



Commissioner for Standards in Public Life

CASE REPORT

Case no: K/016

Complaint: Failure of (former) Prime Minister Joseph Muscat to invite Newsbook.com.mt to a press event on the 22nd November 2019. Allegation of discrimination.

Complainant: Sylvana Debono, Editor-in-Chief, Newsbook.com.mt

Complaint Date: 22 November 2019

Report date: 24 January 2020

The Complaint

1. By communication through the “contact us” page of my office’s website on 22 November 2019 (attached and marked Document A), Sylvana Debono, Editor-in-Chief of the news portal Newsbook.com.mt and the radio station 103 - Malta’s Heart (formerly RTK), alleged that the then Prime Minister Joseph Muscat gave comments to the press on the morning of Friday 22 November 2019 and Newsbook.com.mt was not advised to attend. This meant that readers of Newsbook and the listeners of 103 – Malta’s Heart were impeded from hearing the news which the Prime Minister was about to impart. She maintained that this constituted blatant discrimination and requested the protection of my office.

Decision to Investigate

2. I decided that the Complaint warranted further investigation under the Act.

3. This office has had the opportunity to report on a matter that is closely related to the subject of this Complaint in a case alleging discrimination by then-Minister



Konrad Mizzi against the Times of Malta and possibly other media organisations consisting in systematic failure to inform them of public media activities.¹

Investigation Procedure and Establishment of Facts

4. I saw various separate video recordings of the press event, as reported by a number of media houses which were present at said event including TVM,² the Times of Malta,³ One News,⁴ the Malta Independent,⁵ and Lovin Malta.⁶ I noted other press organisations were also present, including Reuters,⁷ as identified by the logo on their microphone which can be seen in the footage of the event, and an unidentified Italian journalist who posed questions to the Prime Minister during this event.

5. I met Ms Sylvana Debono on 16 January 2020. She confirmed that during the period in question her reporters were “practically camping” outside the Auberge de Castille in the hope of obtaining the Prime Minister’s comments on matters relating to the investigation of the murder of Daphne Caruana Galizia. On the day in question Newsbook reporters were not present. Ms Debono alleged, but could not ascertain, that some media houses that were not present had been tipped off to attend as the Prime Minister intended to make a statement that morning. However, Newsbook was not notified about this event.

6. The complaint was referred to the Prime Minister for his comments.

7. Prime Minister Muscat delegated his Deputy Head of Communications, Nigel Vella, to respond on his behalf. Mr Vella replied by email dated 2 December 2019 (Document “B”) as follows. Mr Vella’s reply was in Maltese, but is being translated

¹ Report on case K/001 dated 4 February 2019. Available at <https://standardscommissioner.com/wp-content/uploads/Commissioner-for-Standards-case-report-K001.pdf>.

² <https://www.tvm.com.mt/en/news/listen-what-did-pm-say-in-connection-with-latest-developments-in-arrest-of-yorgen-fenech/>.

³ <https://timesofmalta.com/articles/view/i-do-not-shelter-anyone-muscat-on-daphne-probe.751696>.

⁴ <http://www.one.com.mt/news/2019/11/22/dirett-il-pm-fkonferenza-tal-ahbarijiet-minn-kastilja/>.

⁵ <https://www.independent.com.mt/articles/2019-11-22/local-news/Not-arraigning-person-of-interest-in-court-gives-police-more-time-to-investigate-PM-6736216528>.

⁶ <https://lovinmalta.com/news/watch-prime-minister-i-dont-know-where-yorgen-fenech-is-being-held/>.

⁷ <https://www.reuters.com/article/us-malta-daphne/malta-police-need-more-time-to-question-man-in-journalist-murder-case-pm-idUSKBN1XW12C>.



here in keeping with my policy of preparing case reports in whichever of Malta's two official languages is used by the Complainant.

“With reference to the complaint raised by Ms Sylvana Debono on behalf of Newsbook with respect to comments given by Prime Minister Joseph Muscat on Friday 22nd November 2019 as he was arriving for work we would like to state first of all that this was a very particular week where throughout every day that week there were crews from media houses waiting outside the Auberge de Castille for the Prime Minister to give his comments related to the latest developments in the investigation on the murder of Daphne Caruana Galizia.

The Prime Minister was giving these comments as he was about to enter his office and they were given inside the building instead of in the square, firstly because of the bad weather and secondly so that they would be as organised as possible and to avoid a lot of movement in the square in such a way as to obstruct the clear comprehension of the information given.

The Prime Minister did not avoid answering questions and facing the media and each time there is a press call, which is issued by the Department of Information, such a call is issued to all media houses without any being left out.

In this particular comment given by the Prime Minister, that was later ironically targeted by the same journalists, not least of all those of Newsbook who did not want the Prime Minister to comment about the ongoing investigation, the Communication Office contacted those newsrooms that would usually would have been in front of Castille (as were Lovin Malta, ONE, Times of Malta, PBS and Independent) waiting to take comments from the Prime Minister as well as other government spokespersons, this contact was made in a very short time.

We also wish to say that Ms Debono cannot make a distinction between door-stepping and a press call. On the 28th of November this article was uploaded: <https://newsbook.com.mt/en/resolution-imminent-says-muscat-as-police-question-schembri-and-fenech/> where it is said that the Prime Minister called for some media houses and not others, when this is not the case.



In a door stepping situation no invitations would be issued but there would be crews of media houses waiting to take some comments”.

Considerations

8. Prime Minister Muscat’s reply through Mr Vella is somewhat ambiguous, if not outright contradictory. On the one hand it suggests that this was a case of journalists’ door-stepping⁸ the Prime Minister on his way to his office. Mr Vella suggests that this interview was pursuant to door-stepping at which, of course, no formal invitations are issued. He states that the journalists door-stepping the Prime Minister were invited to enter Castille for two reasons, firstly because of the inclement weather and secondly to ensure that the questions would be answered in a more organized environment, thus reducing the risk of misreporting.

9. But then Mr Vella states that the Prime Minister’s communication office itself contacted those newsrooms that, according to Mr Vella, would usually be outside Castille, such as Lovin Malta, One, the Times of Malta, PBS and the Malta Independent. This contradicts his previous suggestion that this was a case of journalists’ door-stepping the Prime Minister.

10. An additional indication that the media were contacted is provided by the Prime Minister’s opening comments, in which he said that:

“I wished to make a brief statement to give an update even given the circumstances of reports that yesterday a person of interest, Yorgen Fenech, was given police bail [...]. Without going into the merits of the case, it is good that I explain briefly.”⁹

11. This shows that the Prime Minister intended to make a statement and did not start by responding to questions.

12. It may be that the comments given by the Prime Minister to the press on 22 November 2019 were not part of a pre-planned press briefing but rather an impromptu event in which the Prime Minister wanted to make a statement to the

⁸ Door-stepping is a term used to describe an attempt to obtain an interview, or piece to camera, from a contributor without prior arrangement or agreement, typically by confronting them in a public space, such as outside their home, workplace or courthouse.

⁹ *“Ridit nagħmel stqarrija qasira biex nagħti update anka fiċ-ċirkostanza tar-rapporti li l-bieraħ persuna ta’ interess, Yorgen Fenech, ingħata police bail [...] mingħajr ma nidhol fil-meritu tal-każ tajjeb li nispjega ftit ir-retroxena”.*



media, without wishing to resort to a full-blown press event. One might therefore ask whether the media houses present were those who had been specifically invited to the event, as suggested by the Prime Minister's spokesman, or whether these were in addition to some other media crews who already happened to be waiting outside Castille and who were called inside.

13. However, this is irrelevant. What is relevant is the fact that a call was made to media houses who were not present; this call was not made through the DOI; and not all media houses were invited.

14. This complaint is also reflected in a statement issued by the Istitut tal-Ġurnalisti Maltin (IGM) that, in a statement dated 22 November 2019 but published on its website on 30 November 2019, condemned what it described as OPM's malpractice when it comes to discrimination against certain news houses.¹⁰

15. The Prime Minister argued in his statement through Nigel Vella that each time a press call is issued by the Department of Information (DOI), such a call is issued to all media houses without any being left out. If this is the case, I do not understand why the same practice was not used for the Prime Minister's statement to the press on 22 November 2019. Mr Vella states that on this day newsrooms were contacted at very short notice, but this does not justify contacting certain newsrooms while disregarding others. Emails can be sent in a matter of minutes.

16. Article 10 of the Code of Ethics for Ministers and Parliamentary Secretaries, which is set out in the second schedule to the Standards in Public Life Act (chapter 570 of the laws of Malta) states *inter alia* that:

10.1 Ministers shall inform the public and the media of ministerial activities on a regular basis and in an organized manner; and

10.4 In the public interest, ministers shall ensure that they have open communication with the social partners, non-governmental organisations, professional associations, the broadcasting media and the public in general.

17. I had occasion to express an opinion on the interpretation of these provisions in a case report which I issued on 4 February 2019.¹¹ In my view the DOI, as far as possible, should not discriminate between media houses whenever there are

¹⁰ <https://igm.org.mt/2019/11/30/l-igm-jikkundanna-c-censura-mill-ufficcju-tal-prim-ministru-fil-konfront-ta-kmamar-tal-ahbarijiet/>.

¹¹ See footnote 1 above.



events to which the media is invited. It is therefore comforting to note the statement by the Prime Minister that each time there is a press call issued by the Department of Information, such a call is issued to all media houses without any being left out.

18. Had media crews been door-stepping outside Castille, there would have been nothing wrong in inviting them into the building to address them in a more orderly manner. This would have facilitated more effective communication, which would have been in the public interest especially if sensitive subjects were under discussion. Therefore, where a person being door-stepped offers to grant a more orderly interview in this manner, he or she should be commended. However, this is not what happened in the case under consideration.

19. In my opinion, once the Prime Minister felt the need to make a statement on a matter of a certain gravity, he should have ensured that all media houses were invited, even at very short notice, without being selective as Mr Vella admitted in his reply. It would have been good practice to issue the invitation through the DOI, as is customary. I need not emphasise that non-discrimination between media houses on the part of the government ought to be considered a basic duty and, as I stated in my case report of 4 February 2019, I shall be interpreting Art 10.1 and 10.4 of the Code in that light.

Conclusions

20. Therefore, in the circumstances, I find that (former) Prime Minister Joseph Muscat acted in breach of Art 10.1 and 10.4 of the Code of Ethics for Ministers and Parliamentary Secretaries when his communications office issued an invitation to selected media houses only for an impromptu media event on Friday 22 November 2019.

21. This opinion should also serve to encourage Ministers to inform the press of ministerial engagements through the DOI, in accordance with established practice, and deter Ministries from bypassing the DOI under the guise of impromptu press events in order to engage only with selected media houses. I reiterate the opinion expressed in my report of 4 February 2019 that as a general principle Ministers should adopt a non-discriminatory approach towards the press on matters of public interest. This principle should not be construed as a restriction on the right of Ministers to grant exclusive interviews or to participate in events organised by any media house.



22. In the circumstances of the Prime Minister's resignation on the 13 January 2020, I do not feel the need to recommend any further action and I am closing this case.

23. A copy of this report is being given to the Complainant, to the former Prime Minister, and to the Committee on Standards in Public Life for information purposes. A copy is also being given to the Principal Permanent Secretary with a view to its conclusions being disseminated to Ministries for their future guidance.

Dr George-Marius Hyzler

Commissioner for Standards in Public Life



Documents Attached:

Document A Complaint by email dated 22 November 2019 from Sylvana Debono.

Document B Reply by email dated 2 December 2019 from Nigel Vella on behalf of Prime Minister Joseph Muscat.

Charles Polidano - Office of the Commissioner for Standards in Public Life

From: Office of the Commissioner for Standards
<wordpress@standardscommissioner.com>
Sent: Friday, 22 November 2019 11:33
To: Office
Subject: Message from Contact Us form regarding: Complaint

From: Sylvana Debono

Email: sylvana.debono@beaconmedia.mt

Message:

Sir,

I would like to post a complaint on behalf of the organisation for which I am Editor-in-Chief. When Prime Minister Joseph Muscat gave comments to the press on the morning of Friday 22nd November 2019, Newsbook.com.mt was not advised to attend. This meant that our readers and the listeners of 103 - Malta's Heart (formerly RTK) were impeded from hearing the news which the Prime Minister was about to impart.

We maintain that this is blatant discrimination and request the protection of your office.

Yours Faithfully
Sylvana Debono
Editor-in-Chief

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This message was sent from the website of the Office of the Commissioner for Standards in Public Life (<http://standardscommissioner.com>).

Charles Polidano - Office of the Commissioner for Standards in Public Life

From: Vella Nigel at OPM <nigel.vella@gov.mt>
Sent: Monday, 2 December 2019 13:42
To: Charles Polidano - Office of the Commissioner for Standards in Public Life
Cc: Carbone Matthew at OPM
Subject: Ilment lill-PM mis-Sinj. Sylvana Debono

Sur Polidano,

Qed nibgħatlek tweġiba b'referenza għall-ilment imressaq mingħand is-Sinj. Sylvana Debono.

It-Tnejn 2 ta' Diċembru 2019,

B'referenza għal-ilment imressaq mis-Sinj. Sylvana Debono f'isem *Newsbook* dwar kumment li ta l-Prim Ministru Joseph Muscat nhar il-Ġimgħa 22 ta' Novembru 2019 hu u diehel għax-xogħol iridu ngħidu li qabel xejn din kienet ġimgħa partikolari ħafna fejn tul il-ġranet kollha tal-ġimgħa kien hemm *crews* tal-mezzi tax-xandir quddiem il-Berġa ta' Kastilja jistennew sabiex il-Prim Ministru jagħti l-kummenti tiegħu b'rabta mal-aħħar żviluppi fl-investigazzjoni tal-qtil ta' Daphne Caruana Galizia.

Il-Prim Ministru dawn il-kummenti kienu qed jagħtihom hu u diehel għax-xogħol fl-uffiċċju tiegħu u kienu qed isiru ġewwa minflok fil-Pjazza, l-ewwelnett minhabba l-maltemp u t-tieni biex ikunu organizzati kemm jista' jkun u mhux ikun hemm ħafna ġiri fil-Pjazza b'talli mod li seta' jkun hemm xkiel milli l-informazzjoni tgħaddi sew.

Il-Prim Ministru ma ħarabx milli jwieġeb id-domani u milli jaffaċja l-media u kull darba li jkun hemm sejha għall-mezzi tax-xandir, li tinħareġ mid-Dipartiment tal-Infommazzjoni, din is-sejha tinħareġ lill-mezzi tax-xandir kollha mingħajr hadd ma jithalla

F'dan il-kumment li ta b'mod speċifiku, li wara ironikament spiċċa fil-mira tal-istess ġurnalisti, mhux tal-inqas tan-*Newsbook* għax ma ridux li l-Prim Ministru jikkumenta fuq investigazzjoni li għaddejha, bħala Uffiċċju tal-Komunikazzjoni għamel kuntatt mal-kmamar tal-aħbarijiet li s-soltu jkunu quddiem Kastilja (bħal ma kienu Lovin Malta, ONE, Times of Malta, PBS u Independent) jistennew sabiex jieħdu l-kummenti kemm tal-Prim Ministru kif ukoll ta' esponenti oħra tal-Gvern, dan il-kuntatt sar fi żmien qasir ħafna.

Iridu ngħidu wkoll li l-istess Sinj. Debono ma tistax tagħmel distinzjoni bejn dak li huwa *door-stepping* u sejha għall-mezzi tax-xandir. Fit-28 ta' Novembru itella' dan l-artiklu: <https://newsbook.com.mt/en/resolution-imminent-says-muscat-as-police-question-schembri-and-fenech/> fejn qed jingħad li l-Prim Ministru sejjaħ għal xi mezzi tax-xandir u mhux oħrajn, meta dan mhux minnu.

Id-door-stepping ma jkunx hemm l-ebda stedina għalih iżda *crews* tal-mezzi tax-xandir ikunu qed jistennew sabiex jiehdu xi kummenti.

Nigel Vella

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Communications
Prime Minister Secretariat

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