

**TERMS OF REFERENCE FOR THE PUBLIC INQUIRY INTO THE ASSASSINATION
OF DAPHNE CARUANA GALIZIA**

To investigate independently and to report to the Prime Minister, following the Resolution of the House of Representatives of the 12 December, 2018 and the Resolution of the Parliamentary Assembly of the Council of Europe of the 26 June 2019 (Resolution 2293 (2019)), on the assassination of Daphne Caruana Galizia on the 16th October 2017 and on the events preceding, concomitant with, and following upon, the assassination with a view:

1. to determining whether any wrongful action or omission by, or within, any State entity facilitated the assassination or failed to prevent it. In particular whether (a) any State entity knew or ought to have known of, or caused, a real and immediate risk to Daphne Caruana Galizia's life including from the criminal acts of a third party and (b) failed to take measures within the scope of its powers which, judged reasonably, it might have been expected to take in order to avoid that risk;
2. to establishing whether the State had and has in place effective criminal law provisions and other practical means to avoid the development of a de facto state of impunity through the frequent occurrence of unresolved criminal acts and to deter the commission of serious criminal offences, backed up by law enforcement machinery for the prevention, suppression, investigation and punishment of serious breaches of the law;
3. to determining whether the State has fulfilled and is fulfilling its positive obligation to take preventive operational measures to protect individuals whose lives are at risk from criminal acts in particular in the case of journalists;
4. to conducting the Inquiry in such a way as not to impede or compromise any criminal investigation or prosecution or its integrity;
5. The Inquiry shall be held in public but the Board of Inquiry may, where it considers it strictly

necessary, conduct particular hearings *in camera* and/or impose restrictions on the disclosure or publication of any document or evidence given or accessed in the Inquiry in such a way as to protect the confidentiality of investigations and of information received in confidence, but only when the confidentiality of those investigations or information is protected by law and/or the Board of Inquiry considers that in camera hearings or restrictions on the disclosure or publication of documents or evidence are strictly necessary for the protection of the safety and rights of witnesses, of national security and other sensitive information, and for the avoidance of prejudice to other proceedings;

6. The Board of Inquiry shall have access to all information held by State entities and it shall act in accordance with the Inquiries Act and shall, subject to these terms of reference, regulate its own procedure on all matters including the question of access to and participation by the family of the deceased and by the public in the proceedings and acts of the inquiry. The Board of Inquiry shall be entitled to appoint such person/s, including technical assistants and experts in particular fields, to assist the Inquiry as it deems necessary, such that however persons so appointed are to fulfil the requirements of independence and impartiality to the same level as required in a court of law;

7. The Board of Inquiry shall (i) present the report (a) to the Prime Minister and (b) to the Attorney General; (ii) give public notice that it has concluded its report and that it has presented a copy thereof to the Prime Minister; (iii) publish the report within eight working days from the date on which it delivers a copy thereof to the Prime Minister. The Prime Minister shall table the report in Parliament within five working days from its receipt. In relation to the report which is to be published, the Board of Inquiry shall have the power to restrict the disclosure of those parts of the report which it considers to be necessary to safeguard data protection, public safety, national security, ongoing or future criminal investigation and where the publication of such information may endanger a person's physical safety, and it shall clearly indicate the parts that should not be published. Should the Board consider it necessary to so restrict the disclosure of parts of its report, the Board shall be bound to provide the family of the deceased with the opportunity to read the full unredacted report without however being granted copies of the text underlying any redactions, and being bound with not divulging the restricted contents;

8. The Board of Inquiry shall endeavour to conclude its work within a time frame of nine months without prejudice to the proper fulfilment of these terms of reference.