Commissioner for Standards in Public Life

9 April 2021

The Hon Anġlu Farrugia
Speaker of the House of Representatives

By email to anglu.farrugia@parlament.mt

Hon Mr Speaker

Publication of reports submitted to the Committee for Standards in Public Life pursuant to article 22 of the Standards in Public Life Act

I have followed the proceedings of today's meeting of the Standing Committee on Standards in Public Life. I note that the two members appointed by the Prime Minister failed to attend and the meeting was aborted. I am aware that their absence follows their allegation that my report on case K/028, on the allocation of public funds for alleged political advertising in print media, was leaked.

As I have already had occasion to communicate to you, my office adopts very strict security on all documents and material held by it. I have no hesitation in re-confirming that the report, which was handed to you and circulated by you to the members of the Committee, was not leaked by my office.

The purpose of this letter however goes beyond this issue and concerns the consequences of inexplicable delay in publication of my reports.

The reports that I submit to the Committee are of three types.

i. Reports where, following an investigation, I am of the opinion that there is no evidence of misconduct. Such reports are published by my office and are submitted to the Committee purely for information purposes.
ii. Reports where, following an investigation, I find misconduct, but a remedy would have been agreed with the individual concerned by the application of article 22(5) of the Act. These reports are also published by my office and submitted to the Committee purely for information purposes.

iii. Reports where I find evidence of misconduct and article 22(5) cannot be applied. These reports are submitted to the Committee for its further consideration pursuant to article 22 (1), (2) and (3) of the Act.

At the meeting of the Committee on 2 April 2019, following a memorandum that I had submitted, we had reached an understanding that the Committee would retain the discretion when to publish those reports that I refer to it after finding evidence of misconduct. In such cases I would merely inform the individual investigated and the complainant that my report has been concluded and that it has been submitted to the Committee. I would not forward to them a copy of that report.

With the benefit of hindsight, I feel that this procedure is creating unnecessary polemics and gives rise to unfounded suspicions that reflect negatively on my office and on yours. It now appears that it is also being used to hamper the work of the Committee. Most importantly, it goes against the principle of transparency that my office was established to uphold; it has no basis at law since this form of censorship certainly was not foreseen by the legislator; and what effectively amounts to the suppression of reports can be interpreted as an attempt to undermine Parliament in its efforts to raise standards in public life through the setting up of this office.

It is my understanding that the reason the Committee had wished to retain the right to decide for itself whether or not to publish a report in the case of a finding of misconduct was as a safeguard of the right to privacy of the individual investigated. My report on case K/028 does not give rise to any considerations of the sort and the delay is therefore totally inexplicable. The same applies to my reports in previous cases where the Committee delayed publication.

With all due respect, I feel that the decision whether and when to publish a report should be my responsibility and not that of the Committee. Nothing in the Act gives the Committee the power to decide on publication of reports. By comparison, the National Audit Office and the Ombudsman – both bodies that, like the Commissioner for Standards in Public Life, answer to Parliament – decide for themselves whether or when to publish their reports and they are not subject to any other authority in this regard.

In any case, where I felt that a matter was related to the personal life of the individual under investigation and was not relevant to the issue, I took it upon

myself to omit the matter from the report altogether, much to the media's displeasure at the time.

I therefore kindly request you to bring this matter up for discussion at the first opportunity as I would not wish to unilaterally reconsider the procedure that was adopted at the afore-mentioned meeting.

I also wish to take the opportunity to comment on the issue of the alleged leak of the report in case K/028 since the matter may be discussed at the meeting that has been adjourned to Wednesday 14 April 2021.

I am aware that the members nominated by the Prime Minister have alleged that the report was leaked to the press and have called for an investigation. I have gone through all the media reports and have not found anything that could suggest evidence of a leak.

The Newsbook news story of 8 April 2021, that was singled out in this context, simply stated the obvious conclusion, that is to say that once a case report was submitted to the Committee and was not publicised, then it must contain a finding of misconduct. The news story uses the phrase "blatant self-promotion", but this is not used anywhere in the case report. Moreover, the news story states that the Hon Abela was asked what was the cost of his publicity campaign. This further confirms that Newsbook did not have and have not seen a copy of my case report, since the latter sets out the cost of the campaign.

The above is being stated simply to underline the fact that delay in the publication of case reports, especially delay without a valid reason, needlessly encourages speculation on the one hand and mistrust on the other. This is detrimental to all institutions of state, including my office and Parliament itself.

This letter is being published through the official website of my office.

Yours sincerely,

Dr George Marius Hyzler
Commissioner for Standards in Public Life

cc: Members of the Standing Committee for Standards in Public Life