

**LIMITATIONS ON THE FREEDOM OF THE PRESS IN THE FACE  
OF CORRUPTION SCANDALS AS INSTRUMENTS OF QUASI-  
MILITANT DEMOCRACY IN MALTA<sup>1</sup>**

<b>Abstract:</b>	<p><i>In this paper analyses the problem of limiting the freedom of the press in Malta after published leaks about corruption in public administration. A turning point was murdering Daphne Caruana Galizia in 2017, which drew the international community's attention. The study verifies the following hypothesis: after disclosing corruption scandals, the ruling elite decided to use the means characteristic of quasi-militant democracy to limit the freedom of the press against journalists who reported that issue and recognized them as enemies of the state. This measure was used in practice, despite the legal framework that guarantees the protection of this freedom. The level of using quasi-militant democracy means to limit independent media did not decrease after Galicia's murder, despite pressure made by international opinion. On the one hand, this phenomenon is the effect of solid foundations for legitimizing corruption in domestic policy. Therefore, public opinion did not seek to disclose abusing power by journalists. On the other hand, NGOs' failed efforts to increase the protection of the freedom of the press result from a lack of efficient measures to improve media freedom. Therefore, ruling elites only declared changes to calm down international opinion but, in practice, adopted other, more personal, non-direct restrictions on independent media. I decided to use quasi-militant democracy as a theoretical category to explore the motivations and consequences of limiting the freedom of the press. The paper's conclusions will be useful in analyzing restrictions against independent media in the name of protecting democratic regimes in semi-consolidated democracy and explaining the reasons behind this phenomenon.</i></p>
<b>Keywords:</b>	<b>Freedom of the press; media capture in Malta; militant democracy</b>

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## Introduction

According to the 2020 Democracy Index drawn up by “The Economist”, Malta has remained a “flawed democracy” having an even lower score than the previous year. Until 2018, Malta was considered a “full democracy” but dropped from a score of 8.21 in 2018 to 7.95 in 2019, becoming a “flawed democracy”. In the civil liberties category, it scored 8.24<sup>1</sup>. For a better understanding of the circumstances of the current Maltese political system, it is necessary to outline the origins of this post-colonial state. The Republic of Malta was proclaimed on December 13, 1974. It was a turning point in reclaiming independence and ending control by the British on the island. Malta adopted a policy of neutrality in the 1980s and started liberalizing the country's economy. After the Cold War, Malta was an economically and politically marginal post-colonial state<sup>2</sup>, prepared to access the EU, which was the centre of Maltese political thought. For that purpose, crucial was the modernization of public administration and governance, especially in eradicating corruption and clientelist practices, signalled by the EU Commission in 1993. Therefore, corruption has been recognized as one of the weak points of young Maltese democracy for years.

Therefore, the Maltese post-colonial political system may be recognized as semi-consolidated democracy, dealing mostly with public administration corruption. This challenge is observed in the media system. There is no doubt that the economic breakdown in 2007–2008 significantly influenced media entities' economic conditions, especially newspaper outlets<sup>3</sup>, and strengthened corruption in

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<sup>1</sup> Kevin Schembri Orland, *Malta remains a “flawed democracy”, gets a lower score in 2020 – Economist report*, <https://www.independent.com.mt/articles/2021-02-05/local-news/Malta-remains-a-flawed-democracy-gets-lower-score-in-2020-Economist-report-6736230761>, (7.06.2022)

<sup>2</sup> Jon P. Mitchel, *Corruption and Clientelism in a “Systemless System”: The Europeanization of Maltese Political Culture*, in “South European Society and Politics” Vol. 7, No.1, pp. 43-62

<sup>3</sup> Núria Almiron, *Journalism in crisis: Corporate media and financialization*, Hampton Press, New York; Wayne Hope, *Time, Communication and Financial Collapse*, in “International Journal of Communication”, No. 4, 2010, pp. 649–669; Dwayne Winseck, *Financialization and the “crisis of the media”*: *The rise and fall of (some) media conglomerates in Canada*, in “Canadian Journal of Communication”, No. 35, pp. 365–393; Elsa Costa e Silva, *Crisis, financialization and regulation: The case of media industries in*

public space<sup>1</sup>. Moreover, the recovery of the media after the biggest recession since 1929–1933 was hindered by another challenge – the coronavirus pandemic – when advertising expenses were reduced to rescue advertisers’ budgets. During the last decade, not only economic issues, and declining expenses on advertising in media had an impact on news outlets. Another challenge was the development of ICT technologies in social communication, headed by social media. Leading newspapers around the globe launched web portals to maintain the attention of their readers. These two challenges became a real danger to the functioning of independent media based on traditional coverage. Even if some of them used professionally designed websites, in the digital age, news and the number of sources grows every day, including outlets based only on duplicating information. In that situation, owners of leading media, which lost the competition with Facebook and other giants, decided to sell outlets to domestic government-friendly oligarchy (e.g., the Czech Republic) or state-owned companies (e.g., Poland), which was a rescue for their functioning. However, selling these media led to their politicization, which limited their independence. In the face of declining private media incomes and reducing the number of workplaces, another issue was that journalists practiced self-censorship to not publish anything against their supervisors.

Therefore, this paper analyses the problem of limiting the freedom of the press in Malta after published leaks about corruption in public administration. A turning point was murdering Daphne Caruana Galizia in 2017, which drew the international community's attention. The study verifies the following hypothesis: after disclosing corruption scandals, the ruling elite decided to use the means characteristic of quasi-militant democracy to limit the freedom of the press against journalists who reported that issue and recognized them as enemies of the state. This measure was used in practice, despite the legal framework that guarantees the protection of this freedom. The level of using quasi-militant democracy means to limit independent media did not decrease after Galizia’s murder, despite pressure made by international opinion. On the one hand, this phenomenon is the effect of solid foundations for legitimizing corruption in domestic policy. Therefore, public opinion did not seek to disclose abusing power by journalists. On the other hand, NGOs' failed efforts to increase the protection of the freedom of the press result from a lack of efficient measures to improve media freedom. Therefore, ruling elites only declared changes to calm down international opinion but, in practice, adopted other, more personal, non-direct restrictions on independent media.

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*Portugal*, in “The Political Economy of Communication”, No. 2; Antonis Skamnakis, *Accelerating a freefall? The impact of the post-2008 economic crisis on Greek media and journalism*, in “Journal of Greek Media & Culture”, Vol. 4, No. 1, pp. 9–25

<sup>1</sup> Prasad Padmanabhan, Chi-Hui Wang, Chia-Hsing Huang, *Did the 2008 global financial crisis influence the host country corruption and inward foreign direct investments relationship? An empirical examination*, in “The Journal of International Trade & Economic Development”, Vol. 29, No. 5, pp. 566-603

In the presented context, I decided to use quasi-militant democracy as a theoretical category to explore the motivations and consequences of limiting the freedom of the press. The paper's conclusions may be useful in analysing the use of limitations against independent media in the name of protecting democratic regimes and explaining the reasons behind this phenomenon. Malta's case delivers useful evidence for analyzing putting pressure on media by politicians and the limited freedom of the press in semi-consolidated democracy.

The paper's structure is following. The Literature Review and Theoretical Background section discusses the most significant studies on militant and quasi-militant democracy and justifies choosing these theoretical categories to explore limitations on the freedom of the press in Malta. Moreover, it presents crucial studies on restrictions on media freedom to indicate dominant approaches to exploring this phenomenon. Based on the literature review, we decided to apply militant democracy and quasi-militant democracy to studies on media freedom in Malta to answer the question about the real intentions of restrictions and their consequences, which we classify as a non-exploring area. The Methods and Sources section presents a research question, a justification for selecting sources, and a research procedure. Then, the role of corruption in contemporary Maltese domestic policy and the subject of Galizia's journalistic investigation are discussed. We analyze restrictions on the freedom of the press, considering the Maltese legal framework. The next section explores the role of the Panama Papers and Galizia's assassination in disclosing corruption scandals in Malta. The section Muzzle Press Freedom in Malta refers to NGOs' remarks about media freedom. Finally, we formulate conclusions about the character of restrictions on media freedom and the dynamics of using selected quasi-militant democracy means in Malta. I explain why despite putting pressure on international opinion, Maltese authorities did not improve the protection of the freedom of the press and did not stop using quasi-militant democracy means in the face of the murder of Daphne Caruana Galizia.

### **Literature review and theoretical background**

The presented literature review consists of three elements to indicate relations between selected theoretical categories (militant democracy and quasi-militant democracy) with the analyzed phenomenon (restrictions on the freedom of the press in the face of disclosing corruption scandals). First, I discuss militant democracy and quasi-militant democracy – theoretical categories that indicate real intentions and consequences of restrictions on the freedom of the press. Moreover, we refer to scholars who applied these categories to explore limitations on media freedom in other states to justify choosing these theoretical frameworks and present main conclusions about that. Second, thanks to studies on the role of the freedom of the press in democratic societies, we explain its meaning for the sovereignty of the political nation, which guarantees the survival of democratic

regimes<sup>1</sup>. We also refer to motivations and justifications for using restrictions on the freedom of the press in democratic regimes to indicate which of them may protect or destroy the political system. Finally, we bring up the definitions of corruption and clientelism, used by scholars to address Malta's case. Thanks to that, we indicate the character of dominant relations in the Maltese public sphere, disclosed by independent journalists.

Quasi-militant democracy is an antinomy of new-militant democracy<sup>2</sup>, a modern type of militant democracy, a theoretical category conceived by Karl Loewenstein in the mid-1930<sup>3</sup>. The latter focused on preserving a democratic regime by eliminating its opponents through legal means<sup>3</sup>. Nowadays, political science scholars continue their studies on militant democracy. Alexander S. Kirshner pointed out that restrictions on certain rights and freedoms defend democratic values while respecting the right to participate in public life<sup>4</sup>. Giovanni Capoccia proposed understanding militant democracy as the "use of legal restrictions on political expression and participation to curb extremist actors in democratic regimes"<sup>5</sup>. Therefore, the body of literature was dominated by the approach that militant democracy means may be used against extremists and anti-democrats. However, in the literature, we can also find some critical approaches. Carlo Invernizzi Accetti and Ian Zuckerman<sup>6</sup>, as critics of militant democracy, alleged its use to cover authoritarian politics and expand executive power by political elites. However, their approach is closer to a concept of quasi-militant democracy, in which instruments may be used against enemies of ruling elites. For this reason, to avoid confusing the aims and goals of restricting rights and freedoms, Joanna Rak and Roman Bäcker proposed the differentiation between neo-militant democracy and quasi-militant democracy. Essential features of neo-militant democracy rest on democracy's self-defense ability without decreasing the level of the political nation's sovereignty. In turn, quasi-militant democracy attempts to expand the power competencies of the ruling elite while reducing the level of the sovereignty of the political nation<sup>7</sup>. In neo-militant democracy, restrictions on the freedom of speech and the press allow ruling elites to reduce the

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<sup>1</sup> Roman Bäcker, *Kategoria narodu politycznego*, in Jacek Wojnicki, Justyna Miecznikowska, Łukasz Zamecki, *Polska i Europa w perspektywie politologicznej*, Tom II, (ed.) Warszawa, 2019, p. 38

<sup>2</sup> Joanna Rak, Roman Bäcker, *Neo-militant Democracies in Post-communist Member States of the European Union*, London, New York, 2022, p.5

<sup>3</sup> Karl Loewenstein, *Militant Democracy and Fundamental Rights I*, in "The American Political Science Review" Vol. 31, No. 3, pp. 417–432

<sup>4</sup> Alexander Kirshner, *A Theory of Militant Democracy*, in *A Theory of Militant Democracy*, Yale University Press, 2014

<sup>5</sup> Giovanni Capoccia, *Militant democracy: The institutional bases of democratic self-preservation*, in "Annual Review of Law and Social Science", Vol. 9, No. 1, pp. 207-226

<sup>6</sup> Carlo Invernizzi Accetti, Ian Zuckerman, *What's wrong with militant democracy?*, in "Political Studies", Vol. 65, No. 1, p. 195

<sup>7</sup> Joanna Rak, Roman Bäcker, *Op. cit.*, pp. 8-9

possibility of spreading discrimination, hate speech, and fake news by anti-democratic forces. In quasi-militant democracy, the same restrictions are used to limit the independence of journalists and media workers.

In modern studies on militant democracy, some scholars conducted research considering changes in scope and level of protecting the freedom of the press<sup>1</sup>. Limiting the freedom of the press may be classified as a symptom of “hard” militant democracy, which openly leads to the exclusion of certain entities considered enemies of democracy<sup>2</sup>. In that approach, restrictions against media are a type of countermeasure to the threat of democratic regimes by abusing the freedom of the press. For analyzing Malta’s case, it is worth referring to comparative studies on that phenomenon in Western European consolidated democracy<sup>3</sup>. Maltese trajectory is like Austria’s case, where quasi-militant democracy were a response to disclosing pieces of evidence of abusing power by ruling elites and public officers<sup>4</sup>. In order to verify which restrictions can be classified as neo-militant or quasi-militant democracy means, variants of restrictions on the freedom of the press may be classified in the following catalog: 1) politicians or political-friendly businessmen’s actions to link the media sector with the politicians’ sphere by putting pressure on independent outlets, 2) interference in the process of media management (personnel policy, economic decisions, etc.), 3) limiting free speech in the name of protecting personal beliefs, public safety and constitutional order, 4) limitations to manifest own opinions during public assemblies, 5) Internet censorship<sup>5</sup>. In this study, we intend to verify which of these variants occurred in Malta, or another type, allowing us to expand this catalog.

The freedom of the press and all other media, which is a derivative of the freedom of speech, guarantees the media’s pluralism, commonly referred to as the “fourth power”. In a democratic system, limitations lead to abuses by the ruling elite, influencing the publishing process and published content. Nowadays, we observe increasing acts of violence against journalists in Europe, especially by

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<sup>1</sup> Przemysław Osiewicz, Maciej Skrzypek, *Is Spain becoming a militant democracy? Empirical evidence from Freedom House Reports*, in “Aportes. Revista de Historia Contemporánea”, Vol. 35, Nr. 103, pp. 7–33; Maciej Skrzypek, *Between neo-militant and quasi-militant democracy: restrictions on freedoms of speech and the press in Austria, Finland, and Sweden 2008–2019*, in “European Politics and Society”; Kamila Rezmier-Płotka, *Restrictions of freedom of the press as an indicator of militant democracy in Lithuania*, in “Polish Political Science Yearbook”, Vol. 49, No. 4, pp. 204–210

<sup>2</sup> Jan-Werner Müller, *Protecting Popular Self-Government from the People? New Normative Perspectives on Militant Democracy*, in “Annual Review of Political Science”, No. 19, p. 258

<sup>3</sup> Maciej Skrzypek, *Op. cit.*

<sup>4</sup> *Idem*, pp. 8-9

<sup>5</sup> *Idem*, pp. 3-4

uniformed service representatives<sup>1</sup>. Decreasing media content quality, self-censorship, and politicization endanger the formation of public opinion, which, as Karl Popper said, is powerful enough to overthrow governments, even undemocratic ones<sup>2</sup>.

Wojciech Adamczyk explained that informal control over institutions of power by media serves to increase the transparency of the area of behind-the-scenes activities of political elites. These activities significantly impact citizens' quality of life and observance of the standards of a democratic state of law. He also argued that journalistic unmasking abusing power by politicians is used to stimulate public opinion to pressure the nation's representatives to take actions such as legislative or personal changes. Informing about the activities of political elites as effective means of informal control of the government confirms the important role of mass communication in the political decision-making system. Politicians seek to hide unlawful behavior from the public and, at the same time, fear possible sanctions. Disclosing political scandals should lead first to social disapproval and then to the imposition of sanctions<sup>3</sup>. In the case of neo-militant democracy, restrictions on the freedom of speech and the press are used to combat political groups classified as enemies of democracy. In quasi-militant democracy, restrictions are used to expand the ruling elite's scope of power while reducing the level of the sovereignty of the political nation.

At this point, it is worth conceptualizing two essential terms: corruption and clientelism. Robert Klitgaard<sup>4</sup> argued that 'corruption is the misuse of office for unofficial ends', which is a too broad and capacious definition. Scholars who analyze corruption in Malta used a more detailed conceptual framework. Natasha Krsteski<sup>5</sup> defined corruption as a violation of the moral values of society, considered the most severe form of threat to the democratic rule of law. She pointed out that any abuse of power for personal or collective gain, in both the public and private sectors, constitutes corruption. Moreover, it occurs when the impartiality principle is breached due to the intentional misappropriation of a property. Corruption is a waste of power by the government against the general interest<sup>6</sup>. Keith Mercieca<sup>1</sup> stated that "corruption is essentially a relationship, one

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<sup>1</sup> Reporters without Borders, *2019 World Press Freedom Index – A cycle of fear*, <https://rsf.org/en/2019-world-press-freedom-index-cycle-fear>, (7.06.2022).

<sup>2</sup> Karl R. Popper, *Opinia publiczna w świetle zasad liberalizmu (translated by A. Malinowski)*, in "Studia Polityczne", No. 3, p. 12

<sup>3</sup> Wojciech Adamczyk, *Teflon power elite? Why do the political scandals disclosed by the media (not) always mobilize Polish public opinion?*, in "Annales Universitatis Mariae Curie-Skłodowska – Sectio Balcaniensis et Carpathiensis", No. 6, 2021, p. 12

<sup>4</sup> Robert Klitgaard, *International Cooperation Against Corruption, Finance & Development*, <https://www.elibrary.imf.org/view/journals/022/0035/001/article-A002-en.xml>, (7.06.2022)

<sup>5</sup> Natasha Krsteski, *Corruption in Malta*, in "Knowledge International Journal", Vol. 28, No. 6, pp. 1925-1929

<sup>6</sup> *Ibidem*, p. 1925

that trades in power and influence, and that comes to life in unison with the opportunities afforded by its specific environment. In small states such as Malta, an intricate web of power, networks, traditions, and obligations predetermine these opportunities". Finally, Mitchel defines corruption as "self-interested activities of politicians who appropriate state resources for personal benefit or use their public position for private gain"; and clientelism as a 'process whereby personal relationship, called patronage, are established between politicians and members of public. Recognize as essential features of Mediterranean political systems"<sup>2</sup>. Therefore, corruption and clientelism, as specific relations between officers of public administration and anyone who wants to achieve benefits from this relation, have created a space where unfair and non-transparent practices are accepted in realizing partisan aims, despite acting to the detriment of society.

In democratic regimes, a political nation accepts some limitations necessary to guarantee survival for the political regime because some may improve democratic decision-making by excluding anti-democrats. Quasi-militant democracy is a strategy of using legal restrictions to accumulate ruling elites' power by reducing the sovereignty of the political nation. In the context of the freedom of the press and reducing advertising expenses due to economic breakdown, media outlets and journalists are endangered by the risk of taking them over by oligarchs related to political elites. That political pressure attempts to transform media into a platform to distribute party agenda. It should be recognised as an example of adopting a quasi-militant democracy strategy toward the freedom of the press.

### **Methods and sources**

The research starting point is the economic crisis of 2008, which had a significant impact on European media markets<sup>3</sup>. In the aftermath of the economic crisis, the popularity of populist rhetoric, which openly challenged the principles of liberal democracy, also increased. On purpose, the final point is 2019, the moment before the outbreak of the Coronavirus crisis, during which most restrictions on civil rights and freedoms were dictated by the protection of public health and were extorted by extraordinary situations. The coronavirus crisis opened a new and thus far unfinished phase of militant democracy development. The fight against the COVID-19 pandemic required new strategies and actions, so the analysis of

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<sup>1</sup> Keith Mercieca, *The cat and the rat sleep together: an analysis of the factors that influence corruption in Malta*, in M. T. Vassallo (ed.) *Public life in Malta: essays on governance, politics and public affairs in the EU's smallest member state* 1(2), p. 108

<sup>2</sup> Jon P. Mitchel, *Op. cit.*, p. 59

<sup>3</sup> Murina Munteanu, *Media in crisis: Should the state intervene? Reuters Institute Fellowship Paper, Oxford, 2010*, Open Society Foundations, Footprint of the financial crisis in the media,

<https://opensocietyfoundations.org/publications/footprint-financial-crisis-media>, (7.06.2022)



restrictions from 2020 should consider other factors. As for the turning point of 2008–2019, I identify the murder of Daphne Caruana Galizia in 2018, which focused international society on the problem of combating independent media in Malta.

We ask the following questions to support the verification of the hypothesis: 1) What restrictions on the freedom of the press did Malta include in its national legislation? 2) What restrictions, as quasi-militant democracy means, on the freedom of the press were adopted against journalists reporting corruption scandals? 3) What were the scope and level of using quasi-militant democracy after Galizia's murder?

The research procedure includes three steps: operationalizing a research tool, collecting, and selecting sources, analyzing data, and formulating conclusions. First, we use the catalog of quasi-militant democracy means against the freedom of the press<sup>1</sup>, but I do not exclude its modification after an empirical analysis of Malta's case. Second, I purposely selected the following sources: (a) national collections of laws about the freedom of speech and the press, NGOs' reports, media content, and experts' analyses about the state of the freedom of speech and the press. The first type of materials was obtained from official websites of domestic parliaments and online databases of legislation. The second type of source is online materials, accessed at credible portals, like websites on gov., Edu. domains. Based on national legislation, I indicated the declaratory level. NGOs' reports, experts' analyses, and media content allowed verifying the practical level. A database of mentioned NGOs' reports consists of online documents from 2008 to 2019, published by European Center for Press and Media Freedom, Freedom House, and Reporters Without Borders (RSF). These organizations, which monitored the freedom of speech and the press worldwide, warned about the problem of protecting the freedom of the press in Malta. Third, I reviewed materials to present the application and efficiency of individual measures. Finally, I presented conclusions about abusing regulations of hate speech crimes and public incitement to hatred in a struggle with independent media, violating relations between media markets and political systems, and favoring public broadcasters by ruling elites. The methods employed for the analysis are the qualitative analysis of sources and the quantitative analysis of data from a comparative perspective.

### **Malta: corruption scandals as main challenge for democratic regime**

EU institutions, during the accession, formulated recommendations to Maltese governance about the necessity of adopting new measures to modernize bureaucracy<sup>2</sup>. Mercieca<sup>3</sup> noted that among institutions to combat corruption, the main role was played by the Malta Police Force, the Security Service, the Attorney

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<sup>1</sup> Maciej Skrzypek, *Op. cit.*, pp. 3-4

<sup>2</sup> Jon P. Mitchel, *Op. cit.*, p. 45

<sup>3</sup> Keith Mercieca, *Op. cit.*, p. 109

General's Office, the Judiciary, the Permanent Commission Against Corruption, and many other bodies of interest such as the National Audit Office, the Ombudsman, and others. Despite several bodies and new legislation, anti-corruption commissions were recognized as worthless and with no power to combat that problem. The ineffectiveness of these institutions was confirmed by the works of the Permanent Commission against Corruption, established to investigate charges formulated about leaks of The Panama Papers.

A real obstacle and challenge were the legitimization of govern, the concept of Maltese government based on a patronage relation in society<sup>1</sup>. Moreover, corruption scandals expand beyond the political sphere. Spiteri's studies<sup>2</sup> confirmed that corruption significantly negatively influenced the well-being of Maltese people. Mercieca pointed out corruption's elusive and stealthy nature and as an ethical problem, 'driven on by the misconstrued understandings and behaviors of individuals at the ultimate expense of others. She argued that a significant role played: 1) appropriately targeted education for increasing awareness about civic duties; 2) depolarisation of public discourse and political landscape, dominated by two major parties, which is a crucial obstacle to building consensus on how to tackle corruption; 3) recruitment and retention of a skilled Public Service to build the functional institutional structure. She also argued that a 'more informed, educated and independent civic society will no longer accept lame excuses for inappropriate political intervention, inexistent regulation of party funding, and convinced that 'Malfeasance is no longer an acceptable practice and becomes highly incongruent with the high standards of accountability and transparency expected of local institutions<sup>3</sup>. In scholars' opinion, effective combating of corruption needs civic awareness, proper education, and access to public information. These factors should be strengthened by the conviction that abusing power is eradicated by professional and independent bodies. Free access to public information about corruption needs independent media, free to report that issue. Mitchel<sup>4</sup> recognized the Maltese public sphere as semi-transformed with well-developed mass media. However, media content is not an object of mass consumption, so citizens' awareness of abusing power may be limited. Content about corruption scandals is not the subject of society's interest. This statement is important for the research problem.

Combating corruption became a priority in internal policy after the democratic transition. However, that task was only EU institutions' recommendations, considering that corruption, due to well-developed patronal relations, had strong legitimization in post-colonial conditions. An essential feature of consolidated democracy is the existence of well-developed and independent

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<sup>1</sup> Jon P. Mitchel, *Op. cit.*, pp. 60-61

<sup>2</sup> Kylie Spiteri, *An econometric analysis of wellbeing in Malta: a focus on corruption*, <https://www.um.edu.mt/library/oar/handle/123456789/79815>, (7.06.2022)

<sup>3</sup> Keith Mercieca, *Op. cit.*, pp. 127-131

<sup>4</sup> Jon P. Mitchel, *Op. cit.*, p. 5

media, which play a crucial role in disclosing scandals involving abuse of power. Therefore, there were crucial factors in Maltese: the legitimization of corruption and low consumption of media content, which limit the scale of independent outlets.

### **Restrictions on the freedom of the press: Maltese legal framework**

For the proper analyzing the practical level of freedom in Maltese media, it is necessary to compare practice with the declaratory level as a legal framework, which in Malta, is based on British law standards<sup>1</sup>. The Constitution of Malta guarantees the freedom of expression, a foundation of the freedom of speech and the press<sup>2</sup>. In Article 41, legislators hold that freedom to express opinions, receive ideas and information, and communicate ideas and information cannot be hindered, and anybody cannot interfere with it<sup>3</sup>.

Detailed regulation about freedom of the media was adopted by Press Act (1974), which has a specific content layout because after conceptual-fundamental definitions in Part I, legislators regulate press offenses. A specific provision was adopted in Article 4, where legislators enter imprisonment and a fine in the case of inciting others to take away the life or the liberty of the President of Malta or any Minister. It adopted specific protection for the most important officers. Article 46 guarantees the right to the keeping secret of information's sources *unless it is necessary for the interests of national security, territorial integrity, or public safety, for the prevention of disorder or crime, or for the protection of the interests of justice*<sup>4</sup>. However, the court may deny the duty of leaking the source to protect publishers' interests. The next Article prohibits blocking access to public information by any media outlets by Government<sup>5</sup>. Another specific provision was adopted in Criminal Code. Following Article 163: *Insults of the Roman Catholic religion by means of words, gestures, written or printed materials are punishable by imprisonment for a period of one to six months*<sup>6</sup>. However, the Article was repealed by amendment to Act XXXVII.2016.3, which should be recognized as a significant change to strengthen the freedom of the press. Amendments to the criminal code and the Press Act in June 2012 includes gender identity and sexual orientation as prohibited grounds for hate speech. In late 2013, Parliamentary Secretary Jose Herrera announced a legislative proposal to remove all censorship in the arts, but no changes had been enacted<sup>7</sup>. The Broadcasting Authority

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<sup>1</sup> Raymond Mangion, *Constitutions and Legislation in Malta: 1914-1964*, Russell Square Publishing Limited

<sup>2</sup> *The Constitution of Malta, 1964*, Art. 32

<sup>3</sup> *Idem*, Art. 41

<sup>4</sup> *Press Act, 1974*, Art. 46

<sup>5</sup> *Idem*, Art. 47

<sup>6</sup> *Criminal Code, 1854*, Art. 163

<sup>7</sup> Freedom House, *Freedom of the Press 2015 – Malta*, <https://www.refworld.org/docid/565313556.html>, (7.06.2022)

regulates and monitors all radio and television broadcasts. The president appoints its members on the advice of the prime minister, which should be recognized as a possibility to pressure ruling elites.

A turning point was adopting the Media and Defamation Act *for updating the regulation of media and defamation matters and for matters consequential or ancillary thereto* in 2018. That regulation replaced The Press Act<sup>1</sup>. In the new law, legislators do not define and regulate freedoms granted to journalists and media outlets, which is a danger to the free functioning of media. Moreover, legislators assign the central position to defamation. Defamatory words in written media give rise to an action in libel before the competent court and the Code of Organization and Civil Procedure. Civil proceedings for defamation may be instituted against the author, the editor, and the publisher<sup>2</sup>. In the case of the court's decision about defamation, a judge may order to remove content from that website, or stop distributing, selling, or exhibiting material containing the statement<sup>3</sup>. Any person who is a victim of defamation or who has had her private life intruded into through a publication is entitled to demand to have published forthwith, free of charge, in the same medium, a statement by way of contradiction or explanation<sup>4</sup>. Moreover, the court may order the editor, the person responsible for the broadcasting medium, or an operator of a website to pay a penalty to the complainant not exceeding €2,000. That regulation guarantees the secrecy of the source of information in a newspaper, broadcast, or website for which he is responsible. Except it is vital for the interests of national security, territorial integrity, public safety, or for the prevention of disorder or crime, or for the protection of the interests of justice<sup>5</sup>. Authors of Freedom House's reports recognized that the regulation would decriminalize defamation and end the practice of freezing a journalist's assets while civil cases could proceed<sup>6</sup>. However, the 2020 report pointed out that investigative journalists continued to face libel suits<sup>7</sup>, which shows that the new regulation is ineffective for it remains a civil offense.

The legal framework of restrictions on the freedom of the press is signed by colonial heritage, by taking an example of British law, despite adopting these provisions during the transition period. Regulations about that issue are specific because Maltese legislators did not describe provisions of guaranteed freedoms like in western democracies. Therefore, the declaratory level of protecting the freedom of the press is lower than in consolidated democracies. Insulting Roman

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<sup>1</sup> *Media and Defamation Act, 2018, Art. 25*

<sup>2</sup> *Idem, Art. 3*

<sup>3</sup> *Idem, Art. 14*

<sup>4</sup> *Idem, Art. 15*

<sup>5</sup> *Idem, Art. 22*

<sup>6</sup> Freedom House, *Malta: Freedom in the World 2018 Country Report*, <https://freedomhouse.org/country/malta/freedom-world/2018> (7.06.2022).

<sup>7</sup> Freedom House, *Malta: Freedom in the World 2020 Country Report*, <https://freedomhouse.org/country/malta/freedom-world/2020>, (7.06.2022)

Catholic Church and religious feelings were deleted from legislation in 2016, which strengthened the position of media workers reporting church scandals – Fr Muscat’s activities in social media<sup>1</sup>, Community of Jesus the Savior’s case<sup>2</sup>, and child abuses cases<sup>3</sup>. Adopted in 2018 Defamation Act was not a milestone in protecting journalists because it did not influence ending investigations against journalists. Moreover, based on NGO reports, it should be recognized as low-effective. Pressure on journalists may be put by other means. However, accusations of defamation were the main instrument to limit the media’s independence, which investigations in Daphne Caruana Galizia’s cases confirmed.

### **The Panama papers and Galizia’s assassination**

International journalism investigation groups link traditional media with new media technology to report corruption scandals and financial and tax crimes. The first case of investigative journalism was reported in 1860–the 1870<sup>s</sup> in the USA – the success of American muckrakers as a model for journalists all around the world. On leaking the Panama Papers worked 400 teams of investigative journalists, collected 11,5 mln files in 2,6 TB. Wojciech Adamczyk argued that increasingly frequent international journalistic investigations exposing crimes financial and tax are possible thanks to the skillful use of the remaining ones at the disposal of resources: 1) professionally prepared, multi-person investigative teams; 2) proper selection of media and reporters, establishing the principles of cooperation and assigning tasks (verifying obtained information, setting publication dates); 3) modern tools for analyzing, processing, and sharing complex and large-scale quantified datasets; 4) using the available resources and information, often coming from confidential informants, which is forced thorough analysis and verification of obtained data in independent sources. Moreover, he pointed out that with developed advantages, international teams of journalistic investigations markedly decreased risk for reporters<sup>4</sup>.

Daphne Caruana Galizia, an investigative journalist, accused the beneficial owner of a third Panama company was the prime minister’s wife. After disclosing

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<sup>1</sup> *Updated: Police launch investigation into priest’s ‘homophobic’ rant*, <https://www.independent.com.mt/articles/2022-01-06/local-news/Minister-seeks-police-investigation-into-priest-s-homophobic-rant-6736239555>, (7.06.2022)

<sup>2</sup> *Church dissociates itself from Gesù Salvatur community*, <https://timesofmalta.com/articles/view/church-disassociates-itself-from-christian-community.843600>, (7.06.2022)

<sup>3</sup> *Catholic Church in Malta reports six priests for child abuse in two years*, <https://timesofmalta.com/articles/view/catholic-church-reports-six-priests-for-child-abuse-in-two-years.831283>, (7.06.2022); *Scrap prescription in child abuse cases’: foundation in memory of a murdered girl*, <https://timesofmalta.com/articles/view/scrap-prescription-in-child-abuse-cases-foundation-in-memory-of.884446>, (7.06.2022).

<sup>4</sup> Wojciech Adamczyk, *Follow the money. Międzynarodowe śledztwa dziennikarskie dotyczące przestępstw finansowych i podatkowych*, in ”Zarządzanie Mediami”, Vol. 9, No. 3, pp. 395-405

evidence of involving Maltese public officers in international corruption scandals, she was murdered in October 2017. The blowing up of her car was as evident from the previous one's arrangements, the retribution of influential people for exposing their participation in corruption. In November 2017, hundreds of people attended her funeral, which was declared a National Day of Mourning by the government. After Galizia's murder, her close relatives were supported by RSF, who helped them with legal assistance during defamation trials<sup>1</sup>. Galizia's case became a public issue, which engaged civil society and led to significant changes in Maltese politics during the next years. At once, allegations about the possibilities of political influence over corruption investigations were warned by members of the opposition and civil society. Maltese activities demanded the resignation of the attorney general and the police commissioner and accused them of being under the prime minister's control. Moreover, as mentioned, the Permanent Commission against Corruption was crippled by vacancies for much of the year. In 2017, RSF and four other NGOs started joint missions to Malta to monitor trials and Galizia's murderers and political activities in that case.

In October 2018, a mission led by Reporters Without Borders (RSF) criticized the Maltese authorities for "not living up to their obligations to guarantee and safeguard freedom of expression and press freedom". The mission pointed to the slow pace of the trial against the suspects in Caruana Galizia's murder and the failure of investigators to arrest the masterminds behind the crime, which is believed to be a contract killing<sup>2</sup>. In 2019, Yorgen Fenech, a wealthy businessman friend of Schembri, was charged with complicity in the murder; he pleaded not guilty. Five days before Fenech's arraignment, the alleged middleman in the plot, Melvin Theuma, received a presidential pardon and immunity to enable him to testify in the case. He testified that Fenech had paid him to hire the three men who carried out the murder. Theuma said he was also given a no-show government job. In court testimony, Schembri denied any connection to Galizia's murder and refuted allegations that he had leaked information about the case to suspects<sup>3</sup>.

In July 2020, it was confirmed that Attorney General Peter Grech, as the chief prosecutor, sent a note to police in 2016 advising them against investigating the Panama Papers, stressing that such an investigation would be "highly intrusive". It violated the responsibility of his post and was an evident obstruction to the course of justice, rendering his position as Attorney General untenable<sup>4</sup>. In

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<sup>1</sup> *Malta: RSF files complaint in France in connection with Maltese journalist's murder*, <https://rsf.org/en/news/malta-rsf-files-complaint-france-connection-maltese-journalists-murder>, (7.06.2022)

<sup>2</sup> Freedom House, *Malta: Freedom in the World 2019 Country Report*, <https://freedomhouse.org/country/malta/freedom-world/2019>, (accessed 7 June 2022)

<sup>3</sup> Freedom House, *Malta: Freedom in the World 2020 Country Report*, <https://freedomhouse.org/country/malta/freedom-world/2020>, (7.06.2022)

<sup>4</sup> *Malta: RSF files complaint in France in connection with Maltese journalist's murder*, <https://rsf.org/en/news/malta-rsf-files-complaint-france-connection-maltese-journalists-murder>, (7.06.2022)

October 2020, PM Joseph Muscat resigned after mass civil society protests connected to developments in Galizia's case. In February 2021, Vincent Muscat, one of three accused hitmen, was sentenced to 15 years in prison after entering a guilty plea, and three men were arrested under suspicion of supplying the bomb that took Caruana Galizia's life<sup>1</sup>. In July 2021, the detailed report (437 pages) was published. It was the result of 93 sittings, drafted by retired judge Michael Mallia, former chief justice Joseph Said Pullicino, and judge Abigail Lofaro, who comprise the board of inquiry. Public Inquiry was heard from 120 witnesses. The main conclusion is that the Maltese state failed to prevent Galizia's assassination. They argued that the 'State has to shoulder responsibility for the assassination because it created an atmosphere of impunity, generated from the highest levels in the heart of the administration of the Office of the Prime Minister'. It finds a "culture of impunity not only for senior officials in the public administration, including 'persons of trust' but also for a restricted circle of politicians, businessmen, and criminals"<sup>2</sup>.

Galizia conducted a journal investigation about corruption scandals with head politics and their relatives' participation. After her murder, NGOs and international observers called to justify the process according to international standards and significant changes in Maltese domestic policy to improve transparency in public governance. The attention of international public opinion was focused on Malta and lawsuits in Galizia's case, which put pressure on The Public Inquiry. Thanks to civil society's efforts and NGOs, official investigations of Galizia's murder move forward, despite attempts of interference by politicians and other involved officers and oligarchs.

### **Muzzle press freedom in Malta: NGO's reports**

Malta, which is recognised as a country where a democratic regime has dealt with many challenges in recent years, like other flawed democracies<sup>3</sup>, has a real problem with reducing the freedom of the press, which has been confirmed by NGO reports and special mission jointed after Galizia's murder. One of the significant institutions in monitoring the freedom of the press is Reporters Without Borders (RSF). Malta is ranked 81st out of 180 countries in RSF's 2020 World Press Freedom Index, having fallen 34 places since Caruana Galizia's assassination in 2017. However, that progressive decline occurred since the

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<sup>1</sup> *Malta: Developments in murder case mark nascent steps towards justice for Daphne Caruana Galizia*, <https://rsf.org/en/news/malta-developments-murder-case-mark-nascent-steps-towards-justice-daphne-caruana-galizia>, (7.06.2022)

<sup>2</sup> *Landmark public inquiry report finds Maltese state must "shoulder responsibility" for the assassination of Daphne Caruana Galizia*, <https://rsf.org/en/news/landmark-public-inquiry-report-finds-maltese-state-must-shoulder-responsibility-assassination-daphne> (7.06.2022).

<sup>3</sup> Democracy Index's classification, EIU Democracy Index 2017, [https://www.eiu.com/public/topical\\_report.aspx?campaignid=DemocracyIndex2017](https://www.eiu.com/public/topical_report.aspx?campaignid=DemocracyIndex2017), (7.06.2022)

beginning of the 21st century, confirmed by available RSF reports<sup>1</sup>. Their authors explained the decline by implementing restrictions on expression to protect their Roman Catholic faith. In their previous reports, the authors noted that blasphemy cases in Malta had decreased slightly<sup>2</sup>. Madison Neidlinger called Maltese regulations regarding the freedom of the press strict, referring to censorship laws and regulations of blasphemy against Roman Catholicism, which is the state religion. Based on these provisions since 1997, 185 libel cases have been pending within the courts, with 36 cases filed in 2014 alone. Neidlinger added that the freedom of the press in Malta is still discussed. In 2016, certain members of Malta's Labour Party were calling for surveillance of the press, which was protested by journalists and media owners. They wanted to maintain their independence but faced the danger of losing their jobs. Therefore, in Malta, media are under political pressure, within which the blasphemy regulation may be used to combat independent outlets.

In 2015, Freedom House published the report *Freedom of the Press 2015 – Malta* that remarked the freedom of the press in Malta as 23 (0 = best, 100 = worst). In 2015 Malta was classified as a state where the active independent media sector is free to convey various opinions. Malta was recognized as a physically safe environment for journalists, and there were no reported cases of threats or harassment in 2014. However, they reported, among others, that news outlets are occasionally ordered to pay exorbitant damages. Many libel cases result in fines or jail terms. In June 2014, a former editor for It-Torca was ordered to pay €5,000 to former Transport Malta chief executive Stanley Portelli for an image and article published in 2012 about possible corruption at the agency. It follows the fact that the major political parties, labor unions, businessmen, and the Catholic Church have direct investments in media, and a number of these outlets are under pressure to promote partisan agendas. It led to the problem argued by European Centre for Press and Media Freedom (ECPMF): Malta does not have much independent journalism. Even media outlets not tied to a political party have opaque ties with the political and entrepreneurial establishment<sup>3</sup>. Maja Simunjak, the author of the 2015 Report about Media Pluralism in Malta, recognized the risk for media pluralism as low/medium. Low risk was detected in Basic Protection and Market

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<sup>1</sup> *Malta: Developments in murder case mark nascent steps towards justice for Daphne Caruana Galizia*, <https://rsf.org/en/news/malta-developments-murder-case-mark-nascent-steps-towards-justice-daphne-caruana-galizia> (7.06.2022).

<sup>2</sup> In 2011–2015, the number of people convicted of “public blasphemy” decreased from 119 to 99 convictions. Madison Neidlinger, *Free Speech and Free Press Around the World. Malta*, <https://freespeechfreepress.wordpress.com/malta>, (7.06.2022)

<sup>3</sup> *Maltese journalist Caroline Muscat continues in the spirit of her murdered colleague Daphne Caruana Galizia*, <https://www.indexoncensorship.org/2018/10/maltese-journalist-caroline-muscat-continues-in-the-spirit-of-her-murdered-colleague-daphne-caruana-galizia/>, (7.06.2022)



Plurality, and a medium risk was found in Political Independence and Social Inclusiveness<sup>1</sup>.

In 2017, RSF reported that many journalists living in Malta feel colonized by politics, oligarchs, and other influential people. Another obstacle is Malta's politicians, who eagerly file lawsuits when investigative reporting sheds light on their activities or threatens their interests. Journalists and media outlets are often forced to pay exorbitant damages. Caruana Galizia alone was the target of 42 libel suits at the time of her death. Moreover, they also argued the problem of a divided media landscape in Malta. It shows the scale of the partisan problem in Malta between supporters of the center-left Labour Party and the center-right nationalists<sup>2</sup>.

In 2018, after the assassination of Galizia, the Committee to Protect Journalists, the European Centre for Press and Media Freedom, the European Federation of Journalists, and RSF started a joint press freedom mission to Malta. In 2021, their representatives returned to Malta, explaining the need for full criminal justice for Galizia's case and broader press freedom reforms. During a meeting in 2021, Prime Minister Robert Abela reaffirmed his commitment to ensuring the safety of journalists, both in terms of framework and implementation<sup>3</sup>. In October 2019, RSF condemned the intensification of threats against independent news outlets – a case of an attack from Josef Caruana, a member of the communications staff at the Office of the Prime Minister in Malta, who published posts on his social media smearing The Shift News' investigative reporting as “fake news”. They noted attempts to discredit and marginalize Galizia's case<sup>4</sup>.

In November 2019, the European Centre for Press and Media Freedom, European Federation of Journalists, Index on Censorship, International Federation of Journalists, International Press Institute RSF, and Scottish PENWe, condemned the actions taken by Maltese authorities to restrict press coverage and public scrutiny of the ongoing investigation into the Galizia's case. They called on Maltese authorities to ensure journalists' protection in carrying out their duties and have access to political figures and information in the public interest. They noted on attempted confiscation by security officers of a journalist's mobile phone and the detention of a group of journalists during the job<sup>5</sup>. Moreover, in the same

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<sup>1</sup> Maja Simunjak, *Malta*, <https://cmpf.eui.eu/media-pluralism-monitor/mpm-2015/malta>, (7.06.2022)

<sup>2</sup> *Investigative journalism's uncertain future in Malta*, <https://rsf.org/en/news/investigative-journalisms-uncertain-future-malta>, (7.06.2022)

<sup>3</sup> *Statement of the joint press freedom mission to Malta*, <https://rsf.org/en/news/statement-joint-press-freedom-mission-malta>, (7.06.2022)

<sup>4</sup> *Malta: Intensification of pressure against The Shift after the founder was awarded RSF press freedom award*, <https://rsf.org/en/news/malta-intensification-pressure-against-shift-after-founder-was-awarded-rsf-press-freedom-award>, (7.06.2022)

<sup>5</sup> *Malta: International organizations condemn the further degradation of press freedom in Malta and the continued intimidation of journalists*, <https://rsf.org/en/news/malta-208>

month, these NGOs repeated that investigation into Galizia's case must be independent and impartial, without political interference in the investigation by PM Muscat. Worries about his engagement raise the specter of undue executive interference in the investigation: the financial interests of Muscat's cabinet present the serious possibility of a conflict of interest for the Prime Minister regarding the investigation. Concerns of independence and impartiality emerge when the Prime Minister himself continues to take libel suits against the estate of Galizia and her son<sup>1</sup>.

In 2020, RSF was alarmed that no meaningful reforms were implemented after three years. They pointed out that the Maltese media climate remains deeply divided, and journalists who continue to pursue in-depth investigative reporting do so at great risk. They informed that new Prime Minister Robert Abela was attempting to interfere with the work of the Board of Inquiry and accused Abela continuation the approach of his predecessor, Joseph Muscat. RSF referred to journalists' reports about blocking more access to public information and access to government officials<sup>2</sup>.

RSF remarked The Public Inquiry into Galizia's case was a success because, thanks to that work, the commissioners' political interference, police cover-up, and collusion with criminals were revealed. Moreover, they pointed out that Prime Minister tried to shut down the work of the Public Inquiry before it had fulfilled its obligations. After the murder of Galizia, more than 20 defamation lawsuits against her were continued, including by the former PM. Moreover, some public officers tried to pressure her son and other journalists in Malta. Malta's media climate remained deeply divided, and media ownership was dominated by the two major political parties, further stifling public debate in an environment where propaganda dominates the news<sup>3</sup>. After publishing the Public Inquiry report in 2021, ten NGOs formulated accusations against Joseph Muscat's administration. Muscat's cabinet opposed the establishment of an independent The Public Inquiry, which ultimately came about only through the threat of legal proceedings and a landmark resolution from the Parliamentary Assembly of the Council of Europe. Moreover, they repeated a series of detailed legal and procedural recommendations to strengthen the protection of journalists, journalism itself, and the freedom of expression in the country. Recommendations related to police officers included the

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international-organisations-condemn-further-degradation-press-freedom-malta-and-continued, (7.06.2022)

<sup>1</sup> *Malta: International organizations concerned by the appearance of political interference into the investigation of the assassination of Daphne Caruana Galizia*, <https://rsf.org/en/news/malta-international-organisations-concerned-appearance-political-interference-investigation>, (7.06.2022)

<sup>2</sup> *Malta: Three years on, the pursuit of justice for Daphne Caruana Galizia stalled by constant obstacles and lack of press freedom reform*, <https://rsf.org/en/news/malta-three-years-pursuit-justice-daphne-caruana-galizia-stalled-constant-obstacles-and-lack-press>, (7.06.2022)

<sup>3</sup> *Malta*, <https://rsf.org/en/taxonomy/term/150>, (7.06.2022)

protection of journalists and the need for specialized training for the officers “to have a thorough understanding of the role of the journalist as a guardian of democracy and the value of journalism as a valid collaborator with law enforcement to ensure the rule of law”. Other recommendations for reforms at the Constitutional level include creating an Ombudsman on journalistic ethics, strengthening the Public Broadcaster's impartiality, and revising the Freedom of Information Act to strengthen government transparency and compliance with freedom of information requests<sup>1</sup>.

The last three Freedom House reports remark Maltese media as free and diverse<sup>2</sup>. However, the report of 2021 indicated that in June 2020, the Maltese media regulator named the Broadcasting Authority publicly instructed Television Malta (TVM) not to ask questions of government officials during live press conferences, claiming the order was meant to avoid partisan coverage. The order sparked controversy after TVM interrupted the broadcast of an August press conference on Malta's COVID-19 response<sup>3</sup>. Undoubtedly, it should be recognized as a form of censorship.

However, in 2022 Committee to Protect Journalists, the European Centre for Press and Media Freedom, the European Federation of Journalists, and RSF emphasized the need for the complete independence of the Commission of Experts of the Public Inquiry into the assassination of Daphne Caruana Galizia. Moreover, they noted the necessity to create an enabling environment for independent journalism and measures to address impunity, corruption, and the abuse of power. Their postulation was considered by Prime Minister Abela, who informed them about the appointment of a Committee of Experts to implement these recommendations. Authors of postulations sought assurances from Prime Minister Abela to not amplify a media regulation policy and expand the scope of the freedom of the press in practice. In January 2022, they informed us that their offer of technical assistance to the Prime Minister had not been taken up<sup>4</sup>.

To sum up, changes in national legislation did not improve the protection of the freedom of the press in practice and maintain using quasi-militant democracy instruments against independent journalists. Many authors indicated similar challenges and weaknesses of Maltese media pluralism. However, it is worth noting that remarks from RSF and Freedom House are different. Documents published by RSF should be recognized as more valuable, as they include detailed

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<sup>1</sup> Daphne Caruana, *Galizia: Landmark Public Inquiry recommendations must be implemented*, <https://rsf.org/en/news/daphne-caruana-galizia-landmark-public-inquiry-recommendations-must-be-implemented>, (7.06.2022).

<sup>2</sup> Freedom House, *Malta: Freedom in the World 2021 Country Report*, <https://freedomhouse.org/country/malta/freedom-world/2021>, (7.06.2022)

<sup>3</sup> *Idem*

<sup>4</sup> *Malta: Implementation of Public Inquiry recommendations must meet international standards*, <https://rsf.org/en/news/malta-implementation-public-inquiry-recommendations-must-meet-international-standards>, (7.06.2022)

and in-depth analyses. Intensive use of quasi-militant democracy means has increased for years, despite paying attention to Maltese media since October 2017. NGOs' special mission monitored and analysed issues after Galizia's murder, and their members formulated recommendations for the government to strengthen the freedom of the press and reduce the possibility of using quasi-militant restrictions. Despite putting pressure on Maltese authority by international opinion did not abandon quasi-militant democracy measures and did not decide to replace them with strong protection of the freedom of the press.

## Conclusions

Restrictions on the freedom of the press are the centre of militant democracy's reflections. Despite constitutional protection guarantees, media pluralism may be limited by political elites and public officers to maintain public order and national security. For proper verification of rulers' intentions, purposes, and results, it is worth using the mentioned distinction between neo-militant democracy and quasi-militant democracy, especially in Malta's case, when declaratory level and practice differ significantly.

In the analyzed state, for disclosing the scope of abusing power, a significant role was played by investigative journalists, recognized by ruling politicians as enemies. Therefore, that approach legitimizes using a broad catalog of restrictions against Maltese journalists, including supervision. Considering generality and social attitudes to corruption and clientelism, the media's work was crucial for strengthening public life transparency.

Malta, as post-colonial semi-consolidated democracy, is an example of how, by non-direct restrictions on freedom of the press, political elites may limit journalists' independence and by quasi-militant democracy instruments. Therefore, it is necessary to indicate which measures of quasi-militant democracy limit the freedom of the press in Malta. First, the most common is defamation lawsuits against independent journalists who reported abusing power or acts against the public interest. Second, the criminalization of insulting Catholicism in 2016 by legal restrictions limited possibilities to informing about church scandals, which is another type of limitation – the criminalization of contents recognized as insulting religious beliefs. It will fulfill the mentioned catalog<sup>1</sup>. Finally, the development of digital communication allows discrediting independent journalists on social media (case of Caruana's post). Moreover, after Galizia's murder, we observe two opposing approaches. On the one hand, ruling elites seek to continue expanding using quasi-militant democracy instruments to reduce the number of non-partisan outlets, which may undermine the legitimization of abusing power. State authorities may seek to build an environment where the media do not disclose corruption scandals. On the other hand, NGOs and journalists' unions postulated reforms to reduce these practices and strengthen the protection of the independence of Maltese media, but ruling elites ignore these voices. Deep division in public life

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<sup>1</sup> M. Skrzypek, *Op. cit.*

led to a deadlock on that issue. Any effective regulations to protect journalists cannot be adopted and used in practice. However, NGOs' pressure to deal with dangers to pluralism is growing.

Malta's case showed that in states where corruption is accepted, legitimization of abusing power to limit particular rights and freedoms, such as the freedom of the press, is explained by approving these restrictions by members of political nations and their representatives when journalists seek to disclose unfair practices. Restrictions against media workers were used in many different areas (political pressure, economic support, agreement to broadcasting). The dramatism of Galizia's case is confirmed by physical attacks and criminal acts, as revenge on independent media and warning for the others. In Galizia's inquiry, ruling elites were motivated to continue abusing power to protect themselves, despite running official investigations and monitoring NGOs. The restriction-friendly environment in Malta should be explained by the polarisation of the public sphere, lack of the strong protection of the freedom of the press, and the weak condition of domestic media. Therefore, in the face of using quasi-militant democracy in practice, when emotionalism dominates public life, the meaning of non-partisan observers, like RSF, is increasing. Finally, it is worth paying attention to the role of NGOs and international teams of journalists in monitoring and seeking to run public inquiry for Galizia's case under international standards.

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