved eventually wrong, allegations against the Prime Minister's wife were very serious. The Ministers indicated that those allegations were used heavily during the last election campaign and it was claimed that if the majorities changed, this could have resulted in a serious damage to the democratic process by handing the power over to a new majority based on illegitimate allegations. They stressed that rule of law implies to respect the presumption of innocence, therefore people against whom allegations are spread in the press should not be compelled to step down as long as those allegations are not proved in the context of an official investigation. They did not see as a good practice for politicians to step down when an investigation is ongoing. However, they stated that all serious allegations were being investigated, including those mentioned on the blog of the murdered journalist. It was discussed that the LIBE delegation will send the list of major cases that were raised by investigative journalists in order to be provided with a feedback if possible as regards their status and whether an investigation has been opened.

Regarding FIAU leaked reports, members of the LIBE delegation clarified that it never treated their content as facts, however they saw elements brought forward by FIAU and the Panama Papers as amounting to such strong suspicion that in any other EU country they would have been investigated and have immediate political consequences. The Ministers clarified that their approach on presumption of innocence of people in public office applied as well to allegations made in FIAU reports. They were aware though of a certain lack of coordination between financial supervision institutions, FIAU, MFSA, and forensic

authorities, and acknowledged an issue related to insufficient numbers of qualified people in public authorities for financial supervision and tackling economic crime. Minister Scicluna promised to send the delegation a copy of the action plan for improving FIAU/MFSA, after checking status with Commissioner Jourova.

In relation to citizenship programs, Minister BONNICI, who had been in charge of immigration for one year, emphasised the seriousness of due diligence carried on those 'golden citizenship' applications, by comparison to the very little control exercised on citizenship acquired by marriage. The LIBE delegation noted this perspective and indicated waiting to the upcoming report of the European Commission. Members of the delegation complained that there is no public transparency over the nationality of those who acquired citizenship.

The Head of the LIBE delegation made two suggestions: that the Government invite the Venice Commission, a neutral body of the Council of Europe, to map out the rule of law situation in the country; that the Government give further consideration to the European Parliament's proposals for a broader mechanism of rule of law monitoring, looking at every Member State. She indicated that the Rule of Law Monitoring Group was aiming at adopting a report and a resolution by the end of year, in accordance with its mandate which runs until end of December. However, if the Venice Commission was to prepare a report on Malta, an extension of the time-table could be considered.

13:30 – 14:00

Press conference (Chair)

Venue : Europe House



## Conclusions

### Regarding the situation in Slovakia:

- The progress achieved in the investigation into the murder of Ján Kuciak and his fiancée is encouraging, although many questions remain unanswered. The degree of involvement of Europol in the domestic investigation is perceived as valuable.
- On the seizing of the phone of Ms Holcová, a lack of clarity remains over the way in which it had been obtained and the access of Europol to the data extracted from the phone, even though Europol indicated it would support to analyse the phone.
- There are indications for corruption, conflicts of interest, impunity and revolving doors in the circles of power. In particular, regarding the latter point, it is worrisome that senior former police officials of NAKA having resigned, are appointed as advisors to the Minister of the Interior.
- Several specific cases of alleged corruption, including of EU agricultural funds, were brought to the attention of the delegation. These merit in-depth investigations.
- The fight against corruption and against crime appears to be insufficient. There has been information indicating links with the 'Ndrangheta organised criminal group in Slovakia, and there have been, at least in the past, suspicions about connections between organised criminal groups and public offices. Stepping up this fight against organised crime is essential for public faith in the institutions to be restored.
- The law enforcement authorities could act in a more pro-active manner.
- There is a high degree of public distrust in the institutions, and in particular in law enforcement authorities.
- The independence of the law enforcement authorities and the judiciary is undermined by the perception of them being politicised and lacking transparency in selection and appointment procedures. The new procedures for the selection of the Police President should be adopted as soon as possible.
- Journalists and civil society experience a lack of openness to dialogue on the part of the authorities and perceive a lack of safety. The lack of transparency on media ownership is a matter of concern. The leaving of the RTVS by several journalists raises questions over the independence and quality of public media.
- Nonetheless, the members of the mission were pleased to find that various members of the Slovak authorities, civil society and journalist are highly committed to upholding EU standards on the rule of law.

#### Regarding the situation in Malta:

- The information provided to the Delegation was not sufficient to be able to verify the progress in the ongoing investigation into the murder of Daphne Caruana Galizia. Local police authorities said that the investigation has reached a delicate stage, that cooperation with Europol is ongoing, and that they are confident it will lead to results. From the meetings held, however, it could not be established what progress has been made in the investigations into the identity of the mastermind behind the assassination.
- The fight against corruption and organised crime appears to be insufficient. Any connections of corruption and organised crime with politically exposed persons must be investigated. This is essential for public faith in the institutions to be restored.
- The delegation took note of the call for a full and independent, public inquiry into the assassination of Daphne Caruana Galizia, including on the elements leading up to her death and what can be done to ensure this never happens again to other journalists. The Daphne Caruana Galizia family also supports this call.
- Maltese media houses and journalists have indicated that they feel threatened and not sufficiently protected by law and that action must be taken to address SLAPP lawsuits. The apparent coordination between Henley and Partners and senior members of the Government in the vexatious lawsuit filed against Daphne Caruana Galizia is of concern. Journalists and civil society experience a lack of openness to dialogue on the part of the authorities and perceive a lack of safety.
- The delegation has been made aware of information that leads to serious concerns regarding corruption, money laundering and abuse of power in Malta across different economic sectors, in combination with concerns about the effectiveness of regulatory frameworks and supervisory mechanisms. This particularly concerns tax evasion as well as the fight against money laundering, including in the banking sector.
- The recommendation of the EBA of July 2018 addressed to the FIAU, in particular regarding the situation regarding Pilatus Bank, and the action taken by the Commission on the FIAU underline the need for the applicable supervisory mechanisms to be strengthened considerably.
- The MFSA showed limited willingness to consider changing its practices substantially.
- Concerns have been voiced regarding the transposition of the 4th AMLD by the Maltese authorities. The Commission issued a reasoned opinion in an infringement procedure regarding this matter. A further Commission assessment of the replies received by the Maltese authorities in response to this reasoned opinion could shed further light on the actions taken to remedy concerns.
- The continued sale of Maltese residency rights and citizenship, and thereby of EU citizenship, is a matter of concern for the delegation as it exacerbates concerns about money laundering and organised crime on Malta and in the EU.

- The delegation is of the opinion that it is unfortunate that there is no standalone list of the names of the people purchasing Maltese and EU citizenship. The due-diligence process remains unclear and without EU scrutiny.
- On Malta, there are considerable gambling and cryptocurrency activities. These activities come along with certain risks and require strong regulatory and supervisory structures.
- The delegation is of the opinion that the immediate publication of the full Egrant inquiry report is crucial. Allowing only Members of Government to have a copy and publish select parts of it, continues to undermine confidence in the process.
- There are indications that the institutions potentially competent to follow up on suspicions and initiate investigations, are passive and selective and need to be more proactive. This also concerns the division of labour and coordination between the police and the magistrates. The low number of actual investigations is worrying, such as the low number of cases investigated by the Permanent Commission Against Corruption that has resulted in criminal proceedings in court.
- The hate campaign against the memory and the family of Daphne Caruana Galizia, including originating from persons employed by the government, raises significant concerns. The libel cases pursued by members of the Maltese government, which are now being faced by the mourning family of Daphne Caruana Galizia, should be withdrawn with immediate effect. Also, a solution needs to be found to make sure that mourning, remembrance and calls for justice for Daphne Caruana Galizia can continue unhindered in public. The repeated destruction of the makeshift memorial is a source of concern.
- The delegation welcomes the willingness of the government to respond to a list of potential cases of wrongdoing, including those researched by the Daphne Project of European journalists, which may not have led to an investigation by Maltese law enforcement bodies.
- The fact that the Minister for Tourism, Mr Konrad Mizzi, who remains the only sitting EU Minister to have secret financial structures exposed by the Panama Paper, refused to meet the delegation, is regrettable. The fact that Nexia BT did not follow up on the invitation is equally regrettable.
- The delegation found that there are deep divisions in the Maltese society, and expresses the hope that all political and societal actors in Malta would strive to address these divisions through open dialogue and democratic debate.
- The Venice Commission could make a valuable contribution to the understanding of the checks and balances within the Maltese constitutional and legal systems, and their application in practice, in light of European and international standards.
- In this context, the independence, transparency and accountability of institutions is a key concern, in particular regarding the law enforcement authorities.

Cross-cutting:

- The involvement of Europol in both cases is crucial to ensure transparency and increase trust among EU law enforcement authorities and EU citizens. Despite varying experiences between the Maltese and Slovak authorities' cooperation with Europol, the involvement of the agency is perceived as a highly valuable contribution to the work of the local authorities. The mandate, competences and capacities of Europol could be strengthened to make it possible for the agency to have more direct access to national investigations, a stronger role in the actual investigation of serious cross-border crime as from early on. The involvement of third country law enforcement authorities in these investigations, such as from the FBI, should be clarified and always be in full respect of EU law.
- Corruption is a challenge for many EU Member States, including for Malta and Slovakia. The national authorities should step up their fight against corruption. This could be supported by the European Commission returning to the practice of publishing self-standing and in-depth anti-corruption reports.
- The mission again highlighted that challenges to rule of law and fundamental rights in various Member States should be monitored regularly to be able to act more preventively. To achieve that, the Commission and the Council could support setting up a permanent mechanism for monitoring democracy, rule of law and fundamental rights, along the lines proposed by the European Parliament in its resolution of 25 October 2016.

## Slovakia

- On 27 September 2018, arrests have been made of eight individuals in connection with the investigation into the murder of Mr Ján Kuciak and Martina Kušnírová. Currently, four individuals are in custody and have been charged.
- According to Slovak Prosecutors, those charged include those that allegedly ordered the murder and further suspects.
- On Wednesday 17 October, one of the four released individuals from the 27 September arrests has committed suicide. The nature and cause of death is still being investigated.
- House searches in connection with the investigation have also taken place at the premises owned by Mr Kočner, who is currently in custody.
- Regarding the possible links between the murder and Italian individuals or networks, Mr Fico stated during a press conference on 2 October 2018, that these links can be excluded. Mr Lučanský, Police Chief, stated on 15 October 2018 that nothing could be excluded, when asked about possible links with Italy.
- On 22 October, Slovak President Andrej Kiska published an op-ed saying state official's covered-up organised crime for a decade. The Slovak President stated that he received a special report drafted by the Slovak Intelligence Service (SIS) that according to him describes connection between state and mafia as well as how allegedly dozens of millions of EU agricultural funds have been funneled to organized crimes groups.
- The future of the RTVS was raised as an issue to consider, among others by Mr Fico in a press conference on 2 October 2018. Furthermore, the RTVS management issued rules on short news broadcasts on 10 October 2018, excluding coverage from certain news sources and about certain opposition initiatives and protests. The assumed author of these rules, Ms Maťašovská, has stepped down on 15 October 2018, even though she indicated that she is not the actual author of these rules. Ms. Maťašovská is still employed in RTVS.
- The President of the Slovak National Council, Andrej Danko, has announced in the interview with the "Nový čas" newspaper on 23 October 2018 that he wants to tighten the media laws and he would like to submit a legislative proposal with this aim in December.
- The selection and nomination procedure for Constitutional Court judges is underway, as the term of 9 out of 13 judges ends in February. The rules covering this selection and nomination process as well as the qualification and requirements will be subject to changes, both amending the constitution as well as further laws. The proposals for such changes are put forward by the Ministry of Justice and are debated in the Slovak Parliament. On 23 October 2018 the coalition proposal to change the selection and

nomination process was supposed to be voted in the Slovak Parliament, however no parliamentary majority for this proposal was found.

## Malta

- On 25 September 2018, the European Banking Authority (EBA) has decided not to open a breach of Union law investigation in the area of Anti Money Laundering regarding the MFSA because of legal limits in the capital requirements directive. The EBA however highlighted significant concerns in this case relating to the supervisory practices of the MFSA, in particular related to cooperation with the FIAU, due diligence practices, responses to concerns about the effectiveness of AML/CFT systems and controls, and actions related to private banking with a high degree of non-resident costumers.<sup>1</sup>
- On 8 October 2018, the Council of Europe Parliamentary Assembly Committee on Legal Affairs and Human Rights has requested the Venice Commission to issue an opinion regarding the legal and constitutional set up in Malta, in particular focusing on law enforcement and judicial independence.<sup>2</sup>
- On 12 October 2018, in response to a letter sent by the Chair of the EP Rule of Law Monitoring Group, Deputy Prime Minister Fearn indicated that libel cases against the late Ms Daphne Caruana Galizia, including by members of government, should not necessarily be withdrawn. In the same letter, the Deputy Prime Minister also indicated that the Maltese government is open to suggestions regarding a permanent solution to the Great Siege Memorial site as a place of remembrance for the late Ms Daphne Caruana Galizia, although at the same time indicating that the State also is under an obligation to preserve national monuments.
- On 13 October 2018, the Maltese Government, as represented in this matter by Minister of Justice Mr Owen Bonnici has also invited the Venice Commission to carry out its work and issue an opinion.
- On 8 November 2018, the European Commission announced a “formal opinion” as a follow up of an earlier EBA recommendation concerning the FIAU, where it did find a breach of Union law, in particular in the case of Pilatus Bank and EU law on Anti Money Laundering.<sup>3</sup>

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<sup>1</sup> See:

<https://www.eba.europa.eu/documents/10180/2101654/Letter+to+MEPs+on+the+request+to+investigate+a+possible+BUL+under+Article+17+of+Regulation+%28EU%29%20No+10932010+-+24092018.pdf>

<sup>2</sup> <http://assembly.coe.int/nw/xml/News/News-View-EN.asp?newsid=7223&lang=2>

<sup>3</sup> <https://www.eba.europa.eu/-/eba-issues-recommendation-to-the-maltese-financial-intelligence-analysis-unit-in-relation-to-its-supervision-of-pilatus-bank>

**Committee on Civil Liberties, Justice and Home Affairs (LIBE)**

**Mission to Slovakia and Malta  
17-20 September 2018**

**Draft Programme**  
*version of 19.09.2018*

**Monday, 17 September 2018**

Recommended flight towards Vienna (e.g. 6:55 – 8:40 a.m.)

A bus transfer from Vienna to Bratislava will be organised at approx. 9:30 -9.45 towards the EP Information Office

For other flights, transportation has to be organised individually by the participant

Hotel: PARK INN BY RADISSON DANUBE BRATISLAVA, Rybné námestie 1, 811 02

Bratislava, Phone: +421 2/593 400 00

<i>Approx. 11:30</i>	<i>Arrival EP Information Office, Palisády 29, SK-811 06 Bratislava</i>  <i>Sandwich lunch (individual payment)</i>
<b>12:00 - 13:30</b>	<b>Round table of discussion with NGOs active in the fight against corruption</b> <ul style="list-style-type: none"><li>• Mr Milan Šagát - VIA IURIS - Civil society organisation in the field of justice, rule of law and democracy</li><li>• Mrs Zuzana Wienk and Peter Kunder - Fair Play Alliance, Civil society organisation in the area of transparency and anti-corruption (tbc)</li><li>• Mr Matej Hruška, Bring to a Halt of Corruption – Foundation in the field of fight against corruption</li><li>• Representative of Transparency International Slovakia (tbc)</li></ul> <i>Venue : EP Information Office, Palisády 29, Bratislava</i>
<b>13:30– 15:00</b>	<b>Meeting with journalists</b> <ul style="list-style-type: none"><li>• Pavla Holcova, journalist</li><li>• Mr Attila Lovász, Vice General Director of RTVS - Radio and Television of Slovakia</li><li>• Xénia Makarová, TREND magazine</li></ul>

	<ul style="list-style-type: none"> <li>• <b>Peter Bárdy, Editor-in-chief, Aktuality SK</b></li> <li>• <b>Peter Demecs, journalist, Új Szó</b></li> <li>• <b>Matúš Kostolný, Editor-in-chief, Denník N</b></li> <li>• <b>Beata Balogová, Editor-in-chief of SME</b></li> <li>• <b>Vladimír Amrich, Hospodárske noviny</b></li> </ul> <p><i>Venue: EP Information Office, Palisády 29, Bratislava</i></p>
<b>15:30 – 16:30</b>	<p><b>Meeting with Andrej KISKA, President of the Slovak Republic</b></p> <p><b>Venue: Presidential palace, Hodžovo namestie 1, Bratislava</b></p>
<b>16:45 - 17:45</b>	<p>Meeting with Europol representatives in Slovakia</p> <ul style="list-style-type: none"> <li>• <b>Mr Jari Liukku, Head of European Serious Organised Crime Centre (ESOCC) at Europol</b></li> <li>• <b>Mr Robert Kurzewski, Europol colleague deployed in Slovakia</b></li> <li>• <b>Ms Katerina Flaigova, Team leader of External and EU Institutional Affairs Unit at Europol</b></li> </ul> <p><i>Venue: EP Information Office, Palisády 29, Bratislava</i></p>
<b>18:00 - 19:00</b>	<p>Meeting with Mr Vasil' Špirko, Prosecutor, Special Prosecutor Office</p> <p><i>Venue: EP Information Office, Palisády 29, Bratislava</i></p>

**Tuesday, 18 September 2018**

<b>8:30</b>	<i>Bus pick up and transfer</i>
<b>9:00 - 10:00</b>	<p><b>Meeting with Mr Dušan KOVÁČIK, Special Prosecutor</b>  <b>Juraj NOVČOKÝ, Prosecutor, Special Prosecutor Office</b>  <b>Vladimír KURUC, Director, General Criminal Matters Department</b>  <b>Vladimír TURAN, HoU, Organised crime, Terrorism and</b>  <b>International criminal matters Department</b></p> <p><i>Venue: Úrad špeciálnej prokuratúry GP SR, Suvorovova 4343/5A, Pezinok</i></p> <p><i>Format: MEPs + 1</i></p>
<b>10.15-10.45</b>	<i>Bus transfer from Pezinok to Bratislava</i>



<b>11:00 – 12:30</b>	<b>Meeting with Milan LUČANSKÝ, President of the Police</b> <b>Peter HRAŠKO Director of Slovak National Criminal Agency</b> <b>Martin FRITZ, Director of National Counter corruption Unit</b> <b>Pavol VOROBJOV, Director of Slovak Financial Intelligence Unit</b> <b>Igor VOZÁRY, Director of the Office of International Criminal cooperation</b>  <i>Venue: Račianská 45, Bratislava</i>
<b>13:00</b>	<i>Lunch break</i>  <i>Sandwich lunch (individual payment) (Information Office)</i>
<b>16:15 - 16:45</b>	<b>Meeting with Olga Bakova (journalist)</b>  <i>Venue: Information Office</i>
<b>17:00–17:45</b>	<b>Meeting with Gábor GÁL, Minister of Justice</b>  <i>Venue: Župné námestie 13, 813 11 Bratislava</i>
<b>18.00– 19:00</b>	<b>Meeting with Peter PELLEGRINI, Prime Minister of Slovakia and Denisa SAKOVA, Minister of Interior</b>  <i>Venue: Námestie slobody 1, Bratislava</i>
<b>21.00</b>	<b>Press conference (Chair)</b>

### **Wednesday, 19 September 2018**

*Recommended flight (e.g. 10:20 VIE to MLA 12:50)*

*A bus transfer will be organised from the airport towards the EP Information Office*

*For other flights, transportation has to be organised individually by the participant*

*Hotel: GRAND HOTEL EXCELSIOR, Great Siege Road, Floriana FRN1810, Malta*

*Phone: +356 2125 0520*

<i>Approx. 14:00</i>	<i>Arrival EP Information Office</i> <i>Sandwich lunch (individual payment)</i>
<b>14:15– 15:00</b>	<b>Meeting with journalists and representatives Daphne Project</b> <ul style="list-style-type: none"> <li>• <b>Jacob Borg (Times of Malta and Daphne Project);</b></li> <li>• <b>Yannick Pace (MaltaToday);</b></li> <li>• <b>Jurgen Balzan (The Shift News)</b></li> </ul>

	<ul style="list-style-type: none"> <li>• <b>Chris Peregin (LovinMalta);</b></li> <li>• <b>Neil Camilleri (Malta Independent)</b></li> </ul> <p><i>Venue : Europe House</i></p>
<b>15:00- 15:45</b>	<p><b>Meeting with Financial Intelligence Analysis Unit representatives</b></p> <p><b>Peter Grech, Chairman of the FIAU's. Board of Governors</b></p> <p><b>Kenneth Farrugia, Director, FIAU</b></p> <p><i>Venue : Europe House</i></p>
<b>15:45 – 16:30</b>	<p><b>Meeting with Attorney General Dr Peter GRECH</b> Philip GALEA FARRUGIA, Assistant Attorney General and Head of the Criminal Law &amp; Prosecutions Unit</p> <p><i>Venue: Europe House</i></p>
<b>16:30 - 17:45</b>	<p><b>Round table with non-governmental organizations</b> active in the field of Rule of law and Fight against corruption</p> <ul style="list-style-type: none"> <li>• <b>Manuel DELIA</b>, Blogger and anti-corruption activist</li> <li>• <b>Neil Falzon, Aditus</b>, Human Rights NGO</li> <li>• <b>Occupy Justice</b>, activists</li> <li>• <b>Ranier FSADNI</b></li> <li>• <b>Representatives of Civil Society Network</b></li> </ul> <p><i>Venue : Europe House</i></p>
<b>17:45 – 18:30</b>	<p><b>Meeting representatives of the family of Daphne CARUANA GALIZIA</b></p> <p><i>Venue : Europe House</i></p>
<b>18:45 – 19:30</b>	<p><b>Meeting representatives Henley and Partners</b></p> <p><i>Venue : Europe House</i></p>
<b>19:30</b>	Transport to the hotel

**Thursday, 20 September 2018**

07:45	Departure from the hotel (transport by bus)
08:15 – 09:00	Meeting with <b>Police Commissioner Lawrence CUTAJAR</b>  <i>Venue: Police Head Quarters, St. Calcedonius Square Floriana FRN 1530</i>
9:00	Travel by bus approx.15 min
09:15 – 10:15	<b>Meeting with Chief Justice Joseph AZZOPARDI</b>  <i>Venue: Courts of Law, Republic St, Valletta, Conference Room</i>
10:15	Travel by bus approx.15 min
10:30 – 11:30	<b>Meeting with MFSA</b>  <b>Professor John Mamo, MFSA Chairperson</b> <b>Joseph Cuschieri, Chief Executive Officer/Deputy Chairman</b>  <i>Venue : Europe House</i>
11:45	Travel by bus approx. 15 min
12:00 – 13:15	Meeting with the Deputy Prime Minister of Malta, <b>Hon. Christopher Fearne</b> , Minister for Justice, Culture and Local Government <b>Dr. Owen BONNICI</b> and Minister for Finance, <b>Prof. Edward Scicluna</b>  <i>Venue: Ministry for Health 15, Palazzo Castellania, Merchants Street, Valletta, VLT 1171</i>
13:15	Travel by bus approx. 15 min
13:30 – 14:00	<b>Press conference (Chair)</b> <i>Venue : Europe House</i>
14:00	Transport to the airport