

**PRESUMPTION OF INNOCENCE –  
SUSPECT IN RESTRAINTS  
(SIR)**

**MEDIA REPORT -  
MALTA**

**1) Summary of laws, legal guidelines and legal framework relating to the media and criminal justice**

**General provisions under the Criminal Code**

Maltese Criminal Courts hold their sittings with open doors and may only hold them behind closed doors in those cases where the Court is of the opinion that if conducted in public they “*might be offensive to modesty, or might cause scandal.*”<sup>1</sup> In those instances where the Court orders that the sitting is held behind closed doors, it is prohibited to publish any reports of the proceedings and any person who does may be found to be in contempt of court.<sup>2</sup>

The *Court Practice and Procedure and Good Order (Criminal Code) Rules of the Court Rules* prohibits any person from taking any photograph or film during the hearing of any case in any hall, unless where it has been ordered or authorised by the court or tribunal.<sup>3</sup> This general prohibition also applies to the media. The judge or magistrate presiding over the case may find the person in contempt of court and may issue or order a reprimand, expulsion, arrest not exceeding 24 hours or a fine.<sup>4</sup>

Article 517 of the Criminal Code allows any court of criminal justice to prohibit the publication, before the termination of the proceedings, of any writing, whether printed or not, in respect of the offence to which the proceedings refer, or of the party charged or accused.<sup>5</sup> Any person who fails to comply with the order, shall, for the mere default, be guilty of contempt of the authority of the court, and be liable to not more than one-month imprisonment or to a fine between €232.94 to €2,329.37 or to both fine and imprisonment.<sup>6</sup> If the Police become aware of the publication of any writing in contravention of this prohibition, they shall inform the court that ordered prohibition and shall carry out such directions

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<sup>1</sup> Article 531(1) of the Criminal Code, CAP. 9 of the Laws of Malta,  
<http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8574>.

<sup>2</sup> Article 531(2) of the Criminal Code, CAP. 9 of the Laws of Malta,  
<http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8574>.

<sup>3</sup> Rule 3(g) of the Court Practice and Procedure and Good Order (Criminal Code) Rules of the Court Rules, S.L. 9.11  
<http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8982&l=1>.

<sup>4</sup> Article 990 of the Code of Organisation and Civil Procedure, CAP. 12 of the Laws of Malta  
<http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8577&l=1>.

<sup>5</sup> Article 517(1) of the Criminal Code, CAP. 9 of the Laws of Malta,  
<http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8574>.

<sup>6</sup> Article 997 of the Code of Organisation and Civil Procedure, CAP. 12 of the Laws of Malta  
<http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8577&l=1>.

that the court gives, orally or in writing, for proceedings to be taken in Court against the offender, either by summons or by arrest.<sup>7</sup>

Recently, the Court of Magistrates acting as a Court of Criminal Inquiry, issued a prohibition over a popular TV show which planned to air an interview of the accused following the filing of a judicial protest by the victim's *parte civile* lawyers.<sup>8</sup> The victim's lawyers requested equal airtime, however the presiding Magistrate issued a blanket prohibition over the airing of the interview.<sup>9</sup> This ban drew the criticism of four major news outlets who felt that "*this extreme measure endangers the freedom of the press and broadcasters to discuss matters of national importance*" and was "*unprecedented in the recent history of journalism*".<sup>10</sup> It should be noted that there have no notable cases relating to contempt of Court against of journalists has been found on the Maltese online Court of Justice database.<sup>11</sup>

Furthermore, the Criminal Code prohibits any person from using any threatening, abusive or insulting words or behaviour, or displays any written or printed material which is threatening, abusive or insulting with the intent to stir up violence or racial or religious hatred, amongst others. Any person found guilty of such would be liable to imprisonment for a term from six to eighteen months.<sup>12</sup> There have been no cases of journalists prosecuted under this provision.

### **Provisions under the Broadcasting Act**

The Broadcasting Authority is the overseeing authority of the impartiality and accuracy of broadcasting services, including news and current affairs programmes, in Malta.<sup>13</sup> A number of subsidiary legislative acts covering requirements as to certain standards that need to be adhered to in specific circumstances, such as tragedies, or when relating to specific groups of persons, such as minors or persons with disability, have been published under the Broadcasting Act. There are no specific legislative acts that relate to the standards for the portrayal of suspects or accused persons in the media, the *Requirements as to Standards and Practice applicable to News Bulletins and Current Affairs*<sup>14</sup> (the "Standards") cover the broadcasting of news and current affairs. The Standards are based on the principle of impartiality with respect of matters of political or industrial controversy or current public policy and the preservation of the right to private and family life, the right to freedom of expression and information.<sup>15</sup>

In broadcasting news items, consideration must be given to its news value and any comments on such news items are admissible insofar as they are:

- i. they are directly connected with the unfolding story;
- ii. they are accurate, factual and ethical;

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<sup>7</sup> Article 517(3) of the Criminal Code, CAP. 9 of the Laws of Malta, <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8574>.

<sup>8</sup> <http://www.independent.com.mt/articles/2018-10-26/local-news/Simon-Schembri-filed-Judicial-protest-over-Xarabank-Liam-Debono-interview-report-6736198399>.

<sup>9</sup> Magistrate puts gagging order on Xarabank's interview with Liam Debono, 26 October, 2018 [http://uploads.maltatoday.com.mt/lifestyle/television/90440/magistrate\\_puts\\_gagging\\_order\\_on\\_xarabanks\\_interview\\_with\\_liam\\_debono#.W-LvIJKjiU](http://uploads.maltatoday.com.mt/lifestyle/television/90440/magistrate_puts_gagging_order_on_xarabanks_interview_with_liam_debono#.W-LvIJKjiU).

<sup>10</sup> Editors concerned by magistrate's Xarabank ruling in Liam Debono case <http://www.independent.com.mt/articles/2018-10-29/local-news/Independent-newsrooms-concerned-by-magistrate-Xarabank-ruling-in-Liam-Debono-case-6736198528>.

<sup>11</sup> <http://justiceservices.gov.mt/courtservices/Judgements/default.aspx>.

<sup>12</sup> Article 82A of the Criminal Code, CAP 9 of the Laws of Malta, <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8574>.

<sup>13</sup> Article 118 of the Constitution of Malta <http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8566>; See also the Broadcasting Act, CAP. 350 of the Laws of Malta <http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8820&l=1>.

<sup>14</sup> Requirements as to Standards and Practice applicable to News Bulletins and Current Affairs Programmes, S.L. 350. 14 of the Laws of Malta <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=10169&l=1>.

<sup>15</sup> Preamble to the Requirements as to Standards and Practice applicable to News Bulletins and Current Affairs Programmes, S.L. 350. 14 of the Laws of Malta <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=10169&l=1>.

- iii. they are balanced; and
- iv. depending on the nature of the news item, informed opinions are sought.<sup>16</sup>

Any reporting should only follow an accurate report of the facts and opinions and needs to respect the requirements in relation to comments above. In particular, the Standards prohibit conjectures, distortions, remarks, opinions, judgements or convictions - whether they are termed as comments or opinions. Importantly, the Standards state that when using reconstruction material the broadcaster should clearly indicate whether it is fresh or archive material and certain techniques, such as running footage in slow motion or repeating the images, must be used sparingly.<sup>17</sup> Dramatisation, such as dramatization of evidence tendered in court, in the news and in current affairs programmes which is not factual is prohibited.

Section 8 of the Standards regulate the Rights of Respect and Privacy. In relation to persons accused of criminal matters, the Standards provide that such persons should not be projected as if they are already found guilty. In addition, they lay down that trial by the media before any court judgement is delivered should be avoided at all times and that care should be taken to avoid broadcasting repetitive footage that might prejudice the accused's right to a fair trial. Finally, they clearly provide that when reporting on arraignment, the principle of presumption of innocence must be fully respected.<sup>18</sup>

The same Section 8 provides that any person whose legitimate interests, in particular reputation and good name, have been damaged by an assertion of incorrect facts in a television programme may exercise a right of reply. The Broadcasting Authority must ensure that the actual exercise of the right of reply is not hindered by the imposition of unreasonable terms or conditions. The reply shall be transmitted within a reasonable time subsequent to the request being substantiated and at a time and in a manner appropriate to the broadcast to which the request refers.<sup>19</sup>

### **Specific provisions relating to minors**

Newspaper reports, or sound or television broadcasts are prohibited from revealing the name, address or school, or include any particulars that may lead to the identification, of any child or young person concerned in those proceedings, either as being the person against or in respect of whom the proceedings are taken or as being a witness in proceedings in the Juvenile Court. Furthermore, publication of any picture in any newspaper or on television as being or including a picture of any child or young person so concerned in any such proceedings is also prohibited.<sup>20</sup> These provisions apply to proceedings before any court of criminal justice where there are children and young persons involved.<sup>21</sup>

More generally, broadcasters and news editors should treat the physical, mental and emotional health of minors as being of paramount importance when reporting on issues involving minors and special

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<sup>16</sup> Paragraph 2.1.3 of the Requirements as to Standards and Practice applicable to News Bulletins and Current Affairs Programmes, S.L. 350. 14 of the Laws of Malta

<http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=10169&l=1>.

<sup>17</sup> Paragraph 6 of the Requirements as to Standards and Practice applicable to News Bulletins and Current Affairs Programmes S.L. 350. 14 of the Laws of Malta <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=10169&l=1>.

<sup>18</sup> Paragraph 8.9 of the Requirements as to Standards and Practice applicable to News Bulletins and Current Affairs Programmes S.L. 350. 14 of the Laws of Malta

<http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=10169&l=1>.

<sup>19</sup> Paragraph 8.15.4 of the Requirements as to Standards and Practice applicable to News Bulletins and Current Affairs Programmes S.L. 350. 14 of the Laws of Malta

<http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=10169&l=1>.

<sup>20</sup> Article 8(1) of the Juvenile Court Act, CAP 287 of the Laws of Malta

<http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8774&l=1>.

<sup>21</sup> Article 11(2) of the Juvenile Court Act, CAP 287 of the Laws of Malta

<http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8774&l=1>.

attention should be given to provide for their protection and safety. News editors should demonstrate an exceptional public interest to override the normally paramount interest of minors.<sup>22</sup>

Where minors are or have been involved in police enquiries or court proceedings, particularly but not limited to sexual offences, television and radio broadcasters need to take special care in order to avoid any indication of the identity of the person.<sup>23</sup>

## 2) Summary of Maltese journalistic guidelines

The Institute of Maltese Journalists have a set of guidelines in place which act as a self-regulatory framework for the guidance and discipline of those involved in the dissemination of information through various channels. Their Code of Journalistic Ethics (the "Code") contains guiding principles that journalists should follow in the carrying out of their work and it also set up the Press Ethics Commission that is tasked to consider any complaints made to it against any journalist for any alleged breach of ethical behaviour outlined in the Code.<sup>24</sup> If the Commission finds that a journalist has violated the Code of Ethics, it may impose any one or more sanctions in accordance with the gravity of the offence. Such sanctions may consist of (i) disapproval; (ii) censure and (iii) grave censure.

In the section relating to the **Reporting of crimes and court procedures**, the Code provides that all reports of crimes and court proceedings should be strictly factual and a clear distinction should be made and explained between the facts and the expression of opinion. Furthermore, it lays down that once it is decided to report on any matter connected with judicial proceedings, that reporting should be complete in the sense that both the beginning and the conclusion of those proceedings should be given and treated with the same prominence.<sup>25</sup>

In relation to juveniles, the Code prohibits the naming of minors in court reporting<sup>26</sup> and prohibits the interviewing of minors, except in matters relating to sports, without the consent of their parents or tutors.<sup>27</sup>

## 3) Description of media landscape in Malta

The Maltese media landscape reflects the historical oral traditions and the relatively recent use of standardised written usage of the Maltese language. Statistics show that in general Maltese tend to use television and radio, much more than printed press.<sup>28</sup> In fact, there are 8 television stations in Malta, 13 national frequency radio stations and 25 community radio stations. The Maltese language usage dominates in the audio-visual section, such as television and radio. With respect to printed media, there are 2 dailies printed in Maltese and 2 in English, 4 weeklies are published in Maltese and 4 in English.

Two main institutions influence the broadcasting landscape in Malta, these are the two main political parties and the Church. The two mainstream political parties have direct ownership of broadcasting

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<sup>22</sup> Paragraph 2.2.3 of the Requirements as to Standards and Practice applicable to News Bulletins and Current Affairs Programmes, S.L. 350. 14 of the Laws of Malta  
<http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=10169&l=1>.

<sup>23</sup> Paragraph 10 of the Requirements as to Standards and Practice applicable to News Bulletins and Current Affairs Programmes, S.L. 350. 14 of the Laws of Malta  
<http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=10169&l=1>.

<sup>24</sup> Code of Journalistic Ethics, Institute of Maltese Journalists <https://igm.org.mt/resources/code-of-journalistic-ethics/>.

<sup>25</sup> Paragraph 7 and 8 of the Code of Journalistic Ethics, Institute of Maltese Journalists <https://igm.org.mt/resources/code-of-journalistic-ethics/>.

<sup>26</sup> Paragraph 6 of the Code of Journalistic Ethics, Institute of Maltese Journalists <https://igm.org.mt/resources/code-of-journalistic-ethics/>.

<sup>27</sup> Paragraph 11 of the Code of Journalistic Ethics, Institute of Maltese Journalists <https://igm.org.mt/resources/code-of-journalistic-ethics/>.

<sup>28</sup> Borg J., Lauri V., Malta's media landscape: an overview, Allied Publications, 2013  
[https://www.researchgate.net/publication/236510708\\_Malta's\\_media\\_landscape\\_an\\_overview](https://www.researchgate.net/publication/236510708_Malta's_media_landscape_an_overview).

stations, together also with ownership of radio stations. The ownership of television stations by political parties is particularly unique to Malta, which was a result of historical controversies of the public broadcasting station. The commercial sector has failed to own popular television stations, mainly due to lack of funding, advertisers support and audience following. In the early nineties, both political parties and the Catholic Church were granted radio licences. The institutions are not as influential in the printed media as in the audio-visual sector. There is evidence of a bilingual divide, in that the institutions control Maltese-language newspapers, whereas commercial newspapers dominate the English-language newspapers. Most broadcasting entities and established newspaper have their own websites, whereas purely web-based news and current affairs websites and also single-handed journalist bloggers are new entrants into the local media landscape. It should be noted that there are no broadsheet newspapers published in Malta and only have the compact style printed newspapers.

A recent International Freedom of Expression Mission to Malta found that unhealthy polarisation exists within the journalist community and that the media landscape in Malta reflects the political factions that divide the country.<sup>29</sup> The same mission found that Maltese journalists face a number of systemic challenges, one such aspect is economic, which includes *"the preferential and politicised allocation of government advertising subsidies to media outlets with links to, or supportive of, the ruling party"*.<sup>30</sup>

Furthermore, the environment was characterised by civil and/or criminal defamation lawsuits which were used, often by public officials, against journalists in Malta. Criminal defamation lawsuits were lawful until April 2018, after which a new Media and Defamation Act<sup>31</sup> decriminalised defamation in Malta and removed the possibility of requesting the issuance of certain precautionary warrants as security of the claim for damages sought in relation to defamation. However, it is still possible to continue posthumous defamation suits through the heirs or successors of journalists.<sup>32</sup>

One cannot talk of the media landscape in Malta without mentioning the assassination of Maltese journalist Daphne Caruana Galizia in October 2017. Ms Caruana Galizia was not affiliated with any particular media house, although she did write a weekly column for the Malta Independent, an English language daily newspaper. Ms. Caruana Galizia, a controversial figure in Malta, had spent the last months of her life investigating claims of corruption and money-laundering in the highest echelons of Maltese political spheres. 30 defamation lawsuits continue posthumously against Daphne Caruana Galizia, including suits filed by the Prime Minister Joseph Muscat, chief of staff, Keith Schembri, and Minister of Tourism Konrad Mizzi, the latter two being implicated in the Panama Papers revelations. The changes to the media laws and the new Media and Defamation Act came about due to the controversies that arose when multiple lawsuits were filed against Ms. Caruana Galizia in 2017 and her assassination on the 16<sup>th</sup> October 2018.

The media landscape by its nature, and the recent events in particular, have led to a climate of self-censorship due to the real fear of defamation and SLAPP lawsuits<sup>33</sup>, online harassment and trolling, and a marked lack of access to information from public officials and institutions.<sup>34</sup>

#### **4) Ratings and reach of the selected media outlets for research**

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<sup>29</sup> International Freedom of Expression Mission to Malta, Statement of Findings, 19 October 2018 <https://ecpmf.eu/news/press-releases/the-final-statement-of-the-malta-mission>. The Committee to Protect Journalists, the European Centre for Press and Media Freedom the European Federation of Journalists, the International Press Institute, PEN International, and Reporters Without Borders conducted an international freedom of expression mission to Malta further to the assassination of Maltese journalist Daphne Caruana Galizia in October 2017.

<sup>30</sup> International Freedom of Expression Mission to Malta, Statement of Findings, 19 October 2018 <https://ecpmf.eu/news/press-releases/the-final-statement-of-the-malta-mission>.

<sup>31</sup> Media and Defamation Act, 2017 <http://justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=28292&l=1>.

<sup>32</sup> OSCE representative welcomes decriminalization of defamation in Malta, urges dismissal of civil defamation lawsuits against Caruana Galizia's heirs, 15 May 2018 <https://www.osce.org/representative-on-freedom-of-media/381355>.

<sup>33</sup> Strategic Lawsuit Against Public Participation (SLAPP) lawsuits: <https://www.rcfp.org/browse-media-law-resources/digital-journalists-legal-guide/anti-slapp-laws-0>.

<sup>34</sup> International Freedom of Expression Mission to Malta, Statement of Findings, 19 October 2018 <https://ecpmf.eu/news/press-releases/the-final-statement-of-the-malta-mission>.

## Television

TVM has attracted the largest amount of television viewers with approximately 104,000 viewers, which represents 29.91% of the total number. TVM is a terrestrial television network in Malta operated by the national broadcaster, Public Broadcasting Services. TVM was followed by ONE TV station which had 52,000 viewers which represented 14.85% of all viewers.<sup>35</sup> One TV is owned by One Productions, the Labour Party's media branch. Audiences rose sharply from those at 19:30, 16.312% to 27.821% at 20:00 where the average highest audiences were reached. Audiences were generally maintained but peaked to 21.599% by 21:30. It should be noted that local and foreign news were the most favourite programme genre of Maltese television viewers.

The news broadcasts for this Project were selected from these two channels, the TVM News at 20:00 pm and the One News at 19:30. This way we examined broadcasts from the two most popular television channels at the most viewed times of the day. Both channels are broadcast on free-to-view television.

The news broadcasts were downloaded using a video downloading add-on on Chrome from the TV stations' websites, however at times there was difficulty in storing the videos as they exceeded storage capacity on specific IT systems.

## Printed media and their websites

Four daily newspapers are published in Malta, two in the English language and two in Maltese. The two English daily language papers, the Times of Malta and the Malta Independent, boast a daily circulation of 37,000 and 18,000 respectively. Both newspapers have their own news websites, with the Times of Malta website being partially free and the Independent being completely free, although not all the content is uploaded. The Times of Malta website is the most visited webpage in Malta and the Independent is the 10<sup>th</sup> most popular Maltese website according to Alexa.<sup>36</sup> The Times of Malta is published by a commercial company Allied Newspapers Ltd, whereas the Malta Independent is published by Standard Publications Ltd, also a commercial entity.

As outlined above, Maltese language newspapers are highly institutionalised and therefore two daily newspapers the Nazzjon, with a reported circulation of 20,000 and I-Orizzont, with a reported circulation of 23,000 were chosen. In-Nazzjon is owned by Medialink, the media arm of the Nationalist Party, whereas L-Orizzont is owned by Union Print Co and is aligned with the Labour Party. Neither of these newspapers have a website and they are not distributed freely.

Three weekly papers were selected, the MaltaToday Midweek in English and two Maltese language papers, Il-Mument and It-Torca. The MaltaToday Midweek has a circulation of 8000 and is owned by a commercial entity MediaToday Ltd and is the only other weekly newspaper that is not the weekly publication of the Times of Malta or the Independent. Il-Mument is In-Nazzjon's sister paper and has a circulation of 25, 000 and It-Torca, like L-Orizzont, is printed by Union Print Co with a circulation of 30,000. MaltaToday has its own free website which is ranked 8<sup>th</sup> on Alexa's ranking, whereas the other two do not have a website. None of these printed weeklies are available for free.

All the printed newspapers were bought off the newsstands, except for the Times of Malta which was downloaded through access from an online annual subscription. Online content was accessed through the newspaper website, if available.

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<sup>35</sup> Broadcasting Authority, Audience assessment survey for July 2018 <http://www.ba-malta.org/latest-reports>.

<sup>36</sup> <https://www.alexa.com/topsites/countries/MT>.

### Online news portals

There are only two online newsportals that are independent from the printed press LovinMalta and the Shift news. However, the latter is more focused on current affairs and opinion pieces than factual news reporting. LovinMalta is the 11<sup>th</sup> most visited webpage in Malta and reports on daily news and also cultural and social affairs. The content of LovinMalta is free. LovinMalta is a commercial website.

### 5) Identification of and information about keywords, to ensure uniformity

The keywords that were decided upon were disseminated in English and then translated into Maltese by the Project Researcher. There were no notable difficulties in translating or in finding the equivalent terms in the national language. The translations have been noted below:

English	Maltese
Police	Pulizija
Court	Qorti
Prosecution	Prosekuzzjoni
Criminal Offence	Reat kriminali
Investigation	Investigazzjoni
Authorities	Awtoritajiet
Lawyer	Avukat
Suspicion	Suspett
Crime	Delitt
Suspect	Suspettat/a - Persuna suspettata
Defendant	Kwerelat
Accused	Akkużat/a - persuna akkużata
Criminal Case	Kaz kriminali
Delict	Delitt
Charged	Mixli/ja - Akkużat/a
Arrested	Arrestat – taħt arrest

### 6) Texts selected

The reports and broadcasts from the television programmes, newspapers and online websites identified above and were selected using the methodology outlined to us by the Vienna University team. One problem which that arose was the lack of stories to report on due to the size of Malta, however it was felt that the selection was broad enough to give a clear picture of the situation. The keywords, as mentioned above, were disseminated in English and in Maltese to the team of national researchers. The researchers collected the printed media, online data and also recorded the relevant television broadcasts were possible. Stories that were selected needed to satisfy the following criteria:

1. They included the use of any of the identified keywords words in English or Maltese;
2. The reports related to arrests, investigations and court proceedings that were still ongoing; and
3. A suspect or accused had to have been identified.

If a story did not satisfy all of these three criteria, it was not recorded in the database set up for this project. The data gathering was carried out by a team of researchers over the identified months, and

the results were then reviewed and cross-checked by the Project Researcher. The Project Researcher gave the team of researchers the coding exercise given by the Vienna University team in order to test their understanding of the coding methodology which assisted them in identifying the correct stories to be recorded.

The recorded stories were stored on an excel database which is annexed to this Report, Annex 1.

## **7) Findings**

The researchers found that reporters and journalists from all media types consistently made explicit reference to the ethnicity and nationality of the alleged perpetrators. Frequently, the headlines would use nationality as the descriptor, for example "*A Serb*", "*Two Syrians*" or "*Russian with Maltese citizenship*", whilst no further descriptors are used for Maltese suspects, for example "*double murder suspect still to be questioned*".

In addition, a worrying trend was noted in relation to the use of images and film of the suspect on entering the Court building. The Court Practice and Procedure and Good Order (Criminal Code) Rules of the Court Rules<sup>37</sup> prohibits any person from taking any photograph or film during the hearing of any case in any hall, unless where it has been ordered or authorised by the court or tribunal. This general prohibition also applies to the media. However, several incidences were recorded in which suspects were led by the Police through a pedestrian area and into the Court buildings through the front doors, as opposed to the back entrance. In this way reporters and journalists would publish or broadcast photographs or footage of suspects being led into Court handcuffed and escorted by a number of police officers.

In one extreme example, a suspect was charged in Court the day after he was arrested, wearing a white forensic suit with his hands handcuffed behind his back. The suspect was made to walk in a busy pedestrian area, escorted by 3 police officers and enter the Court through the front doors as opposed to through the back entrance as is normal procedure. Due to the prominence of the case, the photos and footage have been repeatedly shown on print, online and television broadcasts<sup>38</sup>. Although, throughout the research period it was not possible to verify this with data, in our interviews with legal practitioners it was noted that this mainly happens when the suspects are not Maltese nationals.

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<sup>37</sup> Rule 3(g) of the Court Practice and Procedure and Good Order (Criminal Code) Rules of the Court Rules, S.L. 9.11 <http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8982&l=1>.

<sup>38</sup> Hugo Chetcuti was knifed twice, One News, 7 July 2018, [https://www.youtube.com/watch?v=38Jv9\\_Gxfzq](https://www.youtube.com/watch?v=38Jv9_Gxfzq).





In contrast, in another prominent double murder, the Maltese defendant was led through the back entrance of the Courts with the media being unable to directly film or photograph the suspect<sup>39</sup>, as seen below:



Furthermore, the use of visual representation which shows police officers, handcuffs and otherwise threatening representation of the defendants is also very common to newspapers, online portals and television broadcasters.

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<sup>39</sup> Gharghur double murder: Accused thought mother, aunt were putting substances in his coffee  
<http://www.independent.com.mt/articles/2018-07-25/local-news/Gharghur-double-murder-Accused-thought-mother-aunt-were-putting-substances-in-his-coffee-6736193956>.

## Gharghur double murder: Accused thought mother, aunt were putting substances in his coffee

Wednesday, 25 July 2018, 12:56 Last update: about 9 months ago



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In another example, the online portal encircled the 9 migrants with a red circle in order for the reader not to confuse them with the group of police officers in the background.

## Updated: Nine migrants arrested after arriving by boat at Marsascala

Sunday, 1 July 2018, 19:21 Last update: about 9 months ago



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<sup>40</sup> Gharghur double murder: Accused thought mother, aunt were putting substances in his coffee <http://www.independent.com.mt/articles/2018-07-25/local-news/Gharghur-double-murder-Accused-thought-mother-aunt-were-putting-substances-in-his-coffee-6736193956>.

<sup>41</sup> Nine migrants arrested after arriving by boat at Marsascala <http://www.independent.com.mt/articles/2018-07-01/local-news/Nine-migrants-arrested-after-arriving-by-boat-at-Marsascala-6736192782>.

News

## From Libya To Marsascala On A Small Boat? Police Doubt Story Of Arrested Migrants

The four arrested men arrived to Malta on a small boat with a Syrian family of five

Tim Diacono · 8 months ago

 125 



*The Syrian family and the four other men arrived in Marsascala yesterday on a small boat (right) - Photos: Stills from TVM footage*

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## MV Lifeline captain charged with entering Maltese waters on unlicensed vessel, bail given

 Kevin Schembri Orland  Monday, 2 July 2018, 10:23  Last update: about 9 months ago



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<sup>42</sup> From Libya To Marsascala On A Small Boat? Police Doubt Story Of Arrested Migrants <https://lovinmalta.com/news/from-libya-to-marsascala-on-a-small-boat-police-doubt-story-of-arrested-migrants>.

<sup>43</sup> MV Lifeline captain charged with entering Maltese waters on unlicensed vessel, bail given <http://www.independent.com.mt/articles/2018-07-02/local-news/MV-Lifeline-captain-arrives-in-court-for-hearing-6736192797>.

The researchers only found a few examples in which explicit reference to previous convictions<sup>44</sup>, and no explicit reference to guilt of the defendant or to cooperation with the police, except for one guilty plea.<sup>45</sup>

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<sup>44</sup> Sliema apartment fight lands man in court -Accused denied bail due to his chequered criminal record: <https://www.timesofmalta.com/articles/view/20180715/local/sliema-apartment-fight-lands-man-in-court.684504>; Artist, 74, held behind bars after admitting child abuse: <https://www.timesofmalta.com/articles/view/20180902/local/artist-74-held-behind-bars-after-admitting-child-abuse.688219>; EXCLUSIVE: Hugo Chetcuti Murder Suspect 'Was Jailed For Armed Robbery In Serbia' <https://lovinmalta.com/news/news-breaking/exclusive-hugo-chetcuti-murder-suspect-was-jailed-for-armed-robbery-in-serbia>.

<sup>45</sup> Artist, 74, held behind bars after admitting child abuse: <https://www.timesofmalta.com/articles/view/20180902/local/artist-74-held-behind-bars-after-admitting-child-abuse.688219>.