



COMMISSIONER FOR HUMAN RIGHTS  
COMMISSAIRE AUX DROITS DE L'HOMME



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**Mr Joseph MUSCAT**  
Prime Minister of Malta

Strasbourg, 5 December 2017

Dear Prime Minister,

Further to our meeting and constructive exchange during my visit to Malta from 7 to 10 November, I would like to follow up on certain issues concerning gender equality and women's rights.

I welcome the current debate on the transposition into domestic law of the Council of Europe Convention on preventing and combating violence against women and domestic violence ('Istanbul Convention'), which is a decisive step forward. I have noted that the Gender-Based Violence and Domestic Violence Bill currently pending in parliament is formulated in a gender-neutral way, and does not make any specific reference to women. However, the Istanbul Convention is based on the understanding that violence against women is a form of gender-based violence committed against women because they are women. Although men, too, can be victims of domestic violence, in the vast majority of cases the victims are women and girls. This is confirmed by the figures communicated to me by the Foundation for Social Welfare Services, according to which 97.5% of new and re-contact cases opened in the last three years by the Maltese Domestic Violence Service concerned female victims. I consider that the link between gender inequality and violence against women should be clearly reflected in the aforementioned Bill, possibly in its preamble, as well as in the implementation instruments.

I have also noted with interest that the above Bill aims to increase penalties imposed on perpetrators of domestic violence. In this regard, I should like to underline that the legislative framework on domestic violence should empower courts to provide adequate remedies for the victims and to impose sanctions against offenders which are effective, proportionate and appropriate to the offense committed, in line with the 2011 Guidelines of the Committee of Ministers of the Council of Europe on eradicating impunity for serious human rights violations.

In the course of my visit to Malta, my attention was brought to a series of obstacles to the effective implementation of the existing legislative framework on domestic violence. One such obstacle is the inadequate reporting of domestic violence, sometimes as a result of a reported lack of trust on the part of victims in the police force's commitment to effectively investigating such cases. Other obstacles that were reported to me are: lack of social support provided at the initial stages of these procedures at police stations; reluctance of certain judges to effectively sanction perpetrators, especially in cases where victims declare in court that they "forgive" the reported acts of violence. I hope that the Gender-based violence and Domestic violence strategy and action plan recently launched by the Minister for European Affairs and Equality will address these issues and ensure full and effective implementation of the legislative framework. I would welcome detailed information about the content of the above strategy and action plan and the resources allocated to their implementation.

I should like to stress that the collection and systematic analysis of data regarding domestic case-law on domestic violence is essential for identifying and solving the problems which may arise from the implementation of the law. In this context, I invite your authorities to pay particular attention to obstacles to the issuance of protection orders by courts. Relevant initial and on-going training is also instrumental. Therefore I urge Malta to make sure that all law enforcement officers, prosecutors and judges dealing

with domestic violence are provided with such training in an on-going and systematic manner. To this end, I encourage Malta to make use of the new online training course on violence against women and domestic violence that was launched in November by the Council of Europe Programme for Human Rights Education for Legal Professionals (HELP). This course offers a comprehensive curriculum to improve the quality of the judicial response in cases of violence against women and support the access to justice for victims of violence while prosecuting perpetrators.

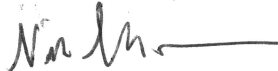
During my visit, I also noted that civil society organisations are deeply involved in social care activities targeting victims of domestic violence. In spite of these organisations' work complementing that of the National Agency for Children, Family and the Community, I have been informed of a shortage of places in women's shelters, which I urge your government to address. I also wish to highlight the need to allocate more financial resources to social care provided to victims of domestic violence by both civil society organisations and state services.

From the discussions I had with a wide range of interlocutors it transpired that women's sexual and reproductive health and rights remain sensitive issues in Malta, as in some other Council of Europe member states. Despite the public discussion on the emergency contraceptive pill without a prescription that led to its welcome authorisation in December 2016, I have been struck by the fact that abortion remains a taboo issue in public debates. The very restrictive domestic legislation that criminalises abortion in a blanket manner jeopardises the full enjoyment by women of a number of their human rights. At the same time, women who do decide to end their pregnancy travel to European countries to obtain safe abortion services or undergo illegal abortion at home. This situation leads to a *de facto* discrimination between women who can afford to travel abroad for this purpose and those who cannot, and has severe repercussions on women's health and well-being. Thus, the current prohibition regime needs to be addressed through an open and informed public debate leaving no space for stigmatisation or threats to those engaged therein.

In this context, I would like to recommend that appropriate measures be adopted in order to decriminalise abortion and facilitate access to safe and legal abortion care on a woman's request in early pregnancy, and thereafter throughout pregnancy in order to protect every woman's health and life and to ensure freedom from ill-treatment. This implies ensuring accessibility and availability of legal abortion services in practice, including by establishing efficient and effective procedures and processes by which women can enforce existing legal entitlements to abortion services. The enclosed Issue Paper on Women's sexual and reproductive health and rights, which I published today, may provide useful guidance for bringing the legislation of Malta into line with international human rights standards and regional best practices in this domain.

I look forward to receiving your reply and continuing a constructive dialogue with you and your government.

Yours sincerely



Nils Muižnieks