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Committee on Legal Affairs and Human Rights

Daphne Caruana Galizia's assassination and the rule of law in Malta and beyond: ensuring that the whole truth emerges

Report on follow-up to Parliamentary Assembly [Resolution 2293 \(2019\)](#)

Rapporteur: Mr Pieter OMTZIGT, the Netherlands, Group of the European People's Party

1. Introduction

1. On 26 June 2019, the Assembly adopted [Resolution 2293 \(2019\)](#) on Daphne Caruana Galizia's assassination and the rule of law in Malta and beyond: ensuring that the whole truth emerges. In paragraph 9 of the resolution, the Assembly resolved to continue following developments in Malta. Under Rule 50.1. of the Assembly's rules of procedure, "A rapporteur shall remain in charge of the follow-up to his or her report for a term of one year after the adoption of the text by the Assembly." On 7 May 2020, due to disruption caused by the Covid-19 pandemic, the Bureau extended by six months the rapporteurs' mandates under Rule 50.1. The present report describes the progress that has been made in implementing [Resolution 2293](#) and the issues and concerns that remain outstanding.

2. [Resolution 2293](#) addressed three inter-related themes: Malta's constitutional and institutional guarantees of the rule of law; allegations of high-level corruption and impunity (on which Ms Caruana Galizia had reported); and the investigation into the murder of Ms Caruana Galizia and prosecution of those suspected of being responsible. I have been following all three aspects closely during the past 18 months. I visited Malta on 13-14 February 2020, although some of the information then obtained is no longer current. More recently, I sent a series of focused questions to the Maltese delegation, for transmission to the relevant authorities. This report incorporates their replies.

3. In my letter to the Maltese delegation, I stated that I would refer to the opinions of the European Commission for Democracy through Law (the Venice Commission) as regards implementation of its recommendations, and would leave the substantive evaluation of implementation of recommendations made by the Group of States against Corruption (Greco) and the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (Moneyval) to the respective expert bodies. That I will do.

4. I have issued a number of letters, public statements and other interventions over the past 18 months intended to encourage implementation of [Resolution 2293](#). Further details are in appendix.

2. The rule of law in Malta

5. [Resolution 2293](#) concluded that "the rule of law in Malta is seriously undermined by the extreme weakness of its system of checks and balances... Despite certain recent steps, Malta still needs fundamental, holistic reform." Paragraph 5 of the resolution set out proposals to this end, including to "implement as a matter

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of urgency the reform packages recommended by the Venice Commission and GRECO, in their entirety”.¹ Following false starts and broken promises from the Muscat administration, the government of Mr Robert Abela, in office since January 2020, has made laudable progress in implementing the recommendations of the Venice Commission in particular. The reform process has, however, been procedurally flawed and remains substantively incomplete in important respects.

2.1. *The reform procedure*

6. [Resolution 2293](#) called for the rule of law reforms to be “designed and implemented ... through an open, widely inclusive and transparent process.” Similarly, in its June 2020 opinion,² the Venice Commission called for “wide consultation and a structured dialogue with civil society” and others. I publicly reiterated these calls on several occasions during the recent reform process.

7. In its October 2020 opinion,³ however, the Venice Commission noted that “at no stage of the process was there any serious consultation of civil society or possibility for wider public debate... discussions on reforms in general cannot replace dialogue on the basis of concrete texts.” “The six bills were adopted unanimously ... [but this] could also be interpreted as proving the closedness of the political system and the fact that common vested interests bind the majority and the opposition together.” “A parliamentary procedure and its live broadcasting does not meet the requirement of wide public consultation. [This] is akin to denying citizens their democratic entitlement to have a say in the shaping of the constitutional order.”

8. In its response to my request for information on this issue, the Maltese government repeated excuses that it had made to the Venice Commission prior to adoption of the latter’s October 2020 opinion. The Venice Commission was not impressed by these excuses and neither am I. Malta’s active civil society has been very influential in achieving political change and an valuable source of information for both the Venice Commission and myself, yet the government has completely excluded it from the reform process. I therefore fully support the Venice Commission’s recommendation that “the remaining four bills and any future amendments be discussed in a wider framework also with civil society”.

2.2. *The content of the reforms*

9. Six laws have been adopted and four bills are pending before parliament that will make important changes in several areas of concern mentioned in [Resolution 2293](#), including judicial independence, the criminal prosecution system, the position and powers of the President, the prime minister’s powers of appointment and the status and powers of independence oversight bodies.

10. Unfortunately, few of these reforms are entirely satisfactory and several important Venice Commission recommendations remain outstanding.⁴

- As regards the adopted laws, these relate to the judicial appointments process, the subrogation of judges, deadlock procedures for the parliamentary appointment of the President and the Chief Justice, procedural guarantees for the dismissal of the President, the Attorney General, the State Advocate and the Ombudsman, appeals against the Attorney General’s failure to prosecute a case within a reasonable time, and the powers of the Ombudsman and the Commissioner for Standards in Public Life in relation to suspected corruption.
- As regards the pending bills, the outstanding recommendations relate to the powers of the Auditor General in relation to suspected corruption, the appointment of Permanent Secretaries in the civil service, the prime minister’s powers of appointment and the appointment of ‘persons of trust’.
- Certain recommendations from the Venice Commission’s 2018 opinion are not addressed in the recent laws or the pending bills, including the transfer of all prosecutions to the Attorney General “as soon as possible”, transferring the function currently fulfilled by magisterial inquiries to the Attorney General, the legal effect of Constitutional Court judgments, the strengthening of parliament and parliamentary oversight, and specialised tribunals.

¹ See the December 2018 Venice Commission opinion, CDL-AD(2018)028, and the Greco 5th Round Evaluation Report on Malta, GrecoEval5Rep(2018)6.

² CDL-AD(2020)006, 19 June 2020.

³ CDL-AD(2020)019, 08 October 2020.

⁴ For full details, see the Venice Commission’s October 2020 opinion, paras. 96-98.

11. In its response to my request for information on further reforms, the Maltese government repeated the position it had expressed to the Venice Commission: it remains “committed” to introducing amendments to the pending bills; and the future ‘constitutional convention’ could consider revisions to the enacted laws. I do not consider the ‘constitutional convention’ – which will be led by the President and may merely make recommendations to the government, and whose composition, working methods and timeframe are uncertain – to be an appropriate means of addressing urgent problems with the reforms.⁵ I fully agree with the Venice Commission that the revisions needed to the six enacted laws, “which have the character of corrections or adjustments ... [should be dealt with] without delay, rather than being left to the future Constitutional Convention”.

12. As regards criminal prosecution in particular, responsibility for prosecution of serious crimes was transferred to the Attorney General on 1 October 2020. The government informed me that a bill would be tabled before parliament in October 2020, transferring responsibility also for prosecution of less serious offences. I visited the parliamentary website in late November but found no trace of any such bill.⁶

13. The Maltese authorities have failed even to mention parliamentary reform in their exchanges with either the Venice Commission or myself, despite the fact that the Venice Commission reiterated its recommendations in its June 2020 opinion and I drew attention to them in my request for information. Poorly paid and very part-time, Malta’s MPs inevitably have other, almost full-time jobs. In the case of almost all governing party MPs, these jobs are as government ministers, government consultants or government appointees on public bodies – meaning that there are, in effect, no independent government back-benchers, thus depriving Malta’s Westminster-style democracy of an important source of scrutiny that through friendly criticism, can help to avoid policy failures. When MPs are engaged in parliamentary work, they lack institutional support. This situation severely undermines the effectiveness of Malta’s parliament as a constitutional check and balance on executive power. This was painfully apparent during adoption of the recent reform laws, with MPs voting on final drafts that most of them had not even seen, never mind scrutinised. It also gives rise to complicated professional situations, ethical dilemmas, and outright conflicts of interest. In November 2020, the Commissioner for Standards in Public Life reported that opposition MPs employed in the public sector “abused” the rules set out for members of parliament to leave work in order to attend to parliamentary duties, which undermined the trust that the electorate should have in its public representatives. It is up to Malta to decide how parliament should function but until this institution, crucial to any democracy, is reformed, Malta’s democracy will remain deeply flawed.

14. Many of the omissions pointed out by the Venice Commission involve issues relating to corruption. The Ombudsman, the Auditor General and the Permanent Commission against Corruption should be obliged, rather than just enabled, to report corrupt practices to the Attorney General (as prosecuting authority), and the requirement of having “evidence” in order to report corruption should be removed;⁷ persons should not be required to have a direct interest in order to be able to complain to the Ombudsman, as it excludes public interest complaints from civil society bodies; the Ombudsman’s right to receive information from public bodies should be raised to constitutional level; and the number and duration of appointments of ‘persons of trust’ to official posts, through non-transparent procedures, should be limited. Given the widespread concern over high-level corruption in Malta, it is all the more important that these outstanding issues are addressed as a matter of priority.

15. I would also note three further issues from [Resolution 2293](#) concerning reforms relating to the criminal justice system. The first relates to magisterial inquiries, which can be opened at the request of various parties as an alternative or in addition to police investigations. Magisterial inquiries are often extremely lengthy: some of the most important inquiries into high-level corruption have lasted for over 3,5 years, with no end in sight, despite being based on voluminous information from the national anti-money laundering unit (see further below). In its December 2018 opinion, the Venice Commission recommended that “The establishment of a [dedicated prosecution service, which is what the office of Attorney General has become] should also absorb the function” of magisterial inquiries. In my communications with the Maltese authorities, I have repeatedly underlined the importance of this recommendation, yet it has still not been addressed.

16. Secondly, [Resolution 2293](#) welcomed the Maltese authorities’ co-operation with the Council of Europe on reform of the pre-trial ‘compilation of evidence’ procedure. In its response to my request for information, the

⁵ In its response, the government stated that it “looks forward to continue engaging in the process leading to the Constitutional Convention”. This formulation suggests to me that any final result is still a long way away.

⁶ <https://parlament.mt/en/13th-leg/bills>, visited on 19 November 2020.

⁷ The power of the Commissioner for Standards in Public Life to report corrupt practices to the Attorney General is not subject to these limitations.

government stated that a final report with recommendations for replacement of the current system had been issued and a working group had been established to propose, by the end of 2020, the necessary legal changes. As the compilation of evidence procedure continues to cause much confusion and delay in Maltese criminal proceedings (notably in the Caruana Galizia murder case – see below), this timetable should be respected.

17. These two issues represent major bottlenecks in the Maltese criminal justice system. So long as either of them remains unreformed, the system will remain unfit for purpose.

18. The third issue concerns the separation of the office of the Attorney General's functions of prosecutor on the one hand, and legal adviser and representative of the government, on the other, which was a key Venice Commission recommendation. The Maltese government sent to the Venice Commission a copy of the State Advocate Act that was intended to implement this recommendation but did not actually ask for an opinion on it. This act establishes appointment procedures for the two posts (Attorney General and State Advocate) that give a predominant role to the prime minister, who makes a recommendation to the President that the latter is constitutionally obliged to follow, on the basis of advice from an appointments panel, established by the prime minister's minister for justice, to which the prime minister need only give "due consideration". It is therefore regrettable that the government did not complete its transmission of the new law to the Venice Commission by also asking for its opinion.

19. In its response to my request for information, the government provided extensive detail of measures taken to implement the Greco and Moneyval recommendations. As noted above, I leave substantive evaluation of the implementation of these recommendations to the bodies concerned. I do, however, welcome the Maltese authorities' appreciation of the importance of these issues and look forward to the evaluations to be conducted by Greco and Moneyval in the coming months.

3. Cases of high-level corruption

20. [Resolution 2293](#) listed eight situations relating to alleged high-level corruption and called on the Maltese authorities to "end the prevailing climate of impunity by robustly investigating and prosecuting those suspected of being involved in or benefitting" from them.⁸ I asked the Maltese authorities whether anyone had been prosecuted; what was the current state of the investigations; and when the investigations would be concluded.

21. The only response came from the Police Commissioner, who told me that he had been notified of "the results of a magisterial inquiry into the allegations of kickbacks on which the police is also following up with more investigations as instructed by the inquiring magistrate. Four persons, including persons which Mr Omtzigt refers to in his letter, have been put on police bail pending further investigations." Although not specified, I assume that this refers to the 'golden passports' affair concerning payments of €100,000 to Keith Schembri (the head of the prime minister's office, which was responsible for the golden passports scheme), from Brian Tonna, auditor of Mr Schembri's companies and owner of a golden passport agency, that allegedly originated with three applicants for golden passports. Mr Schembri and Mr Tonna, along with Mr Tonna's business partner Karl Cini, were arrested and questioned by police on 22 September 2020, the day after a court ordered that their assets be frozen, and the day before Mr Tonna's golden passport agency had its licence suspended.

22. Apart from this, the letter from the Police Commissioner states only that the police are "investigating various allegations that were put forward by Ms Daphne Caruana Galizia... there are various instances where the Malta Police is collaborating with inquiring magistrates who have been entrusted or asked to investigate certain allegations." The Police Commissioner further notes that the police Financial Crime Investigations Department has been reinforced under new leadership and insists that the police "will not rest until investigations into serious allegations are concluded."

23. On 18 August 2020, I wrote to then-Attorney General Peter Grech asking whether, in relation to the cases mentioned in [Resolution 2293](#), he had ever exercised his powers under the Criminal Code to request information from a magistrate on an inquiry under their responsibility, or to have access to material gathered

⁸ These are described in [Resolution 2293 as the Panama Papers revelations \(secret offshore companies owned by senior government officials\), the Electrogas affair \(alleged corruption in a major public contract\), the Egrant affair \(another, related secret offshore company\), the Hillman affair \(alleged money laundering involving the prime minister's chief of staff\), the golden passports affair \(alleged corruption and money laundering involving the prime minister's chief of staff\), the Vitals Global Healthcare affair \(alleged corruption in another major public contract\), Nexia BT \(an accountancy firm involved in most of the cases of alleged corruption and money-laundering, owned by a friend of the prime minister's chief of staff\) and Pilatus Bank \(hastily opened in 2014, with many politically exposed persons as clients; closed by the European Central Bank in 2018\).](#)

by an inquiring magistrate; and whether those magistrates had fulfilled their obligations to report to him on progress. His reply was rather vague but can be summarised as: no, he had not exercised any of the powers that might have expedited the magisterial inquiries, but the magistrates themselves had generally fulfilled their reporting obligations. This is consistent with Dr Grech's overall passivity at best, and apparent obstructionism at worst, regarding cases of high-level corruption. I have written to his successor encouraging her to adopt a more proactive and responsible attitude.

24. Whilst it is true that there have been reforms within the Maltese police force, the various proceedings relating to the corruption allegations have still not produced the concrete results expected by the Assembly: despite certain highly publicised arrests, no-one has been prosecuted. Until that happens, recent developments will seem to be no more than institutional sleight of hand, diverting attention from the lack of results. In reality, impunity will continue to prevail, no matter how many oversight bodies issue damning reports or how many ongoing inquiries or investigations there may be.

25. Given the lack of progress and the cross-border dimension of the corruption allegations, I, along with other international observers, have repeatedly called on the Maltese authorities to establish Joint Investigation Teams (JIT) with police forces in other European countries such as France and Latvia, where persons under investigation (Mr Fenech in particular) are said to have engaged in financial dealings. The Maltese authorities have consistently rejected these calls, misleadingly referring to co-operation with Europol as a sufficient form of international co-operation. There is, however, a huge difference: Europol provides technical support to the Maltese police investigation, whereas a JIT would involve co-operation with other police forces on cross-border investigations with areas of common interest.

26. There is one process that has produced spectacular evidence of corruption and misconduct in public office: the independent public inquiry into the assassination of Daphne Caruana Galizia, whose establishment was one of the most important recommendations in [Resolution 2293](#). Under its broad mandate covering not only the assassination, but also impunity for serious criminal offences and breaches of the law, and threats against journalists, the inquiry has made remarkable process – especially when compared with the magisterial inquiries and police investigations, and despite disruption due to the Covid-19 pandemic. The inquiry is not, however, part of the criminal justice system.

27. I asked the government whether any of the persons or companies implicated in the allegations of high-level corruption currently hold any official position or contract. I was told that they do not.

4. Justice for the murder of Daphne Caruana Galizia

28. There are two ongoing processes relating to the murder: criminal proceedings, including those against the four accused, and an ongoing investigation; and the independent public inquiry. Before considering these, I will summarise the main developments since adoption of [Resolution 2293](#).

29. On 14 November 2019, Melvin Theuma was arrested for money-laundering. He then confessed that he had been asked by Yorgen Fenech to arrange the assassination of Daphne Caruana Galizia. (Mr Fenech was a wealthy businessman who held a stake in the Electrogas consortium and was reported to own 17 Black, a secret offshore company that Ms Caruana Galizia had said was intended to transfer large sums of money to Mr Schembri and Mr Mizzi in connection with a major public contract that had been awarded to Electrogas by Mr Mizzi.) Mr Theuma had commissioned Vince Muscat and Alfred and George Degiorgio to carry out the assassination. On 19 November, prime minister Muscat promised Mr Theuma a conditional pardon. Early the next morning, Mr Fenech was arrested leaving Malta on board his yacht. He later claimed that his escape from impending arrest had been planned with Keith Schembri, the prime minister's chief of staff. Mobile phone records show numerous contacts between Mr Fenech and Mr Schembri in the days prior to his arrest. Mr Fenech has also accused Mr Schembri of having previously given him extremely sensitive confidential information on the police investigation and, reportedly, of being involved in the murder plot. On 23 November, Mr Fenech was taken to hospital, where, he later claimed, Mr Schembri passed secret messages to him, telling him what to say to the police. The same day, government minister Chris Cardona, long suspected of contacts with the Degiorgio brothers around the time of the assassination, was questioned by police. On 25 November, Mr Schembri and Mr Mizzi resigned and Mr Cardona "suspended himself". On 26 November, Mr Schembri was arrested and questioned and his house was searched by the police; he was released two days later. On 29 November, prime minister Muscat announced that Mr Fenech's request for a pardon would not be granted; later that day, he informed government colleagues of his intention to resign "imminently". The next day, Mr Fenech was charged with the murder.

30. Despite this apparent progress, new concerns arose. Mr Schembri remained at liberty, even though he was suspected of multiple attempts to pervert the course of justice and, reportedly, accused of direct involvement in the murder plot. Mr Fenech testified that his relationship with Mr Schembri was “fraternal”. Mr Muscat remained in office until 13 January 2020, a crucial period for the investigation, despite allegations that multiple members of his office had engaged in suspicious activities with Mr Fenech and Mr Theuma. It has since emerged that in February 2019, Mr Fenech attended Mr Muscat’s birthday party and gave him bottles of wine worth thousands of euros. On other occasions, he had given him watches worth tens of thousands of euros. For much of 2019 – a period during which Mr Fenech was a suspect in the murder case and, on Mr Muscat’s instructions, under covert surveillance – Mr Fenech, Mr Schembri and Mr Muscat exchanged hundreds of messages through their own private WhatsApp group. During the same period, Mr Fenech also exchanged hundreds of WhatsApp messages with Mr Mizzi and with current minister for justice, Edward Zammit Lewis.⁹

31. Lawrence Cutajar, who was the police commissioner when Ms Caruana Galizia was assassinated, resigned in January 2020 shortly after Mr Abela became Prime Minister. In June 2020, a magistrate instructed the police to investigate allegations that Mr Cutajar, when police commissioner, had given information to Mr Theuma on ongoing money laundering investigations. Following his resignation, the government had given Mr Cutajar a three-year consultancy worth almost €100,000; this was terminated when he was placed under investigation. Silvio Valletta, who was deputy police commissioner when Ms Caruana Galizia was assassinated, retired from the police in August 2019. In January 2020, the police confirmed that Mr Valletta was under investigation for his close personal contacts with Mr Fenech after the latter came under suspicion. In November 2020, Mr Valletta told the public inquiry that Mr Schembri, when chief of staff to prime minister Muscat, had challenged him on the police’s plan to question Mr Fenech about 17 Black, with the result that the plan was abandoned.

4.1. *The criminal proceedings*

32. Vince Muscat and the Degiorgio brothers were arrested, detained, and charged in December 2017. In July 2019, just before the expiry of their custody time-limit, the Attorney General lodged a bill of indictment against them. Since then, they have filed a large number of preliminary pleas, all of which were rejected by the Criminal Court in October 2019. The Attorney General told me that the accused are appealing against this decision; if and when this appeal is rejected, the trial by jury can begin. A thirty-month custody time limit runs from the date of the bill of indictment but is suspended whilst the appeal against the decision of the Criminal Court is under way. The Attorney General did not tell me when the decision on the appeal is expected.

33. Mr Fenech was arrested, detained, and charged in November 2019. The compilation of evidence in his case is still ongoing. Mr Fenech’s detention is subject to a twenty-month time limit, unless a bill of indictment is lodged against him before it expires, in which case a new thirty-month limit will apply. Mr Fenech’s lawyers have filed a number of constitutional challenges, all of which have so far been unsuccessful. The Attorney General did not tell me when she hoped to lodge a bill of indictment against Mr Fenech. Even then, any preliminary pleas by Mr Fenech, and any appeals against decisions on those pleas, would have to be resolved before an actual trial could begin. It is unclear whether his case would be joined with that against Vince Muscat and the Degiorgio brothers.

34. On the evening of 5 May 2020, Charles Mercieca resigned his position as a junior lawyer in the office of the Attorney General. The following morning, he appeared in court as a member of Mr Fenech’s defence team. This gave rise to widespread suspicions of prior collusion and concerns for the integrity of the prosecution case. I wrote to Attorney General Grech about this. He replied that Mr Mercieca was “never assigned to work on any case related to the Caruana Galizia murder”. He considered it “unrealistic” that Mr Mercieca might have had unauthorised access to information on the case. The justice minister appointed a former Chief Justice to inquire into this situation. The inquiry came to similar conclusions as those expressed by the Attorney General in his letter to me. It also recommended that lawyers who had worked in the Attorney General’s office be prohibited from representing the subjects of proceedings brought by the Attorney General whilst they were working there (a recommendation that had already been made by Greco in 2014). I understand that Mr Mercieca is also subject to an inquiry by the Committee on Advocates and Legal Procurators of the Commission for the Administration of Justice, led by Vincent de Gaetano, former judge of the European Court of Human Rights. I do not know whether this inquiry has been concluded.

⁹ In August 2020, Mr Muscat was questioned by police over a statement made about him by Mr Fenech. In November 2020, Mr Schembri and Mr Mizzi were arrested and questioned by police over their exchanges with Mr Fenech as part of what is understood to be an investigation into trading in influence.

35. The prosecution case depends on Mr Theuma's testimony. In July 2020, the day before he was due to be cross-examined in court by Mr Fenech's lawyers, Mr Theuma was found in his flat with his throat slit and multiple wounds to his abdomen. A police statement indicated that his injuries were probably self-inflicted. I wrote to the minister for home affairs, Dr Byron Camilleri, to ask what steps the Maltese authorities would be taking to ensure Mr Theuma's future safety, and whether there would be any investigation into the incident or inquiry into possible shortcomings in the protection given to him. I have not received any reply.

36. In September 2020, I was contacted (for the second time) by Wayne Jordash QC, a British lawyer instructed by Mr Fenech. Mr Jordash asked to meet me in order to discuss his claims that Mr Fenech's right to a fair trial had been violated by prejudicial statements made by various individuals in Malta. As the substance of these claims was sub judice in Malta, I declined Mr Jordash's invitation.

37. On 2 November, Gianluca Caruana Curran, one of Mr Fenech's Maltese defence lawyers, offered several €500 notes to Ivan Martin, a journalist for the Times of Malta. Mr Caruana Curran later claimed that he had not realised that Mr Martin was a paid employee of the Times and the money was intended as remuneration for his services "to help neutralise the bias in the reporting in the media." Mr Martin considers that it was an attempted bribe. Both the police and the Chamber of Advocates have opened investigations into Mr Caruana Curran and Mr Mercieca, who was also present at the meeting.

38. Vince Muscat has also requested a pardon in return for giving evidence for the prosecution. On 4 November 2020, he brought court proceedings to exclude prime minister Abela from any decision on his request, on the basis that Mr Abela had previously represented Adrian and Robert Agius, who Vince Muscat alleges supplied the bomb that killed Ms Caruana Galizia. (The Agius brothers were arrested in December 2017, along with Vince Muscat and the Degiorgio brothers, but were released without charge). He is also seeking to exclude from this decision an unnamed current government minister, against whom he claims to have evidence of involvement in a serious crime.

39. In November 2020, Mr Fenech brought court proceedings claiming violation of his right to presumption of innocence after Jason Azzopardi, who is one of the Caruana Galizia family's lawyers, agreed with a radio interviewer's proposition that Mr Fenech was guilty. Mr Fenech argued that Mr Azzopardi's role as lawyer could not be separated from his other positions as an MP and the shadow justice minister, in which capacity he might influence potential jurors. The court dismissed Mr Fenech's arguments, noting that as a lawyer, Mr Azzopardi could be expected to share his clients' view of Mr Fenech's guilt, and as a politician, he was not a public official holding executive power (as required by the law). The judge nevertheless urged greater caution in future.

4.2. *The independent public inquiry*

40. The independent public inquiry began work in December 2019. As noted above, in accordance with its broad mandate, it has heard astonishing evidence about incompetence, negligence, misconduct, corruption, and criminal conspiracy by public officials – far too much to mention here.

41. Clause 8 of the inquiry's terms of reference state that it "shall endeavour to conclude its work within a time frame of nine months without prejudice to the proper fulfilment of these terms of reference". In late August 2020, the chair of the inquiry wrote to the Prime Minister to request additional time to complete its work. The Prime Minister replied that he would grant a one-off, three-month extension until 15 December 2020. The Prime Minister has also expressed "reservations about the way in which the inquiry is failing to keep to the terms of reference given to it". Glenn Bedingfield, a governing party MP and person of interest to the inquiry, has expressed outrageous criticism of the inquiry, accusing its members of deliberately delaying its conclusion in order to make more money from it.

42. Along with the Caruana Galizia family and numerous international media freedom organisations, I have expressed grave concerns at these apparent interferences with the inquiry's independence. The Maltese government is a subject of the inquiry and should not purport to interpret its terms of reference or impose an arbitrary deadline on its work, or criticise its activities. I have twice written to Prime Minister Abela, asking him to avoid any interference with the inquiry's independence. He denied that his position on the duration of its mandate amounts to interference. The inquiry board itself has stated that "Should the three-month extension not be enough, the board could, but not necessarily will, make reference to clause 8". I take this to mean that it is prepared to continue its work as long as it considers to be reasonably necessary. In its response to my request for information, the government stated that it is "committed to see the full truth emerge from this inquiry, with the board being provided with all the necessary financial and administrative resources in order to fulfil its tasks without interference, in a serene manner, and with reasonable expedition." I trust that this means that the government will respect the inquiry's independence and not bring a premature end to its work.

5. Conclusions on the implementation of [Resolution 2293](#)

43. In accordance with my mandate under Rule 50.1. of the Assembly's Rules of Procedure, I conclude that eighteen months after its adoption, [Resolution 2293](#) has been implemented as follows:

- **Strengthening the rule of law:** implementation is unsatisfactory overall, with mixed results. The current reform package is flawed and incomplete in important respects, the government is not willing to take the urgent action necessary to correct it, and the government demonstrates no appreciation of the need for an open, inclusive and genuinely democratic reform process.
- **Ending impunity for high level corruption:** implementation is entirely unsatisfactory, with no concrete results. Despite new laws, new officials and even a few arrests, no-one has been prosecuted – it is as simple as that.
- **Justice for Daphne Caruana Galizia:** implementation remains fundamentally unsatisfactory, with no final results. The criminal proceedings are extremely complicated and lengthy, without this resulting in clarity and certainty – on the contrary, there is great confusion. Several circumstances have given rise to doubts over the integrity and reliability of procedures. The public inquiry has been incredibly illuminating, but its independence has been attacked, and it will lead only to recommendations, not to verdicts.

Appendix – activities of the rapporteur for follow-up

1. Public statements

- 12 July 2019, [Rapporteur welcomes announcement of public inquiry into the murder of Daphne Caruana Galizia](#)
- 21 September 2019, [Pieter Omtzigt welcomes decision to set up inquiry into the assassination of Daphne Caruana Galizia](#)
- 30 September 2019, [Daphne Caruana Galizia inquiry in Malta 'does not meet Assembly's expectations' \(statement by the Committee endorsing the rapporteur's information note\)](#)
- 15 October 2019, [Daphne Caruana Galizia: 'Her legacy will be measured in truth and justice'](#)
- 29 November 2019, [PACE rapporteur Pieter Omtzigt reacts to recent developments in Malta](#)
- 06 December 2019, [After another week of revelations in Malta, PACE rapporteur renews call for Prime Minister's immediate resignation](#)
- 13 January 2020, [Rapporteur congratulates new Maltese Prime Minister, urges prioritisation of the rule of law](#)
- 14 February 2020, [Daphne Caruana Galizia assassination: 'the public inquiry set up by the government is making real progress'](#)
- 06 May 2020, [Rapporteur calls on Maltese government and opposition to pursue an open and inclusive reform process](#)
- 29 May 2020, [Pieter Omtzigt calls on Malta to establish Joint Investigative Teams for cases of high-level corruption](#)
- 19 June 2020, [Rapporteur calls on Maltese authorities to make reforms real, end impunity and ensure justice for Daphne Caruana Galizia](#)
- 10 July 2020, [I will not rest until there is justice for Daphne, says Pieter Omtzigt, marking the 1,000th day since her murder](#)
- 15 October 2020, [Another year and still no justice for Daphne, says PACE rapporteur Pieter Omtzigt](#)

2. Correspondence with Maltese officials¹⁰

- 02 July 2019, letter to Dr Emmanuel Mallia, head of the Maltese PACE delegation, requesting information on implementation of Resolution 2293
- 01 October 2019, second letter to Dr Mallia, requesting information on implementation of Resolution 2293
- 26 November 2019, letter to Dr Owen Bonnici, minister for justice, concerning the role of the prime minister in the investigation into the murder of Daphne Caruana Galizia
- 19 December 2019, letters to prime ministerial candidates Mr Chris Fearne and Dr Robert Abela concerning the rapporteur's intended visit to Malta
 - o 23 December 2020, reply of Mr Fearne
- 11 May 2020, letter to Dr Peter Grech, Attorney General, concerning Mr Charles Mercieca
 - o 25 May 2020, reply of Dr Grech
- 18 August 2020, letter to Dr Grech concerning magisterial inquiries
 - o 31 August 2020, reply of Dr Grech
- 18 August 2020, letter to Dr Byron Camilleri, minister for home affairs, concerning the safety of Melvin Theuma
- 04 September 2020, letter to Dr Robert Abela, prime minister, concerning the independent public inquiry into the assassination of Daphne Caruana Galizia
 - o 09 September 2020, reply of Dr Abela
- 14 September 2020, letter to Dr Victoria Buttigieg following her appointment as Attorney General
 - o 22 September 2020, reply of Dr Buttigieg
- 18 September 2020, second letter to Dr Abela concerning the independent public inquiry
- 16 October 2020, third letter to Dr Mallia requesting information on implementation of Resolution 2293
 - o [Undated] reply of Dr Mallia (with attachments)

3. Media interviews and opinion pieces¹¹

- 20 October 2018, Omtzigt kijkt verder dan moord op journaliste, Twente Vandaag
- 27 October 2018, Omtzigt steekt zich in Maltees wespennest, De Volksrant

¹⁰ Copies of the correspondence are available to members from the Secretariat.

¹¹ This does not include the rapporteur's statements on Twitter: <https://twitter.com/pieteromtzigt?lang=en>

- 30 May 2019, [Unprecedented that the CoE looks into an EU member state](#), Newsbook
- 16 June 2019, [‘We are not enemies of Malta’](#), The Shift
- 16 October 2019, [Malta’s police ‘may have turned down evidence’ in journalist’s murder](#), The Guardian
- 1 December 2019, [‘The Maltese can get through this stronger, prouder than before’ – Omtzigt](#), The Shift
- 10 February 2020, [‘It’s an uphill battle, but it’s possible’](#), The Shift
- 05 August 2020, [Paper reforms not enough – Pieter Omtzigt](#), Times of Malta