

L-Atti tal-Inkjesta datata 19 ta' Novembru 2019, rigward skont it-Termini ta' Referenza ta' l-Inkjesta Pubblika dwar l-Assassinju ta' Daphne Caruana Galizia.

Seduta miżmuma llum il-Gimgha 27 ta' Diċembru 2019, fis-9:00 a.m. fit-Tieni Sular, Awla 20, il-Qorti.

Chairman Judge Michael Mallia :

Paul Caruana Galizia son of Peter and the Late Daphne nee Vella born in Pieta` and residing in Bidnija states on oath in the English language.

The Witness :

I want to use for today's hearing, information that has only recently come to light, so this sort of bells on what my father and brother Matthew have said. I've organized my evidence in line with the Board's first term of reference which as you know is "*whether any wrongful action or omission by, or within, any State entity facilitated the assassination or failed to prevent it*"

Chairman Judge Michael Mallia :

Yes.

The Witness :

And, if the Board agrees, I'll go from one institution to the next, suggesting pieces of evidence along the way. Ok.

So starting from the top with the Office of the Prime Minister. So recent evidence now suggests that the Office of the Prime Minister is involved in cover-up activity related to my mother's assassination; and this is obviously of serious concern in itself, but I think of particular concern to the Board because and person involvement in covering up her assassination may be involved in the conspiracy to assassinate her. So what that I imply is that recent evidence suggests that the highest level of the executive didn't just fail to prevent her murder, but actually may have caused that.

Ok. So starting with some of that evidence. Yorgen Fenech, under interrogation by the police, said that the head of the Prime Minister's secretariat Keith Schembri is a co-conspirator in my mother's assassination. Later under interrogation, Fenech said that he received notes from Schembri via the mutual doctor Adrian Vella while out on police bail. So Vella then

confirmed that these notes came from Schembri. So there is one note in particular I would like to spend time on, and that's the note that was provided to Fenech so that he can pin the assassination on the economy minister Chris Cardona.

So if Fenech and Vella are to be believed, and Schembri who of course have every reason to deny authorship of the notes is to be suspected, then there is a lot of concern here. The note, you know, the note such as first - that Schembri is involved in covering up the assassination, suggesting his involvement in the assassination. That the means of cover up was to use an economy minister, a cabinet minister, suggesting that the involvement of a cabinet Minister of Cardona in the assassination is credible, is realistic, and is something we should expect. And 3) that the note describes additional really serious criminal activity by Cardona; serious enough to provide a motive to murder my mother.

And there is something else about the note which I would like to talk about. So besides the Cardona part, it details a really specific strategy with which to discredit Melvin Theuma, so choose really detailed knowledge about what Theuma was telling investigators, really detail knowledge about tapped phone calls between Theuma and his associates and crucially before any of this was made public.

For example, a tapped call revealed Theuma told one of his associate that Fenech had betrayed him. So 'betrayed' is the word he used. So Fenech was informed about that tapped call, and using an encrypted messaging app, instructed Theuma to call him on a normal line and say that the "betrayal" was about Fenech not having given him an additional taxi spot at the Hilton. So the note reminds Fenech to use that strategy under interrogation, of course the discredit Theuma and the tapped call.

So plainly this is a state entity, the Security Services and its phone taps being used to the advantage of Fenech.

Another example, the note details or shows knowledge of these famous recordings that Theuma made between himself and Fenech. So in some of the calls tothe credibility Thuema made sure that he made recordings while Fenech's children were present. So you can hear Fenech's children in the background. So the note instructs Fenech knowing this that as a result of blackmail by other means Theuma persuaded Fenech to speak in the presence of his children to show knowledge on both sides that these recordings were happening. That insured the recordings were staged.

So, the question is who told Fenech about the tapped call under recordings? So me now know that Theuma said multiple times under oath in court that Fenech

was kept abreast of the murder investigation by Keith Schembri. Fenech has said the same under police interrogation and also said the same under oath in court. So significantly in Fenech's constitutional case he said he was asked by his own lawyer Marion Camilleri when Schembri began informing him of the investigation, and Fenech replied that Schembri was informing him about the murder investigation just one week..., one week after the murder.

So one week after my mother was assassinated Fenech wasn't a suspect. One week after my mother was assassinated Fenech wasn't on anyone's radar, yet Schembri somehow knew to inform him about the investigation. So to me are the very least, yes of course suggests Schembri knew about the murder plot beforehand; otherwise why would he have known or thought to inform Fenech? To me its more reasonable from there to think that Schembri was a co-conspirator because of course he is risking so much to inform Fenech.

And we now know that Schembri had the means with which to acquire that knowledge about the investigation. So the Police regularly briefed the Prime Minister on the murder investigation. And we now know that Schembri was present in those briefing. And the briefing sat up obviously assumes that the Prime Minister's Office won't be implicated in a murder and it puts the police I think in an impossible and really dangerous situation because if they were to say to the Prime Minister that we don't want Schembri there, then they give the game away. If they don't want to do briefings at all because of the Prime Minister himself they also give the game away.

And we know that the Prime Minister knew Fenech was a suspect as far back as May 2018. May 2018 is when he signed the warrant have Fenech's phoned tapped. So my family had long suspected Fenech's involvement; but we first heard that he someone put it to us was certainly a mastermind at the start of this year. Its around May – April this year. So by this point I think its significant to remember that the Prime Minister also knew 3 other things. First, that Schembri and Fenech were fraternal friends, which is the phrase that Fenech himself use; or as Theuma said - "kien hemm hbiberija kbira bejniethom". The second thing is that the Prime Minister knew Schembri was set to receive millions in bribes from a company called 17 Black which was revealed in April 2018 by the Daphne project. And the third thing which we learned in November 2018 is that 17 Black belonged to Fenech.

So knowing these three things – that Schembri and Fenech are friends, that they are involved in a massive bribery scheme, that Fenech is a prime suspect in the murder, its my view that the Prime Minister must be made to answer why he felt it necessary to bring Schembri to police briefings about the murder. And as I understand that there is no obligation for Schembri to have

attended those briefings. So in the same vein the Security Services Act states that Services must report to the Prime Minister. Or course the Act again didn't envisage the situation in which the Prime Minister and his chief of staff are implicated in a crime under investigation by the same Services.

So we don't know whether Schembri also attending briefings with the security services in the same way that he did with the police. And again, I understand that there is no obligation for him to have attended those briefings.

And I think here there is a lacuna and its obvious; and they need to be safeguards around this. So that the police and the Security Services aren't updating frankly suspects and putting themselves and their work in danger.

So it wasn't of course just Schembri, who knew details about the investigation. We now know that a number of people knew about the investigation, specifically new about Yourgen Fenech's impending arrest; and some of them are - his uncle Ray Fenech, his brother Franco Fenech, Frank Psaila of NET News, Kenneth Camilleri of the Office of the Prime Minister, Ivan Camilleri who was at the Times of Malta, and a Johann Cremona who runs a business with Fenech. So another point though on Keith Schembri briefing people about the investigation. So we now know that he also briefed journalists and newspaper editors, not just a ... country but all for impress who were looking up my mothers' case. And the line that Schembri pushed was that my mother's death was related to fuel smugglers. And you know, to my family and I this is upset. We know that, and this is plenty seen in her writing she never investigated fuel smugglers. She only mentioned them in parsing. And its obvious to us where this came from. It was obvious at the time, and you know, this piece of this information was obviously designed so that people are or taken away from the links between her murder and the government corruption that she already did the investigate.

And the really shocking think, of course its all shocking, but the really shocking thing about this is that Schembri did this, while knowing every single detail of the murder investigation. For the full 2 years he knew about Fenech's involvement; we now know. Yes he was briefing the Press and it was fuel smugglers, fuel smugglers, fuel smugglers. And it was unjust of course Keith Schembri who was doing this, we also had Kurt Farrugia, who was head of government communications, misleading journalists both here and abroad inter writing the same thing. And we still don't have a full and complete understanding of how much damage they caused in the investigation in this way. But I can say that in the earlies days, weeks, directly after my mother was killed we spent most of our time feeling questions from journalists about fuel smugglers.

So Keith Schembri now claims that he lost his phone. And the police say they are still searching for it. He declined to give them his passwords to his Cloud storage accounts. But of course the Board will know that there is no need for Schembri's physical phone to recover his phone data.

So my mother's phone was, like her, destroyed in the car bombing. Forensic experts assigned to her case were able to clone her phone, clone her SIM card, and from there recover all her messages including her WhatsApp messages. And you understand that as a journalist some of these were incredibly sensitive, incredibly confidential messages. So if forensic experts were able and did do this to a victim, it's my that they should do this to a man suspected of her murder.

So the cover up extended more broadly through the Prime Minister's Office. So we now know that Theuma was set up with a no-show job as its being called with a government housing agency. And to date that the provision of that job has been cursed some kind of payment for the assassination, some kind of material reward. Where I think if the Board examines the provision of this job, Theuma, it wasn't about so much paying him for the job; but it was the signal to him that he had the protection of Prime Minister's Office. And here I think it's significant as Theuma said in his own testimony that he was greeted personally by Keith Schembri, he was given a tour of the office by Keith Schembri. He was made an espresso by Keith Schembri. So I recently found myself at the Prime Minister's Office and can tell you that I found no such treatment.

So Mario Cutajar, the cabinet secretary immediately on the news of Theuma's job said that there is no record of his employment. And then when Theuma's payslips were circulated and then published, Cutajar said that he found the records in a different set of records. And then he added another lie on top of his first; he said that there was a "public call". But obviously the thing about a public call is that it's public and there isn't anything there. And of course there are people who can confirm there was a public call as they have on the police questioning; so Theuma, Fenech, Sandro Craus and Tony Sammut .. head it the agency.

So there was a more subtle form of cover up which I would like to move onto.

So the employment of Glen Bedingfield, as a person of trust, in the Prime Minister's Office. So Glen Bedingfield run a blog. It was his blog written under his own name by him. He is taken now down that blog, but of course the webpage are archived as they are with any website. And if the board examines those webpages, it will see that Bedingfield, all the while an official of the Prime Minister's Office, the governing party MP, wrote 597 posts with

“Daphne” in their title and another 402 posts with “Caruana Galizia” in their title as at November 2017. Of course these counts don’t include posts where my mother’s name isn’t in the title, and is in the body of the blog post. So there are great underestimate. But on specifically the point of covering up a number of these posts are from after my mother was killed. And they display in short Bedingfield’s attempts to derail or mislead people about the investigation. So in a number of posts, Bedingfield wrote that my brothers and I were actively obstructing the investigation into our mother’s murder, and this was something that another OPM official, Josef Caruana, also said. And they did this restlessly, you know. And if you go back over these blog post you ‘ll see one after the other about my brother Matthew having parked the car outside of the house so as to provide access for the hitman.

So one last point if I may on the Office of the Prime Minister; so Theuma, again under oath, said that a man from OPM, Kenneth, who we later learnt is Kenneth Camilleri, approached him to say that bail had been arranged for Alfred and George DeGiorgio. As a sign note he also threatened Theuma, saying that he saw messages that suggests Theuma’s himself to mastermind. So aside from that threat, you know, the interest here or the concern here is how do you arrange bail, how to you promise bail to the DeGiorgios.

So Camilleri told Theuma that a bail hearing was scheduled for the “22nd”, and gave no month. He just said the 22nd. But, going to court records, we found that a bail hearing was scheduled for the 22nd of July this year. The hearing of course never happened, because as the Bill of Indictment came down a week earlier. And the judge for that bail hearing was to be Giovanni Grixti, who we know granted bail to the DeGiorgios in the parallel money laundering case. Now the promise of bail may of course have been false or might not have been, we just don’t know. But the promise or bail is to me of really serious concern.

And in general in respect of cover up activity, I think the Board finds itself, much like us, starting an Inquiry when things are changing so quickly, and new news is braking so quickly; yet at a point when so much evidence can and it looks like is being destroyed. And so for this reason, I think it is important if I can such as that the Board now focuses on collecting such documentary evidence. So I think in particular Theuma’s employment records, Keith Schembri’s mobile phone data, the notes passed onto Yorgen Fenech while he was on bail, and frankly all correspondence about the assassination between OPM officials and ministers, including the Prime Minister, and including those exchanged on his personal domains, so josephmuscat.com. The domain we know he uses for most of his communication.

So moving onto the police force.

So I know the Board was initially quite concern with police protection and whether it was provided to my mother, and that's an important, and legitimate concern, and we were worried about a report quite early on in The Times of Malta; this headline ran that "Police protection afforded to Daphne Caruana Galizia was relaxed after Labour was returned to power in 2018".

So while a fixed point police guard hampers any journalists' ability to work, and not something, I know you've heard, there are of course other ways of providing police protection. For example, in 2006 when there was a major arson attack on our house the police really increase the frequency of police patrols in our area and these dried down to our house up and down the Bidnija Road. And things really changed, things really changed as you've heard when the Prime Minister removed Commissioner John Rizzo and that was a really break in the kind of protection that the police provided. To my mother, I am not suggests that the Board considers how his approach differed to that of his replacement and those replacements after him.

But when it comes to the police of course the deeper and more important issue is the failure of the police to realize that my mother's reporting on corruption dealt with persons of bad intent who could obviously place her at risk. And we know that the best way of protecting a journalists it to pick up their work. It isn't to provide them with a fix point guard or do increase patrols. It is simply to investigate and follow up on their work.

So for example on that point, when my mother broke the Panama Papers, its my view that the police failed us, and by 'us' I mean the public, not just us a family, on multiple counts. So they didn't launch an investigation into those Panamanian Companies. They didn't provide any protection to my mother, knowing what she had just revealed. And, in doing that, and this is probably the most significant I think is that they a signal to the subjects of her reporting that she was fair game. But she was affording no protection; that her work wasn't been picked up by the authorities; and so in the end, of course, they killed her. They killed her, not a magistrate, not a police officer, not an FIAU official, they killed her, they killed her - a journalist.

So the first Term of Reference goes on to task the board with investigating "*Whether any State entity failed to take measures within the scope of its powers which judged reasonable might have been expected to take to avoid that risk*". And here the police Commissioners, Michael Cassar, Ray Zammit, Peter Paul Zammit, and Lawrence Cutajar I think have a clear case to answer. So Michael Cassar when he was handed, those are FIAU reports by Manfred Galdes, then the director of the FIAU shirked. He simply declined to

investigate. He simply put them away. And it wasn't of course just Cassar because we know the police never picked up on them. It was every police commissioner after him.

And there is a failure on a different level which I know my brother talked about in his evidence. And it's the failed of the police to take action against the Degiorgios and against Vincent Muscat for a real career of crimes. And so they were free we now know to claim unemployment benefits, to buy sportscars and speedboats, to holiday in Monaco, and to murder. So the DeGiorgios were such prolific bombers, and this, I think, is significant, that when Yorgen Fenech wanted to have my mother murdered, he asked Melvin Theuma, "Tafu George c-Ciniz?". Not who, he should ask, not who they should go to, but whether Theuma knows George Degiorgio.

A point on resources given to the police. When Theuma ran scared to Fenech with the news that the FBI are assessing the Malta Police Force, Fenech told him - "Fl-aħħar mill-aħħar mhux il-Pulizija ta' Malta se jinvestigaw?"

So we know now that the FBI's analysis of cell tower data, the place, the 3 men around our house we would have a little else on which to build. So the Malta Police Force, at the time at least, did not have that technology. And not, I think, what explains the confidence with which these 3 men executed the plot. So the government chooses to spend revenue on a number of things, and ... is a real frankly disgrace. That we have a Police Force that thousand have this basic technology; that it tool a foreign authority to come in at the end car booming to analyses that data and finally put the 3 men who all knew that this kind of thing away.

So its up to the Board to investigate whether starving the police force of these resources is you know, is an act of incompetence, act of negligence or plainly of complicity. So we know from the Home Affairs Minister Michael Farrugia that the Economic Crimes Unit at least up until recently included only one accountancy graduate. So this is the Economic Crimes Unit for a country that has transformed itself into a global financial hub. And that's Economic Crimes Unit has one accountancy graduate.

So the last institution I would like to talk about is the Attorney General. Too much the same vein as the police when it comes to those FIAU reports, the Attorney General has the powers, we know, vested in him by the Prevention of Money Laundering Act to initiate criminal investigations, he declined. He hasn't used them.

So Grech knows what those reports say. He knows because he sits on the FIAU's Board of Governors. He knows because those reports have been leaked and have been in the public domain for now over 2 years. And I just can't understand that reluctance. In my view any respectable prosecutor would jump at the opportunity to take on that kind of case.

And there is another point about the AG that I would like to address; and its specifically about this public inquiry. So my family and I have fought tooth and nail for two years for the government to convene this inquiry. Frankly we shouldn't have had to, but we did. And as we were doing that we were rubbished and we were derided by the AG. And we have piles of correspondence between the Attorney General – himself, and our lawyers, and the tone of this correspondence from the AG is condescending, its patronizing, its very aggressive. And at point it suggests that we are lying. We are lying to our lawyers and we are misleading them.

And when finally under threat of Council of Europe sanctions it convene this inquiry, we of course had to attend two meetings about the terms of reference and the composition of the Board because the Board member, the wing members were not up to the standard.

But not before meetings that my family and the Attorney General and the Justice Minister and in one meeting that the Prime Minister had about the Inquiry. So I went to the second meeting. So it was me, my brother Andrew, my father, Therese Comodini Cachia. And on the government the Justice Minister's and the then deputy AG. So the Justice Minister started the meeting by saying the model he has in mind for this inquiry as an arbitration board model. As though they are the Labour Party and were the Nationalist Party and each pick one member and we've agreed on the chairs so that's that. And when we declined this model he then moved on to simply suggesting Board members who were clearly inappropriate some of whom had already been turned down. So with one particular member who at the time we thought little of, but in retrospect with new evidence not only recently come to light, I have grown increasingly concerned is Antonio Mizzi. So the Justice Minister insisted, insisted, insisted on Antonio Mizzi, and our points he told us - *Fl-aħħar mill-aħħar dan se jkun f' minoranza*". Who is minority? At another point as he kept insisting on Mizzi, he said -...; and by the way, this meeting was a day after the second anniversary of my mother's death. The Justice Minister said, - Mizzi, if you accept Mizzi tagħmilli hajja iktar faċli. And he said it over and over.

But we now know that Melvin Theuma had advised Yorgen Fenech as the net was drawing on them. That Fenech should go and speak to Antonio Mizzi. I

don't know why. I don't know why he suggested that Fenech; but it is of deep concern to me that two men suspected of murder, see Antonio Mizzi as their man. And it's of greater concern that the government saw him as their man on this Inquiry. And for all I know they were just clutching at anything. But it's something – it's a question for the Board and with that I would like to draw my evidence to some conclusion.

So, the first term goes on to task the board with investigating *“Whether any State entity knew or ought to have known of or caused a real and immediate risk to my mother's life including from the criminal acts of third parties”*

So everything I think I have said today has done that.

So, whether the AG, the Police Commissioner, and/or Office of the Prime Minister were incompetent, negligent or complicit is for the Board to investigate and establish, and not for me to decide, of course.

But the evidence we are now seeing suggests they were most cases at least one of those things, and, in a worrying number of cases, all three of them together.

And this is why we have so much writing on this the inquiry because its bound to reveal an Entangled Web of corruption, of abuse of power, and organized disinformation.

And to end I think its crucially that the Board considers whether the Prime Minister knew or ought to have known that his right-hand man, cabinet secretary, security detail, communication aides and various other subordinates may have been involved in the covering up and/or commissioning of my mother's assassination.

Chairman Judge Michael Mallia :

Just one question please from my end. When there was a change of commissioner from John Rizzo to Peter Paul Zammit, you told us that they.. patrols and whatever protection was available stopped. Did you talk to police Commissioner Peter Paul Zammit at any stage? Or are you aware of you mother having contacted him?

The Witness :

I didn't talk to the police commissioner myself. I know that my mother had a good relationship with John Rizzo, but I don't know any more than that.

Chairman Judge Michael Mallia :

You don't know anymore than that.

The Witness :

No.

Chairman Judge Michael Mallia :

So you don't know whether Peter Paul Zammit decided to withdraw this protection on his own initiative or whether he got it from somebody else.

The Witness :

I don't know that.

Chairman Judge Michael Mallia :

You don't know that.

The Witness :

But I suggest that simple question to put to Peter Paul Zammit.

Chairman Judge Michael Mallia :

Ok. Thank you.

Din hija s-sustanza tax-xhieda ta' **Paul Caruana Galizia** kif giet dettata minnu stess fil-prezenza ta' l-istess xhud.

Niddikjara li traskrivejt bl-ahjar hila tieghi x-xhieda ta' l-istess xhud.

Saviour Scicluna

Traskrittur