

Submission by The Daphne Caruana Galizia Foundation

to the Ministry for Justice and Reform of the Construction Sector
concerning [L-0018-2025 — Media Reform Public Consultation](#)
30 October 2025

The Daphne Caruana Galizia Foundation

56 Melita Street, Valletta VLT 1122, Malta

www.daphne.foundation E contact@daphne.foundation

TABLE OF CONTENTS

[1. Introduction](#)

[2. Context: The Public Inquiry and the State's Responsibility](#)

[3. Our Expectations of the Reform Process and Outcome](#)

[4. Urgently needed reforms](#)

[4.1 Constitutional amendments](#)

[4.2 National Action Plan and Oversight](#)

[4.3 Safety of Journalists](#)

[4.5 Transparency, Plurality and Independence](#)

[4.6 Legal and Institutional Reform](#)

[4.7 Link Reform to Rule of Law and Accountability](#)

[5. Process Integrity and Public Participation](#)

[6. Conclusion](#)

Annex 1 International Standards

Annex 2 Public Inquiry Recommendations - our position on each recommendation

Annex 3 Our expectations of the reform process and outcome (16 February 2023)

1. Introduction

The Daphne Caruana Galizia Foundation (the “Foundation”) notes the Maltese Government’s decision to launch a period public consultation on media reform in 2025, following [calls](#) in 2022 by editors, journalists, academics, civil society representatives, members of Daphne’s family, and others, in the wake of Bills [17](#), [18](#), and [19](#) being tabled in parliament by the Minister of Justice. The Foundation participates in the current public consultation process as part of its mission of ensuring the public interest of restorative justice for Daphne’s assassination and of supporting efforts to ensure that Malta’s reforms create an enabling environment for freedom of expression underpinned by guarantees for media freedom, in line with the standards promoted by the Council of Europe.¹

The public trauma of Daphne’s contract killing requires a process of national healing and reconciliation unhindered by partisan interests. In our view, Malta’s reform must be a process of democratic reconstruction and not merely legislation and policy modernisation. At a minimum, we expect the reform process to take account of and holistically address the findings of the Public Inquiry into the assassination of Daphne Caruana Galizia (the “Public Inquiry”), as explained in our [position statement](#) on 16 February 2023. We also expect the reform process and outcome to give practical effect to the recommendations that the Board of the Public Inquiry made in its final report,² as well as the recommendations that it adopted and made its own.

The Maltese State is obliged to implement the conclusions of the Public Inquiry report holistically so that lessons learned from Daphne’s murder may yet save the lives of others. **Media freedom cannot be secured without dismantling the networks of political and economic impunity that enabled Daphne’s assassination.** An enabling and safe environment for journalists in Malta today must exist within a legislative and administrative framework that truly protects Maltese society from the harms of corruption and abuse of power, and which ensures that the corrupt and those who abuse power do not continue to enjoy impunity. The Public Inquiry recommendations concerning specific measures to address impunity, corruption, and abuse of power must therefore be an integral part of the

¹ <https://www.coe.int/en/web/freedom-expression/media>

² [Rapport tal-Inkjestta Pubblika Daphne Caruana Galizia](#) (Maltese)
[Public Inquiry Report Daphne Caruana Galizia](#) (English, courtesy translation)

reform³. The expected enabling environment must be reinforced by policies and actions that are far-removed from partisan control and which are founded on transparency and on accountability grounded in truth.

Malta's reform process towards an enabling environment for free expression and media freedom – and therefore for public interest journalism and for journalists – must aspire to and fulfil international standards (Annex 1). These include the State obligations determined by the European Court of Human Rights, the recommendations and resolutions of multilateral institutions, and the analyses of multilateral bodies and international organisations whose remit is media freedom.

The reforms should exclude any measures that undermine these international standards, particularly Committee of Ministers Recommendation [CM/Rec\(2016\)4](#) and European Commission Recommendation [\(EU\) 2021/1534](#) on ensuring the protection, safety and empowerment of journalists and other media professionals in the European Union. We are ready to engage constructively with the Maltese Government and all stakeholders in implementing genuine reform that is Public Inquiry-compliant and meets, at very least, Council of Europe standards.

The Foundation endorses and supports the content of the [joint statement](#) *"In Memory of Daphne: Media reform public consultations must lead to a National Action Plan"*, published on 15 October 2025 by the Committee to Protect Journalists and 17 partner media freedom and journalists' organisations.

The Foundation also supports the [submission](#) to this same public consultation of the Maltese NGO Repubblika, which reflects shared national civil-society concerns and recommendations consistent with the Public Inquiry's findings and the Foundation's own advocacy.

Furthermore, we note and share the concerns expressed by the President of the Institute of Journalists (IGM) in his address during the 2025 Press Awards, about the delayed reforms

³ Emendi speċifiċi għall-introduzzjoni ta' reati ġodda u tishih ta' liġijiet eżistenti, [Rapport tal-Inkjestta Pubblika Daphne Caruana Galizia](#), p.420.

and about the initiation of a public consultation process in the absence of a white paper with a clear idea of the Government's intended reforms.⁴

2. Context: The Public Inquiry and the State's Responsibility

The 2021 **Public Inquiry into the Assassination of Daphne Caruana Galizia** found that the Maltese State must **shoulder responsibility** for her killing. Its conclusions leave no doubt that the State's failure was not passive but active. The **key findings** of the Public Inquiry⁵ are as follows.

1. **Failure to protect** – The State did not fulfil its positive obligation to safeguard Daphne's life when there was a real and immediate risk to her safety.
2. **Active endangerment** – Instead of protecting Daphne's life, the State, through its institutions and officials, **increased the dangers she faced** by isolating, de-humanising, financially crippling, and discrediting her, even though her investigations into government corruption were supported by evidence, as the Inquiry confirmed.
3. **Culture of impunity** – The Office of the Prime Minister **fostered a culture of impunity that "spread like an octopus"**⁶ throughout the entire State and its regulatory bodies, enabling those exposed by Daphne's reporting to retaliate without consequence.
4. **Corruption and collusion** – High-level corruption created a network of political and business interests with a shared goal: to **neutralise Daphne's reporting** and to protect those responsible for her murder.
5. **State-led propaganda** – The Public Inquiry established that the Office of the Prime Minister led an **"orchestrated plan" to undermine the political impact of Daphne's reporting**, a groundbreaking acknowledgment of the role that political propaganda and character assassination played in the chain of events that led to her death.

⁴ Matthew Xuereb, IGM president, cited in Times of Malta, [Editorial: The elusive vital media reform](#), 24 October 2025.

⁵ [Rapport tal-Inkjestta Pubblika Daphne Caruana Galizia](#) (Maltese)
[Public Inquiry Report Daphne Caruana Galizia](#) (English, courtesy translation)

⁶ [Rapport tal-Inkjestta Pubblika Daphne Caruana Galizia](#), p. 387.

6. **Obstruction of justice** – Witness testimony showed that senior government officials **sought to mislead police investigators and journalists** after Daphne’s assassination, to shield the perpetrators from accountability and deflect public scrutiny.

The Public Inquiry’s recommendations, if implemented promptly and effectively, could have swiftly **transformed Maltese democracy** by restoring the rule of law, rebuilding institutional integrity, healing national trauma, and building in systemic safeguards to ensure that Daphne’s contract killing is both the **first and last assassination of a journalist in Malta**. This is a positive obligation of the State, given that the purpose of a Public Inquiry under Article 2 of the European Convention on Human Rights (ECHR), which protects the right to life, is

*“...to ensure so far as possible that the full facts are brought to life, that culpable and discreditable conduct is exposed and brought to public notice; that suspicion of deliberate wrongdoing (if unjustified) is allayed; **that dangerous practices and procedures are rectified**; and that those who have lost their relative may at least have the satisfaction of knowing that lessons learned from his death may save the lives of others.”*⁷ [Emphasis added]

However, eight years since Daphne’s assassination, and four years since the publication of the Public Inquiry’s report on its findings and recommendations, the media still operate in a disabling environment. The work of journalists is still challenged, for example by public authorities’ reticent and antagonistic attitude towards attempts to access information, by harassment, by legal threats, and by a meek investigative system into corruption and abuse of power. Other systemic problems identified by the Public Inquiry persist.

In the words of Daphne’s son, Paul, a member of the Foundation’s council of administration:

“Journalists in Malta still face harassment. The judiciary and police remain under-resourced. Corruption cases involving politicians stall. Those in power seem more focused on moving on than making changes.

⁷ Lord Bingham, cited in Bhatt Murphy Solicitors and Dougherty Street Chambers’ [Third Opinion](#), Public Inquiry into the Assassination of Daphne Caruana Galizia

“...if Malta is ever to call itself a functioning democratic state again, it cannot rely on the courage of individuals to hold power to account. It must build systems that do what the one around Daphne could not: protect the truth — and those who speak it.”⁸

The findings of the Public Inquiry therefore demand not piecemeal amendment, but a **comprehensive transformation** of Malta’s governance system and media environment to ensure that the systemic failures the Public Inquiry identified can never recur. It is only in this way that the Maltese State can fulfil its ECHR obligation to prevent future deaths.

3. Our Expectations of the Reform Process and Outcome

In our 16 February 2023 position [statement](#), which is to be considered part of this submission, the Foundation outlined its expectations for the reform process and outcome. We reiterate that the expected outcome of reform is an enabling environment for freedom of expression underpinned by guarantees for media freedom, and that the reform process and outcome must:

1. embed the **international standards** listed in Annex 1 of this submission;
2. acknowledge the **Public Inquiry’s findings** as binding obligations on the State and implement its recommendations (including those concerning rule of law and corruption and organised crime) in line with the Foundation’s position on each recommendation (Annex 2);
3. guarantee the **safety and independence of journalists**, with effective mechanisms for prevention, protection, investigation of threats, and accountability for actions that harm journalists – whether by State or non-State actors – including State-sponsored disinformation;
4. ensure **transparency**, and **effective participation and accountability** throughout reform design, implementation and monitoring;
5. publish any draft legislative texts and policies as a **white paper** with a period of consultation prior to the relevant Bills being tabled in Parliament;
6. establish an enforceable **National Action Plan**⁹ on media freedom and journalist safety, with timelines, measurable objectives, and independent oversight;

⁸ [What Malta owes my murdered mother](#), Financial Times, 14 June 2025

⁹ <https://www.coe.int/en/web/freedom-expression/repository-of-national-action-plans-for-the-safety-of-journalists>

7. **end political control and capture** of the media sector;
8. link reforms to enable media freedom to **rule-of-law and anti-corruption measures**, recognising that a free media is a core safeguard against the abuses that led to Daphne's murder, as evidenced by the Public Inquiry into her assassination.

4. Urgently needed reforms

In addition to the foregoing, the Foundation submits the following non-exhaustive list of key reforms that need to be implemented to international standards in the reform process.

4.1 *Constitutional amendments*

- Update Constitutional articles concerning freedom of expression by, among other things, recognising freedom of journalism as one of the pillars of a democratic society that the State has the obligation to guarantee and protect.
- Recognise the right to information from the State and public administration and their obligation to provide such information.

4.2 *National Action Plan and Oversight*

- Develop a National Action Plan¹⁰ on media freedom and journalist safety (the "Plan") through multi-stakeholder consultation, ensuring it is aligned with EU and Council of Europe standards at a minimum and is legally binding.
- Create an independent implementation body that includes representatives from journalists, civil society, academia, and international experts, with statutory powers to monitor and report publicly on progress of the Plan.
- Exclude the use of a warrant or membership of a group to identify professional journalists who are eligible for legal protection.

4.3 *Safety of Journalists*

- Abolish the Media Security Committee, currently operating without regulatory oversight, as it is not compatible with media freedom.

¹⁰

<https://www.coe.int/en/web/freedom-expression/repository-of-national-action-plans-for-the-safety-of-journalists>

- Establish an effective journalist-safety mechanism to receive, assess, and respond to threats, coordinate with law enforcement, and provide protective and legal support.
- Ensure that the mechanism is independent of the executive, operates with regulatory oversight compatible with media freedom, and excludes surveillance of journalists' investigations.
- Implement measures to ensure prompt, independent, and effective investigations into all attacks, threats, and smear campaigns against journalists.

4.4 *Anti-SLAPP Protection*

- Reform Malta's anti-SLAPP legislation to meet the standards set by Committee of Ministers Recommendation [CM/Rec\(2024\)2](#), including protection against domestic SLAPPs.
- Abolish the inheritance of defamation suits. This can be effected independently of any other reforms.

4.5 *Transparency, Plurality and Independence*

- Enact media-ownership transparency laws with full disclosure of beneficial ownership and effective limits on concentration.
- Prohibit direct or indirect control of media outlets by political parties, or by persons holding political office.
- Establish transparent, criteria-based allocation of state advertising, subject to audit and public reporting.
- Reform public-service media governance to ensure independence from government control and protection of editorial freedom.

4.6 *Legal and Institutional Reform*

- Reform the Freedom of Information Act to strengthen access rights, reduce refusals, and introduce sanctions for non-compliance.
- Guarantee independence of the Broadcasting Authority and other regulatory bodies through transparent appointment procedures and secure tenure.

4.7 Link Reform to Rule of Law and Accountability

- Implement the Inquiry's recommendation for a permanent mechanism to monitor the State's response to attacks on journalists and to corruption-related investigations.
- Ensure full alignment of media-reform measures with broader reforms to judicial independence, anti-corruption frameworks, and public-administration transparency.

5. Process Integrity and Public Participation

For the outcome of this consultation to be in line with the Public Inquiry's call for transparency and accountability, and for it to be effective and "a catalyst for positive change in this sector, not only at national level but also at European level"¹¹, the Foundation expects that:

- Government will immediately publish all submissions received throughout the term of this public consultation;
- the public consultation outcomes be integrated into draft laws through a publicly tracked process;
- any draft legislative texts and policies that Government may choose to take forward in the reform process will be published in full and launched in a white paper with a period of public consultation, and that this be done prior to Bills being tabled in Parliament;
- Government publishes reasoned responses to recommendations which it does not take up in its draft legislation and policies;
- Government invites international experts, including from the Council of Europe and OSCE, to assess draft legislation prior to its enactment.

6. Conclusion

The need for reforms stem from the findings of the Public Inquiry into the assassination of Daphne Caruana Galizia. The Maltese State must therefore ensure that reforms create and maintain an enabling environment for freedom of expression underpinned by guarantees for media freedom, in which public interest journalism is able to fulfil its essential democratic function.

¹¹ <https://www.gov.mt/en/publicconsultation/Pages/2025/L-0018-2025.aspx>

By instituting the far-reaching reforms required to create such an enabling environment, the State would make the assassination of another journalist not only impossible but unimaginable, and would clearly signal that dehumanisation, threats, and attacks against journalists are intolerable and will be swiftly addressed.

This public consultation must not result in diluted or symbolic measures. It must lead to the creation of a robust, independent and accountable media environment that protects journalists, guarantees the public's right to know, and restores trust in Malta's democracy.

There is no middle road to holistic reform. To protect journalists, Malta must ensure that the corrupt and those who abuse power do not continue to enjoy impunity. The choice the State faces is stark: to implement effective reform to prevent future deaths, or to perpetuate the systemic State failures that enabled Daphne Caruana Galizia's contract killing.

Annex 1

INTERNATIONAL STANDARDS

The following international standards, judgements, and texts must guide the creation of an enabling environment for freedom of expression underpinned by media freedom guarantees

Council of Europe, Committee of Ministers

- CM/Rec(2024)2 - [Recommendation](#) of the Committee of Ministers to member States on countering the use of strategic lawsuits against public participation (SLAPPs), adopted by the Committee of Ministers on 5 April 2024
- CM/Rec(2022)16 - [Recommendation](#) of the Committee of Ministers to member States on combating hate speech, 20 May 2022
- CM/Rec(2016)4 - [Recommendation](#) of the Committee of Ministers to member States on the protection of journalism and safety of journalists and other media actors (Adopted by the Committee of Ministers, 13 April 2016)

Council of Europe, Parliamentary Assembly

- Parliamentary Assembly, [Recommendation](#) 1506 (2001), Freedom of expression and information in the media in Europe, Council of Europe, 24 April 2001

Parliamentary Assembly, [Recommendation](#) 1589 (2003), Freedom of expression in the media in Europe, Council of Europe, 28 January 2003

- Parliamentary Assembly, [Resolution](#) 1535 (2007), Threats to the lives and freedom of expression of journalists, 25 January 2007
- Parliamentary Assembly, [Resolution](#) 2035 (2015), Protection of the safety of journalists and of media freedom in Europe, 29 January 2015

- Parliamentary Assembly, [Recommendation](#) 2062 (2015), Protection of the safety of journalists and of media freedom in Europe, Council of Europe, 29 January 2015
- Parliamentary Assembly, [Resolution](#) 2317 (2020), Threats to media freedom and journalists' security in Europe, Council of Europe, 28 January 2020

European Court of Human Rights case-law on state interference or restriction on freedom of expression:

Stoll v. Switzerland, App No 69698/01, ([ECtHR \[GC\] 10 December 2007](#))
Morice v. France, App. No. 29369/10, ([ECtHR \[GC\] 23 April 2015](#))
Pentikäinen v. Finland, App No 11882/10, ([ECtHR \[GC\] 20 October 2015](#))
Khadja Ismayilova v. Azerbaijan, App Nos 65286/13 and 57270/14, ([ECtHR 10 January 2019](#))
Yılmaz and Kılıç v. Turkey, App No 68514/01, ([ECtHR 17 July 2008](#))
Bahçeci and Turan v. Turkey, App. No. 33340/03, ([ECtHR 16 June 2009](#)) para 26.

European Union

Commission Recommendation [\(EU\) 2021/1534](#) of 16 September 2021 on ensuring the protection, safety and empowerment of journalists and other media professionals in the European Union.

Commission Recommendation [\(EU\) 2022/758](#) of 27 April 2022 on protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings ('Strategic lawsuits against public participation').

Commission Recommendation [\(EU\) 2022/1634](#) of 16 September 2022 on internal safeguards for editorial independence and ownership transparency in the media sector.

European Media Freedom Act - Regulation [\(EU\) 2024/1083](#) of the European Parliament and of the Council of 11 April 2024 establishing a common framework for media services in the internal market and amending Directive 2010/13/EU (European Media Freedom Act).

Organization for Security and Co-operation in Europe, OSCE

[Legal analysis](#) on the draft law of Malta to implement various measures for the protection of the media and of journalists, October 2021

[Legal analysis](#) on the draft law of Malta to implement various measures for the protection of the media and of journalists, February 2022.

United Nations

- Civil and Political Rights, including the Question of Freedom of Expression, the right to freedom of opinion and expression, [Report](#) of the Special Rapporteur, Ambeyi Ligabo, 30 December 2005 (E/CN.4/2006/55)

- General [Comment](#) No. 34, Article 19: Freedoms of opinion and expression, United Nations, Human Rights Committee, 11-29 July 2011 (CCPR/C/GC/34)

- General Assembly, [Resolution](#) 68/163, The Safety of Journalists and the Issue of Impunity, 8 December 2013 (A/RES/68/163)

- UN General Assembly, The Safety of Journalists, [Resolution](#), Human Rights Council 27 September 2018, (39th Session) (A/HRC/RES/39/6)

UNESCO, United Nations Educational, Scientific and Cultural Organisation

- UN [Plan of Action](#) on the Safety of Journalists and the Issue of Impunity

Annex 2

Report of the Public Inquiry into Daphne Caruana Galizia's assassination: The Daphne Caruana Galizia Foundation's position on each recommendation.

The purpose of an Article 2 (ECHR) inquiry is “...to ensure so far as possible that the full facts are brought to life, that culpable and discreditable conduct is exposed and brought to public notice; that suspicion of deliberate wrongdoing (if unjustified) is allayed; that dangerous practices and procedures are rectified; and that those who have lost their relative may at least have the satisfaction of knowing that lessons learned from his death may save the lives of others”, (Lord Bingham, cited in the [third opinion](#) by Doughty Street Chambers and Bhatt Murphy Solicitors, page 10). The purpose of the public inquiry into the assassination of Daphne Caruana Galizia, initiated in 2019, is therefore for the Maltese State to learn lessons about how to prevent future deaths.

The rationale of the public inquiry board's recommendations is key to a comprehensive understanding of the situation in Malta. The recommendations must therefore be viewed in the context of the board's findings. The report's recommendations cover two main areas: i) the protection of journalists and journalism and ii) the rule of law.

The table below summarises the recommendations of the report of the public inquiry, the current status of their implementation, and The Daphne Caruana Galizia Foundation's position on each recommendation. The stated position should be considered part of the Foundation's submissions to Malta Government's public consultation [L-0018-2025 — Media Reform Public Consultation](#).

Recommendation	Status	Family position on the recommendation
The public inquiry board took ownership of the recommendations by the Venice Commission, GRECO (including MONEYVAL's), EP Legal Affairs Committee (JURI), PACE Legal Affairs and Human Rights Committee Report.		
Venice Commission , particularly the opinion adopted on 8/9th October 2020 regarding legislation proposed by the Government.	The report of October 2020 indicates the state of play, and the previous recommendations which had not yet been implemented remain so.	Pending recommendations must be implemented without further delay.
GRECO	2nd compliance report concluded that Malta is not in sufficient compliance with the recommendations of the Fifth Round Evaluation Report. (GRECO's fifth evaluation of Malta was in 2018. The 6th evaluation round is due in 2027.)	Pending recommendations must be implemented without further delay.
MONEYVAL	Recommendations of the 5th Round Mutual Evaluation Report are not fully	Malta was due to report back to MONEYVAL two years after the first follow up report, i.e. in 2023.

	implemented. 1st enhanced follow up report says: “Malta is encouraged to continue its efforts to address the remaining deficiencies.”	We do not have access to Malta’s report, nor do we know if any such report has been filed. Pending recommendations must be implemented without further delay.
EP Legal Affairs Committee (JURI) recommendations to strengthen good governance	Insufficient available information.	We agree with the implementation of measures that ensure good governance.
PACE Legal Affairs and Human Rights Committee report dated 8th June 2019, adopted by the Assembly on 26 June 2019	Only partly implemented (initiation of the public inquiry). GRECO and MONEYVAL recommendations are not fully implemented; the reform process is not transparent and inclusive; several high level corruption and money laundering cases are not being prosecuted, e.g. Mozura, Pilatus Bank (only	GRECO and MONEYVAL recommendations must be fully implemented without further delay. The overall reform process must be transparent and inclusive. Any draft legislative texts and policies must be published as a white paper with a period of consultation prior to the relevant Bills being tabled in Parliament. All high level corruption and money laundering cases must be successfully prosecuted.

	two middle-ranking officials are being prosecuted) and others only half-heartedly, e.g. Vitals (Steward Health Care) .	
In addition to adopting the recommendations cited above, the public inquiry report makes the following recommendations.		
Specific amendments for the introduction of new crimes and consolidation of existing laws		
Introduce Unexplained Wealth Orders to fight financial crime, including bribery and corruption.	Not implemented.	Public consultation and independent studies on potential effectiveness of the tool if properly administered are required.
Criminalise public officials' attempted or actual hindrance of police or other authorities in their duties including crime investigations.	Not implemented.	Agree.
Criminalise mafia-style association (similar to Article 416 bis of the Italian Criminal Code).	Not implemented.	This potential legal tool may be less effective than updated anti-racketeering laws combined with more effective and well-resourced investigative units within the police, and a more efficient court system. At least, a public consultation on this recommendation should be held along with the other recommendations.
Criminalise abuse of office by a public official or a person in charge of a public service in the execution of their duty or	Not implemented.	Agree.

in the exercise of their functions.		
Revise Attorney General law to fully implement the recommendations of the Venice Commission in regard to the full control of the investigation of serious crimes together with the Police as well as to initiate an investigation directly.	Partly implemented.	Agree.
Introduce the crime of the obstruction of justice in criminal law...include appropriate sentences which also cover attempted perversion of justice.	Not implemented.	Agree.
Legislative provisions including in the Code of Ethics are required to safeguard against improper conduct of public officials in the execution of their duties	Not implemented. OECD reports on the lobbying framework and standards in public life have not been acted upon, despite a formal recommendation made by the Commissioner for Standards in Public Life under article 13(1)(f) of the Standards in Public Life Act (letter to the PM, 11 July	Agree.

	2022).	
Effect timely and effective investigation by an ad hoc structure within the police force of the cause of risk/s to journalists.	Not implemented.	Agree. An ad hoc structure within the Malta Police Force should identify points of failure which place journalists at risk. Systemic risk needs to be addressed by systemic solutions. The public inquiry identified the culture of impunity as a major factor that enabled Daphne's assassination. Swift action following journalists' exposure of crimes is essential to eliminating impunity.
Recommendations in regard to the protection of the life of journalists and strengthening journalism		
In regard to the protection of journalists		
a. formal structure within the Police... [to] identify which persons, and not just journalists, would be exposed to serious attacks of all kinds and for any reason which may escalate to physical violence.	Implemented. (Malta Police Force includes a VIP protection unit and a Threats to Life Manager).	Agree.
b. Within the Police operational unit	Implemented.	Agree.

there needs to be an element focussed on journalists who may be at serious risk, able to assess the risk in virtue of the quality of the journalist's investigation, what they are publishing, the effect on the subjects of their reporting, and the potential risks a reaction could generate. The unit may serve as liaison between the police and the journalist, who therefore will feel safe and protected to exercise their duty freely.	(The Malta Police Force protection unit tasked with assessing risk to life is also tasked with assessing risks to journalists. There is no unit focussed solely on journalists. According to Malta government's input (p.39) to the 2025 Rule of Law Report, five out of a total of 30 "threat to life" (TTL) reports received by the police in 2024 concerned journalists. The information does not indicate how many reports prompted only preliminary checks or a full TTL assessment.	There is a need to build trust among journalists that the unit functions in their interest.
c. Risk mitigation measure - police should timely investigate serious allegations reported by journalistic investigations (open source).	Not fully implemented. (e.g. public hospitals fraud prosecutions were triggered by a magisterial inquiry instigated by Repubblika, a civil society group, and the upcoming prosecutions in	Agree. The lack of investment in the Malta Police Force and the lack of autonomy undermines its ability to investigate and prosecute crime. A series of high profile resignations from the Malta Police Force has further depleted the existing force.

	connection with 17 Black and the Panama Papers, result from a magisterial inquiry triggered by a 2018 request by two MPs in their personal capacity).)	
The Police corps need to be well trained , particularly its specialised elements, in the values and methodology of journalism, while respecting professional autonomy and secrecy and the inviolability of sources.	Insufficient available information.	Agree.
In regard to strengthening journalism in the country		
On a constitutional level		
1. Constitutional amendment: insert articles concerning freedom of expression, recognition of freedom of journalism as one of the pillars of a democratic society that the State has the obligation to guarantee and protect, which should also recognise the right to information from the State and public	Not implemented.	Agree.

administration and the obligation for them to provide such information.		
2. Set up a fully autonomous, impartial, and independent Office of the Ombudsman or a Commissioner for Journalistic Ethics , on the same lines as the Commissioner for Standards in Public Life, to protect media freedom, journalists' safety, and the right to information, as a reference point for direction and protection and as a means to ensure compliance with Rules of Ethics and good conduct.	Not implemented.	We do not object to the creation of an autonomous, independent, and impartial entity which has a <u>monitoring</u> role. The mechanism for ensuring compliance with rules of ethics and good conduct should be separated from the monitoring role.
3. Revise the provision of the Constitution which established the Broadcasting Authority . Public broadcasting has failed in its duty of ensuring impartiality. The obligation to ensure impartiality should also apply to political party stations.	Not implemented.	Agree.

On a legislative level		
1. Revise the Freedom of Information Act (Chapter 496) to limit the instances where public administration may arbitrarily refuse to provide information which is of public interest and to which the public has a right.	Not implemented.	Agree.
2. Address the problem of SLAPP libel suits. Eliminate the possibility of frivolous libel suits against journalists initiated by individuals who occupy public positions and who have the duty to defend the right to freedom of expression. Libel suits should be terminated on the death of the prosecuted journalist.	Partly implemented. Malta transposed the anti-SLAPP directive by Legal Notice rather than through parliament, but ignored both the EU and the Council of Europe Recommendations on SLAPPs. Libel suits can still be inherited by a defendant's heirs.	Agree. The anti-SLAPP law published in July 2024 should be amended to meet the standards set by the EU Recommendation and the Council of Europe Recommendation. All proposed amendments to the legislation should be subject to parliamentary scrutiny and a public consultation. The inheritance of libel suits by a defendant's heirs should be abolished. This can be effected independently of other reforms.

From the organisational aspect		
The distribution of public funds spent on advertising should be fair, equal and non-discriminatory.	Not implemented.	Agree. The distribution of publicly funded advertising should be fair, equitable, non-discriminatory, <i>and transparent</i>. The Association of Media Owners set up in December 2023 is a move in the opposite direction to this recommendation. The main opposition party's and the governing party's media companies are members of the association, effectively putting the government on both sides of the negotiating table - a situation that will not be remedied if the governing party is replaced by the one currently in opposition.
Final recommendation - a law to regulate the journalism profession		
A law which provides an organisational framework in which journalists may operate freely and totally independent from interference or undue pressure, which should ensure that the profession is self-regulated and entrusted with the safeguarding of the ethical standards of	Not implemented.	We object to the use of a warrant or membership of a group to identify professional journalists who therefore enjoy legal protection.

the profession with powers to take disciplinary measures where necessary. It is important that any Board or authority which has this function would be totally independent and autonomous even from the financial aspect. The IGM is not suitable for this purpose.		
Establishment of a Committee of Experts		
The State [should] examine the state of journalism and the fundamental right to freedom of expression with the purpose that the recommendations of this Board, among others, are implemented in a holistic and organic framework.	Partly implemented. Committee established in February 2022 . Final report presented to the Government on 4 June 2023. Most of the public inquiry recommendations are still not implemented.	We disagree with how this recommendation was implemented, in that heads of independent newsrooms were appointed by the Prime Minister and paid by the Government to be on the committee.
The State should acknowledge its failings		
The State should formally and publicly acknowledge the serious failings in the public administration...which enabled the development of de facto impunity that could facilitate the	The Prime Minister apologised publicly at a press conference on 29 July 2021, the day he received the public inquiry report.	The promises Prime Minister Abela made at his press conference have not been fulfilled. State contrition is not a one-time act, but must be a sustained course of action leading to positive and permanent change. No other speech, comment, or publication - whether by the PM or members of his cabinet, or their representatives - has <i>taken ownership</i> of the State's failures identified by the public inquiry or acknowledged that

assassination of Daphne Caruana Galizia.		Daphne's assassination could and should have been prevented by the State.
--	--	---

Annex 3

Public inquiry into Daphne Caruana Galizia's assassination: Our expectations of the reform process and outcome, 16 February 2023

A copy of the original publication is attached (see next page).

PUBLIC INQUIRY INTO DAPHNE CARUANA GALIZIA'S ASSASSINATION

Our expectations of the reform process and outcome

16 February 2023

1. Introduction

The 2019 initiation of the Public Inquiry into the circumstances of Daphne Caruana Galizia's assassination and the publication of its report on 29 July 2021 were major steps towards justice for a murder that could and should have been prevented, and for a death for which the Maltese State has been found to bear responsibility.¹ We expect the State to implement the conclusions of the Public Inquiry report holistically so that lessons learned from Daphne's murder may yet save the lives of others. Measures to address impunity, corruption and abuse of power must therefore also be an integral part of the reform.² In the spirit of transparency which we hope will characterise the reform from hereon, we set out below our understanding of what an effective reform process and outcome should look like.

2. Holistic reform is essential to safeguard journalists and public interest journalism

2.1 For years before she was assassinated with a car bomb, Daphne was the target of intense harassment. To ensure that journalists are empowered to fulfil their role, reform must not only ensure that physical attacks are deterred, but also that journalists are not harassed and threatened, nor subjected to attacks on their integrity. This necessitates the creation of an enabling environment for public interest journalism.

2.2 As we have stated before, an enabling and safe environment for journalists today can only exist within a legislative and administrative framework that truly protects society from the harms of corruption and abuse of power, and which ensures that the corrupt and those who abuse power do not continue to enjoy impunity. Reform that does not address these concerns leaves journalists exposed to the conditions that enabled Daphne's assassination. The Public Inquiry report's recommendations concerning specific amendments for the

¹ Rapport tal-Inkjestja Pubblika Daphne Caruana Galizia, p. 387, <https://www.gov.mt/en/Documents/DCG%20final%20version%20as%20at%2012.08.2021.pdf>

² Emendi speċifiċi għall-introduzzjoni ta' reati ġodda u tishih ta' liġijiet eżistenti, Rapport tal-Inkjestja Pubblika Daphne Caruana Galizia, p.420, <https://www.gov.mt/en/Documents/DCG%20final%20version%20as%20at%2012.08.2021.pdf>

introduction of new crimes and strengthening existing legislation³ must therefore be implemented as an integral part of the reform.

2.3 Nothing will bring Daphne back, but in delivering full justice for her and for her work, our country can evolve and mature into a modern democracy that respects and protects press freedom as its fourth pillar. The process and outcome of reforms must be holistic and address *all* of the conclusions of the Public Inquiry. In this context, we recall the following.

2.3.1 As established by the European Court of Human Rights, States have a procedural obligation under article 2 of the European Convention on Human Rights to carry out an effective investigation the purpose of which, as described in the leading opinion of the late Lord Bingham, is “...to ensure so far as possible that the full facts are brought to life, that culpable and discreditable conduct is exposed and brought to public notice; that suspicion of deliberate wrongdoing (if unjustified) is allayed; that dangerous practices and procedures are rectified; **and that those who have lost their relative may at least have the satisfaction of knowing that lessons learned from his death may save the lives of others.**”⁴

2.3.2 Referring to the testimony given by journalists and editors on what is needed to strengthen journalism and the right to freedom of expression in Malta, the Public Inquiry found that “*had journalism in Malta been strong and had it had the means to react to the circumstances considered by the Board in this report, Mrs Caruana Galizia would have been in a position to find backing and support from a sector which would have been able to defend her from all types of aggression and violence.*”⁵ Furthermore, the Board found that “*the point of departure that everyone now accepts as certain, is that the assassination is intimately connected with the investigative journalism of Mrs Caruana Galizia and with revelations which she had published or intended to publish, concerning the behaviour of people in public administration and big business in the implementation of aforementioned projects and other matters.*”⁶

³ *ibid.*

⁴ *R(Amin) v Secretary of State for the Home Department* [2003] UKHL 51, [2004] 1 AC 653, [31], cited in *Doughty Street Chambers, Bhatt Murphy Solicitors*, third opinion, [Public Inquiry into the Assassination of Daphne Caruana Galizia](#), p.10, (emphasis added),

⁵ [Rapport tal-Inkjesta Pubblika Daphne Caruana Galizia](#), p. 430,

⁶ *Ibid.* p. 150

- 2.3.3 As the Public Inquiry report⁷ makes clear, when all other pillars of our democracy failed, it was journalism that held up what was left of our democracy's three other pillars. Fulfilling the conclusions of the report effectively is therefore crucial for the protection of journalists and journalism, for our country's democracy, and consequently for the country's democratic obligations as part of the international community and for its standing in international fora.
- 2.3.4 The Public Inquiry found that: *"[...] the State must bear responsibility for the assassination because it created an atmosphere of impunity generated from the highest levels in the heart of the administration within the Office of the Prime Minister that like an octopus spread to other entities, such as regulatory institutions and the police, leading to the collapse of the rule of law and, therefore (a) the State and the entities that make it up did not recognise as they should have the real and immediate risks, including from the criminal intent of third parties, to Daphne Caruana Galizia's life; and (b) failed to take measures within the scope of its powers which it was reasonably expected to take to avoid that risk."*⁸
- 2.3.5 The Public Inquiry also found that the State not only failed to protect Daphne from harassment, dehumanisation, and attacks on her personal and professional integrity, but also that State actors were complicit in such actions.⁹

3. Malta's reform must meet international standards at a minimum

- 3.1 Reform can only be as effective as the standards to which it aspires, including the State obligations determined by the European Court of Human Rights, the recommendations and resolutions of multilateral institutions, and the analyses of multilateral bodies and international organisations whose remit is media freedom. In particular, the following identify and define minimum standards that the process of reform in Malta should meet.

⁷ *ibid.*

⁸ *ibid.*, p. 387

⁹ See, for example, "Dak li kien ovvju u car...", p. 168 onwards; "Dehumanisation campaign", p. 249; "Il-Bord sema' kif fiż-żmien tal-mewt taghha...il-proġett ġie abbandunat wara ftit żmien.", p.366-367; [Rapport tal-Inkjestta Pubblika Daphne Caruana Galizia](#)

3.1.2 Malta's obligation under Article 10 ECHR¹⁰ (freedom of expression) is defined by the ruling of the European Court of Human Rights in *Dink v. Turkey*.¹¹ In recognising the vital role of independent journalism and the need to protect it, the Court imposes upon the State the obligation to establish effective systems which adequately protect journalists and promote independent journalism. In doing so the State is obliged not only to provide structures which guarantee journalists' personal safety but also to create a favourable environment which enables journalists to exercise their role safely and effectively. This favourable environment for public debate holding power to account is not only an essential element in the creation of that participatory democracy to which every democratic state should aspire, but is also necessary for strengthening democracy, human rights, and the rule of law.

3.1.3 Council of Europe Committee of Ministers Recommendation CM/Rec(2016)4¹² on the protection of journalism and safety of journalists and other media actors states that Member States should put in place a comprehensive legislative framework that enables journalists and other media actors to contribute to public debate effectively and without fear.

3.1.4 Legal analyses¹³ commissioned by the OSCE Office of the Representative on Freedom of the Media have examined legal amendments proposed by the Government. Where these were found to fall short of international standards, the legal analyses present recommendations to address such flaws. The legal amendments presented by the Government to Parliament as Bills 17, 18, and 19 of 2022 do not address these recommendations, as the following non-exhaustive list of examples shows.

3.1.4.1. The legal analysis of February 2022 reiterated the inclusion of *"the right to seek information as a basic component of the right to freedom of expression and freedom of*

¹⁰ [European Convention on Human Rights](#), p.10

¹¹ Cited in [Rapport tal-Inkjestta Pubblika Daphne Caruana Galizia](#), p.66.

¹² Recommendation [CM/Rec\(2016\)4](#) of the Committee of Ministers to member States on the protection of journalism and safety of journalists and other media actors.

Malta signed the Recommendation in 2016 but did not implement it. The Council of Europe implementation guide is published at <https://www.coe.int/en/web/freedom-expression/implementation-guide>

¹³ OSCE, [Legal analysis on the draft law of Malta to implement various measures for the protection of the media and of journalists](#), October 2021

[Legal analysis on the draft law of Malta to implement various measures for the protection of the media and of journalists](#), February 2022.

information”¹⁴ in the Constitutional provision. This is not included in Bill 18 of 2022.

3.1.4.2 Referring to the anti-SLAPP proposals, the legal analysis recommends that the provision for the recognition and enforcement of defamation judgements from third countries be *“eliminated and replaced by a comprehensive anti-SLAPP legal regime”*¹⁵, after having considered that the proposed amendment is based on *“confusing and vague criteria thus leaving to courts the possibility to embrace different contradictory interpretations”*.¹⁶ In addition to this, the provisions included in the proposal may represent an additional burden for the defendants, as *“the implementation of the defence included in the proposal will only increase the chilling effect intrinsic to a defamation lawsuit in a foreign country as it will force the defendant to face responsibilities and all the burdens associated to any lawsuit in not only one, but two different jurisdictions.”*¹⁷ Bill 19 of 2022 changes the original proposal, but it retains largely the same *“confusing and vague criteria”*.

3.1.4.3 In relation to the establishment of a structure for the protection of journalists, the legal analysis found the proposal did not properly contemplate how the structure could deal with *“particular events and providing effective protection and immediate responses [which] requires the designation and establishment of concrete units and the definition of clear protocols.”*¹⁸ The legal analysis also proposed the introduction of *“or contemplate the formulation of proper engagement and coordination mechanisms with civil society and media organisations regarding the operation of early-warning and rapid-response mechanisms...”* The analysis went on to recommend *“that the proposal indicates the setting up of protocols and training programmes for State authorities responsible for the protection of journalists and other media actors.”*¹⁹ Bill 17 of 2022 does not include these recommendations.

¹⁴ P.19, *ibid.*

¹⁵ P.3, *ibid.*

¹⁶ P.15, *ibid.*

¹⁷ P.23, *ibid.*

¹⁸ P.4, *ibid.*

¹⁹ P.25, *ibid.*

3.1.5 European Commission Recommendation C(2021) 6650 of 16.9.2021 on the protection, safety and empowerment of journalists and other media professionals in the European Union²⁰ is aimed at ensuring safer working conditions for all media professionals, free from fear and intimidation, whether online or offline. It sets out concrete actions for Member States to take, with a particular attention to female journalists.

4. Essential parameters of reform

We have identified the following parameters for the reform process and outcome as critical, based on the information and knowledge available to us at the time of writing. It may be necessary to set additional parameters as additional information and knowledge become available.

- 4.1 The process and outcome of media reform are inseparable. A bad process can never deliver a good outcome, and the opportunity for change will be lost. A strong process based on the fundamental aims and values of reform should include an action plan with a clear timeline and milestones, and should bring about cultural as well as legislative, administrative, and policy reform.
- 4.2 The public inquiry report speaks of fighting corruption and money laundering, which is where the threat to journalism in Malta and most of Europe is most deadly.²¹ Efforts to protect journalism will fail without an equal effort to fight corruption and money laundering, and the fight against corruption and money laundering can never be won without a strong press. Both challenges need to be addressed in the reform process. Implementing the Public Inquiry report's recommendations on criminal legislation should therefore be an integral part of the reform.²²
- 4.3 A holistic approach to reform must consider the risk of parallel legislative initiatives on the media sector. As a guiding principle, legislation should be drafted and enacted only

²⁰ <https://digital-strategy.ec.europa.eu/en/library/recommendation-protection-safety-and-empowerment-journalists>

²¹ Caruana Galizia, Paul, [Impunity for murders of journalists: a challenge to freedom of the media](#), keynote speech, OSCE, Vienna, 11 December 2017, based on [data](#) compiled by the Committee to Protect Journalists showed that two thirds of journalists killed were covering political corruption in their home country.

²² Emendi speċifiċi għall-introduzzjoni ta' reati ġodda u tishih ta' liġijiet eżistenti, [Rapport tal-Inkiesta Pubblika Daphne Caruana Galizia](#), p.420.

once civil society, parliament, and the Government have a fuller picture of how much and what change is required.

- 4.4 The draft legislative amendments that the Government tabled in parliament in October 2022 fall short of what is required to create an enabling environment for journalists and for a high standard of press freedom. Reforms must be legal, administrative, and policy-related, and must fully address the systemic problems identified in the Public Inquiry, meet international standards, and address the shortcomings and recommendations identified in legal analyses commissioned by the OSCE Office of the Representative on Media Freedom (see also para. 3.1.4 above).
- 4.5 As indicated in the Public Inquiry report, justice following the assassination of a journalist requires the swift and effective investigation of all the journalistic investigations that she published. Reform must include the introduction of sanctions for institutional inaction.
- 4.7 State regulation of journalism should have no place in any reform as it has no place in the protection of media freedom as the fourth pillar of democracy or in the effort to create an enabling environment for journalists. A focus on regulating the work of journalists assumes that journalists, and not State failures, are the problem. Journalism is incomparable to any other profession and therefore should not be regulated in the same manner. Regulating the work of journalists would not have saved Daphne's life nor would it make the work of journalists in Malta freer or safer.
- 4.8 Any restriction of the right to freedom of expression that is unnecessary in a democratic society, which does not represent an imminent and pressing social need, and which does not meet at least the minimum international standards for justifying such a restriction, should be excluded from the reform.
- 4.9 Measures which undermine the recommendations established in Recommendation CM/Rec(2016)4 should be excluded from the reform.

- 4.10 All and any measures must address the heightened risks that female journalists face online and offline.²³ As stated in the Public Inquiry report, the dehumanisation campaign against Daphne Caruana Galizia, originating in and enabled from within the Office of the Prime Minister,²⁴ is an aggravating factor in the State's responsibility for her death,²⁵ and, in Daphne's own words, *"my gender is a significant factor in the moral violence I experience on a daily basis as a critic of male politicians in the southern Mediterranean."*²⁶

5. Expected process and outcomes of reform

The reform should be meaningful and comprehensive, and bring about an enabling environment for journalists and public engagement in matters of public interest. This requires legal, political, social and cultural change, and particular attention paid to the heightened risks for female journalists, given that misogyny was central to the dehumanisation campaign against Daphne Caruana Galizia. Reform therefore requires legislative and policy measures, as well as actions for their implementation and enforcement, and must address all of the conclusions of the Public Inquiry, not solely those directly concerned with journalism. The following are, in our view, the minimal (not exclusive) requirements for such reform and must be combined with measures to counter criminality, if they are to be effective. Their implementation should take account of the evolving context, including increasing and entrenched risks due to delayed implementation. The nature of the challenges and threats to media freedom changes as it reflects political, social, economic, and cultural developments. Meaningful reform is therefore not a one-time event, but requires monitoring to ensure that it remains effective.

5.1 The nature of reform

- 5.1.1 As stated above, reform must be holistic if it is to be effective. Implementing the Public Inquiry report's recommendations on criminal legislation should therefore be an integral part of the reform.²⁷ Measures should not be singular but should form a national policy

²³ UNESCO research discussion paper, [The Chilling: Global trends in online violence against women journalists](#), published April 2021,

²⁴ [Rapport tal-Inkiesta Pubblika Daphne Caruana Galizia](#), p.350

²⁵ *ibid.* p.405

²⁶ <https://daphnecaruana galizia.com/2017/02/e66500-1-day-thank-giving-economy-minister-labour-party-deputy-leader-two-fingered-salute/>

²⁷ Emendi speċifiċi għall-introduzzjoni ta' reati ġodda u tishih ta' liġijiet eżistenti, [Rapport tal-Inkiesta Pubblika Daphne Caruana Galizia](#), p.420.

that supports press freedom within the ambit of freedom of expression and public participation on matters of public interest and addresses the need to end impunity for corruption and for financial and organised crime. This should be accompanied by a structured action plan whose implementation is monitored by an independent authority.

5.1.1.2 The legislative and policy measures should address all authorities and entities that have a direct role in safeguarding media freedom. These include persons holding public office, prosecutors, the Police, members of the legal profession, members of the judiciary, and political parties. Reform must institute laws, policies, and training to equip said authorities and entities to act in line with the value of press freedom as a pillar of democracy.

5.1.1.3 The legislative and policy measures should support journalists and other media actors in fulfilling their role free from fear and threats against themselves and their sources through:

- a. the timely provision of accurate, true and full information held by public authorities,
- b. access to rapid mechanisms to secure their safety,
- c. the timely investigation and prosecution of wrongdoing exposed through journalistic work,
- d. the effective investigation and prosecution of offences committed against journalists and media actors,
- e. broad protection of sources and whistleblowers, and
- f. strong and effective self-regulation.

5.1.1.4 The measures should include prevention, protection, prosecution, and promotion of information, including education to generate media literacy and awareness raising activities focused on the vital role of journalists and other media actors in a democracy.

5.2 Constitutional measures to protect public interest journalism

To protect the civic space for the exercise of public interest journalism, the reform must at least ensure the following.

- 5.2.1 Journalism must be recognised as a fundamental and valuable contribution to democracy, and journalists' work as being in the public interest and shoring up democracy.
- 5.2.3 The Constitution must recognise:
- a. everyone's right to freedom of expression, including those rights which support participation in public debate, i.e., the right to seek information, hold and express opinions, receive and impart information and ideas,
 - b. the role of journalism as a pillar of Malta's democracy,
 - c. the role of journalists as public watchdogs,
 - d. the State's positive obligation to facilitate an enabling environment for journalists and other media actors, and for public interest journalism,
 - f. the State's obligation to promote and protect independent and pluralistic media, to provide access to information and to provide for the protection of journalistic sources,
 - g. the obligation of all public authorities to refrain from interfering with the press.
- 5.2.4 The Constitution must refrain from allowing any restrictions which exceed Malta's obligations under article 10 of the ECHR.

5.3 Protection measures in ordinary law

Constitutional protection must be translated into practice through new ordinary laws, policy, and actions, including the following.

- 5.3.1 Freedom of expression, including press freedom, and their protection from any chilling effect, must be adopted as a principle of national public policy. Effective legislative and soft measures must be implemented to neutralise abusive strategic lawsuits against public participation (SLAPPs). Malta should adopt the provisions of the proposed EU anti-SLAPP Directive,²⁸ informally known as "Daphne's law", as a minimum standard and

²⁸ [Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings \("Strategic lawsuits against public participation"\)](#).

work to strengthen the Directive at European Council level. At a minimum, Malta must implement the EU Recommendation announced as part of the same anti-SLAPP package.

- 5.3.2 Legislation must deter SLAPPs through effective, appropriate, and proportionate measures, including early dismissal of existing SLAPPs. The legislation must provide for rapid determination of proceedings, provide journalists, media houses, publishers and other media actors with security for costs and damages, allow for the allocation of all costs (including legal and judicial costs) to the claimant, and for penalties to be imposed on the claimant. These measures must be applicable to domestic claims, to claims made elsewhere in the EU, and to third country judgements.
- 5.3.3 At a minimum, in relation to domestic SLAPPs and the recognition and enforcement of third country judgments, Government must take all steps necessary to adhere with and fulfil the recommendations made by the European Commission in its Recommendation (EU) 2022/758 on protecting journalists and human rights defenders who engage in public participation from unfounded or abusive court proceedings (“Strategic lawsuits against public participation”)
- 5.3.4 For third country judgements against journalists and other media actors, Malta’s legislation must ensure a procedure obliging the Maltese court to review the foreign judgement in line with Maltese law and Malta’s public policy, and to give the court the discretion to disallow recognition and enforcement of such judgement. Where the court allows the recognition and enforcement of a foreign judgement, the law must cap the amount of damages and costs payable by the defendant.
- 5.3.5 In relation to cross border cases, the Maltese Government should adopt, at a minimum, the European Commission’s proposal for a Directive on protecting persons who engage in public participation from unfounded or abusive court proceedings (“Strategic lawsuits against public participation”), and promote the strengthening and adoption of that proposal at the European Council.

5.4 Freedom of Information policy and practice

- 5.4.1 Government should adopt a policy for the public sector that establishes rules for recording matters of public administration, and for the publication of such records, to increase transparency and accountability of public administration.
- 5.4.2 Timely access to information held by public authorities should be made the rule, and public authorities should proactively publish accurate and objective information on matters of public interest and which refer to matters of public administration. The freedom of information process must be available to all physical and legal persons, must be easy and efficient to use, and must support a public administration culture of transparency and accountability, as opposed to secrecy.
- 5.4.3 Government must publish the legal advice it has already received on the review of the Freedom of Information Act, and undertake consultation with relevant stakeholders, including civil society and the media, to enact effective reform of the legislation and its implementation.
- 5.4.4 The long-overdue review of the Freedom of Information Act must be completed with the objective of eliminating a “culture of confidentiality and secrecy that has little to do with the exercise of democracy”. Administrative discretion in the refusal of requests for information must be limited, timeframes within which requests are determined must be shortened, and guidelines must be established for those exercising discretion in determining such requests for information.
- 5.4.5 Public authorities must provide journalists with free and unencumbered access to public registers and databases, including information held by the Malta Business Registry such as access to the Ultimate Beneficial Owners’ register. The argument that providing access breach data protection law is unfounded. It is well established that public interest access to such information does not breach data protection law.

5.5 Protection of sources

- 5.5.1 The protection of journalistic sources must be safeguarded in all circumstances and at all stages of a journalist's work, including preparatory work which may not lead to a story being published. Protection of sources is required not only when their identity is directly disclosed, but also where their identity is capable of being exposed through the publication, or making available of, information which makes it possible to identify the source.
- 5.5.2 All public authorities, including security forces such as the Malta Security Service and the Police, must be formally and legally obliged not to violate the protection of journalistic sources. Protocols are needed to guide their investigative or intelligence collecting work to ensure that where this involves or touches upon the relationship of journalists and sources or whistleblowers, the identity of that source or whistleblower is not disclosed, and the journalist's work is not jeopardised.
- 5.5.3 The identity of journalistic sources must be protected in judicial and legal proceedings.

5.6 Protection of whistleblowers

- 5.6.1 To remove nepotism, corruption, and abuse of power from public administration, people who become aware of wrongdoing must be made to feel comfortable and protected enough to report it.
- 5.6.2 The Protection of the Whistleblower Act must be reformed to provide whistleblowers with reporting structures that are independent of or, at least, at arm's length from the Government. Whistleblowers as well as those who assist them in reporting, including journalists and media houses through public disclosure, must have access to protection measures, including immunity from legal claims, based solely on their act of reporting.

5.7 Improved protection from libel action

Protection from libel, which protects the reputation of claimants without chilling public debate, especially on matters of public interest, must be improved to encourage public participation. The following are minimum (not exhaustive) requirements.

- 5.7.1 The Media and Defamation Act must, at the very least, be amended to incorporate all of the recommendations stated in the Legal Analysis of the OSCE Office of the Representative on Freedom of the Media of November 2017.²⁹ As noted by the Representative in a January 2018 letter³⁰ to the Maltese Minister of Justice and an attached Legal Analysis³¹, there are a number of areas where the recommendations of the November 2017 analysis were not taken on board.
- 5.7.2 If the defendant in a libel or slander suit dies before the case is concluded, the case may only continue against the defendant's heirs if the author's death does not prejudice their defence rights in the case. In the event that the rights of defence of the defendants are prejudiced, the Court shall order the discontinuance of the proceedings. In any event, where the proceedings continue to be heard against those entering the suit or being called into the suit following the death of the author, the Court shall only provide a judgement determining the claim, without awarding or liquidating damages against the defendants.
- 5.7.2 The defences of truth and honest opinion must be available against all claimants, not only against those who are public figures.
- 5.7.3 The defence of honest opinion applies to a privileged statement when the publication is on a matter of public interest, in line with the defence of public interest, and irrespective of the type or volume of publicity that the matter had already received prior to the statement complained of.

²⁹ [Legal analysis of the draft law of the Republic of Malta to provide for the updating of the regulation of media and defamation matters and for matters consequential or ancillary thereto](#), OSCE Office of the Representative on Freedom of the Media, November 2017,

³⁰ [Letter ref. 025/18 from the OSCE Representative on Freedom of the Media](#), Harlem Desir, to Minister of Justice Owen Bonnici, 24 January 2018.

³¹ [Note on the actions taken by the national authorities regarding the draft law of the Republic of Malta "to provide for the updating of the regulation of media and defamation matters and for matters consequential or ancillary thereto"](#), Office of the OSCE Representative on the Freedom of the Media, January 2018.

5.7.4 In determining the claim, as well as when liquidating damages and allocating costs, the court is to consider whether a libel claim has or is capable of having a chilling effect on participation in public engagement on matters of public interest.

5.7.5 The law must recognise that the limits of admissible criticism are wider if a public figure is involved, as s/he inevitably and knowingly exposes her/himself to public scrutiny and must therefore display a particularly high degree of tolerance of criticism.

5.8 Promotion of Press Freedom

5.8.1 Government must stop using rhetoric which denigrates the value of journalism and demeans the work of journalists and their integrity.

5.8.2 Rules of ethics must be established for all persons in public life, whether elected or appointed, in relation to their dealing with journalists. Enforceable codes of ethics must oblige all persons elected or appointed to public office to act in a manner that is respectful of the media and its democratic role, and must deter those elected or appointed to public office from using anti-media rhetoric.

5.8.2 Civil society's undertaking of awareness-raising activities and programmes on press freedom and media literacy must be supported by public funds, without any direct or indirect State authority influence on their content, format, and delivery, nor any direct or indirect State authority interference with civil society's access to relevant audiences.

5.9 Protecting media independence

The independence of the media must be safeguarded from pressure and undue influence from the Government and public authorities.

5.9.1 The framework, procedures, and processes of disbursing public funds to media must be transparent and fair, according to the needs of the independent media, and provided at arm's length from Government and the influence of Government officials.

- 5.9.2 Arbitrary disbursement of funds through opaque procedures and decisions, which often provides far more assistance to the public broadcaster and the political party-owned media than to independent media, must end as it devalues the fundamental importance of a free, objective, and non-politically controlled media landscape. This principle must apply to all types of public funding, such as emergency funds allocated during the pandemic, government advertising, or resources to address the need to strengthen the financial stability of the media in Malta.
- 5.9.3 Objective criteria and guidelines must be set for the allocation of publicly-funded advertising. Both the criteria and guidelines must be published ahead of the allocation of advertising and disbursement of funds.
- 5.9.4 Government must publish clear and objective criteria for the allocation and distribution of financial support and contributions to the media and must publish all financial assistance granted to media houses, including broadcasters. The criteria should be applied uniformly to all media houses and across all media platforms.
- 5.9.5 Objective criteria must be set to restrict the employment of or appointment to public administration and to the public service media of persons from the political party-owned media or political party related structures.
- 5.9.6 Government must refrain from regulating journalists through legislation or other State action, and must instead promote and support self-regulation which is fully independent of public authorities. Equally, the Government must refrain from subjecting journalists to a public authority, whether through the monitoring of adherence to codes of ethics, or by any other form of regulation of the profession. Financial support or allocations to structures representing journalists or media houses should come from the State through mechanisms which are independent of Government itself.
- 5.9.7 The public broadcasting service (PBS) must be reformed in a manner that removes it from the actual and perceived influence of the Government on its administration and editorial decisions. Appointment of persons to serve within PBS, as well as engagement of

employees of PBS, must be based on the person's expertise and capability of making independent and impartial decisions which benefit the public interest alone.

- 5.9.8 The Broadcasting Authority must be freed from political appointments and allegiances to be able to enforce impartiality within the public service provider, and eliminate the practice that assumes that political media balance each other. If this practice is thought to be established on an interpretation of a legal provision, that provision must be amended to ensure impartiality in all broadcast media.

5.10 Measures to physically protect journalists

- 5.10.1 Representation of journalists must be strengthened. While it is for journalists to decide how they are to exercise their right of association, how to organise their representation, and how to bring about effective self regulation, any entity having this role should be recognised by the State but not subjected to formal regulation.
- 5.10.2 Legislation must deter harassment, threats, and harm to journalists for reasons linked to his/her work. The law must allow for an increased punishment for the commission of any offence against a person which is related to the victim's participation in public engagement or the victim's role as a journalist or other media actor.
- 5.10.3 Legal amendments must be designed to provide journalists and other media actors who are victims of crime with quick access to preventive measures of protection, including court-issued protection orders and other personal protection measures taken by the Police.
- 5.10.6 Legislative recognition must be accompanied by clear public and systematic statements made by persons in public office to condemn violence, intimidation, threats and attacks against journalists and the press. A parliamentary debate to monitor press freedom with the participation of relevant stakeholders, including media representatives, press freedom experts, and civil society should be held annually. Alternatively, the Office of the Speaker of the House should annually host a parliamentary debate on press freedom with

participants from the elected Members of the House, public administration, Ombudsman, National Audit Office, IGM, editors, media house owners and civil rights organisations.

- 5.10.7 Government must support the establishment of civil society-run support mechanisms for journalists and other media actors, including an early warning and rapid response mechanism. Should the Government itself provide an early warning and rapid response mechanism itself, this should include the effective participation of representatives of journalists and civil society.

5.11 Early response and protection mechanisms

Prosecutors and security forces, including the police and security services, have a role not only in protecting journalists and other media actors from threats to life but also to safeguard journalists in the performance of their role. The obligations of prosecutors, investigators, and public order forces arise from both Article 2 and Article 10 of the ECHR. To fulfil these obligations they must do the following.

- 5.11.1 As a first port of call for journalists and other media actors to report offences, a dedicated police unit must be set up, well-trained to international standards and sensitised to the role of journalists. Among other considerations, the unit must investigate the probability that the journalist is being targeted because of their work and apply investigative protocols which do not infringe on journalistic work practices.
- 5.11.2 Prosecutors and security forces must establish processes and protocols capable of preventing harm to journalists' physical integrity, and measures capable of providing effective protection.
- 5.11.3 Such processes and protocols need to be independent, in no way involving or being answerable to Government, or capable of being influenced by Government, in the performance of the task to detect the risk of violence against a journalist, to prevent such violence, and to protect the journalist from violence.

- 5.11.4 The determination of whether a journalist is at risk and the provision of protection must not be subject to interests which are extraneous to the protection of journalists and press freedom.
- 5.11.5 Investigative units and prosecutors must be well trained in understanding the democratic role of journalists and capable of identifying where risks and offences occur due to the journalist's role.
- 5.11.6 Adopt protocols and methods of investigation and prosecution of offences against journalists which reflect the role of journalists and their right to seek and impart information on matters of public interest irrespective of who and what is the subject of their journalistic work; and adopt protocols and methods of investigation and prosecution of other offences in a manner that respects the role of journalists and their rights under Article 10.
- 5.11.7 Conduct impartial, prompt, thorough, independent, and effective investigations into all alleged violence, threats and attacks against journalists; bring all perpetrators, irrespective of their role in the commission of the offence, to justice; and provide victims and their families with access to information on the investigation and prosecution, appropriately recognising their standing as victims of crime, and provide appropriate restitution, compensation, and assistance.
- 5.11.8 Investigate and prosecute in a timely and effective manner all cases of wrongdoing exposed by journalistic work. Legislation should introduce sanctions for neglect or omission to investigate and prosecute perpetrators exposed by public interest journalism.

6. Conclusion

This document sets out the minimal requirements of reform expected from the implementation of the Public Inquiry conclusions. Malta must - as a matter of democratic necessity - create and maintain an enabling environment in which the country's public interest media are able to fulfil their essential democratic function. By instituting the far-reaching reform required to create such an enabling environment, the State would

make the assassination of another journalist not only impossible but unimaginable, and would clearly signal that dehumanisation, threats, and attacks against journalists are unacceptable. There is no middle road to holistic reform. It must ensure that the corrupt and those who abuse power do not continue to enjoy impunity. The choice the State faces is stark: to implement effective reform to prevent future deaths, or to perpetuate the systemic State failures that enabled Daphne Caruana Galizia's contract killing.

-ends-