



2018/2965(RSP)

11.2.2019

DRAFT MOTION FOR A RESOLUTION

further to Questions for Oral Answer B8-0000/2019 and B8-0000/2019

pursuant to Rule 128(5) of the Rules of Procedure

on the situation of the rule of law and the fight against corruption in the EU,
specifically in Malta and Slovakia
(2018/2965(RSP))

Sophia in 't Veld

on behalf of the Committee on Civil Liberties, Justice and Home Affairs

European Parliament resolution on the situation of the rule of law and the fight against corruption in the EU, specifically in Malta and Slovakia (2018/2965(RSP))

The European Parliament,

- having regard to Articles 2, 4, 5, 6, 7, 9 and 10 of the Treaty on European Union (TEU),
- having regard to Article 20 of the Treaty on the Functioning of the European Union (TFEU),
- having regard to Articles 6, 7, 8, 10, 11, 12 and 47 of the Charter of Fundamental Rights of the European Union,
- having regard to the Opinion on questions relating to the appointment of judges of the constitutional court of the Slovak Republic, adopted by the Venice Commission at its 110th Plenary Session (Venice, 10-11 March 2017),
- having regard to the Opinion on constitutional arrangements and separation of powers and the independence of the judiciary and law enforcement in Malta, adopted by the Venice Commission at its 117th Plenary Session (Venice, 14-15 December 2018),
- having regard to the Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions “Investor Citizenship and Residence Schemes in the European Union” {COM(2019) 12 final},
- having regard to its Resolution of 16 January 2014 on EU citizenship for sale and to the Joint Press Statement by the European Commission and the Maltese Authorities on Malta's Individual Investor Programme (IIP) of 29 January 2014,
- having regard to its Resolution of 25 October 2016 with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights and its Resolution of 14 November 2018 on the need for a comprehensive EU mechanism for the protection of democracy, the rule of law and fundamental rights,
- having regard to its Resolution of 15 November 2017 on the rule of law in Malta,
- having regard to its Resolution of 1 March 2018 on the Commission’s decision to activate Article 7(1) TEU as regards the situation in Poland, as well as its preceding Resolutions of 13 April 2016 on the situation in Poland, of 14 September 2016 on the Recent developments in Poland and their impact on fundamental rights as laid down in the Charter of Fundamental Rights of the European Union and of 15 November 2017 on the situation of the rule of law and democracy in Poland,
- having regard to its Resolution of 19 April 2018 on protection of investigative journalists in Europe: the case of Slovak journalist Ján Kuciak and Martina Kušnírová,

- having regard to its Resolution of 3 May 2018 on media pluralism and media freedom in the European Union;
 - having regard to its Resolution of 12 September 2018 on a proposal calling on the Council to determine, pursuant to Article 7(1) of the Treaty on European Union, the existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded, as well as its preceding Resolutions of 10 June 2015, 16 December 2015 and of 17 May 2017 on the situation in Hungary,
 - having regard to its Resolution of 13 November 2018 on the rule of law in Romania,
 - having regard to the Report of 22 March 2018 on the ad-hoc LIBE-CONT delegation to Slovakia of 7 - 9 March 2018,
 - having regard to the Report of 11 January 2018 on the LIBE-PANA ad-hoc delegation to Malta of 30 November - 1 December 2017,
 - having regard to the Report of 16 November 2018 on the ad-hoc LIBE delegation to Malta and Slovakia of 17-20 September 2018,
 - considering the hearings and exchanges of views carried out by the “Working Group with a general mandate to monitor the situation as regards rule of law and fight against corruption within the EU and addressing specific situations, in particular Malta and Slovakia” (Rule of Law Monitoring Group (ROLMG)) set up on 4 June 2018 by its Committee on Civil Liberties, Justice and Home Affairs (LIBE), notably with the Council of Europe Parliamentary Assembly and its Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), national institutions and authorities, European Commission representatives, EU agencies such as EUROPOL and various stakeholders including civil society representatives and whistleblowers in Malta and Slovakia;
 - having regard to Rule 123(2) of its Rules of Procedure.
- A. Whereas the Rule of Law Monitoring Group (ROLMG) was set up with a general mandate to monitor the situation as regards rule of law and fight against corruption within the EU and addressing specific situations, in particular Malta and Slovakia, on 4 June 2018;
 - B. Whereas the rule of law, democracy, human rights and fundamental freedoms, and the values and principles enshrined in the EU Treaties and international human rights instruments are obligations incumbent on the Union and its Member States and must be respected;
 - C. Whereas Article 6(3) TEU confirms that fundamental rights, as guaranteed by the ECHR and as arising from the constitutional traditions common to the Member States, constitute general principles of Union law;
 - D. Whereas the EU operates on the basis of the presumption of mutual trust that Member States act in conformity with democracy, the rule of law and fundamental rights, as enshrined in the ECHR, the Charter of Fundamental Rights and the International

Covenant on Civil and Political Rights (ICCPR);

- E. Whereas neither national sovereignty nor subsidiarity can justify the systematic refusal by a Member State to comply with the fundamental values of the European Union and the Treaties to which they have freely acceded;
- F. Whereas the ROLMG held a number of meetings with different stakeholders with the main focus on the situation in Malta and Slovakia; whereas the ROLMG held one exchange of views on the safety of journalists in Bulgaria following the murder of Viktoria Marinova; whereas the temporary detention of the journalists Mr Attila Biro and Dimitar Stoyanov that were investigating the allegations of fraud involving European Union funds in Romania and Bulgaria was also discussed during that meeting;
- G. Whereas the assassinations of Daphne Caruana Galizia in Malta and of Ján Kuciak and his fiancée Martina Kušnírová in Slovakia, and the murder of Viktoria Marinova in Bulgaria have shocked the European public opinion and have had a chilling effect on journalists in the EU;
- H. Whereas the investigations into these murders have so far led to the identification of several suspects without however coming to conclusions as to the possible masterminds behind the murders, while this is the most important element to clarify; whereas, in Malta, three persons have been arraigned and police and magisterial investigations into the murder remain active;
- I. Whereas the ROLMG was not able to verify the full state of affairs of the investigations, the authorities having invoked a legitimate need to ensure confidentiality to safeguard progress in such murder cases;
- J. Whereas the ROLMG has been able to look into many areas of concern in relation to the Rule of Law in Malta and Slovakia, in particular including those areas covered in the work of Daphne Caruana Galizia and Ján Kuciak;
- K. Whereas the ROLMG was regularly informed, including by the family members of Daphne Caruana Galizia, of the request for a full and independent public enquiry into the murder of Daphne Caruana Galizia, in particular on the circumstances that have allowed the murder to happen, the response by the public authorities to it, and the measures that can be put in place to ensure that such a murder will not happen again;
- L. Whereas the level of cooperation with Europol in these investigations varies among the investigations conducted;
- M. Whereas, in particular in the case of Malta, the previous Director of Europol had indicated a suboptimal level of cooperation between the Maltese authorities and Europol - a situation which his successor subsequently assessed as having improved to be satisfactory; whereas Europol representatives told the ROLMG Members that the investigation did not stop with the arrest of the three suspected perpetrators; whereas Europol experts were appointed as experts dealing with specific tasks in the magisterial inquiry;

- N. Whereas, regarding the seizing of the phone of Ms Holcová in Slovakia, 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;
- O. Whereas there are serious concerns about the fight against corruption and organised crime in the EU, including in Malta and Slovakia, and whereas this threatens to undermine the trust of citizens in public institutions and this can lead to a dangerous interconnection between criminal groups and public authorities;
- P. Whereas a large European consortium of investigative journalists has researched and published widely on investigations that had been published by Daphne Caruana Galizia;
- Q. Whereas in particular the fight against money laundering in the EU is insufficient, including due to gaps in the implementation of EU anti-money laundering legislation, such as highlighted by recent cases of lacking anti-money laundering enforcement involving large banking institutions in different Member States;
- R. Whereas the EBA concluded in its recommendation of July 2018 addressed to the Maltese Financial Intelligence Analysis Unit (FIAU) that there are “general and systematic shortcomings in the fight against money laundering” on Malta, in particular regarding the Pilatus Bank case, while acknowledging that the FIAU’s Action Plan was “a move in the right direction”; whereas the Commission has subsequently found “that the Maltese FIAU breached its obligations” under EU anti money laundering law and that it did not fully implement the EBA recommendation and the Commission therefore adopted its Opinion in this case in November 2018;
- S. Whereas Malta is home to a large banking sector, including some particular banking institutions that do not comply with all regulatory standards and requirements, such as illustrated by the Pilatus Bank and its licence being withdrawn by the European Central Bank (ECB);
- T. Whereas the “Egrant” enquiry report is not publicly available; whereas the available conclusions do not confirm claims linking the ownership of Egrant Inc. to the Prime Minister and his wife; whereas only the Prime Minister, the Minister of Justice, the Prime Minister’s Chief of Staff and the Prime Minister’s Communications officer have access to the full un-redacted enquiry report;
- U. Whereas subsequently no inquiry was launched to uncover the beneficial ownership of Egrant, which still remains to be clarified;
- V. Whereas revelations around the beneficial owner of the “17 Black” company, allegedly being the CEO of Tumas Group who was awarded a contract by the Maltese Government to construct the Electrogas power station on Malta, further underlines the need for more transparency regarding financial interests and links to members of government, such as the Prime Minister’s Chief of Staff and the current Minister of Tourism, former Minister of Energy;
- W. Whereas the Prime Minister’s Chief of Staff and the current Minister of Tourism, former Minister of Energy are the only acting high ranking government officials in any

EU Member State who were found to be beneficial owners of a legal entity revealed in the Panama Papers; whereas the latter testified to a delegation of the European Parliament about the use of his entities which is in contradiction with documents published in the Panama Papers;

- X. Whereas a lack of safety for journalists, and a narrowing space for civil society because of harassment and intimidation, lead to a worsening of oversight over executive power and to an erosion of the civic engagement of citizens;
- Y. Whereas journalists, and in particular, but not exclusively, investigative ones, are increasingly faced with so-called ‘Strategic Lawsuits Against Public Participation’ (SLAPP) against them, merely intended to frustrate their work;
- Z. Whereas the family of Daphne Caruana Galizia has to deal with hate campaigns and libel law suits even after her death, including by Members of the Maltese Government, and Deputy Prime Minister has indicated that he does not consider that withdrawing these libel cases is necessary;
- AA. Whereas the family and friends of Daphne Caruana Galizia, as well as civil society activists, also have to deal with a continuous situation at the make-shift memorial involving removal and destruction of remembrance items;
- BB. Whereas the Venice Commission has highlighted the positive obligation of States to protect journalists as an issue directly related to the Rule of Law, and has insisted that “it is an international obligation of the Government [of Malta] to ensure that the media and civil society can play an active role in holding authorities accountable”¹;
- CC. Whereas the Venice Commission has stressed that the establishment of the Judicial Appointments Committee (JAC) in 2016 was a positive step taken by taken Maltese authorities, it also highlighted that there however remain several points of concern in light of the principle of judicial independence, notably around the organisation of prosecutorial powers and the judicial structure, and relating to the overall separation and balance of powers in the country which is clearly leaning to the executive, particularly to the Prime Minister who enjoys a far-reaching set of powers, including in various appointment procedures such as of members of the judiciary, and that this is not coupled with solid checks and balances (paras. 107-112);
- DD. Whereas the Venice Commission has stated that, the splitting of the prosecutorial powers between the Police and the Attorney General (AG) in Malta constitutes an “ambiguous system” that “is problematic from the viewpoint of the separation of powers (para. 54) and noted also that the Attorney General by having prosecutorial powers, being the Legal Advisor of the government, and chairing the FIAU, constitutes a very powerful office that is “problematic from the viewpoint of the principle of democratic checks and balances and the separation of powers”;
- EE. Whereas the Venice Commission’s delegation noted that a future separation of the roles of the AG “is now widely accepted in Malta following the 2013 Report of the

¹ [Malta - Opinion on Constitutional arrangements and separation of powers, adopted by the Venice Commission at its 117th Plenary Session \(Venice, 14-15 December 2018\), para 142](#)

Commission for a Holistic Reform of the Justice System” (para 59);

- FF. Whereas the Venice Commission has stated that, next to the AG and Police prosecutorial tasks, magistrates also have the possibility to start inquests, and that “there seems to be no co-ordination between inquests and police investigation” (para. 71);
- GG. Whereas the Venice Commission has stressed that the Permanent Commission Against Corruption (PCAC) suffers from flaws concerning its composition, as members’ appointments depend on the Prime Minister, even if he has to consult with the Opposition, and concerning the addressees of its reports, namely the Minister of Justice who has no investigatory powers, their reports resulting in actual investigations and prosecutions in a very limited number of cases (para. 72);
- HH. Whereas the Venice Commission has found that the appointment procedure for Police Commissioner should be based on a public competition (para. 132); the Police Commissioner should be perceived as politically neutral by the general public (para. 132);
- II. Whereas Malta has started a process of exploring constitutional reforms, under the supervision of its President, where different political forces and civil society are involved, and most which will require a 2/3 majority in Parliament to be implemented;
- JJ. Whereas monitoring of worsening Rule of Law situations in Member States by the European Parliament is a vital part of European democracy and the format of the Rule of Law Monitoring Group enables the European Parliament to follow up closely and liaise with Member State authorities and civil society;
- KK. Whereas, despite broadly supported resolutions by the European Parliament², the Commission has still not come forward with a proposal for a comprehensive and independent mechanism to monitor the situation as regards Democracy, Rule of Law and Fundamental Rights (DRF) annually in all Member States;
- LL. Whereas the use of “investor citizenship and residence schemes” by EU Member States poses serious risks to the fight against money laundering, undermines the mutual trust and integrity of the Schengen Area, allows for the admission of third country nationals merely on the basis of accumulated wealth rather than on the basis of useful knowledge, skills or humanitarian considerations and results in the actual sale of EU citizenship; whereas the Commission has explicitly stated that it no longer endorses the Maltese investor citizenship and residence schemes;
- MM. Whereas the Commission published a report on investor citizenship and residence schemes that maps the existing practices and identifies certain risks such schemes imply for the EU, in particular, as regards security, money laundering, tax evasion and corruption;
- NN. Whereas the Maltese government has concluded a confidential agreement with the

² Resolution of 25 October 2016 with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights and its Resolution of 14 November 2018 on the need for a comprehensive EU mechanism for the protection of democracy, the rule of law and fundamental rights.

private firm Henley & Partners to implement the Maltese “investor citizenship and residence scheme”, making it impossible to verify whether the agreed procedures, sales volume, and further terms are in line with Maltese, EU and international law and security considerations;

- OO. Whereas the implementation of the residency requirements for applicants of the Maltese investor citizenship and residence scheme are not in line with the conditions for the schemes agreed with the European Commission in 2014; whereas the European Commission has taken no effective action to tackle this lack of respect of the residency requirement;
- PP. Whereas the allegations regarding the sale of medical and Schengen visas in Libya and Algeria by Maltese officials have not been fully investigated³;
- QQ. Whereas journalists in Slovakia have indicated during the delegation visit of the ROLMG that they operate in an environment where full independence and safety cannot always be guaranteed; whereas in the case of the RTVS in Slovakia, there have been instances of perceived political interference with the journalistic work, such as by the issuing of short news guidelines;
- RR. Whereas the National Press Act is under a process of revision in Slovakia and this provides an opportunity to strengthen media freedom and the safety of journalists;
- SS. Whereas there are reports of corruption and fraud in Slovakia, including with EU agricultural funds involving the Agricultural Paying Agency, that merit in-depth and independent investigations, of which some are indeed being investigated by OLAF and regarding which the European Parliament Committee on Budgetary Control has also conducted a fact-finding mission to Slovakia in December 2018; whereas Slovakia has the highest irregularity and fraud detection rates of all EU Member States⁴;
- TT. Whereas the Members of the ROLMG have concerns over the impartiality of law enforcement and the independence of the judiciary in Slovakia, especially by the politicisation and lacking transparency in selection and appointment processes, such as related to the position of the Police President;
- UU. Whereas the Prime Minister and other high ranking Members of Government as well as the Slovak deputy general prosecutor and the Police Chief resigned after Ján Kuciak's murder;
- VV. Whereas the legislative process in Slovakia regarding the reform of the selection of Constitutional Court judges has not been completed and the upcoming selection process of the 9 retiring Constitutional Court judges will take place under the existing procedures in place;
- WW. Whereas the Members of the ROLMG observed the commitment to upholding the Rule of Law standards among various staff of the Slovak public authorities and civil society members during their missions;

³ <http://nao.gov.mt/loadfile/77c82f0e-89b3-44b4-85d4-e48ecfd251b0>

⁴ https://www.eca.europa.eu/Lists/ECADocuments/SR19_01/SR_FRAUD_RISKS_EN.pdf

- XX. Whereas the Reporters Without Borders' World Press Freedom Index 2018 ranks Slovakia at the 27th place, from 17th in 2017, Malta at the 65th, dropping from 47th, and Bulgaria as the lowest EU Member State at 111th, down from 109 in 2017;
- YY. Whereas Transparency International ranked Malta 51st (down from 46th place in 2017); Slovakia 57th (down from 54th place in 2017) and Bulgaria 77th (down from 71st place in 2017) in its annual Corruption Perceptions Index; whereas all three countries score significantly below the EU average⁵.

GENERAL OBSERVATIONS

1. Strongly condemns the continuous efforts of a growing number of Member State governments to weaken the rule of law, the separation of powers and the independence of the judiciary; expresses concern that, despite the fact that most Member States have adopted legislation to ensure judicial independence and impartiality in compliance with Council of Europe standards, problems remain in the way these standards are applied;
2. Recalls that the rule of law is part of and a prerequisite for the protection of all values listed in Article 2 TEU; calls on all relevant actors at EU and national level, including governments, parliaments and the judiciary, to step up efforts to uphold and reinforce the rule of law;
3. Notes with great concern the increasing threats bearing on journalists and media freedom, growing public denigration and a general weakening of the profession, increasing economic concentration of the sector and developing disinformation, while a strong democracy based on the rule of law cannot function without a strong and independent fourth power;
4. Urges the Council to examine and follow up any proposals from the Commission and Parliament as regards infringement procedures and Article 7 TEU procedure, in particular by taking swift action based on the Commission reasoned proposal of 20 December 2017 on Poland as well as by putting the situation in Hungary on the Council agenda as a matter of priority, by informing Parliament immediately and fully at all stages of the procedure and by inviting Parliament to present its reasoned proposal on Hungary to the Council;

INVESTIGATIONS AND LAW ENFORCEMENT

5. Calls on the Government of Malta to set up without delay a full and independent public enquiry into the murder of Daphne Caruana Galizia, in particular on circumstances that have allowed the murder to happen, the response by the public authorities to it, and the measures that can be put in place to ensure that such a murder will not happen again;
6. Strongly urges the Maltese Government to publicly and unambiguously condemn any kind of hate speech and disparagement of the memory of the deceased Daphne Caruana Galizia. Urges strong action to be taken against any public officials fuelling hate;

⁵ <https://www.transparency.org/cpi2018>
https://www.transparency.org/news/feature/corruption_perceptions_index_2017

7. Considers of utmost importance to find a solution for the memorial site in Valletta of Daphne Caruana Galizia, in cooperation with civil society and her family, so that remembrance can take place unhindered;
8. Calls on the relevant Maltese authorities to publish the full un-redacted report of the magisterial “Egrant” inquiry;
9. Urges the Government of Malta and Slovakia to ensure that all indications of criminal acts are promptly and fully investigated by law enforcement authorities, including where these indications are revealed by whistle-blowers and journalists, especially the alleged cases of e.g. corruption, financial crimes, money laundering, fraud, tax evasion reported by Daphne Caruana Galizia and Ján Kuciak;
10. Regrets that not all members of the Government of Malta were available to meet the mission of the ROLMG, such as the Minister for Tourism, former Minister of Energy, as well as representatives of Nexia BT such as the company’s Managing Partner;
11. Notes with concern that the Maltese authorities never issued an official legal assistance request to the German Federal Criminal Police Office (“Bundeskriminalamt”) to be given access to the data stored on Daphne Caruana Galizia's laptops and hard disks after they were handed over to the German authorities by her family;
12. Welcomes the recent outcome of the investigation and as a result, the arrests of four individuals who have now been charged in connection with the investigation into the murder of Mr Ján Kuciak and Martina Kušnírová in September 2018; calls on the law enforcement authorities to continue the investigation both at national and international level by any means available to bring those to justice that ordered or got involved with the murder, including by prolonging the Agreement of the Joint Investigation Team beyond April 2019;
13. Notes that the investigation of the murder of Jan Kuciak and Martina Kusnirova has uncovered other crimes, including alleged murder plot of two prosecutors Peter Sufliarsky and Maros Zilinka and lawyer Daniel Lipsic. Notes that the later investigation is, by a decision of the Prosecutor general together with the special prosecutor, assigned to be conducted by the Police inspectorate of the Interior ministry, due to a possible involvement of police officers in screening of police databases of those targeted, and will further monitor this development;
14. Welcomes the creation of the Investigative Centre of Ján Kuciak, of the Daphne Project founded by several journalists in late 2018, and of the Forbidden Stories Daphne Project, founded by 18 consortia of investigative journalists in March 2018, with the aim to pick up Daphne's work where she left it; 6 months after, the Daphne Project made new revelations in its first publication;
15. Calls on the Commission and the European Anti-fraud Office to carry out in-depth investigations on all the cases that were brought to the attention of the European Parliament ad hoc delegations in 2018, namely allegations of corruption and fraud, including of EU agricultural funds;
16. Calls on the Maltese Government to launch an investigation into the Panama Paper

revelations and the links between Dubai-based company 17 Black and the Minister for Tourism and Former Minister for Energy and the Prime Minister's Chief of Staff;

17. Calls on the Maltese and Slovak governments, and all EU Member States and their law enforcement authorities, to step-up the fight against organised crime and corruption in order to restore public faith in the institutions;
18. Is deeply concerned about the Slovak government's possible role in the abduction of a Vietnamese citizen from Germany and calls for a comprehensive investigation report, in continued cooperation with the German authorities, including on the alleged involvement of the former Interior Minister;
19. Is concerned about allegations of corruption, conflicts of interest, impunity and revolving doors in Slovakia's circles of power; is astounded by the fact that following their resignation, a senior former police official of NAKA and the Police Chief were appointed as advisors to the Minister of the Interior, including in the Czech Republic;
20. Welcomes the engagement of many Slovak and Maltese citizens and civil society organisations in their fight for democracy, rule of law and fundamental rights, urges the Governments of Slovakia and Malta to fully support this civic engagement, and to avoid discouraging such engagement;
21. Calls on the governments of Malta and Slovakia and Bulgaria to continue facilitating all cooperation with Europol, including by fully involving Europol and giving the Agency full access to the files related to the investigations proactively;
22. Calls on the Commission to provide clear guidance on the modalities and legal framework regarding the exchange of data and evidence between Member States law enforcement authorities, and with EU Agencies, including through the application of European Investigation Order;
23. Observed that the current budgetary and human resources and mandates of Europol and Eurojust are not sufficient for the Agencies to provide full and proactive EU added value in carrying out investigations such as in the cases regarding the murders of Daphne Caruana Galizia and of Ján Kuciak and his fiancée Martina Kušnírová;
24. Underlines that Member States law enforcement and judicial authorities form part of an EU system of cooperation, finds that EU institutions, bodies and agencies should therefore proactively step in to address shortcomings by national authorities, and finds that it is worrying that such action by EU institutions, bodies and agencies are regularly initiated only after information has been revealed by journalists and whistle-blowers;
25. Calls on the Commission and the Council to increase Europol's budgets in line with the operational and strategic needs identified during the negotiations for the next MFF 2021-27 and to improve the mandate of Europol to enable the Agency to participate more proactively in investigations against top organised crime groups in Member States where there are serious doubts about the independence and quality of these investigations, such as by being able to proactively initiate setting up Joint Investigation Teams in such cases;

26. Calls on Eurojust and the future European Public Prosecutor's Office (EPPO) to cooperate optimally in investigations concerning the financial interests of the EU, especially regarding EU Member States that have not joined the EPPO; calls, to that end, for the Member States and the EU institutions to facilitate the rapid establishment of the EPPO and considers that all Member States which have not yet announced their intention to join the EPPO should do so;
27. Calls on the Commission to follow up on resolutions by the European Parliament that have called for the mapping of investigative techniques best practices across the EU in order to facilitate common investigative practices in the EU to develop⁶;

CONSTITUTIONAL CHALLENGES IN MALTA AND SLOVAKIA

28. Welcomes the statements by the Government of Malta to implement the recommendations stated in the recent report of the Venice Commission;
29. Welcomes the creation of a group where members of the Government and Opposition are involved in exploring a constitutional reform;
30. Calls on the Government and the Parliament of Malta to implement all the Venice Commission recommendations without exception, also in a retroactive manner, where relevant, to ensure that past and current decisions, positions and structures are improved in line with these recommendations, and in particular:
 - to strengthen the independence and oversight powers and capabilities of the members of the Maltese House of Representatives, in particular by increasing rules on incompatibilities and by providing for a more adequate salary and non-partisan support;
 - to publicly announce vacancies for judicial positions (para. 44);
 - to change the composition of the JAC, to allow for at least half of the members being judges elected among their peers, and to endow the JAC the competence to rank candidates on the basis of merit, and directly propose these candidates to the President for appointment, also in the case of appointment of the Chief Justice (para. 44);
 - to give the power of removal of judges or magistrates to the Commission for the Administration of Justice and to provide for an appeal in court against disciplinary measures imposed by that Commission (para. 53).
 - to set up an office of an independent Director of Public Prosecutions (DPP) responsible for all public prosecutions, to take over the current prosecutorial tasks of the AG, as well as the prosecutorial tasks of the Police and the magisterial inquests, as recommended by the Venice Commission (paras. 61-73); Calls on the Government of Malta to subject this potentially newly established DPP to judicial review, in particular regarding decisions of non-prosecution (para. 68, 73);

⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1539189225045&uri=CELEX:52011IP0459>
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52016IP0403>

- to reform the PCAC, both by ensuring an appointment process that is less dependent on the executive branch, the Prime Minister in particular, and by ensuring that the PCAC reports lead to actual prosecutions. The option of having the PCAC directly report to a newly established DPP shall be considered as well (para. 72);
 - to initiate constitutional reform to ensure that Constitutional Court judgements will lead, without the necessary intervention by Parliament, to the annulment of provisions found to be unconstitutional (para. 79);
 - to abolish the practice of having part-time MPs, increase the salary of MPs, restrict the appointment of MPs to officially appointed bodies, put at the disposal of MPs sufficient support staff and independent knowledge and advice, and refrain from the extensive use of delegated legislation (para. 94);
 - to ensure that Ombudsman requests for information are fully complied with by the authorities, that Ombudsman reports are debated in Parliament, that the office of the Ombudsman is regulated for at the constitutional level, and that the Freedom of Information Act is updated (paras. 100-101);
 - to reshape the process of appointing Permanent Secretaries, namely by merit-based selection by an Independent Civil Service Commission, rather than by the Prime Minister (paras. 119-120);
 - to seriously limit the practice of “positions or persons of trust” and to introduce clear legal rules and a constitutional amendment that form the basis and framework for regulating this practice (para. 129);
 - to change the appointment procedure for the Police Commissioner, namely by making this merit-based by setting up a public competition (para. 134);
31. Notes that a selection and nomination procedure for Constitutional Court judges in Slovakia is underway, as the term of nine out of 13 judges ends in February; underlines that the regulations covering this selection and nomination process as well as the qualification and requirements have to meet the highest possible standards in terms of transparency, scrutiny and accountability, in line with conclusions on this matter by the Venice Commission⁷;
32. Calls for the swift adoption of transparent, unambiguous and objective rules and procedures for the selection of the new Slovak Police President in 2019 that will ensure independence and neutrality of the office;

INVESTOR CITIZENSHIP, RESIDENCE SCHEMES AND VISAS

33. Calls on the Government of Malta to terminate its investor citizenship and residence schemes, and commission an independent and international investigation into the impact

⁷ [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2017\)001-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2017)001-e)

of this sale on the Maltese anti-money laundering enforcement capabilities, on further cross-border crime and on the effects on the integrity of the Schengen Area;

34. Calls on the Government of Malta to publish annually a stand-alone list of anyone who has purchased Maltese and EU citizenship and to ensure that the purchasers are not listed together with those who got their Maltese citizenship in other ways; calls on the Government of Malta to ensure that all these new citizens have actually resided one full year in Malta prior to the purchase as agreed with the European Commission before the launch of the programme; calls on the Commission to do all in its powers to make sure that the original understanding on the matter is respected in the future;
35. Welcomes that, when asked to clarify, the Commission clearly stated in February 2019 that it does not in any way endorse the Maltese investor citizenship and residence schemes;
36. Calls on the Government of Malta to fully disclose and terminate, therefore, its contract with Henley & Partners, the private firm that currently implements the Maltese investor citizenship and residence schemes, without any consequences for public finances in such an event of termination or suspension;
37. Calls on the Commission to examine whether the contracts in place between Member State authorities and private firms that govern and outsource the investor citizenship and residence schemes are compatible with EU and international law and security considerations;
38. Welcomes the publication of the Commission report on “Investor citizenship and residence schemes”; is concerned about the lack of data in the report; Calls on the Commission to continue monitoring the scale and impact of the various investor citizenship and residence schemes in the EU, with a particular focus on the due diligence processes, the profiles and activities of beneficiaries, the potential impacts on cross-border crime, and the integrity of the Schengen Area; Calls on the Commission to address investor citizenship and residence schemes expressly in the Schengen Evaluation Mechanism; Calls on the Commission to come forward with a legislative proposal which sets clear limits to investor citizenship and residence schemes;
40. Calls on the Commission, building on its report on investor citizenship and residence schemes in various EU Member States, to examine specifically the impacts of the Maltese government investor citizenship and residence schemes on the integrity of the Schengen Area;
41. Calls on Europol and the European Border and Coast Guard Agency to conduct a joint threat assessment on the consequences of EU Member States’ investor citizenship and residence schemes for the fights against organised crime and for the integrity of the Schengen Area;
42. Calls on the Government of Malta to fully investigate the allegations of the mass sale of Schengen and medical visas, including the alleged involvement of former or current high ranking Maltese government officials such as the Chief of Staff at the Prime Minister’s Office and Mr Neville Gafa;

SAFETY OF JOURNALISTS AND INDEPENDENCE OF THE MEDIA

43. Calls on the Government of Slovakia to ensure the safety of journalists; deplores the lack of transparency on media ownership; questions the independence and quality of public media following the leaving of several RTVS journalists;
44. Is concerned about the statements of Slovak politicians that put into question the value of independent journalism and public media, such as by the statements made by the former Prime Minister in public, such as at a news conference on 2 October 2018;
45. Reiterates its call on the respective members of the Government of Malta to withdraw the libel cases being faced by the mourning family of Daphne Caruana Galiza with immediate effect, to refrain from using libel laws to freeze critical journalists' bank accounts and to reform the libel laws being used to frustrate the journalists work;
46. Calls on the Commission to present proposals to prevent so-called 'Strategic Lawsuits Against Public Participation' (SLAPP);

EU RESPONSES

47. Reiterates its call to the Commission to enter into dialogue with the Maltese Government in the context of the Rule of Law Framework;
48. Notes the efforts of the Commission and the Council to ensure that all Member States fully uphold the rule of law, democracy and fundamental rights; is, however, concerned regarding the limited impact of the Commission Rule of Law Framework and of the procedures initiated under Article 7(1) TEU so far; emphasises that the persistent failure to address serious and persistent breaches of the values referred to in Article 2 TEU has encouraged other Member States to follow the same path; regrets the Commission's decision to postpone publication of its proposal to strengthen the Rule of Law Framework to July 2019;
49. Recalls the need for an impartial and regular assessment of the situation with regard to the rule of law, democracy and fundamental rights in all the Member States; stresses that such an assessment must be based on objective criteria; reiterates its resolutions of 10 October 2016 and of 14 November 2018 which calls for a comprehensive, permanent and objective EU mechanism for the protection of democracy, the rule of law and fundamental rights; considers that this would be a fair, balanced, regular and preventive mechanism for dealing with possible breaches of the values listed in Article 2 TEU and underlines that such a mechanism is more urgently needed now than ever before;
50. Deplores the fact that the Commission has still not presented such a proposal for a comprehensive EU mechanism on democracy, the rule of law and fundamental rights, and calls on the Commission to do so in due time, in particular by proposing the adoption of the inter-institutional agreement on the EU Pact for DRF;
51. Welcomes the Commission Proposal for a Regulation on the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States, reiterates the report on this adopted by Parliament in January 2019, and urges the Council to constructively enter into negotiations as soon as possible;
52. Underlines the importance of Parliament sending ad hoc delegations to Member States as an effective tool to monitor breaches of democracy, the rule of law and fundamental

rights; recommends to create a permanent structure within its Committee on Civil Liberties, Justice and Home Affairs to monitor such breaches in the Member States;

53. Calls on the EU institutions and the Member States to resolutely fight systemic corruption and to devise effective instruments for preventing, combating and sanctioning corruption and fighting fraud, as well as regularly monitoring the use of public funds; reiterates its regret that the Commission decided not to publish the EU Anti-Corruption Report in recent years and underlines that having anti-corruption fact sheets as part of the European Semester is not a sufficiently effective measure to ensure that corruption is unequivocally placed on the agenda; therefore calls on the Commission to immediately resume its annual anti-corruption monitoring and reporting in all Member States and in the EU institutions;
54. Welcomes the agreement between the European Central Bank (ECB) and the national supervisory authorities on a new cooperation mechanism for information exchange; encourages all participating authorities to make extensive use of the mechanism to ensure swift and effective cooperation in the fight against money laundering;
55. Reminds its President of the long overdue implementation of its call to create a 'European Daphne Caruana Galizia prize for investigative journalism', to be awarded annually for outstanding investigative journalism in Europe;
56. Welcomes the European Parliament's decision that the traineeship programme for investigative journalists is to be named after Ján Kuciak;
57. Instructs its President to forward this resolution to the Council, the Commission, the Parliaments and Governments of the Member States and the Parliamentary Assembly of the Council of Europe.