

Strasbourg, 4 September 2020

Dear Prime Minister,

I hope that this letter finds you well, given the difficult circumstances we have all faced since we met during my visit in February.

I am writing in connection with the independent public inquiry into the assassination of Daphne Caruana Galizia. In particular, I wish to raise the matter of the time frame for fulfilment of its terms of reference, as I understand that you have written to the board of inquiry stating that it must complete its work by mid-December of this year. If that is correct, I find this situation to be a matter of serious concern.

The inquiry was established in fulfilment of Malta's obligations under article 2 of the European Convention on Human Rights. An inquiry established under article 2 must be independent. Most importantly of all, it must be free of any interference in its work by the subject of its investigations, namely the Maltese State. This independence must include the exclusive competence to order its own business, in accordance with the applicable law.

I note that 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" (emphasis added). This does not seem to me to set a fixed time limit. Instead, it seems that the time limit is deliberately flexible, in order to allow the inquiry the time it needs to fulfil its task. As an independent body, only the board of inquiry itself can determine when it has concluded its work, whether it needs longer than nine months, and how much longer it needs.

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Dr Robert Abela
Prime Minister
Office of the Prime Minister
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cc. Mr Emanuel Mallia, Head of the Maltese delegation to the Parliamentary Assembly
Mr Joseph Filletti, Ambassador, Permanent Representative of Malta to the Council of Europe

I understand that the inquiry board wrote to you proposing an extension of its mandate. Whilst this is certainly a courteous approach, it does not seem to be required either by the terms of reference, or by the Inquiries Act. As already mentioned, the terms of reference set a flexible time limit, which should be determined at the discretion of the board of inquiry itself. The Inquiries Act seems to allow the prime minister to fix the time limit for an inquiry in its terms of reference, but not to impose a different time limit subsequently by unilateral edict. I should be grateful if you could explain the legal basis on which such action may be taken.

This inquiry is also particularly important for Malta as a whole, since it is the only legal process that is casting public light on the circumstances surrounding the death of Ms Caruana Galizia, including the allegations of high-level corruption, misgovernment and criminal conspiracies. Police investigations and magisterial inquiries into these allegations have still not produced any results, resulting in continuing impunity. Malta will not resolve its ongoing rule of law crisis until the independent public inquiry fulfils its mandate and the responsible authorities then take the necessary action.

It may be that my understanding of this situation is based on a misconception regarding your correspondence with the board of inquiry, which to the best of my knowledge has not been published. Should you be able to confirm your intention to continue to respect the independence of the inquiry and support its activities for as long as the board of inquiry itself deems necessary, I would obviously be reassured.

Yours sincerely,

[signed]

Pieter Omtzigt

Rapporteur for follow-up to Resolution 2293 (2019) of the Parliamentary Assembly of the Council of Europe on the assassination of Daphne Caruana and the rule of law in Malta and beyond: ensuring that the whole truth emerges