

Therese Comodini Cachia

ADVOCATE

25 April 2023

Hon. Prime Minister Dr Robert Abela

Office of the Prime Minister

Auberge de Castille

Valletta VLT1061

Email: robert.abela@gov.mt

Commissioner Angelo Gafa

Commissioner of Police

Police Headquarters

St. Calcedonius Square

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Dear Prime Minister Dr Abela and Commissioner Gafa,

I am instructed by Dr Robert Aquilina to call upon you to provide him and his family members with sufficient protection to secure his ability to exercise his right to freedom of expression without fear, harassment, or threats.

Dr Aquilina is the president of the non-governmental organisation, Repubblica, a regular contributor in Maltese newspapers, and the author of the book "Pilatus: A Laundromat Bank in Europe". As an activist and author, his work focuses on issues related to the rule of law, corruption, abuse of power, and impunity. All these matters are of significant public interest, and related activism and discussion are crucial to the democratic process. Dr Aquilina's activism and publications are protected by article 10, right to freedom of expression, and article 11, right to association, of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which is enshrined in Malta's domestic law as Chapter 317.

The exercise of these rights, even though they are not absolute freedoms, places upon the State certain obligations, the implementation of which appear to fall within your responsibility as heads of Malta's government and of the Malta Police Force. The European Court of Human Rights has established that the State's obligation is not only to refrain from interfering with the effective and

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genuine exercise of these freedoms, but also to take positive measures of protection. Moreover, positive obligations also require that, while establishing an effective system of protection for authors or journalists, States are to create a safe and enabling environment which is conducive to the participation in public debates of all those concerned, allowing them to express their opinions and ideas without fear, even if these go against those represented and defended by the official authorities or by a significant part of public opinion, or which are irritating or shocking.

These same obligations are clearly reflected in several resolutions adopted by the different organs of the Council of Europe, of which Malta is a member. Reference is principally made to the Committee of Ministers' Recommendation CM/REC(2016)4 on the protection of journalism and safety of journalists and other media actors, and Resolution 2095(2016) on Strengthening the protection and role of human rights defenders in Council of Europe member States.

Recommendation CM/REC(2016)4 reiterates the principle that "being able to exercise the right to freedom of expression without fear implies that, as a minimum, the safety, security and protection are guaranteed effectively in practice for everyone, in particular journalists and other media actors, and there is an expectation that they can contribute to public debate without fear and without having to modify their conduct due to fear."

Resolution 2095(2016) *inter alia* calls on member States to ensure an enabling environment for the work of human rights defenders and for effective protection against acts of intimidation, to refrain from conducting smear campaigns against them, and to condemn any such campaigns conducted in the media or by other non-state actors.

Reference is also made to the report of the Public Inquiry into the assassination of Daphne Caruana Galizia. The report identified the State's failure in recognising the combination of the hostile, dehumanising, and intimidating environment against Daphne Caruana Galizia, targeting her for her publications on matters of corruption, financial crime, and impunity, in a highly polarised political culture which exposed her to such risks against which the public authorities ought to have acted.

It is hereby being brought to your attention that an intimidating and hostile environment is being created against Dr Aquilina, due consideration of which is not being made by State authorities assessing whether Dr Aquilina and his family are deserving of protection. No one can dispute that the polarised political culture is ongoing. Dr Aquilina's work has been dismissed or disparagingly referred to in political activities, at times even by persons holding public office or by persons who are close to or have the support of persons holding public office. Harassment and dehumanisation of Dr Aquilina consistently takes place on media platforms, including social media, seeking to isolate him and to portray him as the enemy or the traitor of government.

This hostile environment has already given rise to specific threats being made against Dr Aquilina, which, when noted by him on social media, were reported to the police and have either been determined or are still pending before the courts. While the prosecution of those persons who are directly reported by Dr Aquilina for making threats against him is positive, it appears that the context

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which has often given rise to these attacks is not considered sufficient for him and his family to be provided with protection.

In addition, it also appears that events such as, the expression of concern for Dr Aquilina's safety by a number of police officers who shared with him their concern over his safety, the targeting of his wife and children in threatening letters, the threatening message verbally sent to him by a person not of Maltese nationality that they would see to Dr Aquilina themselves after a third person refused to inform him that he should back down, and the threat to Dr Aquilina's safety by a police officer who during interrogation chose to remain silent and then to resign from the force, are also not considered by the authorities sufficient for him and his family to be provided with protection.

It seems that the authorities would only be willing to protect Dr Aquilina when there is clear evidence of a real and immediate risk of a specific attack on his life. This effectively means that the authorities would only be willing to protect Dr Aquilina only when the knife is already metaphorically at his throat. This shows that the authorities, including the Executive and the Malta Police Force, are completely disregarding the combination of the polarised political context, and that of organised crime against which his activism and publications strive, thereby underestimating their obligations in providing such protection as is needed for him to exercise his freedom of expression without fear, threats, and harassment, as required by law.

In view of the above, you are being called upon to secure a safe and enabling environment for the effective and genuine exercise of freedom of expression, including by providing Dr Aquilina and his family with effective protection.

Yours sincerely,



Dr Therese Comodini Cachia