



PRIME MINISTER  
AUBERGE DE CASTILLE, VALLETTA, MALTA

MEP Sophie In't Veld

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5 October 2020

**Subject: Public inquiry into the assassination of Daphne Caruana Galizia and follow up to the exchange of views via video conference with the Members of the European Parliament's DRFMG**

Dear Ms In 't Veld,

I refer to your letter dated 25 September on the subject in caption.

Below is the requested update on the progress on various matters since our last exchange of views on the 13 of July 2020.

### **Public Inquiry**

The Public Inquiry regarding the assassination of the late Ms Daphne Caruana Galizia has been set up, in agreement with the family of the deceased, with specific terms of remit in accordance with the Inquiries Act (Chapter 273 of the Laws of Malta), with the Board endeavouring *"to conclude its work within a time frame of nine months without prejudice to the proper fulfilment of [the] terms of reference"*.

This time frame of nine months elapsed on 19 August 2020.

In view of the fact that the Board did not conclude its findings by the mentioned date, the Board requested a specific time-extension to conclude its findings by the end of this year. This request, which was received on the 26 August 2020, was acceded to on the same day by the undersigned. An extension was granted until 15 December 2020.



It is reasonable to expect that once the Board is holding two weekly sessions of two/three hours duration per session, the Board is endeavoring to conclude its findings by December 2020.

My Government is committed to see the full truth emerge from this inquiry, with the Board being provided with all the necessary financial and administrative resources in order to fulfill its tasks without interference, in a serene manner, and with reasonable expedition.

## **Other Updates on the Rule of Law in Malta**

### **1. Various recommendations**

In its opinion of June 2020, the **Venice Commission** favourably welcomed the Government of Malta's proposed legislative concepts for key governance and institutional reforms.

On 1 July 2020, the Government tabled ten Bills in Parliament faithfully translating the agreed concepts into legislative texts with a view to their adoption before the summer recess.

On 29 July 2020, following a structured and transparent dialogue with all interested stakeholders, the House of Representatives unanimously voted in favour of six<sup>1</sup> of the ten bills presented.

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<sup>1</sup>The following acts were adopted:

1. ACT No. XLI of 2020 to continue implementing reforms in the Justice Sector by providing for the judicial review of decisions not to prosecute and other decisions of the Attorney General [former Bill No. 154 (CDL-REF(2020)060).
2. ACT No. XLII of 2020 to amend laws which regulate the Office of the Ombudsman [former Bill No. 155] (CDL-REF(2020)055)
3. ACT No. XLIII of 2020, to amend the Constitution of Malta relative to the appointment of judges and magistrates [former Act No. XLIII (former Bill No. 140)] (CDL- REF(2020)051)
4. ACT No. XLIV of 2020 to further amend the Constitution of Malta relative to the appointment of the President of Malta [former Bill No. 141] (CDL-REF(2020)052)
5. ACT No. XLV of 2020 - An Act to provide for the amendment of the Constitution of Malta and to the Commission for the Administration of Justice Act, Cap. 369, relative to the removal from office of judges and magistrates [former Bill No. 142] (CDL-REF(2020)053)
6. REF(2020)053)
7. ACT No. XLVI of 2020 to amend various laws aimed at reforming the procedure by which appointments to the Permanent Commission Against Corruption are made [former Bill No. 143] (CDL-REF(2020)054)



Government sent copies of these Acts of Parliament to the Venice Commission and the European Commission. The other four Bills<sup>2</sup> are in their second reading and discussion on these Bills will resume when Parliament reconvenes today.

These reforms are unprecedented in Malta's recent constitutional history and referred to as 'significant' in the Country Chapter on the rule of law situation in Malta adopted by the European Commission on 30 September 2020. They include a new mechanism on the appointment and removal of the President of the Republic and the Chief Justice of the Law Courts, whilst also introducing a new method for the appointment and removal of the judiciary, fully guaranteeing their independence and impartiality. The Permanent Commission Against Corruption has also been strengthened.

These reforms also compliment other reforms, such as that which splits the office of the Attorney General from the office of the State Advocate, with the former taking on the prosecution role. Judicial Review of decisions by the Attorney General not to prosecute, and other reforms regarding the Ombudsman were also adopted.

It is important to note that a discussion on these constitutional and institutional reforms have been ongoing at least since 2010, including but not limitedly, in public fora under the auspices of the then President of the Republic through the President's Forum. This included contributions by members of academia, experts – foreign and local, as well as civil society.

## 2. Constitutional Convention

More reforms in the framework of a **Constitutional Convention**, presided by the President in his capacity as the Head of State, are also being considered. The first phase of collecting material from society at large has been concluded and the submissions are available online<sup>3</sup>. A report analysing these proposals will be published soon.

According to the President, the Constitutional Convention will be able to propose its recommendations. The Convention will not have executive powers and it would ultimately be up to Parliament to adopt any recommended constitutional or legislative amendments.

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<sup>2</sup> The following Bills are still following parliamentary procedure:

1. Bill No. 156 - Auditor General and National Audit Office (Amendment) Bill - 2nd Reading
2. Bill No. 157 - Constitution of Malta (Amendment No 3) Bill - 2nd Reading
3. Bill No. 158 - Reform of Powers of Appointment Bill - 2nd Reading
4. Bill No. 159 - Appointment (Persons of Trust) Bill - 2nd Reading

<sup>3</sup> <https://rifformakostituzzjonali.gov.mt/dokumentazzjoni/>





The President is envisaging that the Convention would have a tentative size of 120 members. Some 40 per cent of delegates would represent institutional bodies and organs, educational organisations, work related organisations and academia, whereas some 60 per cent of the delegates would represent civil society. A process to select representatives among the 1700 civil society organisations in Malta would be necessary. Parliament would need to call the Convention through a resolution.

### 3. Prosecution Service

In terms of the setting up of a **separate prosecution service**, the '*Act to continue implementing reform in the Justice Sector (Attorney General) (Act XXV of 2019)*' provides a de facto separate and autonomous prosecution service which enables the Attorney General to act independently as enshrined in the Constitution.

Following the establishment of the Office of the State Advocate, the functions of the public prosecutor remained vested with the Attorney General. Both offices operate from separate buildings.

It is pertinent to recall that amendments were introduced in the Attorney General Ordinance (Chapter 90) by way of Act XXV of 2019, to provide for the taking over by the Office of the Attorney General of prosecutions of those offences that carry a punishment of more than two years (therefore including corruption related offences) whilst the police will remain responsible for investigative work. The law provided a transitory period for this shift in duties from the Police Force to the Attorney General, by having different legal provisions enter into force on different dates. Legal notice 378 of 2020 has been published on 30 September 2020 to bring into effect this takeover.

Crimes which carry a punishment of less than two years will also be transferred to the Attorney General's Office in due course. The Government is planning to table a Bill in Parliament in October 2020 in this regard.

**A new Attorney General Dr Victoria Buttigieg, has also been appointed** following a public call and a selection process by a Board composed of three retired judges of the Superior Courts of Malta. This selection Board was chaired by the same judge who is chairing the Public Inquiry Board relative to the assassination of the late Daphne Caruana Galizia.



#### 4. The Malta Police Force

A **new police commissioner** has been appointed in line with the revised methodology set out in law. The reform in the method of appointment was welcomed by the Venice Commission. This means that not only have these reforms been set in motion, but they have been put into practice.

Further reforms are taking place within the Malta Police Force in order to strengthen the work of the force, increase the public's trust and become more effective and accountable during the course of its work.

On 25 September, the Malta Police Force launched its Transformation Strategy for the years 2020 – 2025. The Strategy includes *inter alia*, the adoption of a new code of ethics; the introduction of specialised training; improved communication with the public and press via press conferences; and major reforms in the Economic Crimes Unit, which has been equipped with all the necessary human and financial resources needed.

In fact, the Economic Crimes Unit, which forms part of the Financial Crimes Department within the Malta Police Force is now the largest investigative unit within the Force. In 2017, this Unit had 34 officers, whilst today it boasts 98 officers (an increase of 188%). Hate speech investigations have also been taken over by the Vice Squad.

The Government is also currently addressing the timely implementation of the **Moneyval** and **GRECO** recommendations and will be submitting its report on the implementation of the GRECO recommendations in December 2020.

#### 5. Individual Investor Programme

Regarding the **Individual Investor Programme**, it is noteworthy to mention that Malta is at the forefront among both EU member states and even on a global level in employing the highest due diligence benchmarks for the investment migration sector. Under the present regulatory framework, the overall refusal rate, up until the current year, has risen to 33%. This percentage includes individuals who were not allowed to apply for citizenship, others who had their application refused following due diligence, and individuals who withdrew their application mostly following questions raised by the competent authority during the due diligence process.





Newly enacted regulations on the subject matter will now introduce more stringent regulatory measures and standards.

A new agency that will be responsible for the administration and the running of all paths leading to Maltese citizenship will be established under a new Agency which will be called Community Malta Agency.

Under the new regulatory framework, no application can be submitted unless the applicant has held a three-year Maltese resident status. This signifies a major departure from the current IIP since presently individuals can apply for citizenship without this pre-requisite. An exception to this requirement will allow the possibility for a person to apply after a one-year Maltese resident status subject to higher investment being made by such person.

Additional measures introduced under the new regulatory framework include the following;

- (i) There will be no Concessionaire under the new regulations;
- (ii) The Agency will be publishing in the Government Gazette; (a) the names of all applicants who submit applications for Maltese Citizenship by naturalisation or registration; (b) the names of all persons who are granted citizenship by naturalisation or registration, including those persons who are granted Maltese citizenship for exceptional services; and (c) the names of all persons deprived of Maltese citizenship;
- (iii) The legal provision which enabled the Minister to grant citizenship to individuals who did not meet the basic legal criteria will be revoked;
- (iv) A process for protected disclosure will be provided for to enable any person who holds information about an individual applying for citizenship, to provide such information in a protected manner according to law;
- (v) An independent regulator will continue to audit and scrutinise the application process executed by the Agency and all resultant decisions;
- (vi) The current due diligence process will be reinforced to give greater regard to anti-money laundering. The requirement of a risk weighing exercise will be expressly provided for in the law;
- (vii) Agents will be regulated by a separate legal notice which will limit the categories of persons who qualify to act as agents to specific professionals; namely lawyers, auditors, public accountants and licensed financial advisors. This will ensure that those persons



qualified to act as agents are conversant in anti-money laundering and financing of terrorism legislation and directives.

In this regard, the European Commission is being kept informed of developments and technical consultations on the reform are ongoing.

To conclude, I take this opportunity to reciprocate my thanks for our exchange of views and remain at your disposal should you need further clarifications.

Kind regards,

Dr Robert Abela  
Prime Minister

**Copy:**           **Evarist Bartolo, Minister for Foreign and European Affairs**  
                  **Dr Edward Zammit Lewis, Minister for Justice, Equality and Governance**