

The Rule of Law in Malta

An overview of rule of law failings in Malta

Prepared for Daphne Caruana Galizia's family

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Malta's rule of law deteriorated faster since 2013, the year Joseph Muscat was first elected Prime Minister, than any other European Union member state, according to the World Bank's Governance Indicators.¹ Malta's ability to control corruption also deteriorated faster than any other EU member state since 2013, according to the World Bank's Governance Indicators.²

Freedom House's 2018 report also shows Malta's political rights and civil liberties ranking experienced one of the steepest drops globally in 2017, at the same rate as Libya, Hungary, Poland and Venezuela, slipping by 16 places in a single year.³ The Economist Intelligence Unit's 2017 Democracy Index saw Malta awarded its lowest score in a decade, with the fastest slide in Western Europe and freedom of speech in Malta now classified as only 'partly free'.⁴

This note shows, institution by institution, how the use of public power for private gain as well as the 'capture' of the state by elites and private interests brought Malta to this point.

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¹ This is the change in ranking within the EU from 2013 to 2016 in the World Bank's Rule of Law

² This is the change in ranking within the EU from 2013 to 2016 in the World Bank's Rule of Law estimates. Malta went from 12th place in 2013 to 16th place (1st best rule of law; 28th worst) in 2016. Data for 2017 are unavailable. Source: <http://info.worldbank.org/governance/wgi/#home>

³ https://freedomhouse.org/sites/default/files/FH_FITW_Report_2018_Final_SinglePage.pdf

⁴ http://www.maltatoday.com.mt/news/national/84146/malta_score_in_democracy_index_gets_lowest_ranking_ever_in_a_decade

The Judiciary

The President of Malta on advice of the Prime Minister appoints judges (superior courts) and magistrates (inferior courts). The current President, who has herself been appointed by the Prime Minister, has yet to reject the Prime Minister's advice on any judicial appointments. The Prime Minister is not obliged to consult anyone before advising the President. Judges and magistrates can only be removed from office for proven misbehaviour or inability to perform their functions. The removal is effected by the President supported by the votes of not less than two-thirds of the House of Representatives.

Since its election in 2013, Joseph Muscat's Labour Party administration has made 15 appointments to the bench, 11 of whom are connected directly to the Labour Party, out of a current 22 judges and 22 magistrates:

- Judge Antonio Mizzi: elevated from his previous post as magistrate is married to long-time Labour Party activist and Labour Party Member of the European Parliament Marlene Mizzi. He was made a magistrate in the 1996-8 Labour administration.
- Magistrate Joanne Vella Cuschieri: a failed Labour Party candidate in the 2013 general election. Vella Cuschieri has close and publicly documented personal links with Justice Minister Owen Bonnici, who appointed her.
- Magistrate Grazio Mercieca: 1980s Labour Party election candidate and from 2013 Chief of Staff to Gozo Minister Anton Refalo.
- Magistrate Charmaine Galea: associate in the law office of Labour Party Deputy Leader Toni Abela, who was himself made a judge.
- Magistrate Caroline Farrugia Frendo: daughter of the Labour Party's long-time Deputy Leader and Member of Parliament, Anglu Farrugia, who was appointed Speaker of the House of Representatives by Joseph Muscat.
- Magistrate Joseph Mifsud: International Secretary of the Labour Party and long-time staffer on the Labour Party's official newspaper, *Kullhadd*.
- Judge Miriam Hayman: first appointed magistrate by Labour Prime Minister Alfred Sant (1996-8), after years of working with former Labour Minister Joe Brincat. Elevated to judge by current Labour Party administration.
- Magistrate Monica Vella: Local Councillor elected on the Labour Party ticket.
- Magistrate Yana Micallef Stafrace: lawyer for *L-Orizzont*, a pro-Labour Party newspaper. Daughter of prominent lawyer Joe Micallef Stafrace, who served for four months as a minister in 1971 under the Labour government of the time. Her brothers Simon and Kirill were Labour candidates for the general election of 2013 and the European Parliament election respectively. She was appointed as chairperson of the Domestic Violence Commission under the current Labour administration. Under Muscat's 2013-2017 government she also held appointments at the Ministry for Social Solidarity and Family and as government-appointed Chairperson of the Domestic Violence Commission.
- Judge Toni Abela: before being made a judge, Abela was a consultant to Joseph Muscat and sat in on cabinet meetings despite having no cabinet position. Abela was for several years Deputy Leader of the Labour Party.

Muscat, before making Abela a judge, proposed Abela for a position on the European Court of Auditors (ECA). The ECA rejected Abela on the grounds of having no appropriate experience and because Abela was recorded speaking about an incident where the president of a Labour Party club was sacked after an employee was found cutting a block of compressed cocaine at the club. In the recording, Abela implied that he did not report the crime to the police because it would get the club's president in trouble.¹

- Judge Wenzu Mintoff: former Labour Member of Parliament, nephew of Labour Prime Minister Dom Mintoff, Labour Party activist, Labour-government-appointed Chairman of the Malta Development Corporation, and right up until his appointment to the bench, editor of the Labour Party's official newspaper, *Kullhadd*.

The Herrera Family: The government stopped short of making another appointment – the elevation of Consuelo Scerri Herrera from magistrate to judge. Labour Prime Minister Alfred Sant made her a magistrate while still in her early 30s during his 22-month government from 1996-98. Scerri Herrera, whose boyfriend is a government consultant and whose brother is a government minister, had campaigned actively for Muscat's Labour Party. When consulted on the proposed promotion of Scerri Herrera, the Judicial Appointments Committee (JAC) advised that her private conduct makes her unfit for a judgeship.² The Commission for the Administration of Justice had earlier disciplined Scerri Herrera after years of consorting with politicians and having an affair with a senior prosecutor/police official. Scerri Herrera's daughter, Justine Scerri-Herrera, was in 2013 appointed to the government's Adoptions Board while still a 22-year old law student. In 2017, Martina Herrera, the 25-year old daughter of Scerri Herrera's brother, government minister Jose Herrera, was made a Commissioner for Justice, directly appointed by her uncle's cabinet colleague Justice Minister Owen Bonnici, despite not meeting the minimum experience requirements.³

The Industrial Tribunal: is a juridical tribunal for industrial disputes, controlled by the Attorney General. Its members are appointed directly by the government. In 2013, the government appointed to the Tribunal:

- James Pearsall: ex-President of General Workers Union (GWU), the Labour Party's official trade union.
- Katrina Borg Cardona: employed in senior role at the government's Malta Enterprise and married to Aron Mifsud Bonnici, the GWU lawyer.
- Yana Micallef Stafrace: lawyer for *L-Orizzont*, a pro-Labour Party and GWU-owned newspaper – now elevated to magistrate.
- Charmaine Cristiano Giordano: married to former GWU Section Secretary.

¹ The recording of Abela, in Maltese, is available here: <https://youtu.be/S6XCafVoD8Q>

² <http://www.independent.com.mt/articles/2017-01-08/local-news/Magistrate-Consuelo-Scerri-Herrera-rejected-for-post-of-judge-report-6736168782>

³ <http://www.independent.com.mt/articles/2013-12-10/local-news/Ministry-for-the-Family:-Truly-a-family-affair-3429629955>

The Small Claims Tribunal: is a juridical tribunal for disputes with claims under €5,000. Its members are appointed directly by the government. In 2017, the Prime Minister Joseph Muscat directly appointed to the Tribunal:

- Michela Spiteri: concurrently edits government documents directly for Keith Schembri, the Prime Minister's chief of staff, and Glenn Bedingfield, communications aide to the Prime Minister Joseph Muscat.⁴ Spiteri has long been writing pro-Labour Party newspaper columns for The Sunday Times of Malta. The government also appointed Spiteri to the Valletta/Floriana Rehabilitation Committee.

⁴ <http://theshiftnews.com/2017/11/13/the-real-war-on-truth/>

The Attorney General

Like judges and magistrates, the President acting on the advice of the Prime Minister appoints the Attorney General (AG). The Prime Minister is not obliged to consult anyone before advising the President. The AG can only be removed from office for proven misbehaviour or inability to perform his functions. The removal is effected by the President upon an address by the House of Representatives supported by the votes of not less than two-thirds of the House of Representatives.

The AG is both legal advisor to the government and public prosecutor. Malta has no independent public prosecutors. No AG in Malta has ever acted against the instructions or interests of the Prime Minister of the day.

Malta was one of the eight EU member states – including Hungary and Poland – that opted out of the European Union Public Prosecutor's Office.¹

AG fails to act on evidence of money laundering by senior government officials:
There are ongoing calls for current AG Grech to resign based on his failure of duty to prosecute cabinet minister Konrad Mizzi – the only government minister in the EU implicated in the 'Panama Papers'² – and the Prime Minister's Chief of Staff Keith Schembri, among other associates, on suspicions of money laundering and receiving kickbacks from the sale of Maltese passports found in reports drawn up by the Financial Intelligence Analysis Unit (FIAU). These reports were produced in 2016, and leaked to the media in 2017 – more on the FIAU and its reports in the next section.

AG Grech has powers vested in him by the Prevention of Money Laundering Act to initiate a criminal investigation,³ but he refuses to use them. Grech also denies being privy to the findings of the investigations carried out by the FIAU, despite chairing the FIAU's Board of Governors,⁴ and despite the fact that the FIAU reports have been leaked to the press and have now been in the public domain for several months.

The lead inspector on the FIAU investigations in question, Jonathan Ferris, is currently fighting a case against his dismissal from the FIAU, which he claims was politically motivated, in the Industrial Tribunal, which is controlled by the AG. In October 2017, AG Grech filed an application demanding that Ferris's affidavit, which was presented as evidence during his unfair dismissal hearing in September 2017, be omitted from the proceedings on the grounds of national security.⁵ AG Grech is further demanding that future sittings before the Industrial Tribunal be held behind closed doors, barring access to the media.

¹ <http://www.independent.com.mt/articles/2017-06-10/local-news/Malta-opts-out-of-EU-public-prosecutor-office-which-looks-into-EU-budget-corruption-and-fraud-6736175269>

² <https://offshoreleaks.icij.org/nodes/15005201>

³ [http://www.fiumalta.org/library/PDF/legislation/PMLA%20\(17.03.2015\).pdf](http://www.fiumalta.org/library/PDF/legislation/PMLA%20(17.03.2015).pdf)

⁴ <http://www.fiumalta.org/about/organisational-chart>

⁵ <https://www.timesofmalta.com/articles/view/20171028/local/attorney-general-attempts-to-muzzle-ex-fiau-employee.661546>

The Financial Intelligence Analysis Unit (FIAU)

The FIAU is a government agency established under the Prevention of Money Laundering Act responsible for the collection, collation, processing, analysis and dissemination of information with a view to combating money laundering and the funding of terrorism. The Prime Minister appoints the FIAU's Chairman and Deputy Chairman after consultation with the Finance Minister. The Prime Minister has no obligation to take the Finance Minister's advice. Board members are drawn from the AG's Office, the Central Bank of Malta, the Malta Financial Services Authority, and the Malta Police Force.

Three FIAU reports were leaked to the media on 26 May 2017, a week before the snap national elections of 3 June 2017:

- FIAU Report A:¹ dated 7 April 2016, this report was presented to the Police Commissioner who was duty bound to act on it but failed to do so. The report shows bank transfers made through the Maltese bank account of Willerby Trade Inc., a company registered in the British Virgin Islands, ultimately owned by Brian Tonna (who has direct links to Prime Minister Muscat as his accountant), in favour of a domestic bank account held in the name of Keith Schembri, the Prime Minister's Chief of Staff, a person who falls within the definition of a "politically exposed person" (PEP) under the Prevention of Money Laundering and Funding of Terrorism Regulations. The report found sufficient evidence to establish reasonable suspicion of money laundering in this case.
- FIAU Report B:² this is the report of the FIAU's on-site inspection of Pilatus Bank (in Malta) between 15 and 22 March 2016 that found that the Bank's two 'principal clients' are PEPs in a high-risk money-laundering jurisdiction, Azerbaijan (p. 3). The Bank classified most of its PEPs as being from Azerbaijan (p. 6). As such, the FIAU report found systemic failures in terms of money-laundering regulations and compliance. It found a single transaction of €1 million from a PEP's account to an unnamed third-party account without any supporting documentation on the origin of the funds or the purpose of the transfer. Neither the Malta Police nor the AG have taken action on this report. The report also revealed that Seyed Ali Sadr Hasheminejad (known as Ali Sadr), director, Chairman and main shareholder of Pilatus Bank, has close personal links to Keith Schembri and is subject to an ongoing criminal investigation in a foreign jurisdiction for money laundering, illegal money transmission as well as other violations (Section 2.3).
 - Azerbaijan and Malta: See *Appendix A* for more information on Azerbaijan's links to Malta.
 - Pilatus Bank: See *Appendix B* for more information on Pilatus Bank.

¹ Title page in Maltese, but rest of report in English: <http://netnews.com.mt/2017/05/26/dokument-a-ir-rapport-tal-fiau-li-jikxef-il-korruzzjoni-ta-keith-schembri-mill-bejgh-tal-passaporti/>

² Title page in Maltese, but rest of report in English: <http://cdn.netnews.com.mt/downloads/repb.pdf>

- Mass Resignations from the FIAU: A few days after Scicluna's 'written to be leaked' statement, Jonathan Ferris, who headed the FIAU's financial analysis section, and Charles Cronin, who headed the FIAU's compliance section, were fired without cause.⁸ Ferris, as mentioned in the AG section of this note, is currently suing the FIAU for unfair dismissal and the AG is blocking Ferris' testimony and blocking media from attending sittings. Cronin has not made any public appearances or statements since his dismissal. Between 10 March 2013 and 2 June 2017, there have been 15 resignations from the FIAU – equivalent to 52% of its total staff.⁹
- FIAU changes official position on Pilatus Bank: in September 2017, shortly after Manfred Galdes had resigned as FIAU director, The Times of Malta claimed to have seen a letter sent from the FIAU to Pilatus Bank saying that the Bank's money laundering failures 'no longer subsist.'¹⁰
- All actors implicated in the FIAU reports have been re-appointed/rewarded: Prime Minister Joseph Muscat re-appointed Keith Schembri as his Chief of Staff for a second term in 2017 and made Konrad Mizzi Minister of Tourism. Brian Tonna, accountant and owner of Nexia BT, who paid kickbacks on passport sales to Keith Schembri (as per Report A), was given a government concession to promote the granting of Maltese residency visas by investment in the Middle East.¹¹

⁸ <https://www.timesofmalta.com/articles/view/20170701/local/fiau-officials-were-dismissed-after-ministers-written-to-be-leaked.652045>

⁹ http://www.maltatoday.com.mt/news/national/78849/fiau_resignations_since_2013_total_15_minist

¹⁰ <https://www.timesofmalta.com/articles/view/20170912/local/fiau-says-pilatus-shortcomings-no-longer-subsist.657836>

¹¹ <https://www.timesofmalta.com/articles/view/20170708/local/nexia-bt-gets-residence-programme-concession.652715>

The Malta Financial Services Authority (MFSA)

The MFSA is the single regulator for financial services in Malta. The MFSA is a fully autonomous public institution and reports to Parliament on an annual basis. It is exclusively responsible for licensing, supervision and regulation of financial institutions.

The MFSA and Pilatus Bank: The MFSA received an application for a banking licence from Seyed Ali Sadr Hasheminejad (known as Ali Sadr), the Chairman and main shareholder of Pilatus Bank, in December 2013, when Sadr was 33-years old, had millions from undisclosed sources and was not a banker. Sadr got the licence with unusual speed in January 2014.¹

Sadr is Iranian, and so should not have been given a banking licence due to international sanctions and risk/compliance procedures on Iran and Iranians. In 2009 Sadr acquired a St Kitts & Nevis passport from Henley & Partners, which now has a monopoly over the sale of Maltese passports, and used this passport when applying for a banking licence with the MFSA. Just months later, in May 2014, the US Treasury Department's Financial Crime Enforcement Network (FinCEN) issued a public advisory warning against Iranians using St Kitts & Nevis passports for financial crime as well as to circumvent international sanctions.²

Both Malta's Institute of Financial Services Providers and the Malta Employers Association questioned Pilatus Bank's licence, and the failure of the police to investigate it, expressing in public statements in April 2017 their concern that there has been a breakdown in the rule of law in Malta.³

The Chairman of the MFSA is Joe Bannister. He has held this position since 1999, when he was appointed by then Finance Minister and later disgraced European Commissioner John Dalli (see Appendix C of this note), who from 2013 to at least 2014 was a consultant to Prime Minister Muscat. After the MEPs fact-finding mission to Malta in December 2017, the government announced that Joe Bannister will be stepping down on 31 March 2018, but will remain a government advisor.

- Bannister is also Vice-Chairman of FinanceMalta, a public-private partnership to promote Malta's finance sector, making him both regulator and promoter of the financial services sector.
- Bannister is also a Director of several funds in the Cayman Islands, an offshore tax haven, a violation of the International Monetary Fund (IMF) standards of independence of financial supervisors.⁴

¹ <https://daphnecaruanagalizia.com/2017/04/points-made-1/>

² <https://www.fincen.gov/sites/default/files/advisory/FIN-2014-A004.pdf>

³ <https://www.timesofmalta.com/articles/view/20170424/local/mfsa-defends-licensing-of-pilatus-bank-financial-practitioners-say.646166>

⁴ <http://www.spiegel.de/wirtschaft/soziales/malta-finanzaufseher-fuehrt-fonds-auf-cayman-inseln-a-1095773.html>

- Bannister was revealed in the recent ‘Paradise Papers’ to have taken up a Directorship of a British Virgin Islands company, ACP Special Situations 2, in March 2007. The company took up a shareholding in a Russian mining venture suspected of siphoning off public funds from the European Bank for Reconstruction and Development (EBRD). Bannister at first claimed to *Le Monde* that he became a Director of this company before his MFSA appointment in 1999.⁵ This was later shown to be not only untrue but impossible given that the company was set up in 2007, eight years into Bannister’s MFSA chairmanship.
- Bannister and Ali Sadr (Pilatus Bank owner) were seen together on 14 June 2017 at Frankfurt airport and seen again together on the evening flight from Frankfurt to Malta.⁶ By this point, all three FIAU reports – including the report on Pilatus Bank specifically – had been leaked to the media.

MFSA inspection of Pilatus Bank in 2015: The media discovered in April 2017 that the MFSA had inspected Pilatus Bank in the last quarter of 2015.⁷ This inspection picked up that a major Azerbaijani PEP, Minister for Emergency Situations and President Ilham Aliyev’s reported front man, Kamaladdin Heydarov, had an account at Pilatus Bank, presenting a serious money laundering risk.

- The same inspection picked up the fact that two Maltese PEPs, Keith Schembri – the Prime Minister’s chief of staff – and disgraced former European Commissioner John Dalli (see Appendix C) have accounts there in their personal names.
- Schembri and Dalli’s names were deliberately left out of the report that the Malta Financial Services Authority drew up following the inspection. The Malta Financial Services Authority took no further action against the bank despite the discovery of these and other major PEPs in the bank’s client list.
- Sources told the media: “There was pressure from within and pressure externally, and officials feared repercussions. They simply left the names out of the report and there was no motivation to proceed further against Pilatus Bank – rather the opposite.”⁸

MFSA inspection of Pilatus Bank in 2017: the media discovered that in June 2017, banking inspectors at the MFSA were refusing orders by their superiors to carry out an on-site inspection at Pilatus Bank.⁹

⁵ <https://www.timesofmalta.com/articles/view/20171120/local/bannister-became-director-of-offshore-firm-when-already-mfsa-boss.663441>

⁶ <https://daphnecaruanagalizia.com/2017/06/bannister-hasheminejad-flying-together-frankfurt-malta/>

⁷ <https://daphnecaruanagalizia.com/2017/04/breakingpilatus-bank-investigated-mfsa-fiaukeith-schembris-name-left-mfsa-inspection-report/>

⁸ <https://daphnecaruanagalizia.com/2017/04/breakingpilatus-bank-investigated-mfsa-fiaukeith-schembris-name-left-mfsa-inspection-report/>

⁹ <https://daphnecaruanagalizia.com/2017/06/breakingmalta-financial-services-authority-banking-inspectors-refuse-carry-inspection-pilatus-bank-one-inspector-resigns/>

- On 31 May 2017, three days before the general election, the banking inspectors – two senior inspectors and five junior inspectors – were instructed by their superiors to go to Pilatus Bank and carry out an on-site inspection. One inspector, Mario Felice, resigned the same week rather than comply.
- The banking inspectors were refusing to inspect Pilatus Bank as they feared they would incriminate themselves in a whitewash operation to give the bank a “clean bill of health” to use to its own advantage – as with the FIAU follow-up letter on Pilatus Bank that claimed money laundering issues at the Bank ‘no longer subsist’.
- Sources told the media that they “suspect that there may be collusion between topmost officials at the MFSA and Ali Sadr. If there is such collusion, then the bank will have had ample time to clear the decks before the inspectors move in... pressure for the inspection is actually being exerted by the bank on the MFSA executive, rather than the other way round, and that this is happening because Mr Hasheminejad [Ali Sadr] wants some kind of ‘good conduct certificate’ for his bank that he can use for his purposes.”⁹

The MFSA reforming for crypto-currencies: under the guise of strengthening the MFSA, the government is looking to restructure it to make it capable of managing the introduction of crypto-currencies.¹⁰ Prime Minister Joseph Muscat in February 2017 gave a speech in which he said ‘Europe should become the Bitcoin continent’.¹¹ No formal plans have been publicised yet, but a ‘National Strategy’ is on its way.¹²

- The defining characteristic and appeal of crypto-currencies is that they are outside regulatory oversight and control. They are pseudonymous, decentralized and encrypted, making it harder to track each of the transactions made, and the individuals behind them.
- This leaves plenty of room for people to launder money or finance terrorism activities and engage in other fraudulent behaviour — especially in countries where checks are weak and corruption is already a widely acknowledged problem, like Malta.¹³

¹⁰http://www.maltatoday.com.mt/business/business_news/79448/joe_bannisters_replacement_at_helm_of_mfsa_not_yet_identified

¹¹ <https://www.timesofmalta.com/mobile/articles/view/20170223/local/pm-proposes-europe-should-become-the-bitcoin-continent.640525>

¹² <https://www.cryptocoinsnews.com/malta-embracing-bitcoin-blockchain-sweeping-national-strategy/amp/>

¹³ <https://www.cnbc.com/2017/08/04/icos-may-be-seen-as-securities-by-u-s-and-singapore-regulators.html>

The Central Bank of Malta (CBM)

The CBM is responsible for price stability in Malta, a Eurozone member, as part of the Eurosystem of monetary policy. It is a shareholder in the European Central Bank. The President of Malta appoints the CBM's governor and chairman on the advice of the Prime Minister, who is not obliged to consult anyone on this appointment. The governor and chairman are appointed for a fixed-term and can be removed only for proven misbehaviour by a two-thirds supporting vote in the House of Representatives.

- Prime Minister Muscat's incoming government had formally requested the resignation of the then incumbent, Josef Bonnici, a former Nationalist Party minister and professor of economics, in March 2013, but was informed that the request was abusive because the government has no authority to remove the CBM governor.
- Muscat's solution was to install preferred candidate Alfred Mifsud as a second Deputy Governor of the CBM alongside the existing Deputy Governor, with a view to Mifsud taking up the CBM governorship and chairmanship upon Josef Bonnici's end of term. Alfred Mifsud for years chaired the Labour Party's television and radio stations, and gave Joseph Muscat his first and only private sector job at the now insolvent Crystal Finance, an investment firm Mifsud owned with John Dalli (see Appendix C).¹
- Mifsud never made it to the CBM governorship. In June 2016, the media discovered Mifsud was under police investigation. Mifsud was suspected of taking cash bribes equivalent to hundreds of thousands of euros from well-known Maltese businessman Ronnie Demajo when he was chairman of government-owned Mid Med Bank during the 1997-98 Labour Party administration.² When the police confirmed they were investigating him, Mifsud withdrew his candidature altogether on 22 June 2016 rather than face rejection. He however remained Deputy Governor until 30 June 2017.³
- Muscat then appointed Mario Vella as governor and chairman of the CBM on 28 June 2016.⁴ Vella had no experience of or qualifications in monetary policy. A past President of the Labour Party, he was head of state agency Malta Development Corporation in the Labour-Party-administrations of the 1980s. A former student in the GDR, Vella was one of Joseph Muscat's mentors and there are reasonable suspicions that he contributed heavily to Muscat's doctoral dissertation.⁵

¹ <http://www.independent.com.mt/articles/2016-05-25/local-news/Former-Super-One-chairman-Alfred-Mifsud-to-become-Central-Bank-Governor-6736158387>

² <https://daphnecaruanagalizia.com/2016/06/central-bank-deputy-governor-investigation-police-economic-crimes-unit/>

³ <https://daphnecaruanagalizia.com/2016/06/mifsud-hes-not-fit-governor-hes-not-fit-deputy-governor/>

⁴ <http://www.independent.com.mt/articles/2016-06-28/local-news/Mario-Vella-named-governor-of-Central-Bank-of-Malta-6736160168>

⁵ <https://daphnecaruanagalizia.com/2013/03/that-lazy-good-for-nothing-fossil-from-the-mintoff-years-mario-vella-is-to-head-malta-enterprise/>

The Police Force

The Police Commissioner runs the Malta Police Force. The Police Commissioner is appointed directly by the Prime Minister, who is expected to consult the minister responsible for the police – currently the Minister for Home Affairs. The Prime Minister can remove the Police Commissioner without support from the Home Affairs Minister or the House of Representatives.

Only the police can initiate criminal investigations and prosecutions. This makes effective police investigations into the government, which exercises executive control over the police, unrealistic. The police are similarly constrained when it comes to investigations into people who enjoy the protection of the government. Since 2013, Malta has seen five different Police Commissioners. Before 2013, the Police Commissioner had been in his post for 12 years. The Commissioners:

- John Rizzo: 2 November 2001-12 April 2013: Rizzo was removed from his post soon after the Labour Party won the general election on 9 March 2013. Rizzo had been Police Commissioner for 12 years. At the time of his removal, Rizzo had accumulated enough evidence, working with the EU's anti-fraud office (OLAF) director-general Giovanni Kessler, to charge disgraced EU Commissioner John Dalli (see Appendix C) with trading in influence and soliciting bribes and was determined to do so. Dalli, who owns a bank account in his personal name at Pilatus Bank,¹ and whose daughters have recently been charged for money laundering and fraud,² needed to be in Malta for this, but stayed away from Malta for the nine weeks leading up to the 9 March 2013 general election, using falsified unfit to travel certificates.³ Following the election, Rizzo was removed and John Dalli was appointed consultant to Prime Minister Muscat.⁴
- Peter Paul Zammit: 12 April 2013-9 July 2014: Zammit, a former mid-ranking police officer, replaced Rizzo. In the same week of Zammit's appointment as Commissioner, his office was dogged by allegations from the EU's anti-fraud (OLAF) director-general Giovanni Kessler that the Commissioner of Police had not cooperated on three requests by OLAF to assist in an investigation concerning former European Commissioner John Dalli. Zammit never declared the John Dalli case closed, but at the same time refused to arraign Dalli. Simon Busuttil, then leader of the Opposition, blamed Zammit's failure to arraign Dalli on 'interference from the Prime Minister.'⁵ Police Commissioner Zammit faced a number of other scandals: he was found by the Data Commissioner to have

¹ <https://daphnecaruanagalizia.com/2017/04/breakingpilatus-bank-investigated-mfsa-fiaukeith-schembris-name-left-mfsa-inspection-report/>

² <https://www.timesofmalta.com/articles/view/20171102/local/timing-questioned-as-john-dallis-daughters-face-money-laundering.662029>

³ <https://daphnecaruanagalizia.com/2015/03/giovanni-kessler-police-commissioner-john-rizzo-was-determined-to-charge-john-dalli/>

⁴ <http://www.independent.com.mt/articles/2014-10-01/local-news/John-Dalli-s-work-as-a-consultant-with-the-government-has-finished-Prime-Minister-Muscat-6736122928>

⁵ http://www.maltatoday.com.mt/news/national/40779/ram_zammit_to_be_appointed_police_commissioner

illegally leaked the personal file of a police inspector, Elton Taliana, to MaltaToday's managing editor Saviour Balzan, and he was also suspected of using his influence to have charges of assault against a personal contact of his dropped. Peter Paul Zammit was removed as Commissioner on 3 July 2014 with no reason given. Dalli has yet to be charged.

- Ray Zammit: 9 July 2014-12 December 2015: Ray Zammit (RZ), cousin of then Home Affairs Minister Manuel Mallia, replaced Peter Paul Zammit (no relation) as Acting Police Commissioner. RZ and his two sons Daniel Zammit and Roderick Zammit, both police officers at the time, made a number of investments with property developer Joe Gaffarena. Daniel Zammit meanwhile acted as prosecutor in the murder charges against Gaffarena's son-in-law. Daniel Zammit, who had just served as an Economic Crimes Inspector, went into business with Sicilian online gaming operator Francesco Airo two weeks after being boarded out of the force on a lifelong pension. Vincenzo Locorotondo, a wanted Italian Mafioso who was arrested by the Italian police as he came off the catamaran from Malta to Sicily, is an associate of Francesco Airo and of Daniel and Roderick Zammit. Daniel Zammit was also given a consultancy position at state utilities company Enemalta within four days of being boarded out on unspecified medical grounds. Roderick Zammit was also boarded out of the police force on a lifelong pension on medical grounds. Both sons are in their early 30s.⁶ The Prime Minister removed RZ from his post after an inquiry found RZ had acted with "gross negligence" in a shooting incident involving the driver of former Home Affairs Minister Manuel Mallia, RZ's cousin. RZ claimed in a police report about the incident that the driver fired warning shots into the air when he actually fired shots directly at a car.⁷
- Michael Cassar: 12 December 2014-27 April 2016: Cassar was under public pressure to investigate then Energy and Health Minister Konrad Mizzi and the Prime Minister's Chief of Staff, Keith Schembri, who featured in the 'Panama Papers' (May 2016) with complex offshore set ups, but never did. Cassar tendered his resignation in a letter to the Prime Minister on April 27, 2016, just days after receiving FIAU reports that implicated Keith Schembri and Pilatus Bank in money laundering activity. Cassar cited health reasons for his resignation. Manfred Galdes, who headed the FIAU and handed the reports to Cassar, resigned soon after.⁸ No action has been taken on the FIAU reports.
- Lawrence Cutajar: 27 April 2016 [Acting Commissioner], Commissioner from 1 August 2016: Cutajar declared in a Facebook post on 7 August 2013 that he admires the Prime Minister Joseph Muscat for his 'big balls' and that he is fanatic

⁶ <http://www.independent.com.mt/articles/2015-07-30/local-news/Justice-Minister-confirms-ex-police-commissioner-Ray-Zammit-is-chauffeur-driven-6736139724>

⁷ http://www.maltatoday.com.mt/news/national/47218/sheehan_inquiry_report_the_digested_read

⁸ <http://www.independent.com.mt/articles/2016-08-02/local-news/Finance-Ministry-confirms-Director-of-Financial-Intelligence-Analysis-Unit-s-resignation-6736161891>

of Inter football club.⁹ Cutajar co-founded the Maltese Inter Supporters Club with a certain John Zammit, who he has known for 25 years.¹⁰ Zammit has shared numerous Facebook posts of himself and Cutajar together at the Club and in Milan. Zammit is father to Claude-Anne Sant Fournier (born Claudanne Zammit), who is Pilatus Bank's Head of Legal and Compliance. Like his predecessor Michael Cassar, Cutajar has failed to act on any of the FIAU reports, including those implicating Pilatus Bank. Cutajar also famously failed to interrupt a private dinner with friends when Daphne Caruana Galizia reported that Pilatus Bank held the declaration of trust in its safe showing Michelle Muscat, the Prime Minister's wife, is the beneficial owner of Egrant, a company in 'Panama Papers' presumed to have belonged to the Prime Minister himself. Meanwhile Ali Sadr, the bank's owner, flew into Malta and was filmed leaving the bank late at night with heavy luggage. A private jet flew to Baku and then onto Dubai shortly afterwards, where Egrant is reported to hold a bank account.¹¹ A magisterial inquiry into the case was called by Prime Minister Muscat late that night and it only began the following morning. The police did not investigate and Pilatus Bank was never searched.¹² VistaJet, the Swiss company that operated the flight from Malta to Baku and Dubai, soon after received an unprecedented EUR1m payment on the instructions of Prime Minister Muscat for "in-flight" advertising.¹³

The Police Force, rather than investigate and prosecute any of the actors implicated in the FIAU reports, has instead prosecuted aggressively the whistleblower from Pilatus Bank, Maria Efimova, who among other things confirmed Michelle Muscat's ownership of Egrant to Daphne Caruana Galizia.¹⁴ The Police charged Efimova with claiming unsubstantiated expenses for a work trip from Pilatus Bank, and confiscated her passport. Efimova, fearing for her safety, obtained an emergency travel document from the Russian Embassy in Malta and fled Malta in August 2017. The police have recently asked the Maltese magistrate on the case to issue through Europol and Interpol international and European arrest warrants for Efimova. Cyprus has since also reportedly issued an arrest warrant for Efimova after her former employer in Cyprus suddenly filed a criminal complaint against her for misappropriating funds four years earlier.¹⁵

Police Commissioner Lawrence Cutajar's Deputy is Silvio Valletta, who is married to a Cabinet Minister. Valletta, while Deputy Commissioner, is also Head of the Criminal Investigation Unit. His wife is Justyne Caruana, Minister for Gozo. Valletta was

⁹ <https://daphnecaruanagalizia.com/2014/03/one-of-the-six-new-assistant-police-commissioners-appointed-by-humpty-dumpty-says-on-facebook-that-malta-has-a-prim-ministru-vera-bil-bajd/>

¹⁰ <https://www.facebook.com/photo.php?fbid=10214888279619180&set=a.1126191553652.2021050.1193050109&type=3&theater>

¹¹ <http://www.independent.com.mt/articles/2017-04-21/panama-papers/Mysterious-flight-to-Baku-recorded-magistrate-at-Pilatus-Bank-6736173291>

¹² <http://www.independent.com.mt/articles/2017-04-25/local-news/Pilatus-CEO-on-luggage-footage-situation-could-have-been-handled-much-better-6736173517>

¹³ <https://lovinmalta.com/opinion/analysis/egrant-exposed-the-explainer-youve-been-waiting-for>

¹⁴ <https://www.timesofmalta.com/articles/view/20170802/local/police-commissioner-no-issue-with-having-deputy-married-to-a-minister.654684>

¹⁵ <https://euobserver.com/justice/140588>

promoted to his post in March 2017. As Deputy, Valletta is kept informed on all types of investigations conducted by the departments falling under his remit. Before becoming Deputy, Valletta represented the Police Commissioner on the board of governors of the FIAU. That is, Valletta was on the FIAU's board – and already married to Justyne Caruana - when the FIAU produced reports on the money-laundering activity of the Prime Minister's Chief of Staff Keith Schembri.¹⁶

The Police recently failed to press charges against Jimmy Magro, former Secretary General of the Labour Party, despite a recommendation made by the Commission Against Corruption at the start of 2017. Magro was found to have been soliciting bribes for public tenders under his administration.¹⁷

- The Commission Against Corruption was set up in the late 1980s with a broad brief to investigate complaints about public sector corruption but of about 425 investigations, the Police have not prosecuted a single case, claiming that their evidence threshold is higher.

¹⁶ <https://www.timesofmalta.com/articles/view/20170802/local/police-commissioner-no-issue-with-having-deputy-married-to-a-minister.654684>

¹⁷ <https://www.timesofmalta.com/articles/view/20171004/local/police-still-to-press-corruption-charges-against-jimmy-magro.659549>

The Planning Authority

The government in April 2016 brought into effect a law that split what was the Malta Environment and Planning Authority (MEPA), which was responsible for planning and environmental protection, into two *de jure* autonomous and independent authorities.

- The Planning Authority is now responsible for development planning while the Environment and Resources Authority is responsible for environmental protection. Both were planned to be independent from government, and from each other, checking one another's activities.
- However, the government appoints the Environment and Resources Authority's chairperson and director. Further, the Authority is only able to claim two out of seven seats in the Planning Authority's executive council. The Council, made up of government appointees, is the body that decides on land use policy while development permits are decided by the planning board.
- By hiving off and relegating environmental protection, and through the increased power and presence of government appointees, the April 2016 reforms have broadened the scope for political corruption in the land sector, just as new major real estate deals were being negotiated.¹
 - One of the Planning Authority's first major decisions was to grant a permit for a 38-storey tower, despite concerns about traffic flow and noise pollution raised by the case officer, and concerns raised by the Environment and Resources Authority about the visual and geological impact of the project, warning of "potential collapse of excavation".² The Gasan Group, a conglomerate that previously came under fire for its intimate links to senior government officials, leads the project.³

Land development permits have always been used for political patronage: A report published by Cambridge University Press in the Journal of Public Policy in October 2017 on political land corruption in Malta between 1993 and 2016 found:⁴ (1) Most development permits for zones classified as outside development zones (ODZ) are granted; (2) More ODZ permits are granted during election months; (3) After 2013 there was an 80% chance of an ODZ permit being awarded rather than rejected. However, since the bifurcation of MEPA into a Planning Authority and Environment and Resources Authority:

¹ See the coverage in Malta's media: Debono, J., Sliema - proposed Townsquare tower rises to 34 levels, MaltaToday 22 August 2014; Staff Writer, Government to rent public land to American University of Malta on the cheap, The Malta Independent on Sunday 30 August 2015.

² http://www.maltatoday.com.mt/news/national/66449/sliemas_38storey_townsquare_project_recommended_for_planning_approval. Accessed: 17 June 2016

³ See: Staff Writer, Tonio flies with big business, Debono accuses him of 'conflict', MaltaToday on Sunday, 11 October 2009.

⁴ <https://www.cambridge.org/core/journals/journal-of-public-policy/article/political-land-corruption-evidence-from-malta-the-european-unions-smallest-member-state/45A8FE6F96C486B65C770C0DD8FEEC56>

- 2016 alone saw 745 approved applications for construction projects on ODZ land, which is almost 250 more than the yearly average from 2006-2015.⁵ In the five weeks before the June 2017 general election, the Planning Authority issued 1,247 permits, an average of 38 permits per day.⁶
- During the same period, 588 illegalities were regularised by the Planning Authority through the regularisation scheme, 405 of which were issued in the final two weeks of the electoral campaign. In the last week before the June general election, a total of 261 illegalities were regularised compared to only 75 in the last week of April, 43 in the last week of June, and to 81 in the first week of July.

⁵ <https://lovinmalta.com/opinion/analysis/the-phrase-odz-has-officially-lost-all-of-its-meaning>

⁶ http://www.maltatoday.com.mt/environment/townscapes/78779/how_labour_revved_up_planning_authority_permits_before_election

The President of the Republic of Malta

The President is Malta's constitutional head of state, appointed by a resolution (simple majority) of the House of Representatives of Malta for a five-year term, taking an oath to "preserve, protect and defend" the Constitution (Constitution Article 50). The President also resides directly or indirectly in all three branches of the state. The President is part of the Parliament (Constitution Article 51) and responsible for the appointment of the judiciary (Constitution Article 96). Executive authority is nominally vested in the President, but is in practice exercised by the Prime Minister (Constitution Articles 51, 96, 98). The President can be removed from office by a resolution (simple majority) of the House of Representatives on the ground of inability to perform the functions of their office (whether arising from infirmity of body or mind or any other cause) or misbehaviour.

The political party that occupies most of the seats in the House of Representatives is able to appoint and remove the President, which in practice means that the Prime Minister, who always carries a majority in parliament, is the person who appoints or removes a President. As a result, a President's loyalty to a political party tends to take precedence over their oath to preserve, protect, and defend the Constitution.

- Marie-Louise Coleiro Preca was made President on 4 April 2014. Coleiro Preca was previously Joseph Muscat's Family and Social Solidarity Minister. As Minister, Coleiro Preca employed 15 consultants who were either Labour Party officials or family members of Labour Party officials.¹ Coleiro Preca has been active in the Labour Party for 40 years, serving as its General Secretary from 1982 to 1991, a period during which criminal elements dominated the Party. Coleiro Preca is a member of the Facebook group 'LABURISTI SAL MEWT.' – in English, 'Labourites until Death.'² President Coleiro Preca was filmed celebrating Joseph Muscat's re-election in 2017 with the Muscat family and Muscat's cabinet ministers.³
- The President has the power to make presidential pardons. In 2016, Coleiro Preca pardoned the Labour Party activist and Mayor of Zurrieq Ignatius Farrugia from serving four days in prison and paying a €2,400 fine for harassing journalist Daphne Caruana Galizia, who was a prominent Labour administration critic.⁴
- The President awards Malta's highest honour, the *Xirka Ġieħ ir-Repubblika* for exceptional merit in the service of Malta or humanity as a whole. In 2016, for example, Coleiro Preca awarded it to the former Secretary General of the General Workers Union, the Labour Party's official trade union, Tony Zarb, who is currently a consultant at the Office of Prime Minister Joseph Muscat. In October 2017 Zarb publicly labelled a group of women protesting the

¹ <http://www.independent.com.mt/articles/2013-12-10/news/ministry-for-the-family-truly-a-family-affair-3429629955/>

² <https://daphnecaruanagalizia.com/2017/05/head-state-member-facebook-group-laburisti-sal-mewt/>

³ <https://www.tvn.com.mt/en/news/joseph-muscat-sworn-in-as-prime-minister/>

⁴ <http://www.independent.com.mt/articles/2016-04-14/local-news/Zurrieq-mayor-gets-four-days-in-prison-for-harassing-Daphne-Caruana-Galizia-6736156329>

breakdown of rule of law in Malta as ‘prostitutes’ and ‘traitors’.⁵ He remains on the public payroll.

- The President acts as a fundraiser for the Malta Community Chest Fund, the President’s Trust, and the President’s Foundation of the Wellbeing of Society, bringing the President into close contact with powerful business interests.
- Coleiro Preca attended fundraising activities held at the Montekristo Estates, owned by property developer and Labour Party donor Charles ‘*Caqnu*’ Polidano, which is riddled with illegalities, including an unlicensed zoo. One activity was a “charity dinner” organised by the Malta Developers Association, a powerful lobby in Malta, with the proceeds going to the Malta Community Chest Fund. The President had also opened the *Fiera l-Kbira* (Great Fair) at Montekristo, and was pictured at the event accompanied by Charles Polidano. The President insisted that she has never visited the illegal parts of the complex.⁶
- The President Chairs the judicial Committee for the Administration of Justice, which has jurisdiction over the workings of the courts and the behaviour of judges, magistrates, lawyers and legal procurators. While Coleira Preca was Chair, the Committee was accused of dragging its feet while the government was accused of interfering in the process of investigating the cases of Labour-appointed Judge Lino Farrugia Sacco – whose son was a Labour Party candidate at the time – and Magistrate Carol Peralta.⁷ Both were accused of corruption, both retired before the Committee completed its investigations.
- The President takes an oath to preserve, protect and defend the Maltese Constitution, yet Coleiro Preca has been notably absent from current heated debates about the rule of law in Malta. The Chief Justice, Silvio Camilleri, on 2 October 2017 used his speech at the opening of the forensic year to express his concern about Malta’s deteriorating rule of law.⁸ The Prime Minister Joseph Muscat ‘noted’ the Chief Justice’s speech, but did not agree with his ‘interpretation’ of Malta’s situation.⁹ The President has yet to comment on the situation, only reiterating calls for ‘national unity’ in line with the government’s calls.

⁵ <http://www.independent.com.mt/articles/2017-10-27/local-news/Tony-Zarb-labels-protesting-women-as-traitors-likens-them-to-prostitutes-6736180727>

⁶ <http://www.independent.com.mt/articles/2016-01-03/local-news/I-did-not-know-Presidency-was-offered-to-Marlene-Farrugia-Marie-Louise-Coleiro-Preca-6736151169>

⁷ <http://www.independent.com.mt/articles/2016-01-03/local-news/I-did-not-know-Presidency-was-offered-to-Marlene-Farrugia-Marie-Louise-Coleiro-Preca-6736151169>

⁸ <https://www.timesofmalta.com/articles/view/20171002/local/courts-are-powerless-if-the-police-ag-fail-to-act-chief-justice.659418>

⁹ <https://www.timesofmalta.com/articles/view/20171006/local/pm-notes-chief-justices-concerns-about-rule-of-law.659728>

The Armed Forces of Malta (AFM)

The AFM are the combined armed services of Malta. It consists of 1,692 active personnel. Promotions in the AFM are used extensively as a tool of political patronage, a practice that accelerated rapidly since 2013. The Promotions Board of the AFM approves promotions in the AFM, according to AFM and ministerial policy. On the board is the Deputy Chief of Staff of the Home Affairs Ministry, which is responsible for the AFM.¹ The Director of Human Resources and the Minister at the Home Affairs Ministry are involved in senior rank promotions.

- The AFM's (highest post in AFM) is Jeffrey Curmi, a family friend of Prime Minister Muscat. Curmi was made brigadier in December 2013, a few months after Muscat's election. In 2013, Curmi held the rank of Major. By mid-September, Curmi had become Lieutenant Colonel; by late-September Lieutenant Colonel Curmi was made Deputy Commander of the AFM when the retirement of Colonel Attard, Deputy Commander, had become final. Attard retired after he refused to be transferred to another part of the civil service under an abusive 'exigencies of the service' rule. By December 2013 Brigadier Xuereb, the Commander of the AFM, had also resigned, allowing Curmi to slip into that position in an unprecedented three-month journey from a Major to a Brigadier and Commander of the Armed Forces.²
- Curmi's Deputy Commander, Mark Mallia, was promoted twice in four weeks to reach the required rank to take up the Deputy Command of the AFM.³
- 885 promotions were given by the AFM during the 33-day 2017 election campaign, with more than half the soldiers receiving a salary increase. The exercise continued throughout the election campaign, with a list of new promotions published in the Government Gazette on 2 June 2017 – the official day of silence on the eve of the election. AFM officials told The Times of Malta that this number of promotions before an election was unprecedented in the army's history and was expected to raise its wage bill substantially. The majority of promotions involved backdated appointments, some going back more than 20 years, to 1996. The soldiers will receive arrears for an alleged "injustice" suffered when they were not given a promotion on time.⁴
 - The Injustices Board was chaired by former AFM commander Brigadier Maurice Calleja, who had been compelled to resign his command in 1993 due to his son Meinrad and daughter Clarissa's use of the family home for drug trafficking.⁵

¹http://www.maltatoday.com.mt/news/national/41210/ministry_officials_role_on_afm_promotions_board_defended_in_parliament

² <https://daphnecaruanagalizia.com/2013/12/so-the-prime-ministers-personal-family-friend-has-been-handpicked-to-head-the-army-after-being-pulled-up-three-ranks-in-as-many-months-from-major-to-brigadier-via-lieutenant-colonel-and-colonel/>

³ <https://daphnecaruanagalizia.com/2015/09/armed-forces-of-maltas-deputy-commander-in-facebook-jacuzzi-pic/>

⁴ <https://www.timesofmalta.com/articles/view/20170715/local/half-of-the-army-promoted-during-electoral-campaign.653285>

⁵ <https://www.timesofmalta.com/articles/view/20130620/local/brig-maurice-calleja-to-head-commission-on-army-injustices.474715>

- On top of the 885 promotions, 114 persons (103 recruits and 11 office workers) were employed by the Armed Forces in the month leading up to the June 2017 general elections.⁶

⁶ <http://www.independent.com.mt/articles/2017-11-21/local-news/114-new-AFM-employees-in-month-leading-up-to-the-election-6736181763>

The Parliament

The Parliament is Malta's constitutional legislative body. It is unicameral, with a democratically elected House of Representatives and the President of Malta.

The House of Representatives is made up of 67 seats, currently 37 are taken by the governing Labour Party; 28 by the Nationalist Party; and two by the Democratic Party.

By Constitutional law, all government ministers, including the Prime Minister, must be members of the House of Representatives. The current government has co-opted all other Labour Party members of the House of Representatives into the government by providing them with lucrative public contracts or posts in state agencies, removing an important check on the executive branch of government.

- The below list shows the 31 Labour Party members of the House of Representatives, out of a total of 37 Labour Party MPs (84%), who have declared government appointments (some have multiple government appointments), including 14 ministers and the Prime Minister. There are also seven Nationalist Party MPs who are employed the government. The total proportion of MPs employed by the government is 56.7%.
 1. Abela, Carmelo: Minister for Foreign Affairs and Trade Promotion
 2. Abela, Robert: Information tabled in Parliament showed that the legal firm belonging to Abela and his wife Lydia was paid more than €500,000 by two government entities since March 2013, when Joseph Muscat was first elected.¹ Lydia Abela is the Labour Party's Executive Secretary
 3. Agius, Chris: Parliamentary Secretary for Planning and the Property Market
 4. Agius Decelis, Anthony: Commissioner for Simplification and Reduction of Bureaucracy at Office of the Prime Minister
 5. Bartolo, Evarist: Minister for Education and Employment
 6. Bedingfield, Glenn: Communications Aide at the Office of the Prime Minister
 7. Bonnici, Owen: Minister for Justice, Culture and Local Government.
 8. Borg, Ian: Minister for Transport, Infrastructure and Capital Projects, Parliamentary Secretary for EU funds and 2017 EU Presidency
 9. Camilleri, Byron: Government Whip, and until June 2017 Company Secretary of government-owned Malta Freeport Corporation Ltd
 10. Camilleri, Clint: Parliamentary Secretary for Agriculture, Fisheries and Animal Rights
 11. Cardona, Chris: Minister for the Economy, Investment and Small Businesses
 12. Caruana, Justyne: Minister for Gozo, married to Deputy Police Commissioner Silvio Valletta

¹ <http://www.independent.com.mt/articles/2017-11-17/local-news/PN-blasts-Robert-Abela-over-consultancy-fees-accuses-government-of-having-double-standards-6736181579>

13. Cutajar, Rosianne: Communications Coordinator, Office of the Prime Minister
14. Dalli, Helena: Minister for European Affairs and Equality
15. Debattista, Deo: Parliamentary Secretary for Consumer Protection and for Valletta 2018
16. Falzon, Michael: Minister for Family, Children's Rights and Social Solidarity
17. Farrugia, Aaron: Parliamentary Secretary for European Funds and Social Dialogue, Visiting Lecturer, University of Malta, until June 2017, CEO of government-owned Malta Freeport Corporation
18. Farrugia, Michael: Minister for Home Affairs and National Security
19. Farrugia Portelli, Julia: Parliamentary Secretary for Reforms, Citizenship and Simplification of Administrative Processes
20. Fearne, Chris: Health Minister, Deputy Prime Minister, House Leader
21. Galdes, Roderick: Parliamentary Secretary for Social Housing
22. Grima, Clifton: Parliamentary Secretary for Youth, Sport and Voluntary Organisations
23. Herrera, José: Minister for the Environment, Sustainable Development and Climate Change, brother to Magistrate Consuelo Scerri Herrera, father to Commissioner of Justice Martina Herrera
24. Mallia, Emanuel: chairperson of the Occupational Health and Safety Authority
25. Mizzi, Joe: Minister for Energy and Water Management
26. Mizzi, Konrad: Minister for Tourism
27. Muscat, Alex: Deputy Chief of Staff, Office of the Prime Minister of Malta
28. Muscat, Joseph: Prime Minister
29. Parnis, Silvio: Chairperson of consultative council for the south of Malta
30. Schembri, Silvio: Parliamentary Secretary for Financial Services, Digital Economy and Innovation
31. Scicluna, Edward: Minister for Finance

On the opposition side:

1. Clyde Puli: shadow Family and Social Solidarity and employed by government Foundation for Medical Services
2. Kristy Debono: Minister Financial and Services Sector, employed by government Malta Gaming Authority
3. David Agius: Shadow Minister for Citizen Rights, employed by government Malta Freeport Corporation
4. Mario de Marco: employed by government Malta Enterprise
5. Herman Schiavone: employed by government Public Works Department
6. Toni Bezzina: employed in government Public Works Department
7. Robert Cutajar: employed in government Animal Welfare and Promotion Services Directorate

Public Broadcasting Services (PBS)

PBS is a wholly owned government limited liability company. It operates one general interest television channel and three radio stations. PBS is directed by a Board, which is appointed by the government. A CEO runs PBS and is answerable to the Chairman.

- PBS' recent CEO, John Bundy, was previously a television presenter. He was appointed CEO by the Justice Minister (responsible for PBS), and ultimately by the Prime Minister, in August 2016 and forced out by the PBS' board on 8 November 2017. Bundy was sacked by the PBS Board after apparently breaking PBS public procurement rules and sexually harassing a member of staff.¹

Although PBS is government-owned, and while its board is government nominated and appointed, PBS also has "Guidelines on the Obligation of Due Impartiality", which seek to ensure that divergent views are presented objectively.² In practice, this means giving equal airtime and providing equal coverage of views from the two main political parties. As such, PBS employees are debarred from associating themselves "with a political party or undermin[ing] the perception of the impartiality, integrity, independence and objectivity of PBS".

- The Head of News, currently Reno Bugeja, is responsible for due impartiality in news and current affairs programmes. Bugeja has been criticized for not exercising due impartiality. For example, Bugeja chose not to cover a Nationalist Party press conference (party press conferences are normally covered) in 2015³ and was shown to be selective in his coverage of politicians' comments on social media.⁴ PBS ignored a request from the Nationalist Party to cover the 14 November 2017 European Parliament debate on the rule of law in Malta.⁵ PBS also failed to cover mass civil society protests in the wake of Daphne Caruana Galizia's assassination.
 - Complaints about due impartiality must be made to the Broadcasting Authority. The President appoints the Chairman and members of the Broadcasting Authority on the advice of the Prime Minister and after consulting with the Opposition Leader. Tanya Borg Cardona, formerly an associate of John Dalli (see Appendix C), chaired the Broadcasting Authority until 28 March 2017 while being employed as a 'person of trust' by the Deputy Prime Minister. She was compelled to resign after her mismanagement of the Authority led to industrial action by its staff. She remains employed by the government in another capacity.

¹ <http://www.independent.com.mt/articles/2017-11-08/local-news/PBS-board-sacks-CEO-John-Bundy-over-breach-of-procurement-regulations-6736181230>

² <http://merlin.obs.coe.int/iris/2012/6/article27.en.html>

³ <http://www.independent.com.mt/articles/2015-05-17/newspaper-opinions/Dissecting-PBS-s-lack-of-impartiality-6736135645>

⁴ <http://www.independent.com.mt/articles/2016-04-15/local-news/Reno-Bugeja-caught-lying-on-PBS-policy-about-Facebook-comments-PN-6736156384>

⁵ <https://www.timesofmalta.com/articles/view/20171113/local/pbs-ignores-pn-request-to-air-european-parliament-debate.662990>

Her replacement, George Mifsud died a few months after taking up the post. Mifsud was the first employer of Michelle Muscat, the Prime Minister's wife and had strong business connections to John Dalli. His successor, Martin Micallef, was appointed unconstitutionally, without the consultation of the Opposition Leader.⁶

- CEO, Joanne Spiteri, manages its day-to-day work. She is the niece of the Head of News of PBS, Reno Bugeja. Complaints about PBS' due impartiality, including the editorial line of her uncle Reno Bugeja, are processed by her, his niece.⁷
- At lower levels, governments affect due impartiality by staffing PBS' newsroom with political party employees. After the Labour Party was elected in 2013, for example, there was an 'exodus' of journalists and presenters from the Labour Party owned media to the PBS news room.⁸ Journalists from Nationalist Party owned media who applied for PBS jobs were rejected. In this way, apart from shifting the costs of the governing party's media onto the public payroll, PBS can also be used as a tool of political patronage.
- Similarly, by dropping programmes run by anti-government or insufficiently pro-government presenters and buying programmes run by pro-government presenters, PBS can also dispense patronage as well as affect due impartiality. In August 2016, the general interest programme of Salvo Dimech was dropped after his vocal criticism of then Energy Minister Konrad Mizzi and the Prime Minister's Chief of Staff Keith Schembri following their appearance in the Panama Papers. After the 2013 elections, Saviour Balzan, the editor of the nominally independent newspaper MaltaToday, was given a PBS contract to host a prime time discussion show as well as a contract to produce a cooking show. His sister, Mariella Dimech, was also given a PBS contract to host a television show. Meanwhile popular shows Bondi+, Times Talk and TVHemm were dropped for what were widely perceived as political reasons. TVHemm presenter Norman Vella is fighting a case against the government for political discrimination. The Malta Independent newspaper applied to host a political talk show but was rejected by PBS.⁹

⁶http://www.maltatoday.com.mt/news/national/75778/uhm_insists_prime_minister_has_full_authority_to_intervene_in_ba_dispute#.WhTRNmSMi34

⁷<https://daphnecaruanagalizia.com/2016/10/niece-tvm-head-news-appointed-broadcasting-authority-ceo/>

⁸<http://www.maltatoday.com.mt/news/national/32035/new-pbs-reporters-hollow-out-labour-newsroom-20131204#.WhTB1WSMi34>

⁹<http://www.independent.com.mt/articles/2016-08-22/local-news/PBS-axes-popular-presenter-Salvo-Mallia-s-show-Madwarna-6736162715>

The University of Malta

The University of Malta is the highest academic institution in Malta and its main university. It is publicly funded. Its supreme governing bodies are its Council, responsible for general administration, and its Senate, responsible for academic matters. The university's rector is responsible for strategic and major administrative decisions.

The government published a planned University Act in April 2017:¹ which aims to take strategic decisions out of the rector's hands and place them into a board appointed and controlled by the Prime Minister. The proposed University Act:

- Create a new governing board tasked with approving the University's plans and decisions, including its annual budget, academic plan and business plan. The board will be chaired by the University Chancellor and will include between three to five members -- all directly appointed by the Prime Minister. According to the document, this is being done "because the institution is publicly funded."
- The board's members must not be MPs, must not have any direct interest in the University or government ministries, must have experience in managing large organisations and must be skilled in overseeing financial management and human resources. The Rector will not be part of this board, but will be "encouraged to attend meetings whenever he is invited to do so."
- Instead, the Rector will form part of an executive board, alongside a chief operations officer and a non-academic chosen by the University Council. This executive board will get to *formulate* strategic and institutional plans for the University, but will first have to send them to the governing board for approval.

The University Act's consultation period closed on 30 November 2017.

¹https://meae.gov.mt/en/Public_Consultations/MEDE/Pages/Consultations/UniversityofMaltaActIncreaseAccessBetterQualityAVisionforTomorrowsUniversityinthemodernworld.aspx

Collusion and Capture: Henley & Partners and the Maltese Government

Henley & Partners is a private firm registered in Jersey that designs and operates citizenship-for-sale programmes. In 2013, the media discovered that the newly elected Maltese government agreed with Henley & Partners to sell Maltese/EU citizenship. Upon re-election in 2017, Muscat's government renewed its commitment with Henley & Partners to continue to sell Maltese citizenship.

- The citizenship-for-sale plan never featured in the Labour Party's 2013 electoral manifesto. The government also failed to advertise properly the tender in international publications, leaving Henley & Partners as the only credible bidder to both design and run the scheme.
- Reports in the media, and one opposition member of parliament, suggested that Henley & Partners struck a pre-electoral deal with the Labour Party before it was elected in 2013.¹ There are four pieces of evidence consistent with this:
 1. The scheme did not feature in the Labour Party electoral manifesto yet hit the media as a fully formed plan. Henley & Partners began marketing Maltese passports before the scheme was even approved by the Maltese Parliament.²
 2. The Labour Party, which had been in opposition since 1998 before winning the 2013 election, ran a highly sophisticated and costly election campaign of an intensity previously unseen in Maltese history. Political parties in Malta are not legally bound to disclose their funding.
 3. Henley & Partners are active in Antigua, Grenada, and St Kitts & Nevis, where their passport sale schemes have come under fire for their use as money laundering vehicles. Journalists in the Caribbean have uncovered that Henley & Partners worked with campaign-financing and management outfit SCL Elections (parent company of Cambridge Analytica) to approach political parties in the Caribbean, propose that Henley & Partners finance and SCL Elections run their electoral campaign, on condition that once elected, the political party grants them the concession to sell their country's passports.³
 4. Henley & Partners' Chairman Christian Kälin knew as early as 2 April 2017 that Prime Minister Joseph Muscat was planning and preparing for an early election to be held on 3 June 2017.⁴ Muscat announced the election on 1 May 2017. Upon Muscat's re-election in 2017, his government renewed its commitment with Henley & Partners to sell more Maltese passports.

¹ <https://daphnecaruanagalizia.com/2014/02/the-point-were-all-missing-henley-partners-now-has-a-vested-commercial-interest-in-keeping-labour-in-power-against-all-odds/>

² <https://daphnecaruanagalizia.com/2013/10/henley-partners-the-presentation-they-are-making-to-russians-even-before-the-maltese-parliament-has-voted-on-the-sale-of-passports-bill/>

³ <http://www.nowgrenada.com/2017/09/keeping-an-eye-on-the-peoples-business-spotlight-on-henley-and-partners-citizenship-by-investment-programme-diplomatic-passports-and-general-elections/>

⁴ <https://daphnecaruanagalizia.com/2017/05/lecture-good-journalism-somebody-made-millions-selling-passports-shady-people-worst-parts-globe/>

In the first years of the scheme, over 1,000 passports were sold at €650,000 each. The figure excludes family dependants, who pay less. Buyers have been mainly from Russia, Central Asia, China, Vietnam and the Middle East – high-risk money laundering jurisdictions.

In early 2014, the European Parliament approved a non-binding resolution that an EU passport should not have a price tag. Malta later slightly tightened eligibility criteria, agreeing to publish the names of buyers but refusing to impose a binding residency requirement for applicants following an intervention from the European Commission and the Opposition in the Maltese parliament. The government took Henley & Partners to its talks with the European Commission.⁵

- As part of the scheme, passport buyers are required to rent or buy Maltese property. This followed lobbying by the Malta Developers Association,⁶ which has close funding ties to the Labour Party and the President of Malta.⁷ Henley & Partners set up a real estate agency before this condition was announced, in order to take a commission not only on the sale of passports but also on property contracts. Buyers must either buy property of at least €350,000 and maintain ownership for at least five years, or lease a property for the same period with a minimum annual rent of €16,000. Predictably, this policy has inflated Maltese property prices as they are out of sync with local earnings – passports are sold to the global elite – and priced many Maltese citizens out of the market. Most passport buyers do not take up residence in Malta, leaving their property either empty or double-leased as a recent investigation by the BBC uncovered.⁸ The lack of effective checks on a notional one-year residency requirement and the source of funds used by third country nationals to buy passports and property in Malta, which then enable the opening of bank accounts and the purchase of property and companies throughout the EU, create significant tax evasion and money laundering risks.
- As part of the scheme, a senior government official – usually the Prime Minister – is legally contracted by Henley & Partners to appear at passport sale conferences. By May 16, 2017 Prime Minister Joseph Muscat and his Chief of Staff Keith Schembri attended 11 international passport sale roadshows.⁹ One week after journalist Daphne Caruana Galizia, a frequent and vociferous critic of Henley & Partners and the Prime Minister, was

⁵ <https://daphnecaruanaGalizia.com/2014/01/the-government-has-included-henley-partners-in-its-talks-with-the-european-commission/>

⁶ <http://www.maltatoday.com.mt/news/national/36085/sandro-chetcuti-is-labour-volunteer-says-party-ceo-20140127#.VYQQ67p5efQ>

⁷ <http://www.independent.com.mt/articles/2016-01-03/local-news/I-did-not-know-Presidency-was-offered-to-Marlene-Farrugia-Marie-Louise-Coleiro-Preca-6736151169>

⁸ <http://www.bbc.co.uk/programmes/w3cstx0h>

⁹ <https://www.timesofmalta.com/articles/view/20170516/local/pm-accepts-henley-partners-advice-to-sell-more-passports.648128>

assassinated, throwing Malta into crisis, Muscat flew to Dubai to market Maltese passports to a “Global Citizenship Seminar in Dubai at the luxurious Palace Hotel in Downtown Dubai”, as advertised on Henley & Partners’ website.¹⁰ When the European Parliament debated the rule of law in Malta on November 14, 2017, a debate to which Joseph Muscat was formally invited, Muscat was at a similar passport sales conference in Hong Kong.¹¹

- Henley & Partners Chairman Christian Kälin, Prime Minister Joseph Muscat, his Chief of Staff Keith Schembri, Justice Minister Owen Bonnici, and Head of Identity Malta Jonathan Cardona colluded to subject journalist Daphne Caruana Galizia to multiple, sustained legal threats in different jurisdictions. An email exchange was leaked to Daphne Caruana Galizia that showed Kälin asked all the aforementioned government officials – addressing the Prime Minister and his chief of staff as ‘Keith and Joseph’ – for the green light to send threatening legal letters to Daphne Caruana Galizia using London law firm Mishcon de Reya. The Prime Minister replied with “I don’t object” and his chief of staff with: “Thanks, Chris. This looks good. Very kind regards.” Crucially, the government officials were all using email addresses belonging to Joseph Muscat’s personal domain – @josephmuscat.com – the server of which is registered in the USA, outside the reach of Maltese authorities.¹²
- As discussed in the FIAU section of this note, FIAU Report A dated 7 April 2016 found the Prime Minister’s chief of staff Keith Schembri was laundering money received from passport sale kickbacks through Pilatus Bank. The report shows bank transfers made through the domestic bank account of Willerby Trade Inc., a company registered in the British Virgin Islands, ultimately owned by Brian Tonna (who has direct links to Prime Minister Muscat), in favour of a domestic bank account held in the name of the Prime Minister’s Chief of Staff, Keith Schembri, a person who falls within the definition of a “politically exposed person” (PEP) under the Prevention of Money Laundering and Financing of Terrorism Regulations. The report found that sufficient information is available to conclude that a reasonable suspicion of money laundering subsists in this case. This report was presented to the Police Commissioner who was duty bound to act on it but failed to do so.
- The government has developed a revenue dependency on the sale of Maltese passports. The first run – 2013-2017 – of the passport sales scheme is estimated to have raised €1.2bn, almost a third of annual government revenue.¹³ Muscat’s self-described ‘economic miracle’, symbolised by the

¹⁰ <http://www.independent.com.mt/articles/2017-10-24/local-news/Prime-Minister-Joseph-Mscat-heads-for-Dubai-to-address-Global-Citizenship-Seminar-6736180608>

¹¹ <http://www.independent.com.mt/articles/2017-11-14/local-news/Live-European-Parliament-debating-rule-of-law-in-Malta-6736181405>

¹² <http://www.independent.com.mt/articles/2017-05-31/local-news/PM-Schembri-colluded-with-Henley-in-media-threat-plan-used-unofficial-email-addresses-6736174955>

¹³ <https://www.ft.com/content/6f98892e-fbf3-11e5-b3f6-11d5706b613b>

€8.9m budget surplus of 2016 is accounted for by passport sales, which made the government €163.5m in revenue that year. 70% of passport sales revenue goes to the National Development and Social Fund – it is unclear what this Fund is used for and unclear where the remaining 30% goes.¹⁴ What is clear is that it provides the government with a large revenue stream (more political influence) that is independent of its tax base (less political accountability) and that can be used for political patronage. The recently announced 2018 government budget did not introduce any new taxes, allowed workers an additional day of leave, increased the minimum wage and the inflation-adjusted allowance, provided tax refunds for all individuals working on a full time or part time basis earning less than €60,000 (high income), pension increases, property subsidies, heavy infrastructure investment, VAT exemptions, and more.

¹⁴ <https://www.timesofmalta.com/articles/view/20171023/local/1635m-from-passport-programme-turned-deficit-to-surplus.661176>

The Media

Malta's media landscape is highly polarised. The Nationalist Party and Labour Party each own a television station, radio station, and newspapers. The party in government gets to control the national broadcaster, PBS, despite its nominal autonomy (see PBS section in this note). People who vote for the Labour Party tend to only consume Labour Party and state-owned media while the same can be said for the Nationalist Party's media and their voting base. There are three English-language daily newspapers - The Times of Malta, The Malta Independent, and MaltaToday – and two daily updated English-language news websites - LovinMalta and The Shift, which launched at the end of October 2017.

Malta has no journalism school. The one journalism module offered at the University of Malta is taught by cabinet minister for education Evarist Bartolo and Adrian Hillman, who was Managing Director of Allied Newspapers, which owns The Times of Malta, before being asked to resign after an FIAU report found that he had between 2010 and 2015 received several large payments from the Prime Minister's Chief of Staff Keith Schembri at his Pilatus Bank account (see FIAU Report C in this note's FIAU section).

As well as co-opting The Times of Malta and Sunday Times of Malta, through Managing Director Adrian Hillman, the Prime Minister's Chief of Staff Keith Schembri also co-opted MaltaToday through its Editor-Owner Saviour Balzan. Daphne Caruana Galizia received leaked telephone calls that showed calls from Keith Schembri to Saviour Balzan, some as late as 1 a.m., which coincided exactly with pro-government stories published in Balzan's paper.¹ Following this incident, MaltaToday's three most senior reporters moved to other outlets: James Debono and Jurgen Balzan to The Shift and Tim Diacono to LovinMalta.

The Institute of Maltese Journalists is a trade union rather than an advocate for journalists' rights and protection. Following Daphne Caruana Galizia's assassination on 16 October 2017, the Institute said it plans to log threats received by journalists. Its main activity is hosting and awarding the Malta Journalism Awards for which journalists nominate themselves.

Malta's laws are hostile towards journalists and media freedom.

- Libel laws: the fees and court expenses for filing a civil suit for libel are low and therefore not a bar to frivolous and vexatious cases. There is no penalty to be paid by those who file cases unnecessarily, even if they eventually lose the case. Meanwhile, the journalist who has been sued has to pay a lawyer to defend them, pay fees to file a formal response to the suit, and go to many court hearings over the course of several years. Even if the journalist is cleared of libel, he or she has still paid a heavy price in terms of stress, time wasted and money spent. The unpredictability of court judgments adds further stress.

¹ <https://daphnecaruanagalizia.com/2017/04/saviour-balzankeith-schembri-1am-phone-call-scandal-now-can-see-libel-courts-abused/>

- Criminal Defamation: here there is no bar. The politician or other public person who feels libelled will file a formal request for the police to prosecute the journalist, and the police are obliged to comply as they cannot ignore a formal request. The complainant pays nothing, as this is a police prosecution and not a civil suit. Meanwhile, the journalist must pay lawyers for their defence and be present at every court hearing as required under Maltese law.

Daphne Caruana Galizia, Malta's most prominent and influential journalist was subjected to relentless government and Labour Party-sponsored harassment.

- When Daphne Caruana Galizia died, there were 47 libel suits against her – 42 in the civil courts, and five in the criminal courts. People in or close to the current government filed most of the 47 libel suits against Daphne Caruana Galizia. One Labour Party donor and government backer, Silvio Debono, filed 19 libel suits against her for one report.
- Malta's economy minister Christian Cardona and his aide Joe Gerada had Daphne Caruana Galizia's bank accounts frozen in early 2017 after filing four libel suits against her and requesting precautionary warrants on her assets, a measure previously unheard of in libel cases. The Council of Europe Platform to Promote the Protection of Journalism and Safety of Journalists issued a Level 2 Alert (Level 1 is the most severe). The Government of Malta in its formal response referred to Daphne Caruana Galizia as a "hate blogger. The precautionary warrants were never lifted and Daphne Caruana Galizia died without access to her own bank accounts.
- For the last years of her life, Daphne Caruana Galizia fought abusive tax investigations. Up until her assassination, Caruana Galizia was still contesting a EUR1.3m tax assessment instituted by the government. The assessment was initiated by Ivan Portelli, Director of Operations, VAT Department, who was sacked from the Malta Police Force in 2001 for suspected involvement in a bank robbery. Caruana Galizia reported on Portelli's links to Labour Party donor Silvio Debono and his undeclared assets.
- In 2016, then energy minister, now tourism minister, Konrad Mizzi sued Daphne Caruana Galizia for libel and criminal defamation for her reporting on evidence from a confidential source that Mizzi had an extramarital affair with his communications aide. As part of Mizzi's case against Caruana Galizia, Mizzi argued that Daphne Caruana Galizia was not a journalist, but a "blogger", which would mean that Daphne Caruana Galizia had no legal right to protect her sources. Daphne Caruana Galizia contested this, forcing the court into the absurd position of having to rule on whether she, Malta's most prominent journalist, was in fact a journalist.
- Prime Minister Joseph Muscat sued Daphne Caruana Galizia's son, Pulitzer Prize-winning data journalist Matthew Caruana Galizia, for libel for his reporting on evidence that Muscat is implicated in the 'Panama Papers'. Matthew Caruana Galizia was, around the time of his Panama Papers reporting, harassed by Labour Party-owned media, which accused him of being, among other things, a drug dealer.

- Muscat's 2013-2017 government first proposed The Media and Defamation Bill on 28 February 2017. The stated aim of the Bill was to revise libel and criminal defamation laws. The reaction to the Bill was negative. Among its features:
 - Increase the quantity of moral damages in libel cases from the current €11,000 (125% of Malta's annualised minimum wage) to €20,000 and incitement against the President of the Republic, from €1,164 to €5,000.
 - The introduction of the concept of defamation of deceased persons.
 - The establishment of a media registrar, who would keep a media register for the purpose of registration of newspapers and websites. Not registering with the registrar would mean not being admitted the profession of 'journalist' and therefore not being allowed to protect sources.

Muscat's 2017- government then proposed a renewed Media and Defamation Bill on 15 November 2017; a month after Daphne Caruana Galizia was assassinated. Among its features:

- Libel damages have been retained as they are at €11,000 (125% of Malta's minimum wage), rather than increased to €20,000 as initially proposed. Existing libel cases will continue.
- It prohibits the issue of precautionary warrants in defamation cases, meaning warrants such as those sought earlier this year by Economy Minister Chris Cardona against Daphne Caruana Galizia would no longer be permitted.
- It makes registration with the media registrar voluntary.
- It removes criminal libel.

The revised Bill has not been published and is likely to be revised again; Justice Minister Owen Bonnici and Education Minister Evarist Bartolo only presented it to the media on 15 November 2017. The revised Bill does not address serious structural issues with Malta's media landscape: government control of PBS and political party-owned media. Asked whether the Bill will provide protection to Maltese journalists sued in foreign jurisdictions, Bartolo and Bonnici said that this had never happened and would therefore not be necessary, despite the fact that reports had already emerged that all of Malta's independent media had been successfully intimidated by threats in foreign jurisdictions.²

Shortly after Daphne Caruana Galizia was assassinated, stories emerged that Pilatus Bank sent legal letters from high profile law firms in London and Washington DC to every one of Malta's media houses, except the Labour Party-affiliated ones, threatening to sue them in those jurisdictions unless they remove or edit all coverage of Pilatus Bank. One lawsuit was instituted against Daphne Caruana Galizia in

² <http://www.independent.com.mt/articles/2017-11-15/local-news/Government-presents-revamped-press-bill-discouraging-frivolous-libel-cases-6736181476>

Arizona, US, without her knowledge.³ The threats totalled damages of tens of millions of dollars per media house. These legal threats are called SLAPPS: Strategic Lawsuit Against Public Participation, a malicious or frivolous lawsuit (or threat thereof) that chills speech.

- By 25 October 2017, The Times of Malta, The Malta Independent, and MaltaToday acknowledged removing or editing a number of old reports on their on-line archive relating to Pilatus Bank.⁴
- On 25 October 2017, European Peoples Party MEP David Casa said on Facebook that Pilatus Bank had “gone to great lengths to suppress the truth about their money laundering violations and their links to Maltese politicians in power exposed by the Panama Papers [leaks].” He said “the threat of multi-million [euro] lawsuits” was evidence of “harassment and an attempt to silence the press. We have to put a stop to it.”⁵ Casa has continued to campaign online, in the Maltese media, European Parliament, and to the European institutions about this.

³ <https://www.theguardian.com/world/2018/feb/02/daphne-caruana-galizia-was-being-sued-defamation-at-time-of-her-murder>

⁴ <https://lovinmalta.com/news/news-breaking/mep-calls-for-protection-of-media-against-harassment-by-pilatus-bank>

⁵ <https://www.politico.eu/article/pilatus-bank-maltese-mep-accuses-of-harassing-press/>

National Statistics Office

The National Statistics Office (NSO) is the executive arm of the Malta Statistics Authority. The NSO is responsible for the collection, compilation, analysis and publication of economic and labour market statistics, among other areas, which feed into European statistics, including on Malta's public debt and deficit. It is a technical agency, which usually operates independently of the government of the day.

- Four months after the Labour Party won power in March 2013, Finance Minister Edward Scicluna replaced the Chairman of the Malta Statistics Authority, which supervises the work of the NSO, with Albert Leone Ganado, an IT professor who chaired the Labour-Party-aligned Campaign for National Independence, an anti-EU lobby group, in Malta's lead-up to EU accession in the early 2000s, raising concerns about its continued independence.¹ Breaking with the traditional impartiality of the role, Leone Ganado soon began entering into spats with Opposition MPs.²
- A year later, in September 2014 Finance Minister Edward Scicluna, publicly contradicted the NSO's public sector employment statistics, claiming a steep rise in government jobs was due to a 'reclassification'. This claim was refuted by director-general Michael Pace Ross.³ Two months later, in November 2014, he was informed that his contract would not be renewed.⁴
- Michael Pace Ross's successor, Reuben Fenech, resigned in December 2017, six months ahead of the end of his term, citing 'personal reasons'. The Times of Malta reported an 'uneasy relationship' with Finance Minister Edward Scicluna.⁵ His successor has not yet been appointed.

¹ <https://daphnecaruanagalizia.com/2013/07/finance-minister-appoints-ex-chairman-of-the-anti-eu-membership-lobby-group-cni-campaign-for-national-independence-to-the-chairmanship-of-the-malta-statistics-authority/>

² <https://daphnecaruanagalizia.com/2014/08/no-proper-way-for-the-statistics-authority-chairman-to-respond/>

³ <https://www.timesofmalta.com/articles/view/20140917/local/NSO-public-worker-rise-not-due-to-classification.536044>

⁴ <https://www.timesofmalta.com/articles/view/20141111/local/NSO-chief-to-be-replaced-as-contract-not-renewed.543520>

⁵ <https://www.timesofmalta.com/articles/view/20171229/local/nso-chiefs-resignation-confirmed-only-weeks-later.666682>

Appendix A: Malta and Azerbaijan

A chronology of Malta's relationship with Azerbaijan can be found in a Malta Independent report of 23 April 2017,¹ but it is now a few months old and misses details and events highlighted below.

- Azerbaijani oligarchs consider Malta to be “one of its provinces”, according to an extensive report from the 80-NGO-member Civic Solidarity Platform into how Azerbaijan uses “caviar diplomacy” to buy the influence of Western politicians.²
- The recent Paradise Papers leak shows a number of financial links between Malta and Azerbaijan: Azeri billionaire Mubarak Mansimov, listed by Forbes as one of the richest people in the world, is linked to over 100 Maltese companies as part of his Palmali shipping group. Several other Azeris linked to Maltese shipping and maritime companies are also expected to show up.³
- A Maltese shell company has featured as one of the vehicles used in a network of holding companies to house the financial interests of Ilham Aliyev's daughters in the country's largest mobile phone business, Azercell. FA Invest Malta Limited, a company located in Birkirkara, was created in October 2011 to take over a 6.5% shareholding from a shareholding company of Azercell.⁴
- While an MEP, Joseph Muscat was a member of the EU-Azerbaijan Parliamentary Committee. His membership lasted until 2008, the year in which he became Leader of the Malta Labour Party, before he was elected Prime Minister in 2013.⁵
- Maltese Labour Party MPs are known for their support of Azerbaijan in the Parliamentary Assembly of the Council of Europe (PACE).
 - Joseph Debono Grech, a long time Labour Party MP, former minister, and PACE member in the Socialist Group. In 2009, Debono Grech was elected PACE co-rapporteur on human rights in Azerbaijan, competing with a Norwegian MP known for her human rights credentials. Much of the mobilisation ahead of his election was led by Azerbaijan and its allies.² On his visits to Azerbaijan and in his commentary about the country, Debono Grech failed to mention any human rights abuses whatsoever. Debono Grech served as co-rapporteur for six years, during which he visited Azerbaijan some 30 times.⁶
 - Anglu Farrugia, a long time Labour Party MP, currently Speaker of the Maltese Parliament, observed many elections in Azerbaijan and always

¹ <http://www.independent.com.mt/articles/2017-04-23/panama-papers/The-Malta-Azerbaijan-connection-chronology-of-a-saga-6736173362>

² https://civicsolidarity.org/sites/default/files/az_lobbying_corruption_report_10_march_2017_public_version_color_1.pdf

³ https://www.timesofmalta.com/articles/view/20171105/local/new-leak-puts-spotlight-on-malta.662350?utm_source=tom&utm_campaign=top5&utm_medium=widget

⁴ http://www.independent.com.mt/articles/2015-06-07/local-news/Malta-shell-company-helps-Azerbaijan-s-ruling-family-gain-millions-at-country-s-expense-6736136878#_blank

⁵ <https://daphnecaruanagalizia.com/2017/05/start-muscats-corrupt-relationship-azerbaijan/>

⁶ http://www.maltatoday.com.mt/news/national/80380/azerbaijani_laundromat_includes_two_malta_firms#.WhQ3A2SMi34

spoke in highly positive terms about them, ignoring electoral fraud and gross human rights violations. In October 2013, Farrugia described the presidential elections in Azerbaijan as “fair, democratic and transparent.”² His assessment sharply conflicted with that of ODIHR observers.

- Malta also has an important relationship with the Azerbaijani government through a newly built gas plant that will use liquefied natural gas provided by the Azerbaijani state company SOCAR. Then Energy Minister Konrad Mizzi used his ‘ministerial discretion’ in December 2014 to sign an 18-year agreement in which Malta now buys gas from SOCAR. Malta’s Auditor General found the agreement lost Malta €14 million in its first year.⁷
- SOCAR forms part of the ElectroGas consortium supplying liquefied natural gas to the new 250MW gas-fired power station in Malta. Malta has been hosting SOCAR since 2007 thanks to its favourable tax regime, exempting foreign companies from paying tax on profits generated outside of the island.²
 - The relationship between the Maltese government, ElectroGas and SOCAR is widely viewed as corrupt.⁸
- Prime Minister Muscat, his Chief of Staff Keith Schembri, Energy Minister Konrad Mizzi went on numerous secretive and some secret trips to Baku in which they signed energy deals.⁹
 - Soon after their trip, Mizzi and Schembri opened companies in Panama, held by trusts in New Zealand, which came out of Daphne Caruana Galizia’s reporting on the Panama Papers.¹⁰
- In 2014, Azerbaijan’s ruler’s daughter Leyla Aliyeva personally brought to Malta a children’s photography exhibition as the Vice-President of Heydar Aliyev Foundation, where she was toasted by Malta’s President.¹¹
- American University of Malta (AUM) – a private and highly controversial tertiary education institute, to be built on environmentally protected land, that has failed to recruit students: its provost is John Ryder, who was rector of Khazar University of Baku, Azerbaijan.¹² AUM’s librarian, Rex Steiner, also worked in Baku.¹³ More substantively, Prime Minister Muscat went to Azerbaijan in 2015 to address a conference called 'The Third Global Baku Forum: Building Trust in the Emerging/New World Order' organised by the

⁷ <http://www.independent.com.mt/articles/2015-03-10/local-news/Auditor-General-s-report-indicates-why-Maltese-have-been-paying-more-for-fuel-Busuttil-6736131958>

⁸ <https://globalriskinsights.com/2017/05/failure-largest-lender-azerbaijan-worries/>

⁹ <http://www.independent.com.mt/articles/2014-12-21/local-news/Malta-s-shady-deal-with-Azerbaijan-raises-questions-6736127681>

¹⁰ <https://daphnecaruanagalizia.com/2016/02/breaking-now-konrad-mizzi-keith-schembri-the-deal-in-baku-and-why-youre-paying-so-much-for-your-fuel/>

¹¹ <https://daphnecaruanagalizia.com/2014/02/heres-the-photo-you-have-to-go-to-the-azerbaijan-dictatorship-press-to-see-the-maltese-prime-ministers-wife-entertaining-the-azeri-dictators-daughter-in-what-appears-to-be-one-of-maltas-state/>

¹² <https://daphnecaruanagalizia.com/2016/09/baku-american-university-malta/>

¹³ <https://lovinmalta.com/news/news-breaking/this-is-what-the-american-university-of-malta-looks-like-two-years-later>

Azeri think-tank Nizami Ganjavi International Centre. Muscat was a distinguished guest – sat at the front row a few seats away from Aliyev and also at the same table with him. Two days later, Muscat had a private meeting with Aliyev plans were announced for Malta and Azerbaijan to "cooperate in the education sector". Four days later, Muscat and Hani Saleh, the Jordanian owner of Sadeen Group, who signed a contract with the Maltese government to open AUM – announce plans for the AUM. In May 2016, a delegation from the Nizami Ganjavi International Centre travels to Malta to meet Muscat at Castille. Sadeen was granted a university license on 19 September 2016. A few days later, Muscat travels to New York for the UNGA but while there, he meets a delegation of the Nizami Ganjavi International Centre where it is announced Malta will host a high-level meeting of the Centre the following year. This was only reported in Azerbaijan. Pictures can be found on Nizami's Pictagram. Hani Saleh was spotted in New York at the same time as Muscat.

- In May 2016, Malta's foreign minister George Vella visited Baku, and 'stressed that Malta supports Azerbaijan's territorial integrity' in light of the Nagorno-Karabakh conflict.¹⁴
 - Vella highlighted that Azerbaijan and Malta had taken concrete steps by signing three documents – an intergovernmental agreement on double taxation and tax evasion, an agreement on cooperation in the field of sport and youth, and a memorandum of understanding on bilateral consultations. He said there is ample potential between the two countries, which could be increased in the upcoming months and years. In his turn, Azerbaijan's Foreign Minister, Elmar Mammadyarov noted that the cooperation between Azerbaijan and Malta is developing day by day especially in the energy sector.
 - Ilham Aliyev expressed to Vella an appreciation for the participation of Maltese President Coleiro Preca in the 7th Global Forum of the UN Alliance of Civilizations in Baku. The head of state said that during the visit of the Maltese president the two countries discussed the progress of their cooperation in political, economic, energy, investment and other fields, as well as Azerbaijani-EU relations.
 - Aliyev said Malta was actively involved in Azeri-EU cooperation.
 - Ilham Aliyev recalled the previous year's visit of Muscat to Azerbaijan, and described the trip of Vella to Baku as a sign of 'dynamic' cooperation. Aliyev said Azerbaijan and Malta enjoyed active partner relations, and stressed the importance of boosting ties.
- In the Eurovision song contest, Malta awarded Azerbaijan the maximum 12 points every year since 2010. The organisers of the Eurovision Song Contest – the European Broadcasting Union mentioned this in its investigation into vote rigging. The Mirror and Yahoo News wrote that Maltese judges were bought by Azerbaijan.¹⁵

¹⁴ <file://localhost/%E2%80%A2%09https://article.wn.com:view->

lemonde:2017:04:17:Azerbaijan_Minister_in_Malta_to_renew_relationship_discuss_E:/#/video

¹⁵ <http://www.independent.com.mt/articles/2013-09-13/news/maltese-involvement-in-alleged-eurovision-vote-rigging-strongly-denied-2582708224/>

Appendix B: Pilatus Bank

Pilatus Bank was at the centre of Daphne Caruana Galizia's reporting on corruption and money laundering involving senior Maltese and Azerbaijani government officials from 2016 until her death in October 2017.¹ It is currently being investigated by the European Banking Authority following requests by the European Commission and European Parliament.²

- Pilatus Bank was formed in Malta on 6 December 2013 by the Iranian-born Seyed Ali Sadr Hashemenijad, the son of one of Iran's wealthiest men, banker Seyed Mohammed Sadr Hashemenijad, and was licensed within four weeks by the MFSA on 3 January 2014. The licensing process was expedited after pressure exerted by the Prime Minister's Chief of Staff, Keith Schembri. This is documented in an FIAU report leaked in 2017, which also describes Schembri as having a personal relationship with Hashemenijad.
- Hashemenijad used the UK-registered company Pilatus Capital Ltd to apply for Pilatus Bank's Malta licence.³ Hashemenijad acquired Pilatus Capital Ltd from British-Iranian Mehdi Shamszadeh in 2009 after he purchased a St Kitts & Nevis passport from Henley & Partners. Shamszadeh's company was originally called Sirius Trade & Finance Ltd.
 - Mehdi Shamszadeh is an Iranian billionaire money-lauderer who recently became a UK national by investment.⁴ His job for the Iranian government was to smuggle arms to Iran as director of its shipping line, IRISL, for whom former EU Commissioner John (see Appendix C) had set up holding companies in Malta and more.⁵ Dalli has a Pilatus Bank account and has also been named in leaked FIAU reports as receiving kickbacks into his Dubai company 17Black.⁶ Some of these kickbacks were then relayed to Minister Konrad Mizzi's Panama company, Hearnville. Iran sentenced Shamszadeh to death in absentia for embezzlement after he left IRISL and settled in the UK under the new name Mehdi Shams.
- 60% of Pilatus Bank's deposits belong to Azerbaijani politically exposed persons (PEPs), informed sources told Daphne Caruana Galizia. The bank has no more than 100 clients.⁷

¹ <https://www.reuters.com/article/us-malta-carbomb-moneylaundering/murder-and-money-laundering-in-malta-a-challenge-for-eu-idUSKBN1DE2EP>

² <https://www.theguardian.com/world/2018/feb/02/daphne-caruana-galizia-was-being-sued-defamation-at-time-of-her-murder>

³ <https://beta.companieshouse.gov.uk/company/06620604>

⁴ <https://www.thetimes.co.uk/article/britain-pleads-for-life-of-confessed-sanctions-buster-n0ddjtcwg>

⁵ <https://www.timesofmalta.com/mobile/articles/view/20040604/local/iranian-firm-denies-pressure-claims.121313>

⁶ <https://lovinmalta.com/news/news-breaking/breaking-john-dalli-confirms-he-had-a-pilatus-bank-account>

⁷ <https://daphnecaruanaGalizia.com/2017/04/breakingmalta-son-daughter-azerbaijans-ruler-clients-pilatus-bank/>

- Pilatus Bank’s main client is Azerbaijan’s long-time Minister for Emergency Situations, Kamaladdin Heydarov: the richest and most powerful member of Azerbaijan’s ruling elite after the actual ruler, Ilham Aliyev. In addition to laundering his own funds, Heydarov is reported to front for the Aliyev family for part of its extensive business dealings, particularly through a large network of Turkish companies. Sources at the Malta Financial Services Authority told Daphne Caruana Galizia that Heydarov has several accounts with Pilatus Bank held by different companies of which he is the ultimate beneficial owner.⁸
- Pilatus Bank’s next two largest clients are Heydar Aliyev and Leyla Aliyeva, son and daughter of the country’s ruler, Ilham Aliyev. Heydar Aliyev had first tried to open an account at the Bank of Valletta, but was refused on the grounds that he is a major politically exposed person from one of the world’s most corrupt countries, and a serious money-laundering risk, informed sources told Daphne Caruana Galizia.⁹
- In March 2016, Shams Al Sahra FZCO, a company registered in the Jebel Ali Free Zone (Jafza) in Dubai, whose ultimate beneficial owner (UBO) is Leyla Aliyeva, daughter of Ilham Aliyev, ruler of Azerbaijan, made a single payment of US\$1.017 million from its Pilatus Bank account to Egrant Inc, a Panamanian company, whose UBO is Michelle Muscat, wife of the Prime Minister. The payment was recorded as a “loan payment”. This was not the only “loan payment” which Egrant Inc received from Shams Al Sahra FZCO, but it was the largest single transaction. Other “loan payments” were of around US \$100,000 each and made twice a week over several weeks in January, February and March 2016.¹⁰
- Manuchehr Ahadpur Khangah, an Azerbaijani billionaire who is close to the Aliyev family, opened a company with six subsidiaries, all with company-information accounts at Pilatus Bank, as public Malta Financial Services Authority records show.¹¹ Khangah is particularly close to Kamaladdin Heydarov, Azerbaijan’s Minister for Emergency Situations and has also been reported on in connection with Leyla Aliyeva’s Shams al Sahra FZCO,¹² including in a leaked US diplomatic cable.¹³
 - Khangah set up this company and six subsidiaries just a week after Prime Minister Joseph Muscat’s unannounced visit to Azerbaijan, in which he was unaccompanied by civil servants, during which the government signed an oil and gas cooperation agreement.¹⁴

⁸ <https://daphnecaruanagalizia.com/2017/04/breakingmalta-pilatus-banks-main-client-azerbajjans-minister-emergency-situations/>

⁹ <https://daphnecaruanagalizia.com/2017/04/breakingmalta-son-daughter-azerbajjans-ruler-clients-pilatus-bank/>

¹⁰ <https://daphnecaruanagalizia.com/2017/04/us1-017-million-single-transaction-azerbaijan-owned-company-egrant-inc/>

¹¹ http://www.maltatoday.com.mt/news/national/76524/azerbaijan_in_malta_the_business_links#.Wg2_ZmSMgb0

¹² <https://www.theguardian.com/world/us-embassy-cables-documents/250614>

¹³ https://wikileaks.org/plusd/cables/10BAKU127_a.html

¹⁴ <https://www.timesofmalta.com/articles/view/20160306/local/azeri-opens-companies-in-malta-with-nexia-bt-after-muscats-baku-trip.604695>

- José Eduardo Paulino dos Santos, 32, whose father – also called José Eduardo dos Santos – has been the dictator of Angola since 1979, is a client of Pilatus Bank.¹⁵
- The morning after the Egrant story broke, the PM’s Chief of Staff Keith Schembri called Hashemenijad directly on his mobile phone.¹⁶ The night before, a few hours after the Egrant story broke, Hashemenijad was caught live on camera leaving Pilatus Bank through a backdoor with two suitcases.¹⁷ A private jet flew from Malta Airport to Baku and then on to Dubai.¹⁸ The flight was operated by VistaJet, which soon after received a million euros for “in-flight advertising” from the Office of the Prime Minister.¹⁹
- The bank and the failure of the Maltese police and regulatory authorities to take action against it feature extensively in the European Parliament’s resolution on the rule of law in Malta adopted on 15 November 2017.²⁰
- A Maltese Member of the European Parliament, David Casa (EPP), on 24 November wrote to the ECB Supervisory Board enclosing all relevant leaked FIAU reports to revoke Pilatus Bank’s licence, after letters he sent to the MFSA failed to trigger a review of the bank’s licence.²¹

Pilatus Bank and the Malta Police

- The Maltese police have never searched Pilatus Bank, seized documents, or initiated any sort of investigation into its activities since reports on money laundering violations first emerged in 2016. When questioned about this, Police Commissioner Lawrence Cutajar said he couldn’t investigate ‘media claims’.²² The magisterial inquiry called by Prime Minister Muscat into the Egrant revelations, implicating his wife, only began the morning after the report was published and after Pilatus Bank owner Hashemenijad was filmed leaving the bank late at night with two suitcases accompanied his risk manager, Antoniella Gauci (see above).
- Aside from having clients in senior government positions who likely provide cover from prosecution, Pilatus Bank has its own connections to Police Commissioner Lawrence Cutajar, who is himself closely connected to many of Pilatus Bank’s Maltese PEP clients.

¹⁵ <https://daphnecaruanagalizia.com/2017/04/angola-dictators-son-client-pilatus-bank-malta/>

¹⁶ <https://daphnecaruanagalizia.com/2017/04/breakingprime-ministers-chief-staff-made-personal-call-pilatus-bank-owner-morning-night-time-removal-documents/>

¹⁷ <https://daphnecaruanagalizia.com/2017/04/breakingprime-ministers-chief-staff-made-personal-call-pilatus-bank-owner-morning-night-time-removal-documents/>

¹⁸ http://www.maltatoday.com.mt/news/national/76478/private_plane_leaves_luqa_in_middle_of_the_night_destination_baku

¹⁹ <https://daphnecaruanagalizia.com/2017/05/man-joseph-gave-cool-e1-million-takes-us-tour-fabulous-home/>

²⁰ <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2017-0438&language=EN&ring=B8-2017-0597>

²¹ <http://www.eppgroup.eu/press-release/ECB-intervention-on-bank-with-connections-to-Azeri-dictator>

²² <http://www.independent.com.mt/articles/2017-04-20/local-news/Police-Commissioner-says-he-cannot-just-investigate-media-claims-needs-documentation-6736173283>

- The connection to the Police Commissioner is through the bank's Head of Legal and Compliance,²³ Claude-Anne Sant Fournier, born Claudanne Zammit.²⁴ Her father is John Zammit, a longstanding friend, Inter Club Malta colleague of 23 years, and vocal public supporter of current Police Commissioner Lawrence Cutajar. Aside from Cutajar's close links to Prime Minister Muscat, on whose wife the most damaging allegations centre, Cutajar's personal relationship with Claude-Anne Sant Fournier's father, John Zammit, cannot be ignored in the context of the police's failure to act against the bank.
- Police Commissioner Cutajar, however, not only failed to act against Pilatus Bank but acted with unusual alacrity against the bank's whistleblower Maria Efimova when it filed a report against her accusing her of misappropriating funds after she sued them for their failure to pay her salary. The report against the whistleblower would have been filed for Pilatus Bank by Claude-Anne Sant Fournier, the daughter of Commissioner Cutajar's friend of over 25 years, John Zammit. As Head of Legal, Sant Fournier was responsible for the termination of whistleblower Maria Efimova's employment with the bank, its failure to pay her, as well as the police reports against her.
- Sant Fournier is representing Pilatus Bank as the accused in whistleblower Efimova's case against the bank for failure to pay her salary. In her testimony, a reportedly emotional Sant Fournier said she was concerned for her children, raising the question as to whether she feels threatened.²⁵
- She was also responsible for managing Pilatus Bank's relations with the FIAU and for supplying the FIAU and MFSA with documentation they had requested for inspections in early 2017.

Pilatus Bank and KPMG Malta

- KPMG Malta, specifically KPMG partner Juanita Bencini,²⁶ helped Pilatus Bank acquire its banking licence from MFSA in 2014.²⁷ KPMG Malta then became the bank's auditor. Bencini is also president of Malta's financial services lobby group, the IMFSP, a position she used in January 2017 to call out the ECB for 'intruding' into the affairs of smaller banks in Malta,²⁸ likely in defence of KPMG client Pilatus Bank. The bank's Head of Legal and Compliance, Claude-Anne Sant Fournier moved directly into Pilatus Bank's leadership team after working with KPMG Malta where, according to the Pilatus website, she "specialized in AML and regulatory compliance".²⁹ The bank's risk manager, Antoniella Gauci, was also previously at KPMG.

²³ <http://www.pilatusbank.com/about-us/exec-team>

²⁴ <http://users.waldonet.net.mt/fournier/Fournier.htm>

²⁵ <http://www.independent.com.mt/articles/2017-05-16/local-news/Whistle-blower-claims-in-court-she-was-not-paid-Pilatus-Bank-denies-6736174336>

²⁶ <https://home.kpmg.com/mt/en/home/contacts/b/juanita-bencini.html>

²⁷ <https://assets.kpmg.com/content/dam/kpmg/pdf/2016/07/mt-kpmg-annual-review-2013.pdf>

²⁸ http://www.maltatoday.com.mt/business/business_news/73503/eu_regulation_over_local_banks_has_become_too_stifling_#.WhmJ5bQ-fBI

²⁹ <http://www.pilatusbank.com/about-us/exec-team>

Appendix C: John Dalli

John Dalli, known as ‘Johnny Cash’, is a Maltese accountant turned politician who served in various Nationalist governments from 1987 to 2010, as a European Commissioner from 2010 to 2012, and as an official consultant to Prime Minister Joseph Muscat from 2013 to 2014.

John Dalli has been at the centre of Malta’s major political scandals since at least 1987.

This document outlines some events in which John Dalli was involved while occupying public office. It is not a comprehensive list of every suspect activity in which Dalli was involved directly or through his associates.

Personal information

Born: October 5, 1948, Qormi, Malta.

Status: Widower, with two daughters – Louise Dalli and Claire Gauci Borda (née Dalli). His daughters are due to be charged with money laundering.¹ The charge sheet was leaked to The Malta Independent on 2 November 2017. It had been drawn up in 2016 but the then investigating officer was replaced.

Profession: Accountant

Political career: Entered politics in the early 1970s. He served in the Youth Movement and National Executive of the Nationalist Party. First elected to Parliament in 1987 on the Nationalist Party ticket, and since then was re-elected in five successive elections: in 1992, 1996, 1998, 2003 and 2008.

Political Appointments

1987-1990: Parliamentary Secretary for Industry

1990-1992: Economic Affairs Minister

1992-1996: Finance Minister

1996-1998: Shadow Minister of Finance

1998-2004: Finance Minister

February 2004: Failed contender for Nationalist Party leadership

March 2004: Foreign Affairs and Investments Minister

July 2004: Resigns as minister because of improper behaviour involving private business

December 2007: Consultant to Prime Minister Lawrence Gonzi (Nationalist Party)

March 2008: Minister for Social Policy

February 2010: European Commissioner for Health and Consumer Policy

October 2012: forced to resign from European Commission

March 2013: Consultant to Prime Minister Joseph Muscat (Labour Party)

¹http://www.maltatoday.com.mt/news/national/81849/john_dallis_daughters_to_face_money_laundering_fraud_charges#.WhRs8mSMi34

Events

A.M.S. Ltd. – 1987-1990

John Dalli, Parliamentary Secretary for Industry, granted Lm400,000 (~€920,000) from the Treasury of Malta to the owners of A.M.S. Ltd for those owners to establish a factory in Malta. The factory was never established – the business owners left Malta with the money.

John Dalli was never held to account over this grant.

“The Water Miracle” - 1991

While John Dalli was Minister for Economic Affairs between 1990 and 1992, his brother Bastjan (Sebastian) Dalli was accused of evading import duty of Lm24,000 (~€55,900) on approximately 730 boxes of whisky, gin, vodka, and rum. Bastjan claimed to have ordered a container of bottled water, finding it to be a container of spirits when it arrived in Malta.

John Dalli has yet to be held to account for his brother’s customs duty evasion when he was the minister responsible for customs. His brother’s case is still pending.

Mater Dei Hospital – 1992-1996

John Dalli was appointed Minister of Finance from 1992 to 1996, a period during which the construction of Mater Dei Hospital was in full swing. A large public tender for the supply of concrete was awarded to Bastjan Dalli, despite his tender not being the most competitive and his having had no experience in construction (he bought a concrete plant in 1995). By 2015, structural problems with the concrete Bastjan Dalli supplied became apparent and repair costs were estimated at €150m.

Bastjan was also awarded many road-resurfacing tenders during this period despite his lack of knowledge in such projects. The auditing tender for Mater Dei went to an accountant’s practice with strong connections to John Dalli and Universal Commerce Agency Ltd/Daewoo Malta Ltd.

John Dalli acquired the concrete batching plant and the land on which it sits underhandedly through a judicial auction in 2007.²

Calls for an investigation were made but these were ignored and no one was held responsible for the alleged corrupt practices.

² <https://daphnecaruanagalizia.com/2015/05/top-story-how-john-dalli-bought-his-brother-bastjans-concrete-batching-plant/>

Daewoo Malta Ltd – 1997

John Dalli was a consultant for several large companies during the Mater Dei period, one of them being Universal Commerce Agency Ltd., importers of motor vehicles such as Daewoo, Holden, Dacia, Rocsta as well as consumer white goods. While he was a consultant for this company, loans in excess of Lm16m (~€37m Euros) were granted by one of the major Maltese banks – Bank of Valletta – in which the government had a majority share holding. These loans were granted with very little security. The loans were approved while John Dalli was a consultant for the company and (as there had been a change in government in 1996) *Shadow* Finance Minister.

No investigation into the Bank of Valletta loans was conducted.

Mid-Med Bank Privatisation – 1999

In 1998, John Dalli became Malta's Finance Minister again. On 14 April 1999, Dalli worked with his personal friends Marin Hili and Joe N. Tabone to privatise Mid-Med Bank, the country's largest bank. The Bank was undersold to HSBC for Lm80m (~€184m). The privatisation included the only J.M.W. Turner painting in Malta, which was owned by the Bank. Mid-Med Bank's highly irregular privatisation was concluded without the knowledge of the Minister for Economic Affairs, Professor Josef Bonnici, who was responsible for banks at the time, and even the Prime Minister himself, who was in hospital undergoing surgery at the time, and without the knowledge of the rest of the Cabinet of Ministers.

No investigation was ever conducted into the privatisation, despite repeated calls for an investigation from the then opposition Labour Party.

Minister of Foreign Affairs and Investment Promotion – 23 March-3 July 2004

In February 2004 John Dalli contested the election for the leadership of the Nationalist Party but was unsuccessful, losing to Lawrence Gonzi. In Gonzi's new cabinet, Dalli was appointed Minister of Foreign Affairs and Investment Promotion.

On 22 March 2004, one day before Dalli took office as Minister of Foreign Affairs and Investment Promotion, a shell company, Maraner Holding Limited, was registered in Qormi. The company secretary was Dalli's daughter, Claire Gauci Borda. The director was Dalli associate Christopher Baldacchino. He was replaced by Dalli associate Adrian Baldacchino on 13 August 2004.

Maraner Holdings Limited held shares in IRISL (Malta) Limited, another company linked to John Dalli while he was Minister of Foreign Affairs and Investment Promotion.

In June 2004, the Opposition Leader Alfred Sant accused Dalli of putting pressure on the Iranian national shipping line, IRISL, to substitute its agent in Malta with a

‘company’ which involved Dalli’s relatives - Gauci Borda Shipping. The key people were Adrian Gauci Borda, John Dalli’s son-in-law who had no experience in shipping, and Mark Callus, Dalli’s brother-in-law. IRISL denied having been put under pressure to switch to a company Dalli favoured, and IRISL’s then commercial director, Mehdi Shamszadeh wrote to IRISL’s former agent to deny there was any reciprocal agreement.³ However, the timeline of events suggests collusion between Dalli and IRISL.⁴

Dalli resigned from cabinet on 3 July 2004, after serving for only three months.⁵ This followed investigations into an award of contracts for medical equipment and airline ticketing when Dalli was Minister of Finance and responsible for awarding such contracts.⁶ The company involved in airline ticketing was Tourist Resources Ltd, a shareholder in Gauci Borda Shipping, later IRISL (Malta) Limited.⁷

One month later, on 16th August 2004, Claire Gauci Borda, John Dalli’s daughter, registered Gauci Borda Shipping Limited as a company. On the same day, the company name was changed to IRISL (Malta) Ltd, and one of Dalli’s associates, Adrian Baldacchino, substituted Mark Callus as director. Claire Gauci Borda remained on as company secretary.

IRISL (Malta) Ltd, and its affiliates, Maraner Holdings Ltd and Royal-Med Shipping Agency Ltd. (see next section), the latter being the central node of a network of shell companies used to circumvent international controls over the shipment of arms to Iran using IRISL ships.⁸ Some 20 shell companies were registered in Malta for the purpose.⁹ In September 2008, the US Treasury Department imposed sanctions on the IRISL shipping line, as well as on IRISL Malta for facilitating the shipment of military-related cargo destined for an Iranian government agency that controls ballistic missile research, development and production.¹⁰ The US accused IRISL of “deliberately misleading maritime authorities” by employing deceptive techniques to disguise the true nature of shipments that are, in reality, destined for Iran’s alleged WMD (weapons of mass destruction) programme.”

After resigning from cabinet, Dalli remained a backbench MP and never faced any charges for irregularly awarding contracts or any investigation concerning the IRISL case.

³ <https://www.timesofmalta.com/articles/view/20040604/local/iranian-firm-denies-pressure-claims.121313>

⁴ <https://www.timesofmalta.com/articles/view/20040629/local/allegations-against-john-dalli-harming-investment-sant.118981>

⁵ <http://archive.maltatoday.com.mt/2004/07/11/t8.html>

⁶ <http://archive.maltatoday.com.mt/2004/07/11/t8.html>

⁷ <http://archive.maltatoday.com.mt/2004/07/11/t8.html>

⁸ <http://www.maltatoday.com.mt/news/national/1610/revealed-how-iran-circumvents-us-sanctions-by-stashing-its-vessels-in-malta#.WhxZ5EqnF1s>

⁹ <http://www.maltatoday.com.mt/news/national/5917/us-treasury-orders-sanctions-against-malta-companies-acting-as-fronts-for-iranian-military-cargo-shipping#.WhxZ5kqnF1s>

¹⁰ <http://www.independent.com.mt/articles/2008-09-21/local-news/US-Calls-for-more-inspections-of-IRISL-cargo,-line-%E2%80%98deliberately-misleading-maritime-authorities%E2%80%99-213515>

Minister for Social Policy – 2008

John Dalli was re-elected to the House of Representatives in the March 2008 general election and was made Minister for Social Policy on 12 March 2008, despite having been made to resign from his previous cabinet post in 2004.

Prior to the March 2008 general election, John Dalli was cleared of the allegations made against him by Prime Minister Gonzi. The Auditor General's investigation and findings were never made public, raising doubts about Prime Minister Lawrence Gonzi's decision. In several televised interviews, John Dalli maintained that members of his party framed him.

Dalli's Minister for Social Policy portfolio dealt with health, employment, and industrial relations. Dalli resigned after serving for two years, claiming he was under continued attack by members of his own party.

Prior to John Dalli being appointed Minister for Social Policy in March 2008, his brother Bastjan Dalli had been awarded a contract by the previous minister to build a block of flats in Floriana. On completion, the surveyors condemned the building due to bad workmanship and the wrong concrete mixture having been used between the floors. The building was not fit for human habitation because it was dangerous. Social housing was in John Dalli's portfolio from 2008 and so he was legally bound to start proceedings against his brother to recover the millions of Euros that this project had cost the taxpayer.

On 9 October 2009, Royal-Med Shipping Agency Ltd was registered in Malta. Its memorandum and articles of association identified Neville Baldacchino as company secretary. Baldacchino was a 28-year old semi-literate plasterer and painter, and a Dalli associate. (The Baldacchino family are from Qormi, Dalli's constituency). At the time Royal-Med Shipping Agency Ltd was incorporated in October 2009, Neville Baldacchino had been dead for almost a year and had therefore not been involved in the company set up. Neville Baldacchino was substituted as company secretary by Marvic (Maria Victoria) Spiteri, another Dalli associate, who eventually resigned in 2011.

In 2010, Adrian Baldacchino was put on the US Treasury blacklist as the legal and judicial representative of affiliates of the Islamic Republic of Iran Shipping Line (IRISL), Maraner Holdings Limited, Royal-Med Shipping Agency Ltd, and IRISL (Malta) Limited. He resigned his position in November 2011 and was replaced by Mansour Elsami, a former director of IRISL (Malta) Limited.

During the two years John Dalli was Minister for Social Policy he failed to hold his brother accountable for negligence. Court proceedings were never started. Prime Minister Lawrence Gonzi "kicked him upstairs" in 2010 by nominating him for the post of European Commissioner for Health and Consumer Policy. John Dalli was not

investigated for his involvement in shell companies used to circumvent international sanctions against Iran.

Forced resignation from European Commission – 2010-2012

John Dalli was appointed to the European Commission on 9 February 2010 as Commissioner for Health and Consumer Policy. While holding office as a European Commissioner, Dalli appeared on TV stations in Malta, promoting Sargas, a power station supplier, for whom he had acted as a consultant, violating the EC's rule against Commissioners' engaging in paid or unpaid business relationships.¹¹

In 2011-2012, Dalli acted as consultant to Marie Eloise Corbin Klein, a long-time fraudster, flying to the Bahamas with her to meet potential investors who eventually lost their life savings in Corbin's fraudulent scheme. The scheme was operated through Tyre Limited, a company set up by Dalli's business office in Malta and registered at his Malta office address. His daughters Claire Gauci Borda and Louisa Dalli were registered as company directors, and Claire Gauci Borda, as company secretary, received investors' money and processed it through the Dalli company's bank account at HSBC. The investors cooperated with OLAF and the FBI and reported the case to the Maltese police but, years later, they have still not reclaimed their money.

Police investigations into Tyre Limited in 2015 led to charge sheets being drawn up against Claire Gauci Borda and Louisa Dalli, but the investigating officer, Jonathan Ferris, was replaced on the case. In November 2017, amid accusations of money laundering involving government officials and a surrounding culture of impunity, the charge sheet was leaked to The Malta Independent.

On 15 October 2012, the European Anti-fraud Office (OLAF) delivered its first report to the Commission President on accusations that Silvio Zammit, an associate of the Dalli's, had asked for €60 million from Swedish Match, the main producer of Swedish snus, in return for Dalli's help in changing European tobacco regulations. On 16 October 2012, Dalli was forced to resign by Commission President José Manuel Barroso. Dalli has maintained that he did not resign, but in an interview he gave New Europe on the morning of 17 October 2012 he confirmed Barroso asked him for his resignation, and alleged that the tobacco lobby was involved in the case. Dalli maintains to this day that he was framed.¹²

Dalli was never charged due to failings on the part of the Malta Police Force, headed by the Police Commissioner, which is controlled by the executive branch of the Maltese government:

¹¹<https://www.timesofmalta.com/articles/view/20070923/local/offshore-power-plant-could-help-malta-solve-co2-crisis.4244>

¹² <https://cphdox.dk/en/programme/film/?id=196>

- Police Commissioner John Rizzo: 2 November 2001-12 April 2013: Rizzo was removed from his post soon after the Labour Party won the general election on 9 March 2013. Rizzo had been Police Commissioner for 12 years. At the time of his removal, Rizzo had accumulated enough evidence, working with the EU's anti-fraud office (OLAF) director-general Giovanni Kessler, to charge European Commissioner John Dalli with trading in influence and soliciting bribes and was determined to do so. Dalli, who owns a bank account in his personal name at Pilatus Bank,¹³ and whose daughters are due to be charged with money laundering and fraud,¹⁴ needed to be in Malta for this, but stayed away from Malta for the nine weeks leading up to the 9 March 2013 general election, using falsified "unfit to travel" certificates.¹⁵ Following the election, Rizzo was removed and John Dalli was appointed consultant to Prime Minister Muscat.¹⁶
- Police Commissioner Peter Paul Zammit: 12 April 2013-9 July 2014: Zammit, a mid-ranking police officer, replaced Rizzo. In the same week of Zammit's appointment as Commissioner, his office was dogged by allegations from the EU's anti-fraud (OLAF) director-general Giovanni Kessler that the Commissioner of Police had not cooperated on three requests by OLAF to assist in an investigation concerning former European Commissioner John Dalli. Zammit never declared the John Dalli case closed, but at the same time refused to arraign Dalli. Simon Busuttil, then leader of the Opposition, blamed Zammit's failure to arraign Dalli on 'interference from the Prime Minister.'¹⁷ Commissioner Zammit faced a number of other scandals: he was found by the Data Commissioner to have illegally leaked the personal file of a police inspector, Elton Taliana, to MaltaToday's managing editor Saviour Balzan, and he was also suspected of using his influence to have charges of assault against a personal contact of his dropped. Peter Paul Zammit was removed as Commissioner on 3 July 2014 with no reason given. Dalli continues to operate with impunity.

OLAF reopened investigations into John Dalli following revelations of his visits to the Bahamas while he was a European Union Commissioner.¹⁸ The investigation was tasked with looking into John Dalli's business links and undeclared visits to Africa, Asia, and the Middle East, and his undeclared visits to the Bahamas. Dalli had visited Dubai almost weekly while he was at the EC, covering up his visits by saying he was

¹³ <https://lovinmalta.com/news/news-breaking/breaking-john-dalli-confirms-he-had-a-pilatus-bank-account>

¹⁴ <https://www.timesofmalta.com/articles/view/20171102/local/timing-questioned-as-john-dallis-daughters-face-money-laundering.662029>

¹⁵ <https://daphnecaruanagalizia.com/2015/03/giovanni-kessler-police-commissioner-john-rizzo-was-determined-to-charge-john-dalli/>

¹⁶ <http://www.independent.com.mt/articles/2014-10-01/local-news/John-Dalli-s-work-as-a-consultant-with-the-government-has-finished-Prime-Minister-Muscat-6736122928>

¹⁷ http://www.maltatoday.com.mt/news/national/40779/ray_zammit_to_be_appointed_police_commissioner#.WhRj2mSMi34

¹⁸ <https://www.euractiv.com/section/health-consumers/news/eu-graft-inquiry-shifts-to-ex-health-chief-s-overseas-activity/>

going home to Malta. On one occasion, he flew to Singapore using a labyrinthine route, arrived late at night and departed the following morning. OLAF's second report was presented to Malta's Attorney General in 2016 and it was not presented to the police for weeks.¹⁹ Investigating officer Jonathan Ferris, who was involved in local investigations into Mr Dalli, only learned that OLAF's investigative report had been sent to the Attorney General through a chance meeting with OLAF head Giovanni Kessler during a conference in Rome at the end of June 2016. When he returned from Rome on June 26, 2016, Mr Ferris visited the Attorney General and asked about the report. He eventually received it some two weeks later.

Dalli has not been prosecuted for any of the offences OLAF identified. Despite openly admitting that he acted as consultant to the fraudster Marie Eloise Corbin Klein, with whom he was photographed in the Bahamas, he has denied any involvement in Tyre Limited and any responsibility for investors' losses.

2012 onwards

John Dalli was appointed **health sector consultant** to Joseph Muscat after he resigned in disgrace from the European Commission. The privatisation of the health care sector has been riven by scandal and corruption, involving shell companies in offshore jurisdictions. The front man, Sri Ram Tumuluri, has no experience in public healthcare of privatisation of national assets and has a record of fraud in Canada.

Mehdi Shamszadeh is an Iranian billionaire money-lauderer who recently became a UK national. His job for the Iranian government was to smuggle arms to Iran, as director of a government-owned shipping line. After moving to the UK and resigning from his post with the Iranian government, he was sentenced to death in absentia for embezzling billions from Iran's Ministry of Oil. He founded a UK company called Sirius Trade & Finance Ltd.²⁰ In 2009, the same year he acquired a St Kitts and Nevis passport, Seyed Ali Sadr Hasheminejad took over that company and renamed it Pilatus Capital Ltd. In 2013, Pilatus Capital Ltd set up **Pilatus Bank** in Malta. Shamszadeh changed his name to Shams in the UK. Shams' business link to Dalli goes back to 2004 when Dalli was Minister of Foreign Affairs.²¹

Dalli holds an account at Pilatus Bank.

Dalli is involved in 17 Black, the company identified in an FIAU report as the one used to transfer kickbacks on the sale of the LNG tanker to Konrad Mizzi and Keith Schembri.

¹⁹ <https://www.timesofmalta.com/articles/view/20170731/local/report-about-dallis-bahamas-trips-languished-on-ags-desk-claims-ex.654404>

²⁰ <https://beta.companieshouse.gov.uk/company/06620604>

²¹ <https://www.timesofmalta.com/mobile/articles/view/20040604/local/iranian-firm-denies-pressure-claims.121313>

Transfers to 17 Black were made through Orion Engineering Limited, a company registered in Malta. Armada Floating Gas Services Limited, Armada Regasification Services Malta Limited, and Armada Floating Gas Storage Malta Limited, with business links to Electrogas Limited, which operates Malta's gas-powered power plant, are registered at the same Malta address as Orion Engineering. The power plant project is backed by a government guarantee through Bank of Valletta plc, in which government is a majority shareholder. The guarantee was meant to be temporary but was extended shortly before Malta's national election in 2017.²²

No one has been investigated or charged for embezzlement, fraud, or money laundering in relation to any of the above. The FIAU reports which documented the connections and money transfers between PEPs and their associates, including John Dalli, were not acted on by the Malta police or by the Attorney General.

²²<https://www.timesofmalta.com/mobile/articles/view/20171126/local/360-million-power-plant-loan-guarantee-extended-before-election.664030>