



JUSTICE DELAYED:
THE ASSASSINATION OF
DAPHNE CARUANA GALIZIA
AND MALTA'S DETERIORATING
PRESS FREEDOM CLIMATE

A report by
Reporters Without Borders
and The Shift News

15 October 2019

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EXECUTIVE SUMMARY

On 16 October 2017, journalist Daphne Caruana Galizia was assassinated by a car bomb that detonated near her home in Bidnija, Malta – an act that was previously unthinkable in an EU state. Caruana Galizia was the country's most prominent journalist, known for her courageous investigative reporting exposing official corruption in Malta and beyond, including her reporting on the Panama Papers.

A full two years on, there has still been no justice for this heinous assassination, which has shed light on broader systemic failings with regard to Malta's press freedom climate, rule of law, and democratic checks and balances. Over the course of two years, Malta has experienced one of the world's sharpest declines on Reporters Without Borders' (RSF's) World Press Freedom Index, falling 30 places to a current ranking of 77th out of 180 countries. Journalists continuing to pursue public interest investigative reporting in Malta remain at great risk, and citizen journalists and activists who remain vigilant in the campaign for justice are subjected to pressure and abuse.

RSF and The Shift have co-authored this report to examine the circumstances surrounding Caruana Galizia's assassination, the flawed investigation that followed, the international reaction to date, and the next steps urgently needed to ensure full justice is carried out without further delay. This report has been developed under a project funded by the Justice for Journalists Foundation.

Chapter One outlines the assassination of Daphne Caruana Galizia, background on her courageous investigative journalism, and implications for the safety of journalists and press freedom across Europe. Chapter Two examines the flawed police investigation that followed, and where things currently stand. Chapter Three explores the magisterial inquiry and police interference that has risked compromising it. Chapter Four describes the broader state of press freedom and journalism in Malta, including extensive online trolling, a continued dehumanization campaign, and threats against the press. Chapter Five outlines key reactions and findings of international bodies, and Chapter Six delves into the crucial and urgent need for a public inquiry into Caruana Galizia's assassination.

At the end of the report, RSF and The Shift have set out a series of recommendations to the Maltese authorities and the international community to ensure full justice is carried out. Crucially, a fully independent and impartial public inquiry must be established without further delay – a step which will require greater political pressure from international organisations such as the Council of Europe, as well as countries with strong bilateral relations with Malta, including the United Kingdom.

RSF and The Shift remain committed to the pursuit of justice for Daphne Caruana Galizia until every person involved in the planning and carrying out of this heinous attack – including the masterminds – are brought to justice.

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CHAPTER ONE:

AN UNTHINKABLE ACT



© Jon Berg

“*They would gladly see me dead, which appears to be the only way that I will shut up.*”

Daphne Caruana Galizia, 5 June 2017¹

“*There are crooks everywhere you look now. The situation is desperate.*”

Daphne Caruana Galizia, 16 October 2017²

On 16 October 2017, a previously unthinkable act on a small island in the Mediterranean caught the world’s attention. News broke of the assassination of a journalist in broad daylight in a European Union (EU) state. Malta’s most prominent journalist, Daphne Caruana Galizia, had been brutally murdered by a car bomb that detonated as she drove away from her home in Bidnija.

Caruana Galizia had been known for her courageous investigative reporting, including on the Panama Papers, which had earned her the description by Politico as “a one-woman WikiLeaks, crusading against untransparency and corruption in Malta.”³ Through her blog, Running Commentary,⁴ which she had launched nearly 10 years prior to her assassination,⁵ Caruana Galizia had meticulously documented acts of official corruption in Malta, in witty, acerbic posts that set the news agenda in the country and infuriated her critics.

Shortly before leaving her home on that ill-fated October day, Caruana Galizia had published what would be her final blog post, related to a court case brought by the Maltese Prime Minister’s Chief of Staff Keith Schembri against the former opposition leader Simon Busuttil. Her last written words were haunting: “There are crooks everywhere you look now. The situation is desperate.”

1. <https://daphnecaruanagalizia.com/2017/06/ill-back-line-day-two/>

2. <https://daphnecaruanagalizia.com/2017/10/crook-schembri-court-today-pleading-not-crook/>

3. <https://www.politico.eu/list/politico-28-class-of-2017-ranking/daphne-caruana-galizia/>

4. <https://daphnecaruanagalizia.com>

5. <https://rsf.org/en/news/ten-years-after-launch-blog-murdered-maltese-journalist-daphne-caruana-galizia-faces-0>

Schembri was a frequent subject of Caruana Galizia's reporting, and was among a number of public officials responsible for instigating various forms of pressure against her, which intensified in the months leading to her assassination. In fact, nearly two years later, Schembri continues to pursue two vexatious defamation cases against Caruana Galizia, creating a significant burden and source of pressure for her family. At the time of publication of this report, Schembri's cases were among 26 defamation suits that continue against Caruana Galizia posthumously, alongside cases brought by Prime Minister Muscat – who is also pursuing a suit against Caruana Galizia's son, Matthew – Minister for Tourism Konrad Mizzi, and others close to Malta's ruling elite.

This unthinkable act of violence in Malta marked the start of a dark period for journalism in Europe – the region that has long respected press freedom the most, but that year experienced the sharpest worldwide decline. For its part, Malta has now fallen 30 places over two years in RSF's World Press Freedom Index, where it now occupies a poor ranking of 77th out of 180 countries.⁶

Four months after Caruana Galizia's murder, on 21 February 2018, Slovak investigative journalist Ján Kuciak was shot dead in a contract-style killing alongside his fiancée Martina Kušnírová in their home in Slovakia. Later that year, on 6 October 2018, journalist Viktoria Marinova was brutally raped and murdered in a park in Bulgaria.⁷ Although the motive for her murder has still not been confirmed, Marinova had presented a television programme on an investigation into suspected fraud involving EU funds. A string of threats and attacks were reported across the continent, in EU states such as Bulgaria⁸ and Croatia⁹ and in Balkans countries Serbia and Montenegro. An assassination attempt against Sicilian mafia expert Paolo Borometti was foiled by police in Italy, where around 20 journalists are reported to be under 24-hour police protection.¹⁰



← Thousands gather for a national rally to demand justice for murdered Maltese journalist and anti-corruption blogger Daphne Caruana Galizia in Valletta, the island's capital, on 22 October 2017.
© Matthew Mirabelli/ AFP

Although there have been problems with the investigations in Slovakia and Bulgaria – and RSF retains serious concerns about the rushed investigation and trial in Marinova's case – only in Malta has the investigation yielded so few results a full two years on. Only

6. <https://rsf.org/en/ranking/2019>

7. <https://rsf.org/en/news/rsf-calls-protection-murdered-bulgarian-journalists-colleagues>

8. <https://rsf.org/en/reports/new-rsf-report-obstacles-investigative-journalism-bulgaria>

9. <https://rsf.org/en/news/croatian-governments-oppressive-silence-about-attacks-journalists>

10. <https://rsf.org/en/2019-rsf-index-has-dam-burst-europe>

in Malta does the hate campaign against an assassinated journalist continue with such vitriol, including the daily destruction of a protest memorial under government orders.

Only in Malta do senior governmental officials continue to claim they are working towards justice in the case, whilst simultaneously blocking efforts to establish a truly independent and impartial public inquiry into Caruana Galizia's assassination. There has been no admission of any degree of political responsibility for the climate that allowed for a journalist to be murdered in Malta – a sharp contrast from the political response in Slovakia, where Kuciak's assassination created a political crisis leading to the resignation of Prime Minister Robert Fico and other senior officials.¹¹

Continued impunity for the assassination of Daphne Caruana Galizia creates a very real risk for journalists pursuing public interest investigative journalism in Malta and beyond, and must be addressed to ensure the safety of journalists and respect for press freedom across Europe – a subject elaborated on in Chapter 4 and the recommendations section of this report.



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A memorial to
Daphne Caruana
Galizia in Valletta.
© Rebecca Vincent

11. <https://www.theguardian.com/world/2018/mar/15/slovakias-prime-minister-robert-fico-resigns-journalist-murder>

2 CHAPTER TWO: INVESTIGATING THE ASSASSINATION



© Ben STANSALL

“*Once every few months I have to sit in a room with the person investigating my mother’s murder. Our family first encountered him six years ago, when he came to our home to arrest her.”*

Matthew Caruana Galizia, 2 May 2019¹

It started with an explosion at 2:58 pm on Monday, 16 October 2017 in Bidnija.

First responders on the site were reportedly two policemen with handheld fire extinguishers who found Daphne Caruana Galizia’s distressed eldest son, Matthew, there. Minutes later, a scuffle ensued between Matthew and an individual who stopped to take photos of the crime scene.² The police allowed that person to leave.³ It is understood that the crime scene was then sealed off as civil protection and other public officials started arriving.

At 3:15 pm that day, in a hastily called press conference, Prime Minister Joseph Muscat announced that the person killed in the explosion was most likely Daphne Caruana Galizia.⁴

Simultaneously, photos of the corpse reportedly started making the rounds on social media and messaging apps such as WhatsApp. A copy of one of the photos was posted – and at the time of publication of this report, was still up – on an anonymous discussion

1. <https://www.bbc.co.uk/news/world-48093331>

2. <https://manueldelia.com/2017/11/matthew-caruana-galizia-punched-face-bystander-mothers-car-still-burnt/>

3. <https://lovinmalta.com/news/news-breaking/man-who-punched-matthew-caruana-galizia-at-his-mothers-crime-scene-was-bidnija-resident/>

4. <https://www.tvn.com.mt/en/news/pm-black-day-freedom-expression/>

forum replete with far-right and anti-journalist rhetoric.⁵ The uncensored photo posted on this forum was the basis for photos that appeared regularly in the media (censored or cropped) on or around 16 October 2017 and shows firefighters at work, indicating that it had been taken and shared by a first responder.



←
Police and forensic experts inspect the wreckage of a car bomb believed to have killed journalist and blogger Daphne Caruana Galizia close to her home in Bidnija, Malta, on 16 October 2017.

© STR / AFP

A police officer, Ramon Mifsud, later posted on Facebook: “Everyone gets what they deserve, cow dung! Feeling happy :)” That police sergeant has yet to be disciplined.⁶ Aspects of this ‘dehumanization’ process and online harassment of Caruana Galizia are elaborated on in Chapter Four of this report.

As is the case with all violent deaths, the duty magistrate was notified and requested to open an inquest (inquiry into the ‘in genere,’ a procedure designed to preserve evidence). The duty magistrate that day was Magistrate (now Judge) Consuelo Scerri Herrera, a person whom Caruana Galizia had very publicly criticised, which at the time had resulted in Scerri Herrera being denied a promotion to judge.⁷ That day, the grieving family filed an application in the Maltese courts for Scerri Herrera replacement by someone who was, at least ostensibly, independent. It was reported that Magistrate Scerri Herrera called in for questioning the leader of the Opposition Adrian Delia and Minister for the Economy Christian Cardona; however, subsequent reports indicated that they had not, in fact, been questioned.⁸

That evening in parliament, Prime Minister Joseph Muscat first confirmed that the US Federal Bureau of Investigation (FBI) would be assisting in the investigation.⁹ Maltese authorities would subsequently also request the assistance of Europol¹⁰ and the Dutch

5. <https://archive.4plebs.org/pol/thread/145505189/>

6. <https://timesofmalta.com/articles/view/disciplinary-action-against-policeman-who-celebrated-daphnes-death.692464>

7. <https://www.independent.com.mt/articles/2017-10-16/local-news/Caruana-Galizia-s-family-file-court-application-to-change-Scerri-Herrera-as-inquiring-magistrate-6736180319>

8. <https://lovinmalta.com/news/delia-cardona-and-barbara-not-questioned-by-magistrate-investigating-caruana-galizia-murder/> (Note: This article by Lovin Malta originally reported – as can be seen from the URL – that Mark Barbara, Christian Cardona’s driver who was also involved in the Soho allegations, was called in for questioning, but was later updated to refer to him being there “solely as Cardona’s driver.”)

9. <https://timesofmalta.com/articles/view/fbi-asked-to-help-investigate-caruana-galizia-murder-muscat.660582>

10. <https://www.independent.com.mt/articles/2017-11-05/local-news/Daphne-s-murder-Europol-on-the-ground-assisting-in-investigations-6736181070>

police.¹¹ Reports stated that the FBI took around three days to arrive, meaning that local and other foreign investigators appear to have limited their initial role to preserving the site until the FBI's arrival.¹²

The next day, 17 October 2017, Magistrate Scerri Herrera stepped down from the inquiry and was replaced by Magistrate Anthony Vella.¹³

Prime Minister Muscat opted to offer a 1 million EUR reward for information on Caruana Galizia's murder,¹⁴ a reward he wished the Caruana Galizia family to endorse. The family refused to endorse the reward, stating "We are not interested in justice without change. We are not interested in a criminal conviction only for the people in government who stood to gain from our mother's murder to turn around and say that justice has been served...The government is interested in only one thing: its reputation and the need to hide the gaping hole where our institutions once were. This interest is not ours."¹⁵



↑ The sons of murdered journalist Daphne Caruana Galizia carry the coffin of their mother out of the church in Mosta, on 3 November 2017, after her funeral ceremony.

© Matthew Mirabelli / AFP

On 17 October 2017, MGRM, the Aditus Foundation, Integra Foundation, the Critical Institute, and the Platform of Human Rights Organisations in Malta – all Maltese human rights NGOs – issued a joint statement calling for an independent public inquiry into whether the Maltese police had taken the requisite measures to protect Caruana Galizia and whether her death could have been prevented.¹⁶

Informal reports indicate that initial theories being mentioned by government sources were that the bombing was linked to fuel smuggling. A day later, on 18 October 2017, One News – an outlet owned by the governing Maltese Labour Party – published an

11. https://www.maltatoday.com.mt/news/national/81368/fbi_forensic_team_to_reach_malta_on_thursday#.XXVI_ygzZPY

12. Ibid

13. <https://www.independent.com.mt/articles/2017-10-17/local-news/Scerri-Herrera-asks-Chief-Justice-to-give-Daphne-murder-inquiry-to-another-magistrate-6736180341>

14. <https://timesofmalta.com/articles/view/government-considers-reward-for-caruana-galizia-murder-information.660702>

15. <https://timesofmalta.com/articles/view/1-million-reward-for-information-on-caruana-galicias-murder-still-on.660948>

16. <https://aditus.org.mt/maltaunderthreat-activist-blogger-brutally-assassinated-joint-ngo-statement/>

article citing Brigadier Maurice Calleja as saying that the substance used in the bomb was most likely Semtex, which would indicate possible foreign involvement.¹⁷ The Semtex claim would later be disproven (as the substance was confirmed to be TNT, which is common locally), however, it captured the local and foreign media's imagination¹⁸ for months, particularly in light of the Italian Dirty Oil investigation and arrests that broke later that week.¹⁹

The next day, on 19 October 2017, Police Commissioner Lawrence Cutajar and Deputy Police Commissioner Silvio Valletta called a widely derided²⁰ press conference for local and foreign press at which no information was actually provided.²¹ The police refused to confirm or deny whether the substance used was Semtex. This was not only a major public relations disaster,²² but it was also the first and only press conference or indeed general update given by police on the Caruana Galizia case. Subsequent updates were either given through "police sources" speaking to chosen media outlets, or by the Prime Minister. From that press conference, however, it is known that the car and other evidence were since cleared from the site and an autopsy conducted.



← People demonstrate outside the Police Headquarters on the outskirts of the capital demanding the resignation of the Police Commissioner Lawrence Cutajar (banner) shortly after a national rally attended by thousands demanding justice for murdered Maltese journalist and anti-corruption blogger Daphne Caruana Galizia in Valletta, the island's capital, on 22 October 2017. Caruana Galizia, 53, a prominent Maltese journalist and blogger who made repeated and detailed corruption allegations against Prime Minister Joseph Muscat's inner circle, was killed by a car bomb on 16 October 2017.

© Matthew Mirabelli / AFP

On 20 October 2017, a criminal lawyer who had assisted Daphne Caruana Galizia in a number of libel cases in the past, Roberto Montalto, came forward on National TV purporting to have information on a topic she had been working on, which Montalto said he had passed on to police along with his messages exchanged with Caruana Galizia.²³ Montalto subsequently gave comments to the press, but did not divulge the contents of the messages or their topic.²⁴

Amidst mounting concerns about the confidentiality of Caruana Galizia's sources, the Institute of Maltese Journalists (IGM) filed an urgent application in court on 22 October

17. <http://www.one.com.mt/news/2017/10/18/probabblta-kbira-li-l-bomba-inhadmet-fmalta/>
18. <https://www.independent.com.mt/articles/2017-10-23/local-news/Rainews-deems-Libya-fuel-smuggling-most-credible-motive-behind-Caruana-Galizia-s-murder-6736180567>
19. https://www.maltatoday.com.mt/news/national/81487/italians_arrest_malta_darren_debono_fuel_smuggling#.XXVPzygzZPY
20. <https://www.facebook.com/LovinMalta/videos/breaking-police-commissioner-gives-press-conference/2140279142861902/>
21. <https://timesofmalta.com/articles/view/live-police-commissioner-crime-conference-on-caruana-galizia-murder.660814>
22. https://www.maltatoday.com.mt/news/national/81477/police_commissioner_under_fire_over_disastrous_press_conference#.XXVNSgzZPY
23. https://www.maltatoday.com.mt/news/national/81497/slain_journalists_message_to_lawyer_days_before_murder_passed_on_to_the_police#.XX1s_mkzZPZ
24. <https://lovinmalta.com/news/news-breaking/police-name-only-one-person-questioned-over-daphne-caruana-galicias-murder/>

2017 to protect her sources – including on her electronic devices and laptop – which was accepted by Magistrate Vella on 30 October 2017.²⁵

On 22 November 2017, the family of Daphne Caruana Galizia filed an urgent court application to seek the removal of Deputy Commissioner Silvio Valletta from the investigation as a blatant breach of the right to life (a positive obligation to ensure an impartial investigation). This case would continue until June 2018²⁶ and was appealed by the Attorney General. In October 2018, the Constitutional Court found that Caruana Galizia's rights had been breached and ordered Valletta off the case.²⁷ The court, however, did not accept the request that his activities in the case prior to his removal be reviewed.

THE ARRESTS

Little was provided by way of updates until December 2017, apart from local speculation about fuel smuggling links and increasing international scrutiny and pressure, including through the media.

On 4 December 2017, amidst rumours of major police and army activity in Marsa (a shanty shipping town where potatoes are stored), Prime Minister Muscat called a press conference announcing there had been 10 arrests in the Caruana Galizia case.²⁸

A video evidently intended for public consumption was released,²⁹ showing the arrests and action that morning filmed from helmet-mounted cameras and helicopters.

The persons arrested in addition to the three later charged with the assassination – Vincent Muscat, Alfred Degiorgio, and George Degiorgio – were:



© Matthew Mirabelli / AFP

- **Adrian Agius,**
- **His brother Robert Agius,**
- **Miguel Caruana,**
- **Sandro Cilia,**
- **Jamie Vella,**
- **Anton Cachia, and**
- **Rudy Camilleri.**³⁰

Although linked by the media to criminal activity reported on by Daphne Caruana Galizia, the latter seven persons were released on police bail the following day. To date, it is unclear on what basis they were originally arrested and whether there were any further investigations or developments in that regard.³¹

Circumstantial evidence indicates that Vincent Muscat, Alfred Degiorgio, and George Degiorgio had potentially been aware of the arrests in advance given that one of the suspects had his partner's number written on his arm, and a bundle of phones had been

25. <https://www.independent.com.mt/articles/2017-10-30/local-news/Magistrate-accepts-application-to-protect-Daphne-Caruana-Galizia-s-sources-6736180852>

26. <https://www.independent.com.mt/articles/2018-06-12/local-news/Judge-rules-Silvio-Valletta-should-not-be-involved-in-Daphne-murder-investigation-6736191536>

27. <https://timesofmalta.com/articles/view/deputy-police-commissioner-must-step-down-from-caruana-galizia-case.690796>

28. <https://www.independent.com.mt/articles/2017-12-04/local-news/BREAKING-NEWS-8-arrested-in-connection-with-Daphne-Caruana-Galizia-murder-6736182233>

29. <https://youtu.be/iFHRWsEKiJ4>

30. <https://lovinmalta.com/news/news-breaking/breaking-these-are-the-names-of-the-seven-suspects-out-on-bail-for-caruana-galizia-murder/>

31. <https://www.independent.com.mt/articles/2018-04-21/local-news/Journalist-s-murder-Seven-arrested-in-Marsa-raid-no-longer-on-police-bail-6736188548>

thrown into the sea nearby.³² It also transpired that the Degiorgio brothers' phones had been tapped for some time by the Malta Security Services. Claims that the suspects had been tipped off or that the Security Services were aware of a plot to murder Caruana Galizia were swiftly denied by an uncharacteristically urgent press release.³³

Vincent Muscat, Alfred Degiorgio, and George Degiorgio were arraigned the following day before Magistrate Neville Camilleri (who would later take over the inquiry when Anthony Vella was appointed judge). They pled 'not guilty' and were remanded into custody. The three accused were originally assisted by a legal aid lawyer, Dr Benjamin Valenzia.

It later emerged that the three accused had been receiving unemployment benefits for years, while openly living lives of luxury with expensive cars, yachts, and a reported gambling habit. Former Police Commissioner John Rizzo, removed by the Labour Party soon after it was elected into government, said in an interview on Net News days after Caruana Galizia's assassination that there were only a handful of bomb-makers in Malta and that the police knew exactly who they were.

When taking into account the fact that the police had known exactly where to find the suspects at the time of their arrest, and the allegation that those charged had known they would be arrested that day, serious concerns have been raised regarding the connections of those arrested.

32. <https://timesofmalta.com/articles/view/live-person-that-tipped-off-daphne-suspects-named-by-jason-azzopardi.677898>

33. https://www.maltatoday.com.mt/news/national/86558/malta_security_service_denies_prior_knowledge_of_caruana_galizia_assasination_plot#.XXVwhigzZPY.

COURT PROCEEDINGS

Under Maltese criminal law, the initial stage or committal proceedings (the “kumpilazzjoni”) would next commence, and the first Magistrate was drawn by lot (Magistrate Donatella Frendo Dimech).



← People hold portraits and placards as they attend a vigil in memory of murdered journalist Daphne Caruana Galizia on the sixth month anniversary of her death in Valletta, Malta on 16 April 2018. Campaigners in Malta and London marked the six-month anniversary of the murder of anti-corruption journalist Daphne Caruana Galizia, as her sons accused the Maltese government of allowing “impunity” over the killing. The Mediterranean island awoke to protest posters and banners, while supporters, including her two sons, held a vigil outside the Maltese High Commission in the British capital to demand accountability.

© Matthew Mirabelli / AFP

The first sitting took place on 14 December 2017 when, following a declaration by the Magistrate that she had been at school with one of Caruana Galizia’s sisters, defence counsel (still legal aid lawyers) challenged the impartiality of the magistrate and asked that she recuse herself, which she did.³⁴

The next magistrate drawn by lot was Magistrate Charmaine Galea, whose appointment was again challenged by defence counsel, causing a second recusal.³⁵

The third magistrate, Claire Stafrace Zammit, rejected further dilatory attempts³⁶ at recusal and accepted to continue the case. At the first full sitting on 19 December 2017, the accused changed counsel to include lawyer William Cuschieri,³⁷ amongst others. Cuschieri was the lawyer who had, on behalf of db Group Chairman Silvio Debono, filed 19 abusive libel suits against Caruana Galizia in March 2017 – cases which continued to be pursued posthumously at the time of publication of this report.

Over the course of three sittings, the court heard evidence of the placing of the car bomb and how it was detonated by an SMS traced to George Degiorgio’s phone. Alfred Degiorgio and Vincent Muscat were alleged to have acted as spotters.³⁸ Throughout committal proceedings and until the date of publication of this report, none of the accused have made any public statements or reportedly given any information to the police, instead opting to exercise their right to remain silent.

34. <https://www.tvn.com.mt/en/news/updated-8-compilation-caruana-galizia-case-will-be-heard-magistrate-charmaine-galea/>

35. <https://timesofmalta.com/articles/view/caruana-galizia-murder-suspects-back-in-court.665965>

36. Fears were raised at the time that the 30-day period to commence committal proceedings (and conclude prima facie) would lapse through technical delays resulting in the release of the accused.

37. <https://timesofmalta.com/articles/view/caruana-galizia-murder-magistrate-to-hear-compilation.666043>

38. <https://timesofmalta.com/articles/view/live-caruana-galizia-murder-third-day-of-evidence.666190>

On 21 December 2017, the magistrate held that there was enough evidence for a bill of indictment to be issued and the three to be brought to trial.

Under Maltese law, it is the Attorney General who decides when to file a formal bill of indictment, which is typically done after having presented most of the material evidence in front of the Court of Magistrates as a court of criminal inquiry. The Attorney General opted to continue, with committal proceedings dragging on for a full 20 months.

Despite repeated requests for bail by the accused,³⁹ the court consistently denied their requests. Under the Criminal Code, there is a deadline (20 months from the original arraignment date) by which if a bill of indictment is not filed, the accused would receive automatic bail. On 16 July 2019, 20 days short of the 20-month deadline, the Attorney General filed the bill of indictment.⁴⁰

On 17 July 2019, Judge Aaron Bugeja's⁴¹ name was drawn by lot to preside over the trial.⁴² This was controversial, as Bugeja was the magistrate responsible for the Egrant Inquiry, which looked into the allegation by Daphne Caruana Galizia that the third company revealed in the Panama Papers to be linked to government officials belonged to the Prime Minister's wife. It was an inquiry in which the subject of the inquiry (the Prime Minister) controlled what was investigated and what was released.⁴³ The full findings were never published, but a public relations campaign launched by the government claimed the Prime Minister was exonerated. Bugeja was then promoted to judge.

A NEW POTENTIAL LEAD

A major businessman is among three potential key suspects behind the assassination of journalist Daphne Caruana Galizia, according to a Times of Malta report published on 6 October 2019, which said his dealings had been under investigation by Caruana Galizia prior to her murder.⁴⁴

Investigators have yet to question the suspect, who could potentially be one of the masterminds, despite this businessman being on the police's radar for some time. This is the second time reports that the police were making progress in identifying the mastermind have emerged. A year ago Home Affairs Minister Michael Farrugia gave, then later retracted, information that the police had identified suspects behind the order to the three men who were charged with murder.⁴⁵

"Sources said investigators are also focusing on at least two other men who could have been involved in the commissioning of the murder. One is believed to be connected with the gambling scene, the other suspected to be linked to the smuggling underworld," the Times of Malta reported.

The Times of Malta report does not name the three suspects, but states that none of them have been questioned. The report says one of the suspects had a will drawn up a day after Vincent Muscat and the Degiorgio brothers were arrested. Foreign investigators

39. Vincent Muscat, in contrast, only applied for bail once (denied) during the compilation of evidence proceedings, although this may have been as a result of changing legal counsel.

<https://timesofmalta.com/articles/view/caruana-galizia-case-suspect-vince-muscat-denied-bail.721984>

40. <https://timesofmalta.com/articles/view/daphne-caruana-galizia-murder-suspects-will-stand-trial.722209>

41. Judge Aaron Bugeja was promoted from magistrate in April 2019. Bugeja was the magistrate entrusted with the Egrant Inquiry.

42. <https://timesofmalta.com/articles/view/newly-appointed-judge-aaron-bugeja-entrusted-with-daphne-murder-trial.722512>

43. <https://theshiftnews.com/2018/07/27/6-things-to-keep-in-mind-about-the-egrant-inquiry/>

44. <https://timesofmalta.com/articles/view/businessman-is-among-daphne-murder-suspects.739984>

45. <https://manueldelia.com/2019/10/daphnes-assassination-an-inch-closer-to-the-truth/>



← Maltese newspapers' front pages read, in English and Maltese, "The Pen Conquers Fear" on October 22, 2017 at a newsstand in Valletta, Malta, as a common act of defiance following the assassination of blogger Daphne Caruana Galizia on October 16. The initial shock at the car bomb assassination is now turning into demands for a united front -- with tens of thousands, party allegiance aside, expected at a national rally on October 22 demanding justice for the journalist.

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had questioned the approach of Maltese police in holding them back from proceeding against more suspects, believed to be between three and five men. No new arrests were made after December 2017.

According to sources quoted by the newspaper, the murder was commissioned in early 2017, and was then postponed.

The newspaper also mentioned that Vincent Muscat had, through his lawyer Arthur Azzopardi, indicated Prime Minister Muscat and Chief of Staff Keith Schembri along with the Attorney General and Police Commissioner as potential witnesses to be called during the trial.

There was no immediate reaction by the government or the police to the new revelations, and Daphne Caruana Galizia's family was not informed of the progress on investigations by the police.⁴⁶

Also on 6 October 2019, the Maltese media reported the recusal of Judge Aaron Bugeja, slated to preside over the trial of the three men accused of Caruana Galizia's assassination.⁴⁷

No date has yet been set for the trial. As a magistrate, Bugeja had investigated the Egrant affair, a story reported by Daphne Caruana Galizia in which the late journalist claimed that Prime Minister Joseph Muscat's wife was the owner of a secret offshore company in Panama and had received a 1 million USD payment from Azerbaijan's ruling family. Bugeja was appointed to preside over the trial in July 2019; no reason was given for his recusal and no explanation as to why it was only announced in October on the same day that new revelations were reported by the press.

His promotion to judge remains the subject of a constitutional case filed by the NGO Repubblika, which seeks to nullify the judicial appointments made at the start of 2019 before the Maltese government would have begun to implement the recommendations by the Council of Europe's Venice Commission on the rule of law and the independence of the judiciary.

In the weeks following Caruana Galizia's assassination, Kurt Farrugia, then government spokesperson, had ruled out any form of negotiation with the three alleged hitmen as an incentive to turn state's evidence.

46. <https://timesofmalta.com/articles/view/coe-rapporteur-hits-out-at-government-after-daphne-murder-reports.740292>

47. https://www.maltatoday.com.mt/news/national/97855/judge_in_daphne_caruana_galizia_murder_trial_recuses_himself#.XZvQmi2ZOqD

Arthur Azzopardi, the lawyer of Vincent Muscat (also known as *'il-Koħħu*), believes they know that his client has cooperated with the police for several months since his arrest. He has pointed the police to an intermediary he claims was part of the commissioning of the murder of Daphne Caruana Galizia, and yet investigators are reportedly frustrated from being held back by political interference.⁴⁸ As a material witness in the case, Vincent Muscat remains without protection, and he has not been granted any form of plea bargain or conditional immunity in exchange for the information he has given.

Parliamentary Assembly of the Council of Europe (PACE) Special Rapporteur Pieter Omtzigt immediately reacted to the story, asking why there had been no arrests and putting a list of questions to the authorities to reinforce his demand for a public inquiry into the journalist's assassination to be truly "independent and impartial beyond question."⁴⁹

Family members reacted to the media reports, published just 10 days prior to the second anniversary of the journalist's assassination, referring to 17 Black and the early election date. Daphne Caruana Galizia had named the company in Dubai on her blog on 22 February 2017, with photos of Muscat, Schembri and Mizzi as well as disgraced former European Commissioner John Dalli.⁵⁰ It was then revealed that the company belonged to Yorgen Fenech, a shareholder and director of Electrogas, the consortium that built and runs the new Delimara power plant.⁵¹

According to a set of emails in the Panama Papers, the offshore companies owned by Mizzi and Schembri were planning to have two Dubai firms, 17 Black and Macbridge, become "main target clients." The offshore companies were set to receive 150,000 USD per month from 17 Black.⁵² The owner of Macbridge remains unknown.

Daphne Caruana Galizia had questioned the date set for the snap election, which the Prime Minister had said was called because of Caruana Galizia's reporting on Panama company Egrant allegedly belonging to his wife. Yet, the journalist had revealed that the domain names used for the election by the Labour Party had already been registered before the publication of her story.⁵³

As preparations continue for the eventual trial of the three men suspected of planting the bomb, Arthur Azzopardi has drawn up a list of witnesses his client (Vincent Muscat) intends to call. They include Prime Minister Joseph Muscat, his Chief of Staff Keith Schembri, Minister for Justice Owen Bonnici, Attorney General Peter Grech, and Police Commissioner Lawrence Cutajar.

48. <https://manueldelia.com/2019/10/daphnes-assassination-an-inch-closer-to-the-truth/>

49. <https://twitter.com/PieterOmtzigt/status/1180841205837512704?s=20>

50. <https://daphnecaruanagalizia.com/2017/02/17-black-name-company-incorporated-dubai/>

51. <https://uk.reuters.com/article/uk-malta-daphne-offshore-exclusive/exclusive-mystery-company-named-by-murdered-maltese-journalist-is-linked-to-power-station-developer-idUKKCN1NE196>

52. <https://theshiftnews.com/2018/05/21/mizzi-and-schembris-plan-to-rake-in-150000-every-month/>

53. <https://daphnecaruanagalizia.com/2017/05/breakingconfirmation-election-date-decided-march-www-laqwazmien-com-registered-7-april/>

LEGAL MANOEUVRES

Over the course of the 20 months during which the committal proceedings were underway, the accused (primarily the Degiorgio brothers) through their lawyers, notably William Cuschieri, have attempted several manoeuvres including some evidently dilatory in nature (possibly intended to run down the 20 month clock), claiming human rights breaches or challenging the integrity of proceedings.

In total, Alfred Degiorgio, George Degiorgio, and Vincent Muscat have filed 22 cases, mostly in front of the Constitutional Court, challenging various aspects of the criminal committal proceedings. Although a few have concluded and have been dismissed, a number remain outstanding and are likely to drag on in court for years. These cases range from claims that the Council of Europe breached their right to presumption of innocence⁵⁴ to claims of frame-ups.⁵⁵

It is difficult to assess the likelihood of success in these cases; however, the impression is that many of the cases were intended to delay or derail proceedings or even to appeal to popular sympathy or achieve political ends. For example, on 6 June 2019, bizarrely, the accused's lawyer requested an audience between his clients (who had until then remained silent) and two MEPs known to be critical of the Maltese government, Ana Gomes and David Casa, in the presence of journalists to cover this meeting. Although this strange request was refused by the MEPs and subsequently by the court,⁵⁶ it captured the media's attention and bred speculation about the MEPs, perhaps distracting from other matters. That day, during the same sitting, it had transpired that photos of the car claimed to be leased by Alfred Degiorgio (which would have helped evidence⁵⁷ the leasing of the car) had disappeared from the LESA (Local Enforcement System Agency) system and could not be presented as evidence.⁵⁸

It remains unclear who is funding the accused's legal bill to this date.



←
People gather to lay flowers and light candles in memory of murdered journalist Daphne Caruana Galizia on the sixth month anniversary of her death at a makeshift memorial outside the law courts in Valletta, Malta on April 16, 2018. Campaigners in Malta and London marked the six-month anniversary of the murder of anti-corruption journalist Daphne Caruana Galizia, as her sons accused the Maltese government of allowing «impunity» over the killing. The Mediterranean island awoke to protest posters and banners, while supporters, including her two sons, held a vigil outside the Maltese High Commission in the British capital to demand accountability.

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54. https://www.maltatoday.com.mt/news/court_and_police/96241/caruauna_galizia_murder_degiorgio_brothers_say_council_of_europe_report_assumes_their_guilt#.XXV2MigzZPY

55. <https://www.tvn.com.mt/en/news/ic-ciniz-claims-frame-up-against-him-in-dcg-murder/>

56. <https://www.newsbook.com.mt/artikli/2019/06/06/casa-and-gomes-reject-degiorgio-brothers-request-for-a-meeting/?lang=en>

57. A month earlier it had transpired that the person that leased out the car to Alfred Degiorgio had no records of the lease since he tended to burn paperwork "to erase data and prevent bank fraud." <https://timesofmalta.com/articles/view/live-daphne-caruana-galizia-murder-suspects-back-in-court.710689>

58. <https://www.newsbook.com.mt/artikli/2019/06/06/casa-and-gomes-reject-degiorgio-brothers-request-for-a-meeting/?lang=en>

TIMELINE OF KEY EVENTS

Early 2017

- Three suspected hitmen start preparations to carry out an assassination. Their target is Daphne Caruana Galizia.
- Using mobile phone data and forensic evidence, investigators pinpoint a Żebbuġ garage as the likely place where the bomb was assembled.⁵⁹
- A decision is taken to postpone the assassination until after summer.

August 2017

- The three men receive the go-ahead to continue with the plot. Three SIM cards with sequential numbers are activated and used to communicate by the three suspects charged with carrying out the bomb plot.⁶⁰

September 2017

- Phone data locates one of the three suspects at the Żebbuġ garage. This garage is also frequented by the people believed to have supplied the bomb that killed Caruana Galizia.

15 October 2017

- Mobile phone data suggests that the bomb was picked up from the garage the night before the murder by one of the suspects who was later charged for his involvement in the plot.
- According to court testimony and forensic evidence, the bomb was placed under the driver's seat of Caruana Galizia's rental car late at night, just outside her home in Bidnija.⁶¹

16 October 2017

- As Caruana Galizia prepares to leave her secluded home, the three suspects charged with her murder gear up to trigger the bomb. They stand down temporarily when the journalist walks back to her home to pick up a chequebook she had forgotten (she was on her way to the bank as her assets had been frozen by a defamation suit filed by Economy Minister Christian Cardona).
- At 2:58 pm, an SMS is sent to the GSM device placed under her seat. The device triggers a massive blast that kills the journalist.⁶²
- Her rental car rolls down the hill just outside her home, stopping in a desolate field.
- Reacting to the murder, Prime Minister Joseph Muscat vows to "leave no stone unturned." Foreign experts, including Europol, are brought in to assist with the case.

4 December 2017

- Ten suspects are rounded up in connection with the murder. The businessman is not among those questioned.⁶³

5 December 2017

- Three of the suspects, brothers Alfred and George Degiorgio, together with Vincent Muscat, are charged with carrying out the murder.⁶⁴ Documents reviewed by the Times of Malta show one of the other suspects, yet to be questioned by the police, drew up a will a day later.

SOURCE: TIMES OF MALTA⁶⁵

59. <https://timesofmalta.com/articles/view/police-were-not-aware-of-bomb-making-before-daphnes-assassination.676806>

60. <https://timesofmalta.com/articles/view/car-uana-galizia-murder-suspicious-device-went-live-at-2am-in-bidnija.666072>

61. <https://timesofmalta.com/articles/view/live-fbi-to-testify-as-caruana-galizia-murder-suspects-back-in-court.679700>

62. <https://timesofmalta.com/articles/view/car-goes-up-in-flames-in-bidnija.660575>

63. <https://timesofmalta.com/articles/view/live-eight-suspects-in-caruana-galizia-murder-arrested.664853>

64. <https://timesofmalta.com/articles/view/three-to-be-arraigned-over-caruana-galizia-murder.664956>

65. <https://timesofmalta.com/articles/view/businessman-is-among-daphne-murder-suspects.739984>

Almost a year later, these “suspected masterminds” are still at large,⁶⁶ begging the question as to why the information was “leaked” in the first place, implying that the police were close to an arrest, but did not carry out an arrest. The possible answers to this question point back to the above: it is either sheer incompetence, intentional omission, reluctance, or spin (again there was a political gain to be had) by the police, but if it is the latter, the very fact that spin is considered as an option hints at undue politicisation of - and obstacles to – a criminal investigation.

66. <https://www.newsbook.com.mt/artikli/2019/06/21/daphne-assassination-master-minds-still-at-large-7-months-after-allegedly-being-identified/?lang=en>

3

CHAPTER THREE:

THE MAGISTERIAL INQUIRY

AND POLICE INTERFERENCE

“The situation in Malta is extremely dangerous, and it’s about time people stopped counting their euros and woke up. It’s possible to have money and business without the scourge of top-to-bottom corruption and the decimation and undermining of institutions which are there to safeguard our rights and liberties, not to protect corrupt and abusive politicians and their allies.”

Daphne Caruana Galizia, 12 June 2017⁶⁷

Little is known about the current status of the magisterial inquest and the related police investigation which ought to be still underway based on the working assumption that this was a ‘hit’ and that there are others involved besides the alleged ‘hitmen’ and the ‘spotters,’ including the ‘mastermind/s’.⁶⁸

It is worth noting the nature of an inquest (inquiry into the ‘in genere’) under Maltese law, as opposed to a public inquiry, as well as the relationship with police investigations. Under Maltese criminal law, upon receipt of a report or information of a serious crime⁶⁹ or a sudden, violent or suspicious death,⁷⁰ the magistrate on duty on the day is to proceed to preserve any evidence of a possible crime whether alone or (more often than not) with expert help.

The process is referred to as an inquiry into the ‘in genere’ which results in a typically lengthy document called the acts of the proceedings or ‘procès-verbal,’ which is a record of the evidence collected and which can be presented in court to support a prosecution

67. <https://daphnecaruanaGalizia.com/2017/06/without-commitment-independent-police-force-can-no-justice/>

68. <https://www.newsbook.com.mt/artikli/2019/06/21/daphne-assassination-master-minds-still-at-large-7-months-after-allegedly-being-identified/?lang=en>

69. Being a crime punishable by over three years’ imprisonment (Art. 546(1) of the Criminal Code).

70. Article 551(1) of the Criminal Code.

by the Attorney General or the police. Although the Criminal Code sets strict deadlines⁷¹ and ongoing interim reports when the deadline is exceeded, in practice these deadlines are frequently disregarded.⁷²

Each magisterial inquest will normally have a police investigation taking place in parallel as the investigation of crimes remains the responsibility of the police. In practice, the police support the inquest by providing evidence that requires preservation in the records of the inquest and will normally also declare an inquiry closed by prosecuting and instructing the magistrate to transfer the records to the relevant court seized with the matter. This also means that a magistrate is heavily reliant on the police as the inquiry's eyes and ears.

An inquiry into the 'in genere' differs from a public inquiry in that it is not intended to determine guilt (indeed the magistrate cannot express views on guilt or otherwise)⁷³ nor does it examine potential failings by the state outside the crime covered by the inquest (e.g. failure to protect if it knew or ought to have known at the time of the existence of a real and immediate risk to the life or limitations/interference with the investigation). Criticism by the Parliamentary Assembly of the Council of Europe (PACE) centres around both (a) perceived defects or limitations in scope of the criminal investigation (i.e. the inquest and police investigations) as well as (b) the failure (to date) to establish an Article 2 compliant public inquiry into potential state failings.

As noted, on 16 October 2017 Magistrate Consuelo Scerri Herrera, the duty magistrate at the time, was reported to have opened an inquiry and summoned the leader of the Opposition Adrian Delia and Minister for the Economy Christian Cardona for questioning (although subsequent reports indicate that they were, in fact, not questioned).⁷⁴ With Magistrate Scerri Herrera's abstention following urgent court submissions by the Caruana Galizia family on 17 October 2017, Magistrate Anthony Vella was chosen by lot as the inquiring magistrate in her stead.

Criticism of both the inquest and the police investigation, particularly regarding undue politicisation and alleged interference, is well documented. This criticism can be summed up thematically.

LIMITATION OF SCOPE: ALLEGED A PRIORI EXCLUSION OF POLITICALLY EXPOSED PERSONS FROM THE SCOPE OF THE INVESTIGATION

As an investigative journalist, Daphne Caruana Galizia's focus of work was squarely on those in power, those protected by those in power, and those seeking to benefit from power through contacts or political affiliation. Over a 30-year career, Caruana Galizia had not only built up a dedicated following, but also created a number of enemies, many of whom would qualify as politically exposed persons or their associates or donors, on both sides of the political divide in Malta. It is worth recalling, for example, that just 15 days after Caruana Galizia's assassination, a former Finance Minister and disgraced EU Commissioner – about whom Caruana Galizia had frequently written – penned a cryptic

71. Under Article 550A (1) of the Criminal Code, the procès-verbal is to be drawn up within 60 days and in case that deadline is not met then the magistrate is to provide reasons for the delay and monthly reports to the Attorney General on the status of the inquest (Article 550A (2)). The Attorney General at all times has access to the records of the proceedings and the right to request information on the inquiry (Article 550A (4)). The longest magisterial inquiry has been pending for more than 31 years: [http://pq.gov.mt/PQWeb.nsf/7561f7daddf0609ac1257d1800311f18/c1257d2e0046dfa1c-1258239004f70cc/\\$FILE/Paperlaid%20-%20PQ4293.pdf](http://pq.gov.mt/PQWeb.nsf/7561f7daddf0609ac1257d1800311f18/c1257d2e0046dfa1c-1258239004f70cc/$FILE/Paperlaid%20-%20PQ4293.pdf)

72. <https://timesofmalta.com/articles/view/pending-magisterial-inquiries.216541>

73. <https://theshiftnews.com/2018/07/27/6-things-to-keep-in-mind-about-the-egrant-inquiry/>

74. <https://lovinmalta.com/news/delia-cardona-and-barbara-not-questioned-by-magistrate-investigating-caruana-galizia-murder/> This article by Lovin Malta originally reported (as can be seen from the URL) that Mark Barbara, Christian Cardona's driver who was also involved in the Soho allegations, was called for questioning but was later updated to refer to him being there "solely as Cardona's driver."

opinion piece in the Times of Malta effectively claiming victory and implying murder is permitted in self-defence.⁷⁵ It is unclear whether he was interrogated. Similar conclusions can reasonably be drawn about the Prime Minister,⁷⁶ the Leader of the Opposition,⁷⁷ ministers,⁷⁸ chiefs of staff,⁷⁹ oligarchs⁸⁰ or scions,⁸¹ each of whom would, amongst others,⁸² amply satisfy the “*cui bono?*” question, yet police sources indicate reluctance, if not outright refusal, to interrogate government officials or key suspects.⁸³

It is unclear how much of that reluctance or refusal is actual omission or spin – as being interrogated may have political implications – but if it is the latter, the very fact that its implications are considered would hint at undue politicisation of, and obstacles to, a criminal investigation.

INTERFERENCE BY CERTAIN POLICE ELEMENTS: ALLEGED OBSTACLES TO THE INQUEST

Perhaps the best documented episodes of what would appear to be interference relate to access to call logs as well as Economy Minister Christian Cardona's alleged meetings and past involvement with the three accused.

Media reports indicate that the relationship between Magistrate Anthony Vella and the police supporting the investigation deteriorated over what was reported to have been access to call logs after the magistrate requested the telephone logs of Prime Minister Joseph Muscat, Leader of the Opposition Adrian Delia, Economy Minister Christian Cardona⁸⁴ and of all police officers at the scene of the crime in Bidnija, including the Police Commissioner,⁸⁵ as part of his ongoing investigation.

Those same reports indicate that these requests irritated the police with “police and government sources” in each case pointing to the lack of access by the police to Daphne Caruana Galizia's laptop as a reason. It is worth recalling that (a) the magistrate undertook to ensure confidentiality of sources including from the police, and (b) even though the laptop was deposited with German authorities and was accessible to the investigation, German authorities confirmed that no requests for data were in fact made.⁸⁶ To this date,

75. <https://timesofmalta.com/articles/view/Resilience-conquers-poison-pens-John-Dalli.661827>

76. https://www.maltatoday.com.mt/news/national/76468/muscat_claims_egrant_is_my_wifes_is_big_gest_political_lie_in_countrys_history#.XX5T02kzZPY

77. <https://www.independent.com.mt/articles/2017-08-29/local-news/Adrian-Delia-files-fourth-libel-case-against-Daphne-Caruana-Galizia-6736178416>

78. https://www.maltatoday.com.mt/news/court_and_police/74261/46000_garnishee_caruana_galizia_ministers_libel_suit#.XX5UFmkzZPY

79. <https://daphnecaruanaGalizia.com/2017/05/money-laundering-facts-documents-keith-schembri-used-maltese-diplomatic-passport-open-bank-account-panama-receive-50000-month/>

80. https://www.maltatoday.com.mt/news/court_and_police/81752/silvio_debonos_19_libel_cases_against_daphne_caruana_galizia_put_off#.XX5UrGkzZPY

81. <https://www.independent.com.mt/articles/2018-04-25/local-news/Around-680-000-Electrogas-files-leaked-to-Caruana-Galizia-in-months-prior-to-assassination-6736188787>

82. Others would include the other seven suspects arrested and others who threatened her both using heavy-handed although strictly legal means (e.g. SLAPP lawsuits) as well as illicit means (there is documented evidence of Caruana Galizia receiving several threats, including anonymous ones with a typewriter).

83. <https://timesofmalta.com/articles/view/too-many-people-mentioned-by-daphne-to-be-interrogated.676834>

84. https://www.maltatoday.com.mt/news/national/87445/magistrate_requests_call_logs_of_muscat_delia_cardona#.XXV9yygzZPY

85. https://www.maltatoday.com.mt/news/national/90294/witness_admitted_to_police_he_lied_about_cardona_sighting_with_degiorgio#.XX5gumkzZPZ

86. <https://lovinmalta.com/news/german-police-no-request-from-malta-for-daphne-caruana-galizias-laptops/>



↑
Signs are placed at the gates of the Police Headquarters on the outskirts of the capital as a national rally attended by thousands demanding justice for murdered Maltese journalist and anti-corruption blogger Daphne Caruana Galizia takes place in the island's capital Valletta on October 22, 2017. Caruana Galizia, 53, a prominent Maltese journalist and blogger who made repeated and detailed corruption allegations against Prime Minister Joseph Muscat's inner circle, was killed by a car bomb on October 16, 2017.

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a line used by the Labour Party and its officials in government is "Why are they hiding the laptop?,"⁸⁷ which also included a campaign with street banners.⁸⁸

This standoff between police investigators and the magistrate appears to have culminated in a breakdown of trust, with the magistrate engaging his own trusted experts and the police growing increasingly paranoid about "leaks."

Media reports then referred to a plot by the police to plant false information in the records of the magisterial inquiry to "weed out moles," which purportedly was "solved" with the removal (through promotion to judge) of the magistrate.⁸⁹ Besides begging the question as to whether planting evidence in the records of a magisterial inquiry is even legal (as it is an offence to tamper with evidence), the very idea that there are two versions of key evidence (call logs) with one being called "real" and other "planted" by the police risks casting doubts on the very foundations of the investigation.

As an indication of timing, Magistrate Anthony Vella was promoted to judge in June 2018 and was replaced by Magistrate Neville Camilleri on the inquest.⁹⁰ In June 2018, Magistrate Anthony Vella had requested the call logs of Prime Minister Joseph Muscat, Leader of the Opposition Adrian Delia, and Economy Minister Christian Cardona, although it is not known whether this is related or, knowing that he was set to leave, used as one of his last acts.⁹¹ It is also unclear whether this request was granted.

87. https://www.maltatoday.com.mt/news/national/86098/magistrate_cant_say_whether_he_asked_daphne_caruana_galizias_family_for_her_laptop#.XXV9bCgzPZ

88. <https://lovinmalta.com/news/banners-demanding-daphnes-laptop-pop-up-around-malta-moments-after-call-from-prime-ministers-office/>

89. https://www.maltatoday.com.mt/news/national/90294/witness_admitted_to_police_he_lied_about_cardona_sighting_with_degiorgio#.XX5gumkzPZ

90. <https://theshiftnews.com/2018/06/02/magistrate-handling-daphne-caruana-galizia-to-be-promoted-forced-to-abandon-case/>

91. https://www.maltatoday.com.mt/news/national/87445/magistrate_requests_call_logs_of_muscat_delia_cardona#.XX5gjGkzPZ



←
Duty Magistrate Neville Camilleri arrives at the law courts in Valletta, Malta on December 6, 2017, after three men were charged with the murder of blogger and journalist Daphne Caruana Galizia. George Degiorgio, Alfred Degiorgio and Vincent Muscat, were charged with the murder of campaigning Maltese journalist and blogger Daphne Caruana Galizia, killed in a car bombing on the Mediterranean island on October 16.

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As part of the Daphne Project reporting, it was claimed that evidence showed several interactions between Minister Christian Cardona and the accused including: (a) two sources claiming they were seen at a bar together,^{92,93} (b) call logs showing calls between a known associate and Daphne Caruana Galizia and subsequently Cardona,⁹⁴ and (c) a sighting at a bachelor party.⁹⁵ Each of these interactions were systematically discredited or discounted citing “police sources,” making it difficult to separate fact from spin. For example, the sources claiming to have seen Cardona and one of the accused at a bar together were attacked through a mix of claims that CCTV was “inconclusive” (and accordingly left out of the inquiry),⁹⁶ and interrogations of one source during which it was claimed he “changed” versions but made it unclear as to which source that had been.⁹⁷ In the same vein, the reports on the call logs were discredited by police claiming it was exactly that information that had been “planted to weed out moles.”⁹⁸

While manoeuvres and spin are regrettably almost expected in a highly polarised landscape, once such manoeuvres and spin stray into the realm of impacting a criminal investigation and risking the miscarriage of justice, such acts in themselves can become criminal.

MANIPULATION OF LOCAL AND FOREIGN MEDIA

Reports abound about disinformation campaigns ranging from “Semtex” (see Chapter Two of this report) to “missing laptops,” to the Labour Party social media outlets outright blaming the opposition within mere hours for the murder whilst simultaneously blaming oil smuggling and other potential suspects.

Of these, none were perhaps as nefarious as police sources declaring that the masterminds had been identified in November 2018.⁹⁹ On close reading, the article actually noted that although the police had indeed identified suspects, they reportedly did not have sufficient evidence to merit singling them out in a manner that eclipsed other significant news coverage that day. The headline also captured international media attention and served as a source of ‘relief’ from pressure about the murder investigation.

92. <https://timesofmalta.com/articles/view/watch-undercover-footage-with-cardona-claim-released.676886>

93. <https://timesofmalta.com/articles/view/cardona-presence-at-bar-frequented-by-murder-suspect-flagged-to.676636>

94. <https://www.occrp.org/en/thedaphneproject/records-show-slain-reporters-source-called-maltese-minister>

95. https://rep.repubblica.it/pwa/inchiesta/2018/10/08/news/daphne_project_malta-208497201/

96. https://www.maltatoday.com.mt/news/court_and_police/87610/police_investigated_cctv_footage_over_alleged_sighting_of_cardona_with_murder_suspect#.XX5qPGkzZPY

97. https://www.maltatoday.com.mt/news/national/90294/witness_admitted_to_police_he_lied_about_cardona_sighting_with_degiorgio#.XX5nGWkzZPY

98. Ibid

99. <https://timesofmalta.com/articles/view/suspected-daphne-murder-masterminds-identified.694497>

4

CHAPTER FOUR:

MALTA'S DETERIORATING

PRESS FREEDOM CLIMATE



Two years after the assassination of Daphne Caruana Galizia, the current climate for journalism and broader press freedom in Malta remains dire, and continues to deteriorate. Malta's ranking in the RSF World Press Freedom Index has fallen by 30 places since 2017.¹⁰⁰

Caruana Galizia's assassination contributed to an already hostile environment for independent journalism in Malta, where most of the media are directly owned and controlled by political parties. Analysis shows that the state broadcast media is so heavily biased towards the government that major corruption stories often go unreported. Malta's independent media are increasingly dependent on government-funded advertising, leading to control of information and an emphasis on pro-government agendas. Investigative reporting is lacking, with only a handful of journalists continuing to pursue the kind of public interest investigative reporting that Caruana Galizia had carried out – and those who do face serious pressure and acts of reprisal.

SLAPP LAWSUITS

One form of pressure against independent media in Malta is the threat of SLAPP (Strategic Lawsuits Against Public Participation) lawsuits to silence public interest reporting. Independent news portal The Shift faced such threats from Henley and Partners, the company that manages Malta's cash-for-passports scheme. The threatening letter came just three weeks after The Shift's launch. Henley and Partners demanded that The Shift remove an article from its site that revealed the company's alleged involvement in a passport scandal in the Caribbean country of Grenada. Rather than remove the article in question, The Shift chose to publish Henley and Partners' threat in full.¹⁰¹ It later emerged that most of the independent news outlets in Malta had already complied after receiving similar threats, effectively altering the public record without informing citizens.

In a video conference with the European Parliament delegation investigating the rule of law in Malta, held on 14 March 2018, representatives of Henley and Partners (including Chairman Christian Kalin) said they only sue Maltese journalists if they get an 'OK' from the government.¹⁰² The European Parliament delegation was referring to an email exchange between Prime Minister Joseph Muscat, Justice Minister Owen Bonnici, and Christian Kalin that had been published by Daphne Caruana Galizia on 31 May 2017, in which Kalin, addresses Chief of Staff Keith Schembri and the Prime Minister as "Keith, Joseph," and writes, "I trust you agree for us to proceed accordingly"¹⁰³ to sue Caruana Galizia. Muscat's reply was, "i don't object" [sic] and Schembri's response was, "Thanks, Chris. This looks good. Very kind regards."¹⁰⁴

The opposition Nationalist Party presented a bill in the Maltese parliament in April 2018 to amend the media law in order to address such SLAPP lawsuits, but the government did not support the bill, with Justice Minister Bonnici insisting that it went against European law.¹⁰⁵ This claim was later dismissed by European Commissioner for Justice V ra Jourová.¹⁰⁶

Three government ministers – Economy Minister Christian Cardona, Tourism Minister Konrad Mizzi, and Finance Minister Edward Scicluna – have also attacked The Shift

100. <https://rsf.org/en/ranking/2019>

101. <https://ipi.media/maltese-journalists-face-slapp-threat-even-as-criminal-libel-repeal-proceeds/>

102. <https://theshiftnews.com/2018/05/07/henley-and-partners-says-it-only-sues-maltese-journalists-if-government-gives-its-ok/>

103. <https://daphnecaruanaGalizia.com/2017/05/prime-minister-chief-staff-use-josephmuscat-com-addresses-deal-secretly-henley-partners-chairman-addresses-keith-joseph-order/>

104. <https://daphnecaruanaGalizia.com/2017/05/prime-minister-chief-staff-use-josephmuscat-com-addresses-deal-secretly-henley-partners-chairman-addresses-keith-joseph-order/>

105. <https://newsbook.com.mt/en/watch-slapp-threatens-journalists-and-common-citizens/>

106. <https://timesofmalta.com/articles/view/no-legal-obstacle-to-malta-introducing-anti-slapp-legislation.681648>

founder and editor Caroline Muscat in a response filed in court on the request for a magisterial inquiry into the controversial Vitals Global Healthcare deal involving three of Malta's public hospitals. Their response dedicates a long section of text to the fact that the court filings relied "almost exclusively on articles published by The Shift News" which they suggest is a tool of the opposition.¹⁰⁷ In doing so, they also inadvertently quoted sections of the Egrant Inquiry report that they should not have had access to, leading to questions in parliament which the Justice Minister was unable to answer.¹⁰⁸ The "abusive language used by the three ministers" with regard to The Shift led to an incident report on Malta in the Mapping Media Freedom project.¹⁰⁹

Malta is unique among EU countries for having extensive political party control of the news media. The two main political parties own their own television and radio stations, as well as both daily and weekly print media and online news portals. The most recent annual Media Pluralism Monitor report, published by the international Centre for Press and Media Freedom, cited a lack of political independence of the media as the worst risk identified for Malta.¹¹⁰ An investigation by The Shift revealed that the Public Broadcasting Service, an outlet which has a constitutional obligation to be strictly impartial, has also been co-opted by the ruling Labour Party.¹¹¹

In addition to owning its own party-controlled news outlets, the government also uses political advertising as a way to channel money to media outlets that have links to, or are supportive of, the ruling Labour Party.¹¹² There is no legal framework for, or transparency in, the allocation of state advertising in Malta.

The line between news and propaganda is often deliberately blurred. For example, the managing editor of MaltaToday (a twice-weekly English newspaper), Saviour Balzan, is also the sole director, shareholder and legal representative of a public relations company (Business 2 Business Ltd) that directs and oversees advertising campaigns for the government, with a client list that includes the Infrastructure Ministry, Transport Malta, and the tuna farming lobby.¹¹³ Press releases for these clients receive coverage in MaltaToday. Balzan also uses his weekly programme, 'Xtra,' on the national broadcaster TVM to 'interview' representatives from the very government departments that issue his business direct orders for advertising campaigns. Balzan was also exposed by the Times of Malta for having run a 'controlled interview' on this TVM programme with Minister Konrad Mizzi about the controversial Electrogas project, a deal that PACE described as 'sinister'.^{114, 115}

News outlets that maintain their independence are treated very differently. While Balzan's 'Xtra' was given some 78,000 EUR in public funds for the 2016/2017 schedule and pushed to prime time, TimesTalk – an Allied Newspaper production, and the most followed current affairs programme at the time on TVM – was removed from the schedule just weeks after the Panama Papers scandal broke.¹¹⁶

107. <https://theshiftnews.com/2019/06/04/truth-slips-is-the-egrant-inquiry-the-worst-kept-secret-in-town/>

108. <https://theshiftnews.com/2019/06/12/no-explanation-in-parliament-on-ministers-access-to-secret-egrant-inquiry/>

109. <https://theshiftnews.com/2019/08/03/ministers-abusive-language-against-journalists-in-malta-reported-as-threat/>

110. <http://cmpf.eu.eu/media-pluralism-monitor/mpm-2017-2/>

111. <https://theshiftnews.com/2018/05/20/pbs-a-public-disservice/>

112. <http://cmpf.eu.eu/media-pluralism-monitor/mpm-2017-2/>

113. <https://timesofmalta.com/articles/view/saviour-balzans-company-involved-in-central-link-publicity-bltz.725521>

114. <https://timesofmalta.com/articles/view/maltatoday-editor-ran-controlled-interview-with-electrogas.707284>

115. <https://theshiftnews.com/2019/06/03/faulty-wiring-konrad-mizzis-sinister-electrogas-deal/>

116. <https://timesofmalta.com/articles/view/national-broadcaster-gets-more-state-funding.705774>

An editorial on 15 April 2019 in the Times of Malta referred to government threats to withhold crucial advertising funds needed for the paper's survival: "The Labour Party has almost never seen eye to eye with The Sunday Times of Malta and the Times of Malta and the Labour government is evidently hell-bent to bleed both English-speaking newspapers to death, including by shrinking its advertising spend even though statistics continue to show both papers are by far the most widely read."¹¹⁷

Efforts to control citizens' access to information are not confined to traditional media. The Maltese government is also one of the biggest spenders on social media advertising, which it uses to dominate the narrative, leaving little room for citizens to encounter alternative news from that presented by the Labour Party in power.¹¹⁸

→
A man holds a sign as thousands gather during a national rally.

© Matthew Mirabelli / AFP



THE ONLINE HATE MACHINE

Daphne Caruana Galizia was facing 48 libel cases for defamation at the time of her death.¹¹⁹ These cases were all brought against her by the subjects of her reporting on corruption, most of them public officials, including Prime Minister Joseph Muscat, Economy Minister Christian Cardona, Tourism Minister Konrad Mizzi, the Prime Minister's Chief of Staff Keith Schembri, and property developer Silvio Debono.¹²⁰ Henley and Partners, operators of Malta's cash-for-passports programme, also threatened to sue her in London, after first obtaining permission to do so from Joseph Muscat.

Economy Minister Cardona had sued her over a report that he visited a brothel in Germany while on official government business. Cardona requested that the court issue a garnishee order with respect to the suits, which resulted in the journalist's accounts being frozen in the amount of 46,000 EUR.¹²¹ Caruana Galizia died without ever regaining access to her own bank accounts.

Though unaware that a case had been filed, Caruana Galizia was also facing a 40 million USD SLAPP lawsuit in Arizona at the time of her death, brought against her by Pilatus

117. <https://timesofmalta.com/articles/view/the-pn-vs-the-free-press.707362>

118. Data shows that the government of Malta spent at least 2.62 million EUR on social media advertising between 2013 and 2017, 1.28 million EUR of which was spent within the country: <https://lovinmalta.com/opinion/analysis/facebook-is-helping-governments-drown-out-the-medias-voice-and-malta-is-a-shocking-case-study/>

119. <http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?fileid=27724&lang=2>

120. Debono brought 19 cases against Caruana Galizia, all relating to a single blog post of 19 sentences.

121. <https://www.independent.com.mt/articles/2017-02-08/local-news/Caruana-Galizia-s-bank-accounts-frozen-as-court-upholds-Cardona-s-garnishee-request-6736170165>

Bank.¹²² The bank's chairman, Ali Sadr Hasheminejad, withdrew the lawsuit within 24 hours of Caruana Galizia's death. The European Central Bank later revoked the licence of Pilatus Bank in November 2018. However, Maltese authorities only froze the bank's assets after Ali Sadr Hasheminejad was arrested in the United States in connection with a scheme to evade US economic sanctions against Iran.¹²³

The banker made headlines in Malta when a journalist from Net News filmed him leaving Pilatus Bank late on the night of 20 April 2017. Ali Sadr Hasheminejad was carrying bags suspected of containing documents.¹²⁴ This occurred just hours after Caruana Galizia had reported that Egrant, a Panama-based company, belonged to the Prime Minister's wife.¹²⁵ That same evening, Police Commissioner Lawrence Cutajar was filmed entering a restaurant in the village of Mgarr to eat a rabbit supper instead of ordering a raid on the bank to secure potential evidence.¹²⁶ Suspicions remain that the evidence was whisked away by Hasheminejad.

Many of the lawsuits brought against Caruana Galizia remain pending against the assassinated journalist's heirs – 26 in total at the time of publication of this report. In a letter sent to Prime Minister Muscat on 12 September 2019 and published on 19 September, Council of Europe Commissioner for Human Rights Dunja Mijatovic urged Maltese officials to withdraw these libel suits, which continue to be pursued two years after Caruana Galizia's assassination.¹²⁷ She further called for the repeal of legal provisions that allow libel suits against journalists to be passed on to their heirs.

Muscat's reply, in a letter of 19 September 2019, was that he would drop his case if Caruana Galizia's heirs agreed to make a declaration stating that they accept the findings of the Egrant Inquiry, a report they have never been allowed to read.¹²⁸ The family of Daphne Caruana Galizia rejected Muscat's offer in a statement issued that same day, saying, "We will not concede to extortion by our public servants. Our position on not accepting blackmail will never change."

The full findings of the Egrant Inquiry remain under wraps, despite the Prime Minister saying he had been exonerated. The 1,500-page report and its supporting documents have never been made public, but the Attorney General did disclose excerpts from the concluding section that found the magistrate was unable to find evidence of ownership.

Mijatović said that such defamation suits, which are commonly used in Malta, and place the burden of proof with the respondent, "may also constitute an undue interference with the right to protection of journalistic sources, a principle that is firmly entrenched in the case-law of the European Court of Human Rights." Such practices "put journalists and their families at risk and have a chilling effect on investigative journalism."¹²⁹

122. <https://manueldelia.com/2018/01/pilatus-filed-lawsuit-usa-daphne-caruana-galizia-never-knew/>

123. <https://www.bbc.com/news/business-46097564>

124. <https://daphnecaruanagalizia.com/2017/04/pilatus-bank-chairmanowner-accounts-officer-caught-leaving-bank-tonight-bags-containing-documents/>

125. <https://daphnecaruanagalizia.com/2017/04/declarations-trust-pilatus-bank-safe-egrant-inc-shares-held-michelle-muscat/>

126. <https://daphnecaruanagalizia.com/2017/04/police-commissioner-eats-rabbit-mates-mgarr-bank-chairman-removes-bags-documents-pilatus-bank/>

127. <https://www.coe.int/en/web/commissioner/-/commissioner-calls-on-maltese-authorities-to-withdraw-posthumous-defamation-lawsuits-against-the-family-of-daphne-caruana-galizia-1>

128. <https://euobserver.com/justice/146011>

129. <https://theshiftnews.com/2019/09/19/prime-ministers-case-against-a-dead-journalist-has-chilling-effect-on-investigative-journalism/>

A SYSTEMATIC CAMPAIGN OF DEHUMANIZATION

“For years I have been the target of sustained assaults by the Labour Party – and not just me, but also my sons and other members of my family – across all its media, print, broadcast and the internet, official and unofficial. The fascist, totalitarian targeting has been so ghastly that there is not a single person left on the island who doesn’t know my name, even if they can’t spell or pronounce it and even if they can’t read Maltese let alone English and so have never read a single thing I have written. They don’t know what I write, but they know they should hate me and insult me.”

Daphne Caruana Galizia, 24 May 2016¹³⁰

The lawsuits Daphne Caruana Galizia faced were just the last phase of a systematic campaign of dehumanization that the journalist had been subjected to throughout her 30-year career.

Caruana Galizia’s front door was set on fire in 1995 and her dog’s throat was slit. In 2006, tires were piled against the back door of her house and set on fire with the family inside, an attempt on her life which was only foiled by the chance arrival home of one of her sons.¹³¹ In 2013, she was forced to seek refuge in a convent while being chased through the streets of the Maltese town of Rabat by a crowd of people led by a local mayor.¹³²

In more recent years, Caruana Galizia became a frequent target of Glenn Bedingfield, a Member of Parliament and media advisor in the Office of the Prime Minister. In his ‘personal’ blog, written while he was employed in the Prime Minister’s office, Bedingfield encouraged supporters to invade Caruana Galizia’s private life by photographing her any time they saw her going about her daily business. Bedingfield then published hundreds of these photos on his blog, which was taken down following her murder.¹³³

Just one day prior to her assassination, Caruana Galizia was stalked and photographed by Neville Gafa, an employee in the Office of the Prime Minister whom the journalist had written about in connection with a medical visa racket in which Gafa was alleged to have pocketed thousands of euros while working at the Health Ministry.¹³⁴

130. <https://daphnecaruanagalizia.com/2016/05/labour-party-always-intolerant-free-press/>

131. <https://www.theguardian.com/world/2017/oct/19/daphne-caruana-galizia-establishment-was-out-to-get-her-says-family>

132. <https://daphnecaruanagalizia.com/2013/03/malta-taghna-lkoll-update-i-am-forced-to-take-shelter-in-a-franciscan-convent-with-two-friars-guarding-the-door-while-people-led-by-the-labour-mayor-of-zurrieq-yell-outside-in-the-street-ohorguha/>

133. <https://timesofmalta.com/articles/view/bedingfield-lets-rip-at-daphne-caruana-galizia.675967>

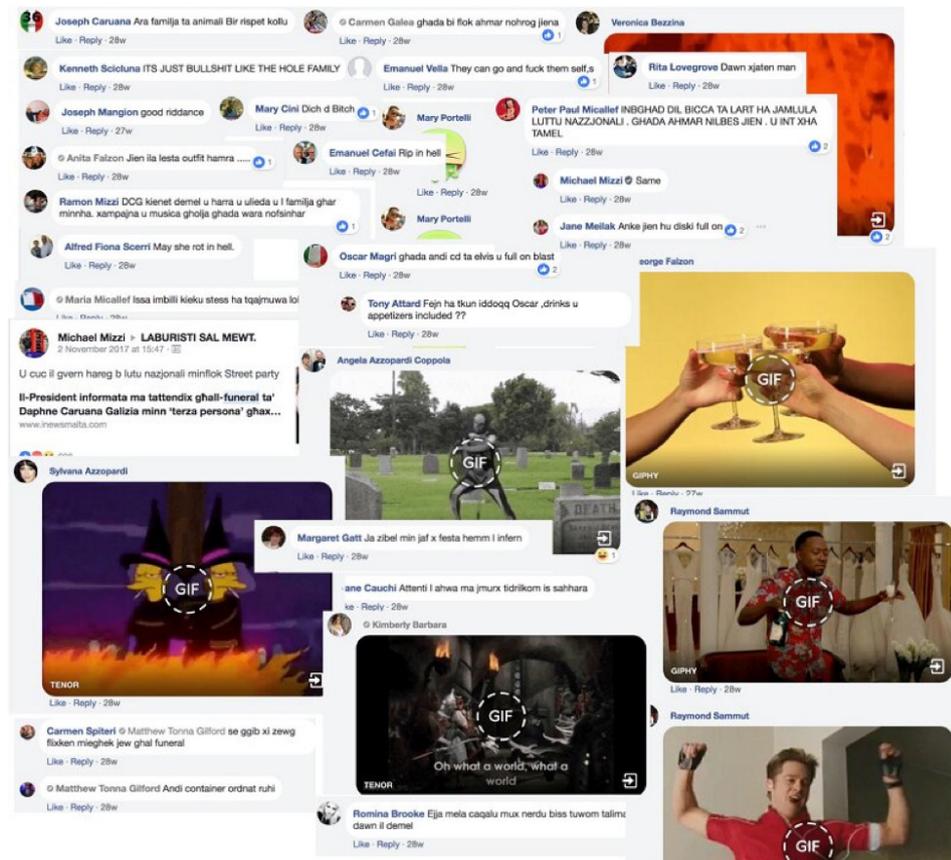
134. <https://timesofmalta.com/articles/view/opm-official-accused-of-stalking-caruana-galizia.663770>

This dehumanization campaign continued even after Daphne Caruana Galizia's assassination. An undercover investigation into secret and closed online Labour Party hate groups, published by The Shift, revealed Labour Party supporters celebrating the journalist's brutal murder within hours of the event, describing her as 'sahara hadra' ('evil witch') and calling on fellow members to let her burn in hell.¹³⁵



These private Facebook groups were administered by and home to senior government and Labour Party officials, including the former President of Malta Marie-Louise Coleiro Preca, Prime Minister Joseph Muscat, ministers and Labour Party candidates, and a number of other public officials. The groups required evidence of party membership to join, and they are administered by government employees. Although the former President and the Prime Minister eventually left the groups, they continue to operate, and one of the largest groups was reactivated in the run-up to the European Parliament elections in 2019 to attack opposition candidates and critics.

135. <https://theshiftnews.com/2018/05/14/investigating-joseph-muscats-online-hate-machine/>



News of Daphne Caruana Galizia's assassination was met with celebration in these groups, with members calling for a "street party" on the day of her funeral, calling her family 'familja ta animali [sic]' ('a family of animals'), with loud music and celebratory drinks, calls to wear red (the Labour Party's colour), comments like "dich d Bitch," and more memes of witches being burned at the stake and witches in caves.¹³⁶

Posthumous attacks against Caruana Galizia were not confined to these secret groups. The chairman of Valletta 2018, Jason Micallef, mocked the murdered journalist by appropriating her last published words in a Facebook post that read, "St Patricks Day in Malta. The situation is desperate. There is [sic] happy people everywhere you look."

Justice Minister Owen Bonnici refused to fire Micallef, insisting that the comments were not hate speech but "freedom of expression." Prime Minister Muscat also defended Micallef on the same grounds.¹³⁷ The scandal resulted in a rift with Malta's twin capital of culture, Leeuwarden- Friesland, with LF2018 freezing administrative contacts and refusing to send representatives to Malta for European Capital of Culture events.¹³⁸

The government has also attempted to eradicate a protest memorial to Daphne Caruana Galizia set up by citizens in front of the Great Siege Monument in Valletta within days of her assassination. The government has, on a near-daily basis, sent its employees to clear this site of messages, flowers and candles that have continued to be placed there regularly over the past two years. The monument has become the front line of a

136. <https://theshiftnews.com/2018/05/24/behind-the-scenes-how-labour-online-groups-reacted-to-the-assassination-of-daphne-caruana-galizia/>

137. <https://www.independent.com.mt/articles/2018-04-24/local-news/PM-reiterates-support-for-Jason-Micallef-refuses-to-comment-directly-on-17-Black-6736188736>

138. <https://lovinmalta.com/news/humiliation-for-jason-micallef-as-valletta-2018s-dutch-partner-imposes-malta-boycott/>

battleground between civil society activists and supporters of the Labour Party over calls for justice and the posthumous re-humanization of Daphne Caruana Galizia. At the time of publication, the memorial has been cleared by the government hundreds of times.¹³⁹

The Planning Authority has also removed banners with messages highlighting government corruption erected on private property in Valletta, once on 7 April 2018 and again, a week later on 15 April. The courts eventually ruled in favour of Daphne Caruana Galizia's family, concluding that the Authority's actions breached the family's fundamental rights, and ordered the Planning Authority to pay them 20,000 EUR in damages.¹⁴⁰

The government continues to remove the memorial to Daphne Caruana Galizia on a daily basis, even blocking it off for three months in 2018.¹⁴¹ Citizens placing flowers and candles at the memorial are regularly harassed and insulted, behaviour that continues unabated, encouraged by the authorities' silence. RSF UK Bureau Director Rebecca Vincent – one of the authors of this report – experienced such harassment directly while placing posters on the memorial in August 2019.¹⁴²

THE CYCLE CONTINUES

Pro-government hate groups did not go away in the wake of Daphne Caruana Galizia's assassination. They are still being used to generate and drive cycles of hate against critics of the Labour Party. Such "hate baiting" uses incendiary language to incite group members to harass and abuse the subjects of their posts.

Daphne Caruana Galizia's family members are regularly targeted in such groups, as are citizen journalists and anti-corruption activists from civil society groups il-Kenniesa and Occupy Justice, and journalists critical of the government, with calls for them to be physically attacked, sexually assaulted, and stalked.

Activist Tina Urso was targeted by these groups when she uploaded a series of videos on her personal Facebook timeline that showed footage of a protest outside a Henley & Partners' gala dinner in London that was held on 20 April 2018 and attended by Prime Minister Joseph Muscat.¹⁴³

Government officials, including Mario Azzopardi, Minister Christian Cardona's de-facto Chief of Staff, joined in the state-sanctioned campaign, encouraging a "share and shame strategy" against the activist.¹⁴⁴ Urso's Facebook timeline was soon deluged with insults which became increasingly aggressive and threatening. Her home address was posted in the groups, along with her ID card number, and personal photos taken from her Facebook profile.



↑ Flowers and tributes lay at the foot of the Great Siege monument in Valletta, Malta.

© Matthew Mirabelli / AFP

139. <https://newsbook.com.mt/en/watch-muscat-broke-putins-record-activist-at-daphne-vigil/>

140. <https://timesofmalta.com/articles/view/pa-chairman-had-ordered-removal-of-caruana-galizia-banners.722245>

141. <https://www.independent.com.mt/articles/2018-12-08/local-news/Great-Siege-monument-in-Valletta-reopened-6736200566>

142. <https://timesofmalta.com/articles/view/press-freedom-activist-called-bitch-at-daphne-memorial-site.729682>

143. <https://ecpmf.eu/news/threats/malta-anti-corruption-activist-defies-online-hate-campaign>

144. <https://theshiftnews.com/2018/05/14/investigating-joseph-muscats-online-hate-machine/>

Urso was quoted by the news site Bloomberg in a case study on Malta. “My Facebook account was flooded with notifications,” she said, “people sharing everything about me, manipulating photos taken from my profile. It was just insane what they were able to do in just a few hours.”¹⁴⁵

Similar social media attacks have also been launched against MEPs Roberta Metsola, Ana Gomes, Sven Giegold and Werner Langen, and against Maltese opposition politicians – notably MEPs Roberta Metsola and David Casa, and opposition MP Marlene Farrugia. The Shift founder and editor Caroline Muscat has also been targeted by these groups, with a government employee commenting on a meme created by a pro-Labour Party account saying that after Daphne Caruana Galizia, Caroline Muscat deserves a few bombs.

Actress Pia Zammit was also targeted by the Labour-leaning General Workers' Union newspaper *It-Tor a*, which published a backstage photo of her in costume from a 2009 production of the play 'Allo 'Allo. The 'reporter' expressed outrage that Zammit was wearing a swastika, implying that the outspoken civil society activist and member of both Occupy Justice and *Repubblika*, was, in fact, a Nazi sympathiser.¹⁴⁶ The photo was deliberately misrepresented and circulated in order to discredit an outspoken critic of the government and advocate of justice for Daphne Caruana Galizia.

THREATS AGAINST THE PRESS

The tactics used to whip up hate against Caruana Galizia and discredit and marginalise her continue to be repeated by those in power, including against Malta's remaining independent media. More than 30 threats to national and international media workers in Malta have been reported to press freedom watchdogs, the bulk being against investigative online news portal *The Shift*.¹⁴⁷

The latest report registered on 5 October 2019 refers to an official from the Office of the Prime Minister in Malta, Josef Caruana, who published posts on his social media, smearing *The Shift*'s investigative reporting. Caruana labels it “fake news” and demands an apology from the news outlet, which *The Shift* refused to give reminding Caruana he was a public servant.

It followed further attacks by three government ministers, who appealed a magisterial decree that they should be investigated, stating the revelations were published in “a partisan news portal,” attacking its founder Caroline Muscat, and claiming that a two-year investigation revealing evidence of corruption adopted in a report on rule of law in Malta by the Council of Europe was nothing more than “character assassinations.”

Judge Giovanni Grixti blocked an investigation into their actions amid controversy and criticism from legal circles. The judge repeated the ministers' opinion as fact, and went further stating that investigations by the press were insufficient evidence for an inquiry, contrary to what the law states. The same judge had blocked another inquiry into the actions of top government officials on the grounds that the Panama Papers, which have led to political resignations around the world, could not be considered as evidence.

145. <https://www.bloomberg.com/features/2018-government-sponsored-cyber-militia-cookbook/>

146. https://www.maltatoday.com.mt/news/court_and_police/97165/actress_pia_zammit_files_defamation_suit_over_nazi

147. <https://mappingmediafreedom.org/index.php/country-profiles/malta/>

5

CHAPTER FIVE: THE INTERNATIONAL REACTION



“As a result of the assassination, Malta’s international image has been severely negatively impacted. The only way to start to repair this reputational damage will be to achieve full justice for Daphne Caruana Galizia and her family.”

International freedom of expression mission to Malta,
19 October 2018¹⁴⁸

↑ Secretary general of Reporters Without Borders Christophe Deloire took part in a protest against the assassination of investigative journalist Daphne Caruana Galizia in Valletta - Sun, 22 Oct 2017.

© Pauline Adès Mével

The assassination of Daphne Caruana Galizia shed enormous light on broader systemic shortcomings in terms of human rights, rule of law, and democracy in Malta – including with regard to the press freedom climate. The international reaction has been strong, and rather than diminishing, has continued to build over the two years since Caruana Galizia’s assassination.

Malta has increasingly become the subject of international media coverage, almost all linked to or mentioning Caruana Galizia’s case, and often, the broader press freedom climate in Malta. Daphne Caruana Galizia has been honoured with numerous posthumous awards, and RSF recognised her son Matthew Caruana Galizia with the Press Freedom Award for Impact in 2018,¹⁴⁹ and Maltese journalist – and co-author of this report – Caroline Muscat with the Press Freedom Award for Independence in 2019.¹⁵⁰ Just weeks after her assassination, on 14 November 2017, the European Parliament renamed its press room the ‘Daphne Caruana Galizia’ press room.¹⁵¹ A series of vigils demanding justice for Daphne Caruana Galizia have taken place in cities including London, Berlin, and Brussels, with more planned for the two-year mark on 16 October 2019.

148. https://rsf.org/sites/default/files/malta_mission_statement_of_findings.pdf

149. <https://rsf.org/en/news/journalists-malta-india-philippines-and-uk-honoured-reporters-without-borders-2018-press-freedom>

150. <https://rsf.org/en/news/journalists-saudi-arabia-vietnam-and-malta-honoured-rsf-2019-press-freedom-awards>

151. https://multimedia.europarl.europa.eu/en/inauguration-caruana-galizia-press-room-ceremony_1146295-V_v



© Rebecca Vincent



↑ Matthew Caruana Galizia (C) and Paul Caruana Galizia (2L), the sons of murdered Maltese journalist Daphne Caruana Galizia, attend a vigil outside the Maltese High Commission in London on April 16, 2018, six months after she was assassinated.

© Tolga Akmen / AFP

Many international experts and organisations have travelled to Malta and issued detailed reports with strong recommendations for steps needed to address these systemic failings. Key findings from the most noteworthy of these in relation to Caruana Galizia's case and Malta's press freedom climate are summarised below – including the findings of an international freedom of expression mission to Malta; a resolution of the European Parliament and statements by the European Commissioner for Justice; an opinion of the Venice Commission; an evaluation report of the Group of States Against Corruption (GRECO); a resolution of the Parliamentary Assembly of the Council of Europe (PACE); and a report of the UK House of Commons Foreign Affairs Committee.



↑ Members of Parliament observe a minute's silence in memory of Daphne Caruana Galizia during a plenary session at the European Parliament in Strasbourg, eastern France, on October 24, 2017.

© Patrick Hertzog / AFP



← The international freedom of expression mission to Malta on the steps of the Auberge de Castille, Valletta, 15 October 2018.

©Tom Gibson

INTERNATIONAL FREEDOM OF EXPRESSION MISSION TO MALTA

From 15-17 October 2018, RSF led an international freedom of expression mission to Malta, comprised of the Committee to Protect Journalists, the European Centre for Press and Media Freedom, the European Federation of Journalists, the International Press Institute, and PEN International.¹⁵² The mission was timed for the one-year mark since Caruana Galizia's assassination, and was aimed at raising concerns about the continued lack of justice and to assess press freedom conditions in the country.

The delegation met with senior government officials, including Prime Minister Joseph Muscat, Justice Minister Owen Bonnici, and Attorney General Peter Grech. They also met with a wide range of journalists and civil society representatives, and monitored hearings in defamation cases that continued posthumously against Caruana Galizia.

Prior to the joint mission, head of RSF's EU-Balkans desk Pauline Adès-Mével had met with Magistrate Anthony Vella and his team in Malta in April 2018, but was prevented from meeting with his successor, Magistrate Neville Camilleri, when she returned with the joint mission in October 2018.

In a joint statement of findings published at the end of the mission, the delegation stated the visit had reaffirmed concerns that Malta was not living up to its obligations to guarantee and safeguard freedom of expression and press freedom as required by Maltese law and through Malta's international obligations. The delegation noted concern that the lack of progress in the murder investigation was having a chilling effect on public interest investigative reporting in Malta.

In particular, the delegation expressed concern about a number of aspects of the murder investigation; the reluctance of the Prime Minister to establish a public inquiry; continued attacks on the legacy of Daphne Caruana Galizia and frequent destruction of the Valletta protest memorial; the frequent use of defamation lawsuits against independent journalists in Malta, including posthumous suits that continued against Daphne Caruana Galizia; excessive online harassment and trolling of individual journalists, including by public officials; and restrictions on access to information.

On 4 December 2018, the mission's participating organisations issued a statement marking one year since the arrest of 10 suspects in connection with Caruana Galizia's assassination – of whom three were charged with murder.¹⁵³ The organisations expressed profound disappointment that the Maltese authorities had not addressed any of the serious concerns identified by the joint freedom of expression mission, and noted that the free expression climate had continued to deteriorate since the mission.

152. Ibid

153. <https://rsf.org/en/news/malta-one-year-after-arrests-murder-suspects-international-ngos-condemn-continued-lack-justice>

At the time of publication of this report, the Maltese government had still failed to meaningfully address any of the serious concerns raised by the joint mission, prompting further return visits to the country by RSF.

THE EUROPEAN UNION

On 28 March 2018, the European Parliament passed a resolution deploring serious shortcomings with the rule of law in Malta and Slovakia, and rising threats for journalists across the EU.¹⁵⁴ The resolution, which passed with a large majority of 398 votes in favour, 85 against, and 69 abstentions, summarised the conclusions of a working group of the Civil Liberties Committee to monitor the situation of rule of law in the EU, particularly in Malta and Slovakia following the assassinations of Daphne Caruana Galizia and Ján Kuciak. Committee members had travelled to Malta following Caruana Galizia's assassination in 2017, which was followed by a visit of the rule of law monitoring group head Sophie in't Veld in November 2018.

In the resolution, MEPs called on EU institutions and Member States to establish a public inquiry into the assassination of Daphne Caruana Galizia and into the alleged official corruption she had reported. It also called for the defamation lawsuits brought by government officials against Caruana Galizia and members of her family to be withdrawn.

From 14 to 15 June 2018, the European Commissioner for Justice, Consumers and Gender Equality Vra Jourová travelled to Malta. She gave a strong statement noting that the Commission expected an independent and thorough investigation into Caruana Galizia's assassination, and that the mastermind could not go unpunished.¹⁵⁵ "There is no place in the EU for the murder of journalists," she stressed. "This is not only a Maltese issue. Freedom of press is at stake...the work of journalists is crucial for our democracies."

On 7 October 2019, Jourová reaffirmed her commitment to the case in response to a question in the European Parliament, noting "I met Daphne Caruana Galizia's family, I gave a promise to her mother that I will look very closely at the investigations. I made a promise to her son to do my best to protect journalists in Europe. These promises are very strong commitments. I am happy to do more to keep these promises."¹⁵⁶

THE VENICE COMMISSION

On 17 December 2018, the European Commission for Democracy through Law (Venice Commission) published an opinion on Malta, 'On Constitutional Arrangements and Separation of Powers and the Independence of the Judiciary and Law Enforcement!'¹⁵⁷ The opinion followed a request initiated by the PACE Committee on Legal Affairs and Human Rights, and was followed by a request of Malta's Justice Minister, Owen Bonnici. The Commission noted the request for the opinion must be understood against that background, including the fact that "The alleged ineffectiveness of the investigation to find any persons who ordered this assassination and the alleged culture of impunity have been criticised from various quarters."

The opinion detailed worrying shortcomings with regard to the rule of law and democratic checks and balances Malta. The Commission noted that "The wide powers of appointments, that the Prime Minister enjoys, make this institution too powerful and create a serious risk for the rule of law. Taking into account the Prime Minister's powers, notably his or her influence on judicial appointments, crucial checks and balances are

154. <https://www.europarl.europa.eu/news/en/press-room/20190325IPR33125/malta-and-slovakia-meps-warn-of-lack-of-judicial-independence-and-corruption>

155. https://europa.eu/rapid/press-release_SPEECH-18-4182_en.htm

156. <https://timesofmalta.com/articles/view/watch-i-made-promises-to-daphne-caruana-galizias-family-vera-jourova.740484>

157. [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2018\)028-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2018)028-e)

missing. This problem is accentuated by the weakness of civil society and independent media.”

Concerning the assassination of Daphne Caruana Galizia, the Commission stated that “it must be established that the authorities knew or ought to have known at the time of the existence of a real and immediate risk to the life of an identified individual or individuals from the criminal acts of a third party, and that they failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk.” (Note: this language mirrored the legal opinion arguing for the need for a public inquiry into the assassination.) Although the Commission felt it was not in a position to examine whether the murder investigation lived up to those high standards, it insisted that “it is an international obligation of the Government to ensure that the media and civil society can play an active role in holding authorities accountable.”

THE GROUP OF STATES AGAINST CORRUPTION

On 3 April 2019, the Council of Europe Group of States Against Corruption (GRECO) published an evaluation report on Malta following a visit to the country from 2 to 6 October 2018.¹⁵⁸ The findings of the report were highly critical: “Malta has on paper an impressive arsenal of public institutions involved in checks and balance. However, their effectiveness is being questioned as the country was confronted in recent years with an unprecedented wave of controversies concerning the integrity of senior government officials up to the highest level.”

The report also referred to the high level of perception of corruption in Malta, with “no visible disciplinary or criminal justice response” to allegations, even when confirmed by audits. “State institutions and the public administration must work in an impartial manner in the furtherance of the common good, and not be a tool at the service of the ruling majority of the moment,” GRECO emphasised.

Daphne Caruana Galizia’s case was specifically referenced several times. The report noted that “The crisis culminated in October 2017 with the assassination of the Maltese journalist and blogger Daphne Caruana Galizia, who had been reporting extensively about a number of anomalies in the conduct of public affairs in recent years: overpriced deals for the supply of energy, privatisation of the hospitals tendered to a company without experience in the health sector, sale of land at prices below the market value to party sponsors, sale of passports through foreign investment schemes and possibly involving kickbacks for members / collaborators of the government, nepotism in public appointments, misuse of public resources etc.”

The report also noted that the beneficial ownership of “suspected structures” could not be determined, and that the investigation had reportedly confirmed the existence of “suspicious elements” against some government officials. However, “no step was taken by the head of government in respect of the officials concerned and it remains unclear whether further investigations were opened against them.”

Finally, the report mentioned the allegations that the murder suspects in Caruana Galizia’s case had been tipped off in advance by the police, noting that such police activities were an example of a “sector at risk.” The report also referred to the distress caused to Caruana Galizia’s family in seeking updates about the murder investigation, recommending that the Maltese police establish a policy to communicate regularly and through authorised channels about its work, including in specific cases.

158. <https://rm.coe.int/grecoeval5rep-2018-6-fifth-evaluation-round-preventing-corruption-and-/168093bda3>

THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

The most significant steps taken so far by an international body in pursuit of justice for the assassination of Daphne Caruana Galizia have come from the Parliamentary Assembly of the Council of Europe (PACE). Through its Committee on Legal Affairs and Human Rights, PACE appointed a Special Rapporteur tasked with investigating the case and developing a report titled 'Daphne Caruana Galizia's assassination and the rule of law in Malta and beyond: ensuring that the whole truth emerges'. The Assembly had only previously assigned two Special Rapporteurs in individual cases, and both in Russia, for the murders of Boris Nemtsov and Sergei Magnitsky.

This crucial role was taken up by Dutch MP Pieter Omtzigt, who immediately set to work. The findings of his report were damning, painting a detailed picture of the institutional failings that had allowed for the assassination of Daphne Caruana Galizia and were preventing justice from being served. "Malta's weaknesses are a source of vulnerability for all of Europe," the report states, concluding "If Malta cannot or will not correct its weaknesses, European institutions must intervene."

The report and accompanying resolution were a source of contentious debate in Committee, where the Maltese government introduced a series of 40 amendments that were ultimately voted down. The report was approved by Committee on 29 May 2019, then considered by the broader Assembly on 26 June 2019.

Despite continued lobbying efforts by the Maltese delegation and other delegations such as Azerbaijan,¹⁵⁹ and last-minute unsuccessful attempts to include a series of wrecking amendments, PACE adopted the resolution¹⁶⁰ in a vote of 72 to 18 (with three abstentions).¹⁶¹

Particularly important for the campaign for justice are the following excerpts:

6. The Assembly considers that the weaknesses of the rule of law in general and the criminal justice system in particular are also directly relevant to its analysis of the authorities' response to the assassination of Daphne Caruana Galizia. It recalls that 18 months after they were brought to court, the three men suspected of killing Ms Caruana Galizia have still not been put on trial. The custody time limit expires in two months, after which they will have to be released. No-one has been arrested for ordering the assassination. A magisterial inquiry is still ongoing, with no news on its progress.

7. The Assembly notes a series of serious concerns over the investigation into the murder, including:

- 7.1** the need to recuse a series of magistrates from various roles because of conflicts of interest;
- 7.2** the need to remove the investigating police officer because of a perceived conflict of interest;
- 7.3** the Prime Minister's decision to promote to judge the inquiring magistrate, thereby removing him from the inquiry after months of work;
- 7.4** the failure of the authorities to request possible evidence from the German police;
- 7.5** the failure of the police to interrogate Economy Minister Chris Cardona, despite claims that he had had contacts with the suspects;

159. <https://theshiftnews.com/2019/06/29/with-friends-like-azerbaijan/>

160. <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=28053&lang=en>

161. <http://assembly.coe.int/nw/xml/Votes/DB-VotesResults-EN.asp?VoteID=38027&DocID=18996&MemberID=>

- 7.6** the allegation that a police officer warned the suspects before they were arrested;
 - 7.7** false claims by the Minister of the Interior about progress in the investigation;
 - 7.8** inflammatory and misleading statements by persons close to the Prime Minister;
 - 7.9** the possibility that the Maltese security service may have had prior intelligence about the murder plot;
 - 7.10** the Director of Europol's complaint about co-operation with the Maltese police on the case.
- 8.** In these circumstances, the Assembly calls on Malta to establish at the earliest opportunity, within three months, an independent public inquiry in order to ensure fulfilment of its obligations under Article 2 of the European Convention on Human Rights.

With the passage of that resolution, PACE had effectively set a three-month deadline for the Maltese government to establish a public inquiry – a point that has become the single most important measure advocated by Daphne Caruana Galizia's family, their legal team, and civil society groups campaigning for justice in the case. Chapter Six of this report details what happened next.

UK HOUSE OF COMMONS FOREIGN AFFAIRS COMMITTEE

Following a nine-month long inquiry into the Foreign and Commonwealth Office (FCO) and global media freedom, the UK House of Commons Foreign Affairs Committee published a report on 9 September 2019 titled 'Media freedom is under attack: The FCO's defence of an endangered liberty'.¹⁶²

Although the inquiry was global in nature, a number of pieces of evidence had specifically detailed concerns over the FCO's handling of Daphne Caruana Galizia's case, including oral evidence given by Caoilfhionn Gallagher QC (a barrister with Doughty Street Chambers who represents Daphne Caruana Galizia's family),¹⁶³ written evidence submitted by Matthew, Andrew, and Paul Caruana Galizia,¹⁶⁴ and written evidence submitted by RSF.¹⁶⁵

The Committee took note, and in its own conclusions stated: "As part of its campaign to defend global media freedom, the FCO should publicly press for an independent judicial public inquiry in Malta into the murder of the journalist Daphne Caruana Galizia. Her death should set a precedent for accountability and not, as it does currently, for impunity."

Indeed, RSF has repeatedly urged the FCO to support the call for a public inquiry, but at the time of publication of this report, this had not yet been done publicly.

162. <https://publications.parliament.uk/pa/cm201719/cmselect/cmfaaff/1920/1920.pdf>

163. <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/foreign-affairs-committee/the-fco-and-global-media-freedom/oral/101729.pdf>

164. <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/foreign-affairs-committee/the-fco-and-global-media-freedom/written/102583.pdf>

165. <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/foreign-affairs-committee/the-fco-and-global-media-freedom/written/104196.pdf>

6

CHAPTER SIX: AN URGENT NEED FOR AN INDEPENDENT AND IMPARTIAL PUBLIC INQUIRY

“The Prime Minister of Malta has previously made a public promise that he would leave no stone unturned in relation to the investigation of my mother’s murder. Yet so far he has refused to establish a Public Inquiry to investigate whether her assassination could have been prevented, despite his legal obligation to do so. It is hoped that the Prime Minister will respond to today’s request by setting up a Public Inquiry without further delay so that further evidence is not lost. He has nothing to fear but the truth.”

Paul Caruana Galizia, 9 August 2018¹⁶⁶

In light of the clear deficiencies in the ongoing murder investigation and magisterial inquiry, the need for an independent public inquiry has emerged as the key measure around which international and domestic campaigning has united.

The case for a public inquiry was laid out by Daphne Caruana Galizia’s family’s legal team from Bhatt Murphy Solicitors and Doughty Street Chambers in legal opinions dated 8 December 2017,¹⁶⁷ 9 August 2018,¹⁶⁸ and 30 November 2018.¹⁶⁹ The legal opinions argued that a public inquiry was necessary, per Malta’s obligations under Article 2 of the

166. <https://www.doughtystreet.co.uk/news/family-daphne-caruana-galizia-calls-malta-establish-public-inquiry-whether-her-life-could-have>

167. <https://www.publicinquiry.mt/en/legal-advice/daphne-caruana-galizia-legal-advice-1.pdf>

168. <https://www.publicinquiry.mt/en/legal-advice/daphne-caruana-galizia-legal-advice-2.pdf>

169. <https://www.publicinquiry.mt/en/legal-advice/daphne-caruana-galizia-legal-advice-3.pdf>



↑ Paul Caruana Galizia (R) a son of murdered Maltese journalist Daphne Caruana Galizia, attends a vigil outside the Maltese High Commission in London on April 16, 2018, six months after she was assassinated.

© Tolga AKMEN / AFP

European Convention on Human Rights, to ensure that an independent and effective investigation was carried out into Caruana Galizia's murder.

In compliance with Malta's Article 2 obligations, a public inquiry would need to address: whether the Maltese authorities knew, or ought to have known, of a real and immediate risk to Caruana Galizia's life; whether her assassination could have been prevented; and whether any changes to law, policies, or practices are required in order to protect the lives of journalists in Malta.

RSF has advocated support for the public inquiry since the family's initial announcement, including in discussion with Prime Minister Joseph Muscat in October 2018 as part of an international freedom of expression mission.¹⁷⁰ Muscat stated that it was not a matter of whether, but when a public inquiry would be established, and that the government had been advised to wait until a criminal investigation had concluded before launching a public inquiry – a position that has since frequently been repeated by Maltese officials.

Months passed with no indication of intention to comply from the Maltese government, and the family of Daphne Caruana Galizia finally announced their intention to litigate. On 9 April 2019, they disclosed that they had filed a judicial letter – the first formal step in the legal process. Daphne's son Paul stated, "No bereaved family should have to litigate in order to establish the truth surrounding their loved one's death and we cannot begin to grieve until the truth has been served."¹⁷¹

The call for a public inquiry took on a greater sense of urgency in the run-up to the adoption of the PACE resolution of 26 June 2019 – as described in Chapter Four of this report – which set a three-month window for the Maltese government to establish the inquiry.¹⁷² Counting from the date of adoption of the PACE resolution, the three-month deadline would fall on 26 September 2019.

170. <https://rsf.org/en/news/malta-rsf-urges-pm-muscat-establish-immediate-public-inquiry-daphne-caruana-galizias-assassination>

171. <https://www.doughtystreet.co.uk/news/daphne-caruana-galizias-family-forced-litigate-given-mal-tas-refusal-hold-independent-judicial>

172. <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=28053&lang=en>



←
International freedom
of expression mission
meeting Prime Minister
Joseph Muscat and
other officials.

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As the weeks passed, there was no indication that Malta intended to comply with the deadline, until a seemingly impromptu statement by Foreign Minister Carmelo Abela at the Global Conference for Media Freedom in London on 11 July 2019. In response to a critical line of questioning following his formal statement at the conference, Abela stated that Malta would comply with the deadline set by PACE.¹⁷³ However, a spokesperson from Office of the Prime Minister later claimed Abela had simply reiterated the previously articulated position of the Prime Minister, who had never committed to implementing a public inquiry before criminal proceedings had concluded.¹⁷⁴ The government never further clarified the matter.

Finally, just six days before the PACE deadline, on Friday evening, 20 September 2019, the Maltese government issued a public statement announcing the launch of a public inquiry, including terms of reference and a designated Board of Inquiry.¹⁷⁵ RSF welcomed the establishment of the public inquiry, noting that it was a long overdue and essential step towards justice, but underscored the need to ensure the full independence and impartiality of the inquiry, including through close scrutiny of the composition and actions of the Board of Inquiry.¹⁷⁶

Both the terms of reference as well as the composition of the Board of Inquiry indeed proved to be problematic. Maltese press and civil society raised extensive concerns about the government's announcement, primarily focused on perceived conflicts of interest of two members of the board: former Dean of the Faculty of Law, Ian Refalo, and forensic expert Anthony Abela Medici.

Refalo is reported to serve as an adviser to Minister of Justice Owen Bonnici. He advised Bonnici against introducing anti-SLAPP amendments to protect journalists.¹⁷⁷ Refalo represents the FIAU (Malta's anti-money laundering agency), which Daphne Caruana

173. <https://theshiftnews.com/2019/07/11/foreign-minister-commits-to-independent-public-inquiry-in-three-months/>

174. <https://timesofmalta.com/articles/view/nothing-new-about-carmelo-abelas-comment-on-daphne-inquiry-opm-insists.721417>

175. <https://www.gov.mt/en/Government/DOI/Press%20Releases/Pages/2019/September/20/pr191965en.aspx>

176. <https://rsf.org/en/news/malta-launch-public-inquiry-long-overdue-step-towards-justice-daphne-caruana-galizia>

177. <https://timesofmalta.com/articles/view/minister-slaps-down-slapp-amendments-meant-to-protect-journalists.675893>

Galizia had reported on in her investigations.¹⁷⁸ Medici is reported to have longstanding ties to the Labour Party, and also commented as a forensic expert after Caruana Galizia was assassinated in October 2017, stating that the explosive material was Semtex – implying foreign involvement – even though it was later confirmed to be TNT.¹⁷⁹

The matter returned to the PACE Committee on Legal Affairs and Human Rights, which adopted a declaration on 30 September 2019 stating that “the inquiry as currently constituted clearly does not meet the Assembly’s expectations.”¹⁸⁰ The Committee pointed to concerns with both the terms of reference and the composition of the Board of Inquiry, noting the latter “must be such as to dispel any reasonable criticism of its actual or apparent independence and impartiality.” Further, the Committee stated that the wording related to holding hearings in camera was “vaguely worded and potentially extremely broad;” that the family of Daphne Caruana Galizia should be given a privileged position in the inquiry; and that the inquiry’s report to the Prime Minister must be published immediately and in full.

For its part, in a statement curiously not translated into English – although many others related to the case have been – the Maltese government responded, as it has in the past, with an ad hominem attack on Omtzigt’s credibility, and failed to address the very serious substantive concerns in question.¹⁸¹ Further, the government’s statement attempted to divide the stated position of the Council of Europe Secretary General¹⁸² from that of PACE – which if not effectively addressed by the Council of Europe will undermine the crucial work that has led to this point.

A truly independent and impartial public inquiry remains the best hope of justice for the assassination of Daphne Caruana Galizia. At the time of publication of this report, there was no further clarity as to whether the Maltese government would seriously address the concerns raised by the Committee and ensure that such an inquiry proceeds in line with Malta’s obligations as a Council of Europe Member State. The matter is next due to be examined by the Committee in its meeting on 14 November 2019 in Berlin.

178. <https://newsbook.com.mt/en/daphne-inquiry-prof-refalo-not-impartial-repubblika/>

179. <https://theshiftnews.com/2019/09/21/hope-was-killed-last-night-caruana-galizia-family-demands-meeting-with-prime-minister/>

180. <http://www.assembly.coe.int/LifeRay/JUR/Pdf/TextesProvisoires/2019/20190930-CaruanaGaliziaAssassination-EN.pdf>

181. <https://www.gov.mt/en/Government/DOI/Press%20Releases/Pages/2019/September/30/pr192066.aspx>

182. <https://www.coe.int/en/web/portal/-/council-of-europe-secretary-general-pejcinovic-buric-welcomes-maltese-announcement-to-set-public-inquiry-into-the-murder-of-journalist-daphne-caruana->

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The Valletta protest
memorial to Daphne
Caruana Galizia.
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CONCLUDING OBSERVATIONS AND RECOMMENDATIONS

Although Daphne Caruana Galizia's assassination shocked the world, even more shocking is the continued impunity for this horrific crime despite the intense international scrutiny that has persisted from the start. More is now known than ever before about the systemic failings in Malta that allowed for a journalist to be assassinated, and that continue to obstruct efforts towards justice.

What is lacking is political will of the Maltese authorities to act meaningfully – as well as of the international community to increase the political consequences for the government of Malta should it continue to fail to achieve justice for Daphne Caruana Galizia and address the broader systemic problems that have been exposed. Impunity in this case has dangerous implications for the safety of journalists, press freedom, and democracy more broadly not just in Malta, but across Europe and beyond. Conversely, achieving full justice in this case would chip away at the endemic impunity for violent attacks against journalists everywhere.

RSF and The Shift remain committed to the pursuit of justice for Daphne Caruana Galizia until every person involved in the planning and carrying out of this heinous attack – including the masterminds – are brought to justice.

In order to ensure full justice for the assassination of Daphne Caruana Galizia without further delay and to improve the broader press freedom climate in Malta, RSF and The Shift have developed a series of recommendations to the Maltese authorities and to the international community.

To the Maltese authorities

- Ensure without further delay an effective and transparent criminal investigation into the assassination of Daphne Caruana Galizia that pursues all lines of inquiry – including the possibility of state awareness or involvement – and that identifies all those involved in every aspect of the attack, including the masterminds;
- Ensure a fair, public and timely trial for the three arraigned murder suspects in accordance with Malta's due process obligations;
- Immediately address the concerns of the PACE Committee on Legal Affairs and Human Rights with regard to the terms of reference of the public inquiry and the composition of the Board of Inquiry;
- Fulfil all other recommendations of the PACE resolution on 'Daphne Caruana Galizia's assassination and the rule of law in Malta and beyond: ensuring that the whole truth emerges';
- Implement the recommendations of the Council of Europe Venice Commission and GRECO with regard to the rule of law and democratic checks and balances in Malta;
- Withdraw the posthumous defamation lawsuits that continue against Daphne Caruana Galizia, and repeal the legal provisions that allow for defamation suits against journalists to be passed on to their heirs, in line with the recommendations of the Council of Europe Commissioner for Human Rights;
- Lift the government orders to clear the protest memorial to Daphne Caruana Galizia and allow the memorial at the Great Siege Monument to stand, in accordance with Malta's freedom of expression and freedom of assembly obligations;
- As public officials, hold themselves to a higher standard of scrutiny and refrain from taking punitive and retaliatory action against journalists and media outlets, including online, and ensure immediate and effective disciplinary procedures for officials who engage in such behaviour; and
- Establish a separate independent inquiry to assess not only the issue of safety of journalists, but also broader concerns with regard to Malta's media environment, and to bring policy and practices into compliance with Council of Europe guidance on the protection of journalism and safety of journalists and other media actors.¹⁸³

To the international community

- At international fora and in bilateral relations with the government of Malta, speak out publicly and privately on the need for full justice for the assassination of Daphne Caruana Galizia;
- Demonstrate full support for the work of PACE Special Rapporteur Pieter Omtzigt, in particular his ongoing efforts to ensure the independence and impartiality of the public inquiry;
- Increase pressure on the government of Malta to fully comply with the recommendations of the PACE resolution on 'Daphne Caruana Galizia's assassination and the rule of law in Malta and beyond: ensuring that the whole truth emerges' without further delay, and to cease efforts to stall the public inquiry or subvert PACE's intentions in establishing the inquiry; and
- Increase pressure on the government of Malta to fulfil all recommendations of the international bodies detailed in this report with regard to the country's press freedom climate, rule of law, and democratic checks and balances, and to bring policy and practices into compliance with Council of Europe guidance on the protection of journalism and safety of journalists and other media actors.

183. https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09_000016806415d9#_ftn1



Flowers and tributes lay at the foot of the Great Siege monument in Valletta, Malta, on October 19, 2017.

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