

Thursday 28 March 2019

P8\_TA(2019)0328

**Situation of rule of law and fight against corruption in the EU, specifically in Malta and Slovakia****European Parliament resolution of 28 March 2019 on the situation of the rule of law and the fight against corruption in the EU, specifically in Malta and Slovakia (2018/2965(RSP))**

(2021/C 108/10)

*The European Parliament,*

- having regard to Articles 2, 4, 5, 6, 7, 9 and 10 of the Treaty on European Union (TEU),
- having regard to Article 20 of the Treaty on the Functioning of the European Union (TFEU),
- having regard to Articles 6, 7, 8, 10, 11, 12 and 47 of the Charter of Fundamental Rights of the European Union,
- having regard to the opinion on questions relating to the appointment of judges of the constitutional court of the Slovak Republic, adopted by the Venice Commission at its 110th Plenary Session (Venice, 10-11 March 2017),
- having regard to the opinion on constitutional arrangements and separation of powers and the independence of the judiciary and law enforcement in Malta, adopted by the Venice Commission at its 117th Plenary Session (Venice, 14-15 December 2018),
- having regard to the report of 23 January 2019 from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled 'Investor Citizenship and Residence Schemes in the European Union' (COM(2019)0012),
- having regard to its resolution of 16 January 2014 on EU citizenship for sale <sup>(1)</sup> and to the joint press statement of 29 January 2014 by the Commission and the Maltese authorities on Malta's Individual Investor Programme (IIP),
- having regard to its resolution of 25 October 2016 with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights <sup>(2)</sup> and to its resolution of 14 November 2018 on the need for a comprehensive EU mechanism for the protection of democracy, the rule of law and fundamental rights <sup>(3)</sup>,
- having regard to its resolution of 15 November 2017 on the rule of law in Malta <sup>(4)</sup>,
- having regard to its resolution of 1 March 2018 on the Commission's decision to activate Article 7(1) TEU as regards the situation in Poland <sup>(5)</sup>, as well as its preceding resolutions of 13 April 2016 on the situation in Poland <sup>(6)</sup>, of 14 September 2016 on the recent developments in Poland and their impact on fundamental rights as laid down in the Charter of Fundamental Rights of the European Union <sup>(7)</sup>, and of 15 November 2017 on the situation of the rule of law and democracy in Poland <sup>(8)</sup>,

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<sup>(1)</sup> OJ C 482, 23.12.2016, p. 117.

<sup>(2)</sup> OJ C 215, 19.6.2018, p. 162.

<sup>(3)</sup> Texts adopted, P8\_TA(2018)0456.

<sup>(4)</sup> Texts adopted, P8\_TA(2017)0438.

<sup>(5)</sup> Texts adopted, P8\_TA(2018)0055.

<sup>(6)</sup> OJ C 58, 15.2.2018, p. 148.

<sup>(7)</sup> OJ C 204, 13.6.2018, p. 95.

<sup>(8)</sup> Texts adopted, P8\_TA(2017)0442.

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- having regard to its resolution of 19 April 2018 on protection of investigative journalists in Europe: the case of Slovak journalist Ján Kuciak and Martina Kušnírová <sup>(1)</sup>,
  - having regard to its resolution of 3 May 2018 on media pluralism and media freedom in the European Union <sup>(2)</sup>,
  - having regard to its resolution of 12 September 2018 on a proposal calling on the Council to determine, pursuant to Article 7(1) of the Treaty on European Union, the existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded <sup>(3)</sup>, as well as its preceding resolutions of 10 June 2015 <sup>(4)</sup>, 16 December 2015 <sup>(5)</sup> and of 17 May 2017 <sup>(6)</sup> on the situation in Hungary,
  - having regard to its resolution of 13 November 2018 on the rule of law in Romania <sup>(7)</sup>,
  - having regard to the report of 22 March 2018 on the visit of the ad hoc delegation of the Committee on Civil Liberties, Justice and Home Affairs and the Committee on Budgetary Control to Slovakia of 7 to 9 March 2018,
  - having regard to the report of 30 January 2019 on the fact-finding mission of the Committee on Budgetary Control to Slovakia of 17 to 19 December 2018,
  - having regard to the report of 11 January 2018 on the visit of the ad hoc delegation of the Committee on Civil Liberties, Justice and Home Affairs and the Committee of Inquiry to investigate alleged contraventions and maladministration in the application of Union law in relation to money laundering, tax avoidance and tax evasion (PANA) to Malta of 30 November to 1 December 2017,
  - having regard to the report of 16 November 2018 on the visit of the ad hoc delegation of the Committee on Civil Liberties, Justice and Home Affairs to Malta and Slovakia of 17 to 20 September 2018,
  - considering the hearings and exchanges of views carried out by the Working Group with a general mandate to monitor the situation as regards rule of law and fight against corruption within the EU and addressing specific situations, in particular Malta and Slovakia (Rule of Law Monitoring Group), set up on 4 June 2018 by the Committee on Civil Liberties, Justice and Home Affairs, notably with the Council of Europe Parliamentary Assembly and its Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), the Group of States against Corruption (GRECO), national institutions and authorities, European Commission representatives, EU agencies such as Europol, and various stakeholders including civil society representatives and whistleblowers in Malta and Slovakia,
  - having regard to the letter of the Prime Minister of Malta dated 13 March 2019;
  - having regard to the question to the Commission on the situation of the rule of law and the fight against corruption in the EU, specifically in Malta and Slovakia (O-000015/2019 — B8-0017/2019),
  - having regard to the motion for a resolution of the Committee on Civil Liberties, Justice and Home Affairs,
  - having regard to Rules 128(5) and 123(2) of its Rules of Procedure,
- A. whereas the Rule of Law Monitoring Group (ROLMG) was set up on 4 June 2018 with a general mandate to monitor the situation as regards rule of law and fight against corruption within the EU and addressing specific situations, in particular Malta and Slovakia;

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<sup>(1)</sup> Texts adopted, P8\_TA(2018)0183.

<sup>(2)</sup> Texts adopted, P8\_TA(2018)0204.

<sup>(3)</sup> Texts adopted, P8\_TA(2018)0340.

<sup>(4)</sup> OJ C 407, 4.11.2016, p. 46.

<sup>(5)</sup> OJ C 399, 24.11.2017, p. 127.

<sup>(6)</sup> Texts adopted, P8\_TA(2017)0216.

<sup>(7)</sup> Texts adopted, P8\_TA(2018)0446.

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- B. whereas the rule of law and respect for democracy, human rights and fundamental freedoms and the values and principles enshrined in the EU Treaties and international human rights instruments are obligations incumbent on the Union and its Member States and must be complied with;
- C. whereas Article 6(3) TEU confirms that fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and as arising from the constitutional traditions common to the Member States, constitute general principles of Union law;
- D. whereas the EU operates on the basis of the presumption of mutual trust that Member States act in conformity with democracy, the rule of law and fundamental rights, as enshrined in the ECHR, the Charter of Fundamental Rights of the European Union and the International Covenant on Civil and Political Rights (ICCPR);
- E. whereas neither national sovereignty nor subsidiarity can justify the systematic refusal by a Member State to comply with the fundamental values of the European Union and the Treaties to which it has freely acceded;
- F. whereas the ROLMG has held a number of meetings with different stakeholders with the main focus on the situation in Malta and Slovakia; whereas it also held one exchange of views on the safety of journalists in Bulgaria following the murder of Viktoria Marinova; whereas the temporary detention of the journalists Attila Biro and Dimitar Stoyanov, who were investigating allegations of fraud involving EU funds in Romania and Bulgaria, was also discussed at that meeting;
- G. whereas the assassinations of Daphne Caruana Galizia in Malta and of Ján Kuciak and his fiancée Martina Kušnírová in Slovakia, and the murder of Viktoria Marinova in Bulgaria, have shocked European public opinion and have had a chilling effect on journalists in the EU;
- H. whereas the investigations into these murders have so far led to the identification of several suspects, without, however, coming to conclusions as to the possible masterminds behind the murders, although this is the most important element needing clarification; whereas in Malta three persons have been arraigned and police and magisterial investigations into the murder remain active;
- I. whereas the ROLMG was not able to verify the state of the investigations in all their aspects, as the authorities invoked a legitimate need to ensure confidentiality to safeguard progress in such murder cases;
- J. whereas the ROLMG has been able to look into numerous areas of concern in relation to the rule of law in Malta and Slovakia, in particular those areas covered in the work of Daphne Caruana Galizia and Ján Kuciak;
- K. whereas the ROLMG was regularly informed, including by the relatives of Daphne Caruana Galizia, with regard to the request for a full and independent public inquiry into her murder, in particular concerning the circumstances that allowed it to happen, the response of the public authorities, and the measures that can be put in place to ensure that such a murder will not happen again;
- L. whereas the level of cooperation with Europol in these investigations varies among the investigations conducted;
- M. whereas, in particular in the case of Malta, the previous Director of Europol had indicated a suboptimal level of cooperation between the Maltese authorities and Europol — a situation which his successor subsequently assessed as having improved to be satisfactory; whereas Europol representatives told the ROLMG members that the investigation did not stop with the arrest of the three suspected perpetrators; whereas Europol experts were appointed to carry out specific tasks in the magisterial inquiry;
- N. whereas, regarding the seizing of the phone of the journalist Pavla Holcová in Slovakia, a lack of clarity remains over the way in which it had been obtained and the access of Europol to the data extracted from it, even though Europol indicated it would support analysis of the phone;

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- O. whereas there are serious concerns about the fight against corruption and organised crime in the EU, including in Malta and Slovakia, and whereas this threatens to undermine the trust of citizens in public institutions, potentially resulting in a dangerous interconnection between criminal groups and public authorities;
- P. whereas a large European consortium of investigative journalists has researched and published widely on the investigations that had been published by Daphne Caruana Galizia;
- Q. whereas in particular, the fight against money laundering in the EU is inadequate, inter alia because of the gaps existing in the implementation of the EU anti-money laundering legislation, as highlighted by recent cases of insufficient anti-laundering enforcement involving large banking institutions in different Member States;
- R. whereas the European Banking Authority (EBA) concluded in its recommendation of July 2018 addressed to Malta's Financial Intelligence Analysis Unit (FIAU) that there are 'general and systematic shortcomings in the fight against money laundering' in Malta, in particular regarding the Pilatus Bank case, while acknowledging that the FIAU's Action Plan was 'a move in the right direction'; whereas the Commission has subsequently found that 'the Maltese FIAU breached its obligations' under the EU anti-money laundering legislation and that it did not fully implement the EBA recommendation; whereas, accordingly, the Commission adopted its opinion on this case in November 2018;
- S. whereas Malta is home to a large banking sector, including some particular banking institutions that do not comply with all regulatory standards and requirements, as is illustrated by the case of the Pilatus Bank and the withdrawal of its licence by the European Central Bank (ECB);
- T. whereas the 'Egrant' inquiry report is not publicly available; whereas the available conclusions do not confirm the claims linking the ownership of Egrant Inc. to the Maltese Prime Minister and his wife; whereas only the Prime Minister, the Minister of Justice, the Prime Minister's Chief of Staff and the Prime Minister's communications officer have access to the full unredacted inquiry report;
- U. whereas subsequently no inquiry was launched to uncover the beneficial ownership of Egrant, which still remains to be clarified;
- V. whereas the revelations concerning the beneficial owner of the '17 Black' company — now claimed to be the CEO of Tumas Group, who was awarded a contract by the Maltese Government to construct the Electrogas power station on Malta — further underline the need for more transparency regarding financial interests and links to members of government, such as the Prime Minister's Chief of Staff and the current Minister of Tourism and former Minister of Energy;
- W. whereas the Prime Minister's Chief of Staff and the current Minister of Tourism and former Minister of Energy are the only acting high-ranking government officials in any EU Member State who were found to be beneficial owners of a legal entity exposed in the Panama Papers; whereas the latter testified to a delegation of the European Parliament about the use of his entities, making declarations that contradicted documents published in the Panama Papers;
- X. whereas lack of safety for journalists and narrowing space for civil society because of harassment and intimidation are undermining oversight over executive power and eroding the civic engagement of citizens;
- Y. whereas journalists, and in particular but not exclusively investigative journalists, are increasingly faced with so-called 'Strategic Lawsuits Against Public Participation' (SLAPP) against them, intended purely to frustrate their work;
- Z. whereas the family of Daphne Caruana Galizia has to deal with hate campaigns and libel suits even after her death, including from Members of the Maltese Government, and the Deputy Prime Minister has indicated that he does not believe withdrawing these libel suits is necessary;

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- AA. whereas the family and friends of Daphne Caruana Galizia, as well as civil society activists, also have to deal with an ongoing situation at her makeshift memorial involving removal and destruction of remembrance items;
- AB. whereas the Venice Commission, in its opinion on Malta adopted at its 117th Plenary Session of 14-15 December 2018 <sup>(1)</sup>, highlighted the positive obligation of States to protect journalists as an issue directly related to the rule of law, and insisted that 'it is an international obligation of the Government [of Malta] to ensure that the media and civil society can play an active role in holding authorities accountable' <sup>(2)</sup>;
- AC. whereas the Venice Commission has stressed that the establishment of the Judicial Appointments Committee (JAC) in 2016 was a positive step taken by the Maltese authorities, and has also highlighted that there nonetheless remain several points of concern in light of the principle of judicial independence, notably around the organisation of prosecutorial powers and the judicial structure, and relating to the overall separation and balance of powers in the country, which is clearly leaning to the executive, and particularly to the Prime Minister who enjoys a far-reaching set of powers, including in various appointment procedures such as for members of the judiciary, and that this is not coupled with solid checks and balances <sup>(3)</sup>;
- AD. whereas the Venice Commission has stated that the current division of prosecutorial powers between the Police and the Attorney General in Malta constitutes an 'ambiguous system' that 'is problematic from the viewpoint of the separation of powers'; whereas it also noted that the Attorney General, who has prosecutorial powers while also being the government's legal advisor and chairing the FIAU, is the occupant of a very powerful office that is 'problematic from the viewpoint of the principle of democratic checks and balances and the separation of powers' <sup>(4)</sup>;
- AE. whereas the Venice Commission's delegation noted that a future separation of the roles of the Attorney General 'is now widely accepted in Malta following the 2013 Report of the Commission for a Holistic Reform of the Justice System' <sup>(5)</sup>; whereas the Maltese Government has now announced the initiation of the legislative process to bring about that separation;
- AF. whereas the Venice Commission has stated that, in addition to the prosecutorial tasks of the Attorney General and the police, magistrates also have the possibility to start inquests, and that 'there seems to be no coordination between inquests and police investigation' <sup>(6)</sup>;
- AG. whereas the Venice Commission has also stressed that the Permanent Commission Against Corruption (PCAC) suffers from flaws concerning its composition, as members' appointments depend on the Prime Minister, even if he has to consult with the opposition, and also concerning the addressees of its reports, namely the Minister of Justice who has no investigatory powers, the result being that the reports lead to actual investigations and prosecutions in only a very limited number of cases <sup>(7)</sup>;
- AH. whereas the Venice Commission has found that the appointment procedure for Police Commissioner should be based on a public competition; the Police Commissioner should be perceived as politically neutral by the general public <sup>(8)</sup>;
- AI. whereas Malta has started a process of exploring constitutional reforms, under the supervision of its President, in which different political forces and civil society are involved, and most of which will require a two-thirds majority in Parliament to be implemented;

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<sup>(1)</sup> Malta — Opinion on Constitutional arrangements and separation of powers, adopted by the Venice Commission at its 117th Plenary Session (Venice, 14-15 December 2018).

<sup>(2)</sup> Venice Commission opinion, paragraph 142.

<sup>(3)</sup> *Ibid.*, paragraphs 107-112.

<sup>(4)</sup> *Ibid.*, paragraph 54.

<sup>(5)</sup> *Ibid.*, paragraph 59.

<sup>(6)</sup> *Ibid.*, paragraph 71.

<sup>(7)</sup> *Ibid.*, paragraph 72.

<sup>(8)</sup> *Ibid.*, paragraph 132.

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- AJ. whereas monitoring of worsening rule of law situations in Member States by the European Parliament is a vital part of European democracy, and the format of the Rule of Law Monitoring Group enables Parliament to follow up closely and liaise with Member State authorities and civil society;
- AK. whereas, despite broadly supported resolutions of the European Parliament <sup>(1)</sup>, the Commission has still not come forward with a proposal for a comprehensive and independent mechanism to monitor the situation as regards Democracy, Rule of Law and Fundamental Rights (DRF) annually in all Member States;
- AL. whereas the use of ‘investor citizenship and residence schemes’ by EU Member States poses serious risks to the fight against money laundering, undermines mutual trust and the integrity of the Schengen area, allows for the admission of third-country nationals merely on the basis of accumulated wealth rather than on the basis of useful knowledge, skills or humanitarian considerations, and results in the actual sale of EU citizenship; whereas the Commission has explicitly stated that it no longer endorses the Maltese investor citizenship and residence schemes;
- AM. whereas the Commission published a report on investor citizenship and residence schemes that maps the existing practices and identifies certain risks that such schemes entail for the EU, in particular as regards security, money laundering, tax evasion and corruption;
- AN. whereas the Maltese government has concluded a confidential agreement with the private firm Henley & Partners to implement the Maltese ‘investor citizenship and residence scheme’, making it impossible to verify whether the agreed procedures, sales volume, and further terms are in line with Maltese, EU and international law and with security considerations;
- AO. whereas the implementation of the residency requirements for applicants for the Maltese investor citizenship and residence scheme is not in line with the conditions for such schemes agreed with the Commission in 2014; whereas the Commission has taken no effective action to tackle this lack of respect for the residency requirements;
- AP. whereas the allegations regarding the sale of medical and Schengen visas in Libya and Algeria by Maltese officials have not been fully investigated <sup>(2)</sup>;
- AQ. whereas journalists in Slovakia indicated during the ROLMG delegation visit that they are operating in an environment where full independence and safety cannot always be guaranteed; whereas in the case of RTVS (Radio and Television of Slovakia), there have been instances of perceived political interference with journalistic work, such as by the issuing of short news guidelines;
- AR. whereas the National Press Act is under a process of revision in Slovakia and this provides an opportunity to strengthen media freedom and the safety of journalists; whereas the current legislative proposal risks limiting media freedom;
- AS. whereas there are reports of corruption and fraud in Slovakia, including with EU agricultural funds involving the Agricultural Paying Agency, that merit in-depth and independent investigations, of which some are indeed being investigated by OLAF and regarding which Parliament’s Committee on Budgetary Control conducted a fact-finding mission to Slovakia in December 2018; whereas Slovakia has the highest irregularity and fraud detection rates of all EU Member States <sup>(3)</sup>;

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<sup>(1)</sup> Resolution of 25 October 2016 with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights — OJ C 215, 19.6.2018, p. 162; resolution of 14 November 2018 on the need for a comprehensive EU mechanism for the protection of democracy, the rule of law and fundamental rights — Texts adopted, P8\_TA(2018)0456.

<sup>(2)</sup> <http://nao.gov.mt/loadfile/77c82f0e-89b3-44b4-85d4-e48ecfd251b0>

<sup>(3)</sup> [https://www.eca.europa.eu/Lists/ECADocuments/SR19\\_01/SR\\_FRAUD\\_RISKS\\_EN.pdf](https://www.eca.europa.eu/Lists/ECADocuments/SR19_01/SR_FRAUD_RISKS_EN.pdf)

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- AT. whereas the members of the ROLMG have concerns over the impartiality of law enforcement and the independence of the judiciary in Slovakia, especially with regard to the politicisation and lack of transparency in selection and appointment processes, such for the position of Chief of Police;
- AU. whereas Slovakia's Prime Minister and other high-ranking government members, as well as the Deputy General Prosecutor and the Chief of Police, resigned after Ján Kuciak's murder;
- AV. whereas the legislative process in Slovakia regarding the reform of the selection of Constitutional Court judges has not been completed, and the upcoming selection process to replace the court's nine retiring judges will take place under the existing procedures; whereas this selection process is currently blocked in the Slovak Parliament;
- AW. whereas in the course of their mission the members of the ROLMG delegation took note of the commitment to upholding rule of law standards manifested by various staff of the Slovak public authorities and civil society actors;
- AX. whereas Reporters Without Borders' World Press Freedom Index 2018 ranks Slovakia in 27th place, as opposed to 17th in 2017, with Malta in 65th position, dropping from 47th, and Bulgaria as the lowest-classified EU Member State at 111th, down from 109th in 2017;
- AY. whereas Transparency International ranked Malta 51st (down from 46th in 2017), Slovakia 57th (down from 54th in 2017) and Bulgaria 77th (down from 71st place in in 2017) in its annual Corruption Perceptions Index; whereas all three countries score significantly below the EU average<sup>(1)</sup>;

#### GENERAL OBSERVATIONS

1. Strongly condemns the continuous efforts of a growing number of Member State governments to weaken the rule of law, the separation of powers and the independence of the judiciary; expresses concern that, despite the fact that most Member States have adopted legislation to ensure judicial independence and impartiality in compliance with Council of Europe standards, problems remain in the way these standards are applied;
2. Recalls that the rule of law is part of and a prerequisite for the protection of all values listed in Article 2 TEU; calls on all relevant actors at EU and national level, including governments, parliaments and the judiciary, to step up efforts to uphold and reinforce the rule of law;
3. Notes with great concern the rising threats bearing down on journalists and media freedom, growing public denigration and a general weakening of the profession, increasing economic concentration of the sector and growing disinformation; recalls that a strong democracy based on the rule of law cannot function without a strong and independent fourth estate;
4. Urges the Council to examine and follow up any proposals from the Commission and Parliament as regards infringement procedures and Article 7 TEU procedure, in particular by taking swift action based on the Commission's reasoned proposal of 20 December 2017 on Poland, as well as by putting the situation in Hungary on the Council agenda as a matter of priority, by informing Parliament immediately and fully at all stages of the procedure, and by inviting Parliament to present its reasoned proposal on Hungary to the Council;

#### INVESTIGATIONS AND LAW ENFORCEMENT

5. Calls on the Government of Malta to launch without delay a full and independent public enquiry into the murder of Daphne Caruana Galizia, with particular stress on the circumstances that allowed it to happen, the response of the public authorities, and the measures that can be put in place to ensure that such a murder will not happen again;

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<sup>(1)</sup> <https://www.transparency.org/cpi2018>  
[https://www.transparency.org/news/feature/corruption\\_perceptions\\_index\\_2017](https://www.transparency.org/news/feature/corruption_perceptions_index_2017)

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6. Strongly urges the Maltese Government to publicly and unambiguously condemn all hate speech against and disparagement of the memory of the deceased Daphne Caruana Galizia; urges that strong action be taken against any public officials fuelling hate;
7. Considers it of utmost importance to find a solution for the memorial site of Daphne Caruana Galizia in Valletta, in cooperation with civil society and her family, so that remembrance can take place unhindered;
8. Calls on the relevant Maltese authorities to publish the full unredacted report of the magisterial 'Egrant' inquiry;
9. Urges the Governments of Malta and Slovakia to ensure that all indications of criminal acts are promptly and fully investigated by law enforcement authorities, including where these indications are revealed by whistleblowers and journalists, especially the alleged cases of e.g. corruption, financial crimes, money laundering, fraud and tax evasion as reported by Daphne Caruana Galizia and Ján Kuciak;
10. Calls on the EU institutions and the Member States to initiate an independent international public inquiry into the murder of Daphne Caruana Galizia and the alleged cases of corruption, financial crimes, money laundering, fraud and tax evasion reported by her, which involve high-ranking current and former public officials of Malta;
11. Regrets that not all members of the Government of Malta, such as the Minister for Tourism and former Minister of Energy, were available to meet the ROLMG delegation, and that it was also not possible for it to meet representatives of Nexia BT such as the company's Managing Partner;
12. Notes with concern that the Maltese authorities never issued an official legal assistance request to the German Federal Criminal Police Office ('Bundeskriminalamt') to be given access to the data stored on Daphne Caruana Galizia's laptops and hard disks after they were handed over to the German authorities by her family;
13. Welcomes the charges brought by the Slovak authorities against the alleged instigator of the murders of Ján Kuciak and Martina Kušnírová and the alleged perpetrators of the murders; calls on the law enforcement authorities to continue the investigation at both national and international level by all means available, including by prolonging the Agreement of the Joint Investigation Team beyond April 2019, and to ensure that all aspects of the case are fully investigated, including any possible political links to the crimes;
14. Notes that the investigation into the murder of Ján Kuciak and Martina Kušnírová has uncovered other criminal activities, including an alleged plot to murder the prosecutors Peter Šufliarsky and Maroš Žilinka and the lawyer Daniel Lipšic; notes that the later investigation is, by a joint decision of the Prosecutor General and the Special Prosecutor, to be conducted by the Police Inspectorate of the Interior Ministry, due to a possible involvement of police officers in screening of police databases of those targeted; and will further monitor this development;
15. Welcomes the creation of the Ján Kuciak Investigative Centre, of the Daphne Project founded by several journalists in late 2018, and of the Forbidden Stories Daphne Project, founded by 18 consortia of investigative journalists in March 2018, with the aim of picking up Daphne's work where she left it; notes that six months after its creation, the Daphne Project made new revelations in its first publication;
16. Calls on the Commission and the European Anti-fraud Office to carry out in-depth investigations into all the cases that were brought to the attention of Parliament's ad hoc delegations in 2018, namely allegations of corruption and fraud, also relating to EU agricultural funds, and possible wrong incentives for land grabbing;
17. Calls on the Maltese Government to launch an investigation into the Panama Papers revelations and the links between the Dubai-based company '17 Black' and the Minister for Tourism and former Minister for Energy and the Prime Minister's Chief of Staff;

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18. Calls on the Maltese and Slovak Governments, and on all EU Member States and their law enforcement authorities, to step up the fight against organised crime and corruption, in order to restore public faith in their institutions;
19. Notes the adoption on 22 March 2019 of the Addendum to the Second Compliance Report on Slovakia by GRECO regarding corruption prevention in respect of members of parliament, judges and prosecutors; calls on the Government of Slovakia to fully implement all the recommendations;
20. Notes the adoption on 23 March 2019 of the Fifth Round Evaluation Report on Malta by GRECO; calls on the Government of Malta to authorise the publication of this report as soon as possible and to fully implement all the recommendations;
21. Is deeply concerned about the Slovak Government's possible role in the abduction of a Vietnamese citizen from Germany, and calls for a comprehensive investigation report, in continued cooperation with the German authorities, including on the alleged involvement of the former Interior Minister;
22. Is concerned about allegations of corruption, conflicts of interest, impunity and revolving doors in Slovakia's circles of power; is astounded by the fact that following their resignation, a former senior police official from the National Criminal Agency (NAKA) and the former Chief of Police were appointed as advisers to the Minister of the Interior, including in the Czech Republic; notes that the former Chief of Police has now stepped down as adviser to the Minister of the Interior after press reports surfaced about a search for Ján Kuciak in a police database prior to his murder, allegedly ordered by the former Chief of Police;
23. Welcomes the engagement of Slovak and Maltese citizens and civil society organisations in the fight for democracy, the rule of law and fundamental rights; urges the Governments of Slovakia and Malta to fully support this civic engagement, and to refrain from discouraging it;
24. Calls on the Governments of Malta, Slovakia and Bulgaria to continue facilitating all cooperation with Europol, including by fully involving the agency and proactively giving it full access to the files related to the investigations;
25. Calls on the Commission to provide clear guidance on the modalities and legal framework regarding the exchange of data and evidence between Member States' law enforcement authorities and between them and the EU agencies, including through the application of the European Investigation Order;
26. Observes that the current budgetary and human resources and mandates of Europol and Eurojust are not sufficient for those agencies to provide full and proactive EU added value in carrying out investigations such as in the cases of the murders of Daphne Caruana Galizia and of Ján Kuciak and Martina Kušnírová; calls for further resources to be allocated to Europol and Eurojust for investigations of this kind in the near future;
27. Underlines that Member States' law enforcement and judicial authorities form part of an EU system of cooperation; considers that EU institutions, bodies and agencies should therefore proactively step in to address shortcomings on the part of national authorities, and finds it worrying that such actions by EU institutions, bodies and agencies are regularly initiated only after information has been revealed by journalists and whistleblowers;
28. Calls on the Commission and the Council to increase Europol's budget in line with the operational and strategic needs identified during the negotiations for the Multiannual Financial Framework (MFF) 2021-2027, and to strengthen the mandate of Europol so as to enable it to participate more proactively in investigations into leading organised crime groups in Member States where there are serious doubts about the independence and quality of such investigations, e.g. by being able to proactively initiate setting up Joint Investigation Teams in such cases;
29. Calls on Eurojust and the future European Public Prosecutor's Office (EPPO) to cooperate optimally in investigations concerning the financial interests of the EU, especially regarding Member States that have not joined the EPPO; calls, to that end, for the Member States and the EU institutions to facilitate the rapid establishment of the EPPO, and considers that all Member States which have not yet announced their intention to join the EPPO should do so;

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30. Calls on the Commission to follow up on the resolutions of Parliament that have called for the mapping of best practices in investigative techniques across the EU in order to facilitate the development of common investigative practices in the EU <sup>(1)</sup>;

#### **CONSTITUTIONAL CHALLENGES IN MALTA AND SLOVAKIA**

31. Welcomes the statements by the Government of Malta regarding implementation of the recommendations set out in the recent report of the Venice Commission;

32. Welcomes the creation of a group in which members of both government and opposition are involved in exploring constitutional reform;

33. Welcomes the recent announcement by the Government of Malta on initiation of the legislative processes to implement various Venice Commission recommendations; calls on the Government and Parliament of Malta to implement all the Venice Commission recommendations without exception, also in a retroactive manner where relevant, so as to ensure that past and current decisions, positions and structures are brought into line with these recommendations, and in particular,

- to strengthen the independence, powers of oversight and capabilities of the members of the Maltese House of Representatives, in particular by tightening rules on incompatibilities and by providing for an appropriate salary and for non-partisan support;
- to publicly announce vacancies for judicial positions (paragraph 44);
- to change the composition of the JAC, to allow at least half of its members to be judges elected by their peers, and to endow the JAC with the competence to rank candidates on the basis of merit and directly propose those candidates to the President for appointment, also in the case of appointment of the Chief Justice (paragraph 44);
- to give the power of removal of judges or magistrates to the Commission for the Administration of Justice and to provide for an appeal in court against disciplinary measures imposed by that Commission (paragraph 53);
- to set up an office of an independent Director of Public Prosecutions (DPP), to be responsible for all public prosecutions, taking over the current prosecutorial tasks of the Attorney General, as well as the prosecutorial tasks of the police and the magisterial inquests, as recommended by the Venice Commission (paragraphs 61-73); calls on the Government of Malta to subject this potentially newly established DPP to judicial review, in particular regarding decisions of non-prosecution (paragraph 68, 73);
- to reform the PCAC, both by ensuring an appointment process that is less dependent on the executive branch and on the Prime Minister in particular, and by ensuring that the PCAC reports lead to actual prosecutions; also to consider the option of having the PCAC report directly to a newly established DPP (paragraph 72);
- to initiate a constitutional reform to ensure that judgments of the Constitutional Court will lead, without parliament having to intervene, to the annulment of provisions found to be unconstitutional (paragraph 79);
- to abolish the practice of having part-time MPs, increase the salary of MPs, restrict the appointment of MPs to officially appointed bodies, put at the disposal of MPs sufficient support staff and independent knowledge and advice, and refrain from the extensive use of delegated legislation (paragraph 94);
- to ensure that requests for information by the Ombudsman are fully complied with by the authorities, that the Ombudsman's reports are debated in Parliament, that the office of the Ombudsman is regulated at the constitutional level, and that the Freedom of Information Act is updated (paragraphs 100-101);

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<sup>(1)</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1539189225045&uri=CELEX:52011IP0459>  
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52016IP0403>

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- to reshape the process of appointing Permanent Secretaries, namely by merit-based selection by an Independent Civil Service Commission, rather than by the Prime Minister (paragraphs 119-120);
- to seriously limit the practice of ‘positions or persons of trust’ and to introduce clear legal rules and a constitutional amendment that form the basis and framework for regulating this practice (paragraph 129);
- to change the appointment procedure for the Police Commissioner, namely by making it merit-based by introducing a public competition (paragraph 134);

34. Notes that a selection and nomination procedure for Constitutional Court judges in Slovakia is under way, as the term of nine out of 13 judges ends in February; underlines that the regulations covering this selection and nomination process, as well as the qualifications and requirements, have to meet the highest possible standards in terms of transparency, scrutiny and accountability, in line with the conclusions on this matter of the Venice Commission <sup>(1)</sup>; is concerned about the current lack of progress in this selection process in the Slovak Parliament;

35. Calls for the transparent, unambiguous and objective application of rules and procedures for the selection in 2019 of the new Slovak Chief of Police, which will ensure the independence and neutrality of the office; notes that the selection process is now under way and that the candidates will soon take part in hearings before the relevant committee of the Slovak Parliament; calls for these hearings to be public;

#### **INVESTOR CITIZENSHIP, RESIDENCE SCHEMES AND VISAS**

36. Calls on the Government of Malta to terminate its investor citizenship and residence schemes, and commission an independent and international investigation into the impact of this sale on the Maltese anti-money laundering enforcement capabilities, on further cross-border crime and on the integrity of the Schengen area;

37. Calls on the Government of Malta to publish annually a standalone list of all persons who have purchased Maltese and EU citizenship, and to ensure that the purchasers are not listed together with those who acquired their Maltese citizenship in other ways; calls on the Government of Malta to ensure that all these new citizens have actually resided one full year in Malta prior to the purchase, as agreed with the Commission before the launch of the programme; calls on the Commission to do all in its power to make sure that the original understanding on the matter is respected in future;

38. Welcomes the fact that in February 2019, when asked to clarify, the Commission clearly stated that it does not in any way endorse the Maltese investor citizenship and residence schemes;

39. Calls on the Government of Malta to fully disclose, and to terminate, its contract with Henley & Partners, the private firm that currently implements the Maltese investor citizenship and residence schemes, with no consequences for the public finances in the event of termination or suspension;

40. Calls on the Commission to examine whether the contracts in place between Member State authorities and private firms that govern and outsource the investor citizenship and residence schemes are compatible with EU and international law and with security considerations;

41. Welcomes the publication of the Commission report on ‘Investor citizenship and residence schemes’, but is concerned about the lack of data in it; calls on the Commission to continue monitoring the scale and impact of the various investor citizenship and residence schemes in the EU, with a particular focus on due diligence processes, the profiles and activities of beneficiaries, the potential impacts on cross-border crime, and the integrity of the Schengen area; calls on the Member States to phase out all existing citizenship by investment and residency schemes as soon as possible; calls on the Commission, in the meantime, to address investor citizenship and residence schemes expressly in the Schengen Evaluation Mechanism, and to come forward with a legislative proposal which sets clear limits to investor citizenship and residence schemes;

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<sup>(1)</sup> [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2017\)001-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2017)001-e)

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42. Calls on the Commission, building on its report on investor citizenship and residence schemes in various EU Member States, to examine specifically the impacts of the Maltese government investor citizenship and residence schemes on the integrity of the Schengen area;

43. Calls on Europol and the European Border and Coast Guard Agency to conduct a joint threat assessment regarding the consequences of EU Member States' investor citizenship and residence schemes for the fight against organised crime and for the integrity of the Schengen area;

44. Calls on the Government of Malta to fully investigate the allegations concerning mass sale of Schengen and medical visas, including the alleged involvement of former or current high-ranking Maltese government officials, such as the Chief of Staff of the Prime Minister's Office and Neville Gafa;

**SAFETY OF JOURNALISTS AND INDEPENDENCE OF THE MEDIA**

45. Calls on the Government of Slovakia to ensure the safety of journalists; deplores the lack of transparency on media ownership; questions the independence and quality of the public media following the departure of several RTVS journalists; notes with concern that the current legislative proposal for the Press Act risks limiting media freedom;

46. Is concerned about the statements of Slovak politicians that call into question the value of independent journalism and public media, such as those made by the former Prime Minister in public, for example at a news conference held on 2 October 2018;

47. Reiterates its call on the respective members of the Government of Malta to ensure the withdrawal, with immediate effect, of the libel suits being faced by the mourning family of Daphne Caruana Galiza, to refrain from using the libel laws to freeze critical journalists' bank accounts, and to reform the libel laws that are being used to frustrate journalists' work;

48. Calls on the Commission to present proposals to prevent so-called 'Strategic Lawsuits Against Public Participation' (SLAPP);

**EU RESPONSES**

49. Reiterates its call on the Commission to enter into dialogue with the Maltese Government in the context of the Rule of Law Framework;

50. Notes the efforts of the Commission and the Council to ensure that all Member States fully uphold the rule of law, democracy and fundamental rights; is, however, concerned regarding the limited impact of the Commission Rule of Law Framework and of the procedures initiated under Article 7(1) TEU so far; emphasises that the persistent failure to address serious and persistent breaches of the values referred to in Article 2 TEU has encouraged other Member States to follow the same path; regrets the Commission's decision to postpone publication of its proposal to strengthen the Rule of Law Framework to July 2019;

51. Recalls the need for an impartial and regular assessment of the situation with regard to the rule of law, democracy and fundamental rights in all the Member States; stresses that such an assessment must be based on objective criteria; draws renewed attention to its resolutions of 10 October 2016 and of 14 November 2018 which call for a comprehensive, permanent and objective EU mechanism for the protection of democracy, the rule of law and fundamental rights; considers that this would be a fair, balanced, regular and preventive mechanism for dealing with possible breaches of the values listed in Article 2 TEU, and underlines that such a mechanism is more urgently needed now than ever before;

52. Deplores the fact that the Commission has still not presented such a proposal for a comprehensive EU mechanism on democracy, the rule of law and fundamental rights, and calls on it to do so in due time, in particular by proposing the adoption of the interinstitutional agreement on the EU Pact for DRF;

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53. Welcomes the Commission proposal for a regulation on the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States, draws renewed attention to the report on this adopted by Parliament in January 2019, and urges the Council to enter constructively into negotiations as soon as possible;

54. Underlines the importance of Parliament sending ad hoc delegations to Member States as an effective tool to monitor breaches of democracy, the rule of law and fundamental rights; recommends creating a permanent structure within its Committee on Civil Liberties, Justice and Home Affairs to monitor such breaches in the Member States;

55. Calls on the EU institutions and the Member States to resolutely fight systemic corruption and to devise effective instruments for preventing, combating and sanctioning corruption and fighting fraud, as well as regularly monitoring the use of public funds; reiterates its regret that the Commission decided not to publish the EU Anti-Corruption Report in recent years, and underlines that having anti-corruption fact sheets as part of the European Semester is not a sufficiently effective measure to ensure that corruption is unequivocally placed on the agenda; therefore calls on the Commission to immediately resume its annual anti-corruption monitoring and reporting, with reference to all Member States and to the EU institutions;

56. Welcomes the agreement between the ECB and the national supervisory authorities on a new cooperation mechanism for information exchange; encourages all participating authorities to make extensive use of that mechanism in order to ensure swift and effective cooperation in the fight against money laundering;

57. Reminds its President that implementation is long overdue of its call to create a 'European Daphne Caruana Galizia prize for investigative journalism', to be awarded annually for outstanding investigative journalism in Europe;

58. Welcomes Parliament's decision to name its traineeship programme for investigative journalists after Ján Kuciak;

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59. Instructs its President to forward this resolution to the Council, the Commission, the Parliaments and Governments of the Member States and the Parliamentary Assembly of the Council of Europe.

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