

20 February 2025

Open letter to:

**Theodoros Rousopoulos, President of the Assembly of the Council of Europe,
Xavier Bettel, Chair of the Committee of Ministers of the Council of Europe,
Claire Bazy Malaurie, President of the Venice Commission,
Michael O’Flaherty, Commissioner for Human Rights of the Council of Europe.**

Your Excellencies,

We, the undersigned, are a group of Maltese non-governmental organisations actively involved in underlining the key role of good governance, transparency and rule of law in the protection of fundamental human rights in Malta.

With utmost urgency, we are respectfully presenting your Offices our serious concerns in relation to proposed **Bill 125: Criminal Code (Amendment No. 2) Bill**¹. The Bill aims to drastically amend the Criminal Code provisions regulating what are known as *in genere* inquiries requests by private citizens, most notably Articles 546 and 547.

Although misleadingly described as “*follow(ing) on the lines of the recommendation made by the Venice Commission in its Opinion of the 18th December 2018*”, the Bill in no way reflects the intentions or spirit of the Venice Commission’s recommendations. On the contrary, if adopted, the Bill will effectively consolidate the almost impregnable shield protecting Government from investigations of corruption, nepotism, maladministration and other crimes perpetrated by the people mandated to lead the country.

Access to the judiciary is key to transparency and accountability

The petition to the Court of Magistrates is an exceptional right available to the private individual to find recourse in the eventuality of inaction by the authorities. It is indeed concerning that instead of consolidating our democracy, further to the reforms carried out in 2020, Malta seems to be taking two steps back in particular with regard to its institutional checks and balances and the fight against corruption.

These actions can only be interpreted as a knee-jerk reaction to successful petitions to the court of Magistrates filed in recent years which have led to some high-profile prosecutions of high-ranking civil servants, former ministers and a former prime minister. We underline that most of these occurred in the wake of the brutal assassination of journalist Daphne Caruana Galizia and, largely, thanks to her investigative work.

The private *in genere* inquiry procedure has been key in leading to the investigation of major corruption scandals in Malta where the police had failed to prosecute, including the Electrogas scandal and the Vitals/Stewards hospital scandal².

¹ [Bill 125: Criminal Code \(Amendment No.2\) Bill](#).

² Times of Malta, [Electrogas partner company, Nexia BT bosses set to face 17 Black charge](#), 2025; Times of Malta, [Vitals inquiry: AG files charges against Muscat, Mizzi, Schembri and others](#), 2024.

Furthermore, it was recently reported that 25 such magisterial inquiries were launched by private individuals since 2017³. These included, in addition to the inquiries mentioned above, an inquiry into the Panama Papers, a probe into Enemalta's Montenegro windfarms scandal, an investigation into the social benefits fraud racket, claims about a residence permits criminal scheme and a probe into misuse of public funds by ministers⁴.

The proposed Bill will further shield Malta's criminals

Summarily, whilst indeed introducing additional rights to victims of crime subject to an inquiry, the Bill severely restricts the rights of any person to petition for a magisterial inquiry in cases where the police or prosecution fail to act. It bars potential complainants from approaching the judiciary directly – as is the pertaining situation – by requiring them to firstly file a report with the police.

Complainants would also be expected to identify and name a suspect, note the acts committed, flag the alleged offence and present evidence before the inquiry even begins, effectively forcing them to assume the role of investigator and prosecutor⁵.

The above must be read within a Maltese context where a culture of impunity and institutional *omertà* is prevalent, as already noted by the Parliamentary Assembly of the Council of Europe⁶.

We also underline that the Malta Police Force is, on paper and in actual fact, a department within the Home Affairs Ministry. Its performance in recent years in relation to the several allegations of corruption and malpractice in the highest levels of Government further convinces us of the inbuilt inefficacy of the proposed new system.

Reactions to the Bill have been unanimously negative

The Bill has so far been met with negative reactions: protests⁷ have been organised and key stakeholders – civil society organisations⁸, academia⁹, the Chamber of Advocates and the Chamber of Commerce¹⁰ and the Malta Employers Association¹¹, stressed that the Bill represents a serious backsliding in the rule of law and a severe curtailment of the fundamental rights. The Bill was described as one that will result in a fatal torpedoing of the rule of law, which serves only to protect politicians in providing a desperate keep-me-out-of-jail card.

³ Newsbook, [25 magisterial inquiries launched at citizens' request since 2017](#), 2025.

⁴ Times of Malta, [PM reacts to Jason Azzopardi claims by ordering reform of magisterial inquiries](#), 2025.

⁵ A more detailed explanation and analysis of Bill was prepared by Repubblika, [The Right of Individual Petition for Magisterial Inquiries](#), February 2025 and by aditus foundation, [Bill 125 – In Genere Inquests](#), February 2025.

⁶ Resolution 2451 on the honouring of membership obligations to the Council of Europe by Malta, 2022. Also: Resolution 2293(2019): Daphne Caruana Galizia's assassination and the rule of law in Malta and beyond: ensuring that the whole truth emerges, and Venice Commission, *Malta – Opinion on constitutional arrangements and separation of powers and the independence of the judiciary and law enforcement*, adopted by the Commission at its 117th Plenary Session (Opinion 940/2018).

⁷ Times of Malta, [You Kant be trusted': crowd protests magisterial inquiries reform in Valletta](#), 2025.

⁸ Repubblika, [Press Release PR 18/2025 Calling for Protest](#) by Repubblika, Occupy Justice, Daphne Caruana Galizia Foundation, PEN Malta, aditus foundation, Għaqda Studenti tal-Liġi, Vuçi Kollektiva. The protest was also endorsed by Moviment Graffiti, Kunsill Studenti Universitarji, ADPD – The Green Party, Momentum party and Progressivi Party.

⁹ The Malta Independent, [Magisterial inquiry reform 'fatal torpedoing of rule of law' – professor of law](#), February 2025; The Shift, [A desperate keep-me-out-of-jail card' Bonello on magisterial inquiry bill](#), February 2025; Times of Malta, [Inquiry reform 'will only shield politicians' - former chief justice](#), February 2025; Times of Malta, [Inquiry law changes fatally sap rule of law – ex-chief justice](#), February 2025.

¹⁰ The Malta Independent, [Chamber of Advocates slams magisterial inquiry reform](#), February 2025; MaltaToday, [Magisterial inquiry reform 'leaves much to be desired': Chamber of Commerce](#), February 2025.

¹¹ The Malta Independent, [Magisterial inquiry system today already filtering out 'frivolous' cases – Malta Employers](#), 8 February 2025.

Notably, it is widely felt that this rushed reform was triggered by the conclusion of several *in genere* inquiries relating to high-profile corruption, bribery and money laundering offences where the both the Police Commissioner and the Attorney General had failed to act, as flagged above.

A rushed Parliamentary procedure

Mostly recently, in response to a number of petitions filed by lawyer Jason Azzopardi under Criminal Code Article 546 relating to corruption by public officials, the Government announced a plan to reform the above-described inquiry procedures to halt “*political persecutions*” and “*extremist factions*”¹².

This reform came at the back of several attacks on members of the judiciary who were involved in corruption-related inquiries¹³ and of another announcement by Prime Minister Abela that his Government had plans to grant immunity to public officials to shield them from personal liability in court¹⁴.

On 10 January 2025 the Minister for Justice tabled a motion in Parliament to introduce a Bill to amend the Criminal Code, and on 29 January 2025 the Bill passed the First Reading stage. The text was published in the Government Gazette on 31 January 2025. It passed rapidly to its Second Reading on 11 February 2025.

The draft wording of Bill 125 was not published before being tabled in Parliament nor was it presented for consultation with any stakeholders. With fascinating efficiency, it is being fast tracked with a view for it to be passed in the coming days.

We would like to urge you to raise our concerns with the Maltese authorities and within your respective institutions for them to be considered in earnest and, where necessary, for decisions, resolutions and courses of action to be swiftly adopted.

We remain at your disposal should you wish to discuss these matters further with us or should you require further information. In the meantime, we thank you in advance for your attention to this letter.

Yours sincerely,

aditus foundation
Daphne Caruana Galizia Foundation
Malta Office of the Fondazione Falcone
Moviment Graffiti
Repubblika

¹² Times of Malta, [Minister warns of 'fishing expeditions' as inquiry reform remains under wraps](#), 2025; Times of Malta, [PM reacts to Jason Azzopardi claims by ordering reform of magisterial inquiries](#), 2025.

¹³ Chamber of Advocates, [Press Release](#), January 2024; Kamra tal-Avukati, [Stqarrija Stampa](#), April 2024; aditus foundation, [Hands Off Our Democracy](#), April 2024; The Daphne Foundation, [Institutions are Working](#), April 2024; Malta Chamber of Commerce, [Employer bodies call for an urgent MCESD meeting](#), April 2024; Business Now, [Employer Bodies call Urgent Meeting](#), April 2024.

¹⁴ MaltaToday, ['The line has been completely crossed' - Abela vows to defend 'targets of political hatred'](#), January 2025; MaltaToday, [Abela extending impunity from 'corrupt politicians to servile civil servants': NGOs, political parties say](#), January 2025; Times of Malta, [PM: Public officers to be protected from prosecution in their personal capacity](#), January 2025.

