

Ref: CommHR/DM/sf 029-2023

Mr Angelo FARRUGIA
Speaker of the House of Representatives of Malta

Strasbourg, 26 September 2023

Dear Speaker,

Since the beginning of my mandate in 2018, I have been following legislative developments aimed at enhancing the protection of journalists and, more broadly, upholding freedom of expression in Malta.

Today, I am writing to you specifically about the legislative proposals that have been tabled in Parliament to amend provisions of the Constitution and various other laws, with the overall aim of strengthening freedom of expression and the right to privacy, and introducing measures to protect the media and journalists.

While the effort to enact legislation that enhances media freedom, freedom of expression and the right of access to information is undoubtedly welcome and necessary, I remain concerned about important aspects of the present proposals. These relate mainly to the scope of the protection of freedom of expression and the transparency and thoroughness of the public consultation process, as I have already highlighted on several occasions.

In particular, in my [report](#) of February 2022 I highlighted the need to strengthen Malta's legal framework on freedom of expression and to bring it in line with the relevant international human rights standards. Similar assessments have been made by various international organisations, including the [OSCE Representative on Freedom of the Media](#), as well as by national and international NGOs.

These recommendations seem to have been largely ignored in the current proposals before Parliament. Of particular concern are the proposed provisions to address Strategic Lawsuits Against Public Participation (SLAPPs), which appear inadequate to address the very real threats that they pose to freedom of expression, media freedom and, more broadly, to the foundations of democracy and the rule of law.

It is important to remember that the ultimate goal of many SLAPP litigants is not to win a legal victory, but rather to exert financial, psychological and time pressure on journalists, human rights activists and civil society organisations. Their goal is to prevent individuals and groups from exposing harmful or unlawful acts and omissions. As a result, SLAPPs pose a significant threat not only to individual rights and freedoms, but also to the broader democratic fabric.

Furthermore, as highlighted in my aforementioned report, access to information in Malta continues to be hampered. Ensuring effective access to public information is of paramount importance, particularly in the context of investigative public service journalism and democratic accountability. I take this opportunity to reiterate the importance for Malta to sign and ratify the [Council of Europe's Tromsø Convention on Access to Official Documents](#) and to refrain from any action incompatible with this Convention. In this context, it would also be beneficial to follow the recommendations made by the [Council of Europe Group of States against Corruption](#) (GRECO), which underlined the need for an independent and comprehensive review of the implementation of the Freedom of Information Act, ensuring a narrower and more precise interpretation and application of the exceptions to the rule of public access.

The reopening of Parliament comes at an important time for Malta. The decisions that will be taken on these legislative measures will have an impact for years to come. I therefore urge all Members of Parliament to refrain from adopting the current proposed legislative amendments before them and instead engage in a substantive, inclusive and transparent consultation with civil society, academia, the media and interested citizens on the improvements that these legal changes need.

The overall objective should be to provide Malta with a legal framework for freedom of expression and the protection of journalists that strictly adheres to international human rights standards, including the [case-law](#) of the European Court of Human Rights, the [Council of Europe Recommendation on the Protection of Journalism and the Safety of Journalists and other Media Actors](#) and the forthcoming Council of Europe Recommendation on Countering the Use of Strategic Lawsuits against Public Participation.

The enactment of well-drafted, comprehensive legislation that, at a minimum, upholds these standards would go a long way towards ensuring robust protection for both journalists and all individuals in Malta and guarding against abuse of the judicial system. Parliament has a unique role and responsibility in this crucial process.

I look forward to continuing a constructive dialogue with you and would be grateful if you could ensure that all Members of Parliament receive a copy of this letter.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Dunja Mijatović', with a large, stylized initial 'D'.

Dunja Mijatović