



20 October 2017

To: Beatriz Balbin
Chief
Special Procedures Branch
OHCHR

Ref: UA MLT 2/2017

Subject: Joint Urgent Appeal From Special Procedures

Excellency,

I have been requested by the Hon Carmelo Abela, Minister for Foreign Affairs and Trade of the Republic of Malta to refer to the letter dated 18 October 2017 (ref UA MLT 2/2017) from Her Excellency Agnes Callamard, Special Rapporteur on extrajudicial, summary or arbitrary executions; His Excellency Juan Pablo Bohoslavsky, Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights; His Excellency David Kaye, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and His Excellency Michel Forst, Special Rapporteur on the situation of human rights defenders addressed to the Honourable Carmelo Abela, Minister for Foreign Affairs and Trade of the Republic of Malta and to bring the following terms of reply to the four points raised by their Excellencies.

1 : The following is a brief overview of the investigation up to the 20 October 2017.

On the 16th of October 2017 at approximately 15:00hrs, a blast was heard in the Bidnija area in Malta. The blast was soon after identified as a car bomb explosion. The car was a rented vehicle, identified as belonging to journalist Daphne Caruana Galizia, who was driving the car.

The Magistrate on Duty at the time (Magistrate Consuelo Scerri Herrera) arrived on the scene immediately after the incident and before the identity of the person in the car was known. Investigations began by the Maltese Police Force and all necessary procedures were followed.

At 16:30hrs. Prime Minister Dr Joseph Muscat addressed a Press Conference at the Office of the Prime Minister in Valletta, during which he stated that this was a “barbaric attack” and that he will not rest before justice is done.

The Prime Minister also pledged that all necessary resources would go into this investigation, including the involvement of foreign forces equipped with more specialised expertise and resources. A few hours later, the Prime Minister announced in Parliament that the FBI offered to assist in the investigation and that the government accepted. The following morning the Home Affairs Minister announced that forensic experts from the Netherlands Forensic Institute will also assist.

Prior to the Press Conference (at approx. 1600hrs), Prime Minister Dr Joseph Muscat also spoke with the Leader of the Opposition, Dr Adrian Delia, to brief him with all the information the Government was in possession of at the time.

A Parliamentary Session was scheduled to convene at 1800hrs that same evening to discuss the Government’s Budget for 2018. However, it was agreed by both the Prime Minister and the Leader of the Opposition that they would each give a statement about the day’s events, and postpone the scheduled agenda to the following day.

Later, on Monday, the Caruana Galizia family requested that Magistrate Scerri Herrera who was heading the murder inquiry (and who had been chosen on the basis of a rotating roster), be replaced. They requested that Magistrate Scerri Herrera abstains from the inquiry as she may have had a conflict of interest.

The family’s request was upheld without question, and Magistrate Scerri Herrera abstained from the Magisterial Inquiry. The Chief Justice immediately assigned a senior magistrate, Magistrate Anthony Vella, to conduct the inquiry. During a Press Conference on the evening of the 17th October, the Leader of the Opposition stated that he has full confidence in Magistrate Vella.

With regard to the investigation, Dutch forces arrived on site on 17th of October early in the morning, and FBI investigators started working on the case on Thursday 18th October. Furthermore, an eyewitness has come forward, claiming that he had heard two explosions (one smaller explosion inside the vehicle, followed by a larger explosion a few seconds later).

Among several other avenues of inquiry, the investigative authorities are also taking into account potential investigations that Ms Caruana Galizia may have been pursuing in her journalistic capacity at the time of her murder; it is probable that these investigations by the journalist could shed light on the motivation and identification of her murderers.

On Wednesday 19th October, the Prime Minister announced in Parliament that the Government is offering a monetary reward and protection to persons who would come

forward with information that could lead to the progress of the investigation into Ms Caruana Galizia's murder.

Despite receiving death threats, Ms Caruana Galizia had long been refusing personal security. The last time that Ms. Caruana Galizia was under Police protection (by means of officers stationed at a fixed point outside her personal residence) was in 2010. The Maltese Government can confirm that Police protection was again offered to Ms. Caruana Galizia in 2013, but this was refused.

The Government of Malta can also confirm that no reports that she was subject to, or receiving, threats against her safety by Ms Caruana Galizia were made in the six months prior to this accident.

A comment (posted on social media) made by a member of the Maltese Police Force on Ms. Caruana Galizia's murder, resulted in the Police officer in question being suspended with immediate effect. He is also subject to an inquiry by the Public Service Administration. The Maltese Government condemned and disassociated itself entirely from such statements in the strongest possible terms.

The Prime Minister reiterated: "There are those who think that because of all this, there is even a thought in my mind or a single beat of my heart that is not saddened by what happened. If there is one person, outside of her family, that did not want this to happen under his watch, it is I."

2: Freedom of expression is a very important fundamental right which Malta recognizes as being one of the pillars of the democratic system.

The right is protected by the Constitution and by the European Convention Act, which includes the European Convention of Human Rights in enforceable domestic Maltese law. The Maltese courts apply the jurisprudence of the ECHR in interpreting that right. Harassment of a person for having exercised his or her right to freedom of expression may in itself constitute a violation of that right.

Malta enforces all practical and legal measures to ensure that the right of freedom of expression can be freely exercised both with regard to information and opinions which are well received by the authorities and with regard to information and opinions which are not so received and which may also shock or offend.

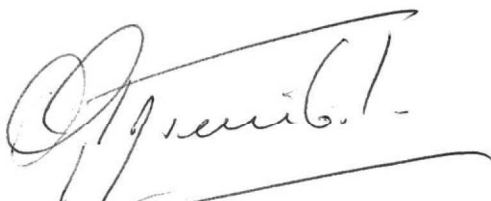
This is evidenced by Malta's long history of a free press, protection of journalists' sources and by the protection of the physical integrity of journalists whenever the need for such protection is apparent.

3: In response to the allegations made by Ms Caruana Galizia, there are ongoing independent magisterial investigations related to the Panama Papers and to the alleged

Prime Minister's involvement. It is to be noted that Ms Caruana Galizia testified in front of the inquiring magistrate a number of times.

Excellency, the above mentioned points clearly highlight that the Government of the Republic of Malta led by the Prime Minister Dr Joseph Muscat is taking this barbaric killing very seriously and is leaving no stone unturned in order to identify the perpetrators of this crime and bring them to justice. I hope that the above clarifies all queries that the Special Rapporteurs may have regarding this particular case. The Government of the Republic of Malta is ready to answer any other queries and clarifications that the four Special Rapporteurs may wish to raise in the future.

Please accept, Excellency, the assurances of my highest consideration.

A handwritten signature in black ink, appearing to read 'O. J. Terribile', with a long horizontal flourish extending to the right.

O. J. Terribile

Ambassador

Permanent Representative

to the United Nations Office and other International Organizations in Geneva