



PERMANENT REPRESENTATION OF MALTA
TO THE EUROPEAN UNION

THE PERMANENT REPRESENTATIVE
RUE ARCHIMÈDE 25, B-1000 BRUSSELS, BELGIUM

MEP Sophia in 't Veld
Parlement Européen
Bât. Altiero Spinelli
08G130
60, rue Wiertz / Wiertzstraat 60
B-1047 Bruxelles/Brussel

PR 129/19

13th March 2019

Dear MEP In 't Veld

Enclosed please find a letter signed by the Prime Minister of Malta, Dr. Joseph Muscat, addressed to your good self, in reply to a letter sent on 6th March 2019, concerning a follow-up of the Resolution on the situation of the Rule of Law and fight against corruption in the EU, specifically in Malta and Slovakia.

The Government of Malta looks forward to continued engagement with yourself, and the rest of the European Parliament, in the spirit of genuine and constructive cooperation.

Yours Sincerely,

Daniel Azzopardi
Ambassador
Permanent Representative

Enclosures: Letter signed by the Prime Minister of Malta, Dr. Joseph Muscat, dated 13th March, addressed to the Chair of the LIBE Rule of Law Monitoring Group, MEP Sophia in 't Veld.



PRIME MINISTER
AUBERGE DE CASTILLE, VALLETTA, MALTA

13th March 2019

Ms. Sophie in't Veld MEP
Chair of the Rule of Law Monitoring Group
European Parliament

Dear Ms. in't Veld,

Thank you for your letter of the 6 March 2019 on the subject of "Follow-up of the Resolution on the situation of the rule of law and fight against corruption, specifically in Malta and Slovakia".

I must say that my reply needs to be qualified as a sign of respect for the institution in which we have served together, even though I am informed that your letter is a personal initiative and despite the fact that most of the assertions in the said resolution are either unsubstantiated or at times plain false.


The Government of Malta has always engaged with the European Parliament, including with yourself and your Monitoring Group, in good faith, and is determined to continue doing so in the spirit of cooperation with your committee and with all the institutions of the European Union.

This includes your suggestion to engage with the Venice Commission, which we have done immediately despite criticism from the Parliamentary Opposition that it is demeaning to have such a peer review.

The Government of Malta appreciates the value of critical engagement and constructive recommendations. That said, a more objective approach based on verifiable facts instead of what this country has unfortunately been put through so far, would have been considerably more beneficial.

To address the points raised in your letter:

Firstly, the Government of Malta has already made it public that it agrees with, and will implement, the bulk of the proposals of the Venice Commission.



It is to be noted that nowhere did the Venice Commission conclude that Malta's Constitutional framework, or its implementation, are in systemic breach of the principles of the rule of law, or that Malta is not fulfilling its obligations under the Lisbon Treaty, or the European Convention on Human Rights. This is contrary to what the latest Resolution persists in asserting. The Resolution thus puts itself in a clear conflict with the independent assessment of the Venice Commission, where, unlike within the group pushing this Resolution and previous ones, there was no direct or indirect interference by Maltese political forces with an overtly partisan agenda. The Venice Commission made a number of remarks and recommendations for constitutional reform regarding laws which have been in our statute books for generations, which we will be implementing.

The Venice Commission's opinion also expressly recognises the need for Constitutional change to be implemented after due consultation, and subject to appropriate transitory arrangements without which, in our opinion, many of the changes suggested could actually have the opposite effect to that intended. This is particularly important since the Venice Commission identified, as needing change, legacy legislation, most of which has been with us since our Independence Constitution. May I add that there was not a single piece of legislation introduced by this government that was singled out for criticism.

The Government has launched a process of consultation with the Opposition on constitutional change under the auspices of the President of the Republic. That process involves extensive consultation with civil society and with social partners which will take place at a steady pace.

Concurrently Government is also engaged in an internal process of discussion and preparation for constitutional change in line with the recommendations of the Venice Commission. The subject has already been discussed in Cabinet and a detailed consideration of each recommendation and of the realistic timeframe and manner of implementation is underway.

Secondly, concerning the ongoing libel cases instituted by members of the Government of Malta against Ms Caruana Galizia in their personal capacities, and which were inherited by her family, your concern has been noted.

As has been explained already in multiple instances, in the interest of attempting to find the right balance between upholding freedom of expression and safeguarding the rights of individuals in respect of slanderous statements, the Government of Malta has sought to protect freedom of expression by outlawing criminal libel, as part of its recent reform of Malta's outdated Press Laws.

Moreover, Malta has also removed the possibility of resorting to garnishee orders, or the possibility of freezing journalists' assets, which could possibly be used as an intimidatory tactic against the media sector.

At the same time, as has also already been explained, it should be kept in mind that the ongoing libel proceedings were initiated on the basis of libellous claims initiated by the late Ms Caruana Galizia. Without going into the merits of the claims or of the ongoing libel proceedings, we again invite you to consider the inherent injustice in denying individuals (be they politicians, or otherwise) the right to safeguard their reputation (and indirectly those of their families) by demanding that they renounce this right.

One may argue that these libel cases should be dropped in view of Ms Caruana Galizia's murder. At the same time, it should be kept in mind that the claims which prompted the libels were not yet withdrawn, and still continue to exist in the digital space of the internet to this day.

I am sure you are aware that I have also instituted a libel against the late Ms. Caruana Galizia when she was still alive, on the basis of her allegations with regard to myself and my spouse, concerning the ultimate beneficial ownership of a Panamanian company known as 'Egrant'. I am sure you are also aware that a subsequent independent magisterial inquiry which I myself requested, has concluded after a lengthy process, that these allegations were wholly unfounded. That judicial process concluded that the documents on the basis of which Ms. Caruana Galizia made her claims were fabricated which means that Ms. Caruana Galizia either used or was led by unknown third parties to use, forged documents. May I point out that the conclusions of the independent inquiry were universally accepted, even by the Opposition which undertook internal structural changes within its Parliamentary Group as a consequence.

I take this opportunity to also inform you that I have recently taken the initiative publicly in court to propose to cease my libel court action if the family of Ms. Caruana Galizia, who are defending the suit, recognise the conclusions of the independent and autonomous judicial process, after a very thorough magisterial inquiry and declare themselves accordingly. I am still awaiting their reply.

Thirdly, nowhere has it resulted that the Maltese citizenship and residence programmes are in any way in breach of EU law.

It is the firm conviction of the Government of Malta that the programmes include strong and appropriate safeguards against their possible abuse for purposes of money laundering or other crimes. This also appears to be confirmed by the fact that the drafters of the Resolution of the 19th February appear to have been unable to quote concrete evidence of such abuse and have therefore sought a refuge of sorts in a call for an "independent investigation" which might I add is already underway as requested by a Member of Parliament from the Opposition, thus confirming the lack of awareness of basic facts by the drafters of the said Resolution.

You may also wish to note that Malta is one of the few countries which publishes the names of individuals who have acquired its citizenship every year.

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This is not to say that we will not, nor that we are not continuously investing in controls to prevent the possible abuse of citizenship and residence programmes, but that we consider that your demand for their outright abolition by Malta lacks a spirit of balance and proportionality, in particular given how this call for a ban is not made with respect to any other country which operates similar programmes.

In this context, it would be of assistance to the openness of our further cooperation if your Monitoring Group were to provide a reference to the basis upon which particular factual assertions in the Resolution are made, such as that to the effect that the Maltese judicial authorities showed no interest in requesting from the German police, the late Ms. Caruana Galizia's laptops. This claim has already been exposed as false but we would welcome information showing otherwise.

These assertions are especially worrying since, as currently unexplained, they appear to betray a level of interference in the work of Maltese judicial authorities which is, of course, difficult to reconcile with your Working Group's stated commitment to the upholding of the rule of law and the independence of the judiciary.

I hope that the above response clarifies matters, and will serve as an appropriate basis for the strengthening of mutual understanding.



Joseph Muscat
Prime Minister