Rapport tal-Kumitat tal-Esperti dwar

is-Settur tal-Midja.

Rapport Finali

24 ta' Lulju, 2023

Introduzzjoni

Wara li dan il-Kumitat ippreżenta r-rapport tiegħu lill-Onorevoli Prim Ministru f' Ġunju 2022, skont it-termini oriġinali, f'Ottubru tal-istess sena, il-Kumitat ġie ulterjorament inkarigat sabiex jerġa jiftaħ il-proċess għal dawk il-klawsoli li ma ġewx aċċettati mill-gvern biex jara għandux jagħmel xi tibdiliet fihom. Barra minnhekk, kellu jorganizza proċess ta' konsultazzjoni pubblika dwar l-emendi li ġew imressqa fil-Parlament. Għal dan il-għan, il-Kumitat kellu t-terminu tiegħu estiż sal-aħħar ta' Ġunju, 2023.

Il-bidliet li l-Kumitat qed jipproponi fl-Abbozzi 17, 18 u 19 imressqa fil-Parlament mill-Gvern jinsabu annessi f'Appendici A, B u Ċ rispettivament.

Biex jaqdi dan l-inkarigu, il-Kumitat żamm is-segwenti laqgħat (Appendiċi E):

15 ta' Ġunju, 2022
29 ta' Lulju, 2022
6 ta' Settembru, 2022
12 ta' Settembru, 2022 - laqgħa mal-Ministru tal-Ġustizzja Jonathan Attard
4 ta' Ottubru, 2022
14 ta' Ottubru, 2022 - laqgħa ma Flutura Klusari, ECPMF u Sara Clarke, Article 19
26 ta' Ottubru, 2022
3 ta' Novembru, 2022 - laqgħa mal-Kummissarju ghall-Protezzjoni tad-Data Ian Deguara
10 ta' Novembru, 2022 - laqgħa ma' Teresa Ribeiro, OSCE
16 ta' Novembru, 2022 - Laqgha mal-Ministru tal-Gustizzja Jonathan Attard
23 ta' Novembru, 2022
5 ta' Diċembru, 2022
12 ta' Jannar, 2023
1 ta' Frar, 2023
15 ta' Frar, 2023 – Konferenza Pubblika
28 ta' Frar, 2023
28 ta' Marzu, 2023
11 ta' April, 2023
25 ta' April, 2023
16 ta' Mejju, 2023
23 ta' Mejju, 2023

31 ta' Mejju, 2023
20 ta' Ġunju, 2023
27 ta` Ġunju, 2023
4 ta` Lulju, 2023

Il-Kumitat, l-ewwel li għamel, kien eżerċizzju komparattiv bejn l-ewwel rapport finali tiegħu u l-abbozzi mressqa mill-Gvern fil-Parlament biex jifhem xi tħalla barra minn dak originarjament propost. Dan l-eżeċizzju huwa anness f'Appendiċi D.

Il-Kumitat beda proċess ta` konsultazzjoni wiesgħa li nkluda diversi laqgħat ma dawk interessati fis-suġġett, inkluż esperti barranin, fosthom l-OSCE u għaqdiet mhux governattivi.

Il-Kumitat ħa ukoll konjizzjoni tar-rispons li rċeviet l-IĠM f'laqgħa ta` konsultazzjoni għall-membri u persuni oħra fis-settur tal-midja. Ir-rapport tal-IĠM kien mgħoddi lill-Kumitat u hu anness bħala Appendiċi D.

Il-Kumitat attenda ukoll konferenza pubblika dwar l-abbozzi tal-Gvern - National Forum on Information Law - organizzata mill-Professur Joe Cannataci, deputat dekan tal-Fakulta' tal-Media and Knowledge Sciences fl-Universita` ta` Malta.

Il-Konferenza Pubblika

Il-Kumitat organizza konsultazzjoni pubblika permezz ta' konferenza tul il-ġurnata tal-15 ta' Frar 2023, fil-kampus tal-Universita' fil-Belt.

Il-Kumitat osserva li minkejja l-isforzi tiegħu u avolja s-sala tal-Aula Magna kienet kważi mimlija, kienu biss ftit ġurnalisti prattikanti jew persuni msieħba f'għaqdiet tas-soċjeta' ċivili, li spiss juru fehmiet dwar is-settur tal-midja, li attendew.

Apparti l-konferenza, l-Kumitat iltaqa' wkoll ma' entitajiet kemm lokali kif ukoll Ewropej fejn fisser il-ħidma tiegħu u ħa nota tal-osservazzjonijiet li sarulu. Ittieħed ukoll kont ta' publikazzjonijiet li ħarġu fl-istess żmien dwar is-suġġett tal-midja u l-liberta' tal-espressjoni u żviluppi oħra fuq livell Ewropew.

Il-Kumitat kellu wkoll laqgħa online ma' rappreżentanti tal-organizzazzjonijiet Article 19 Europe u the Committee to Protect Journalists (CPJ) dwar il-ligi tal-iSLAPP. Dawn wieġbu b'dokument b'diversi proposti maqbula mal-European Centre for Press and Media Freedom (ECPMF), the European Federation of Journalists (EFJ) u Reporters without Borders (RSF). Dan id-dokument huwa anness f'Appendiċi D.

F'dan ir-rapport qed issir riferenza għal dawk l-aspetti mill-abbozzi ppreżentati fil-Parlament fejn il-Kumitat ħass li għandu jsir tibdil.

1) Leġislazzjoni dwar l-iSLAPP

L-ewwel osservazzjoni li l-Kumitat jixtieq jagħmel tirreferi għal-leġiżlazzjoni dwar l-iSLAPP. L-abbozz emendat kif propost mill-Kumitat hu anness f'Appendiċi Ċ.

Wara aktar konsultazzjoni nissuġġerixxu illi l-Artikoli 10 u 11 tat-Taqsima III tal-Abbozz Numru 19 Dwar Emendi Għall-Att Dwar il-Midja u l-Malafama jiġu sostitwiti bil-mod kif propost.

Qed jigi propost illi fin-nota marginali tal-Artikolu 10 tal-Abbozz jitneħħew il-kliem "tal-ġurnalisti" billi l-artiklu fih innifsu huwa aktar wiesgħa minn hekk. Għalkemm nota marginali m'għandiex saħħa legali, b'danakollu il-kumitat ħass illi għandha tiġi evitata l-possibilita' ta' miżinterpretazzjoni.

Għalhekk in-nota marginali għandha tinqara hekk: "Protezzjoni minn kawżi li jsiru strateġikament kontra l-parteċipazzjoni pubblika."

Il-Kumitat laqa' suġġeriment li sar fid-dominju pubbliku u nkluda dispożizzjoni ġdida fis-subartiklu (3) tal-istess Artiklu 10 li jitkellem dwar danni li għandu jħallas l-attur jekk il-Qorti issib li l-kawża istitwita tikkostitwixxi SLAPP.

L-Artiklu 11 tal-Abbozz qed jissuġġerixxi illi jiddaħħal artikolu ġdid wara Artiklu 24 tal-Att prinċipali, u cioe` l-Artiklu 24 A.

Fir-rigward ta` dan l-artikolu ġdid, il-Kumitat jidhirlu illi l-kliem oriġinarjament propost "mingħajr ħsara għall-applikazzjoni tal-liġi tal-Unjoni Ewropea u ta' kwalunkwe trattat li Malta tkun parti minnu, u..." għandhom jitneħħew.

B'hekk, l-abbozz tal-liġi jkun iktar skjett, filwaqt illi l-applikazzjoni tal-liġi tal-Unjoni Ewropea jew ta' kwalunkwe trattat li Malta tkun parti minnu xorta waħda jibqgħu impreġudikati u applikabbli mill-Qorti, dejjem sakemm ma jkunux jippermettu l-applikazzjoni tad-duttrina tal-Ordni Pubbliku.

Il-Kumitat dehrlu wkoll li għandhom jitneħħew il-kliem ristrettivi "kontra awtur, editur, responsabbli għall-pubblikazzjoni jew persuna responsabbli għal medium tax-xandir, domċiljat f'Malta", sabiex b'hekk il-protezzjoni kontra sentenzi miksuba minn qrati barra minn Malta wara talba vessatorja tkun aktar estensiva billi tkun tapplika għal kulħadd, dejjem fiċ-ċirkostanzi kontemplati fl-istess artiklu. B'hekk ukoll ikun hemm uniformita' bejn iż-żewġ artikoli sostantivi li jirrigwardaw is-SLAPP, u cioe l-Artikolu 10 u 24A fl-Att Prinċipali.

Fl-aħħarnett, fir-rigward tas-subartiklu (1) tal-Artiklu 24A, il-Kumitat laqa' osservazzjoni pertinenti magħmula minn grupp ta' organizzazzjonijiet Ewropej interessati fis-suġġett sabiex il-protezzjoni testendi fir-rigward tad-danni kollha, tkun xi tkun in-natura tal-kawża li tkun saret, u għalhekk mhux neċessarjament marbuta biss ma' kwistjonijiet ta' libell u nġurja.

Fir-rigward tas-subartikolu (2) tal-istess Artikolu 24A, il-Kumitat dehrlu li għandu jaġġorna l-pożizzjoni li kien ħa oriġinarjament billi, f'każ illi l-Qorti kellha ssib illi s-sentenza barranija taqa' fil-parametri ta' dak l-istess subartikolu, hija għandha bħala prinċipju ta' ordni pubbliku tiċħad għal kollox kull talba għall-eżekuzzjoni ta' dik is-sentenza mingħajr ma jkollha l-fakulta' illi tillimita d-danni għal dak li seta' ġie mpost taħt l-Att prinċipali. Il-Kumitat dehrlu illi l-possibilita` ta` eżekuzzjoni parzjali ta` sentenza meqjusa li hi kontra l-ordni pubbliku kienet tikkostitwixxi kontradizzjoni.

Il-Kumitat dehrlu wkoll li għandu jilqa' żewg suġġerimenti oħra li saru fid-dominju pubbliku u li ġew imdaħħlin fis-subartikoli (4) u (5) tal-Artiklu 24A.

Dwar is-subartiklu (4), il-Kumitat ħass illi fil-kunsiderazzjonijiet tagħha dwar jekk is-sentenza mogħtija mill-qorti barra minn Malta għandhiex tiġi eżegwita f'Malta, il-Qorti m'għandiex tnissel inferenza negattiva fir-rigward tal-konvenut mill-fatt illi huwa seta' safa ruħu kontumaċi fl-azzjoni istitwita kontra tiegħu quddiem il-qorti barra minn Malta.

Fir-rigward tal-paragrafu (5), il-Kumitat ħass ukoll illi f'kaz illi l-Qorti kellha tiċħad talba għal eżekuzzjoni f'Malta ta' sentenza meqjusa bħala SLAPP, il-Qorti tkun tista' tgħaddi sabiex tiddikjara lill-attur responsabbli għad-danni kollha sofferti mill-konvenut u sabiex tikkundanna lill-istess attur sabiex iħallas lill-konvenut dawk id-danni li jistgħu jiġu likwidati mill-istess Qorti, flimkien mal-ispejjeż kollha tal-proċeduri għall-eżekuzzjoni. F'kull każ il-Qorti jkollha wkoll is-setgħa li fid-diskrezzjoni tagħha u skont iċ-ċirkostanzi kollha tal-każ, timponi penali diswassiv fuq l-attur, liema penali tkun pagabbli lill-konvenut.

2) Emendi Kostituzzjonali

Wara konsultazzjoni wiesgħa ma' persuni u organizzazjonijiet involuti jew b'interess fis-settur, il-Kumitat qed jipproponi emendi għall-Abbozz 18 kif ippreżentat fil-Parlament mill-Gvern.

Il-motivazzjonijiet għall-bidliet proposti mill-Kumitat huma is-segwenti:

Fl-ewwel rapport, il-Kumitat kien irrakkamonda li għandu jidħol artiklu ġdid fil-Kap 2 tal-Kostituzzjoni bħala prinċipju ieħor fundamentali għall-iggvernar tal-pajjiż li jdawwal l-għemil tal-Istat meta jasal biex jilleġiżla u jfassal il-politika tiegħu. Il-Gvern kien laqa` dan is-suggeriment u ppropona li jiddaħħal artiklu ġdid fil-Kap 2 tal-Kostituzzjoni, u cioe` l-Artiklu 20B.

Għar-rigward ta' dana l-Artiklu 20B, filwaqt li l-kumitat jirrikonoxxi li l-proposta tal-gvern hi sostanzjalment korretta, u jinnota bi pjaċir l-inklużjoni tal-protezzjoni tal-ġurnalisti u s-sorsi tagħhom, jissuġġerixxi pero` li jiġu nklużi referenzi għall-awtonomija u l-pluraliżmu fis-settur.

Reġa sar dibattitu siewi fil-Kumitat dwar jekk dan il-prinċipju għandux jiġi *entrenched*. Għal aktar konfort, il-Kumitat talab il-parir tad-Direttur tal-Organizzazzjoni Article 19 Europe (li hija bbażata fil-Law Hub tal-Universita' ta' Amsterdam) li b'insistenza ddikjarat illi dan il-prinċipju għandu preferibbilment jiġi *entrenched* fil-Kap 4 tal-Kostituzzjoni bħala parti mill-Artiklu 41 li jittratta il-liberta` tal-espressjoni, u mhux jiddaħħal sempliċiment bħala prinċipju mhux enforzabbli fil-Kap 2, għalkemm il-Qorti Ewropea

tad-Drittijiet tal-Bniedem diġa` tirrikonoxxi r-rwol tal-ġurnalisti, u Malta hija marbuta b'dan minkejja dak kollu li tista` tghid il-Kostituzzjoni. Dan il-parir huwa mhemuz f'Appendici D.

Ghaldaqstant, il-Kumitat jemmen li filwaqt li ghandu xorta waħda jiddaħħal il-prinċipju dwar il-protezzjoni tal-ġurnalisti fil-Kapitlu 2 tal-Kostituzzjoni, is-sustanza tiegħu ghandha wkoll tiġi *entrenched* bil-bidliet proposti ghall-Artiklu 41 dwar id-dritt ghal-liberta` tal-espressjoni li jista` jinbidel biss jekk ikun hemm qbil ta' żewġ terzi tal-Kamra tar-Rappreżentanti.

b) Emendi Artiklu 38: Id-Dritt ghar-rispett tal-ħajja privata

Il-gvern qed jipproponi d-dħul ta' emenda li titkellem dwar ir-rispett tal-ħajja privata, tal-familja, tad-dar u tal-kommunikazzjoni, ta' l-individwu. Il-Kumitat tal-Esperti m'ghandu l-ebda kumment fuq din l-emenda li essenzjalment hi transpożizzjoni kelma b'kelma ta' dak li tghid il-Konvenzjoni Ewropea ghad-Drittijiet tal-Bniedem.

Il-Kumitat jinnota illi l-proposta tiegħu sabiex mill-paragrafu (a) tas-Subatriklu (3) jitneħħew il-kliem "il-ġid ekonomiku ta` Malta", kif kienu oriġinarjament proposti mill-gvern li jiġu miżjuda wara l-kliem "saħħa pubblika", fil-fatt tneħħew. Ghalhekk il-kumitat ma ghandu l-ebda kumment ieħor fuq din l-emenda.

Madankollu l-kumitat ħass illi kien fid-dover illi jiġbed l-attenzjoni tal-gvern ghall-proposta mressqa mill-Prof. Joe Cannataci f'konferenza organizzata mill-Professur stess fl-Universita' ta' Malta fit-31 t'Ottubru 2022 u mbagħad mtennija fil-konferenza organizzata mill-kumitat tal-15 ta' Frar, 2023 annessi ma' dan ir-rapport f'Appendiċi D, ghaliex il-proposti tiegħu jistħoqqilhom jiġu kkunsidrati f'proċess ta' riforma Kostituzzjonali wiesgħa.

d) Emendi Artiklu 41: Il-Protezzjoni tal-liberta' tal-espressjoni

Il-Kumitat ħass li l-Artiklu 4 tal-Abbozz 18 ghandu jitlaħħam iżjed biex jipprovdi protezzjoni aktar sħiħa lill-ġurnalisti u s-sorsi tagħhom.

F'subartiklu (1) il-Kumitat ħass li għandu jerġa jdaħħal id-dritt għall-liberta` minn indħil dwar il-korrispondenza.

F'subartiklu (2) il-Kumitat jerġa` jtenni l-proposta oriġinali tiegħu li jkun imlaħħam iżjed u għaldaqstant jinqasam fi tliet partijiet kif ġej:

F'subartklu (2) (a) il-kumitat ħass li għandha terga` tiddaħħal il-kelma "l-awtonomija" flimkien mal-liberta` u l-pluraliżmu tal-midja. Dan ukoll biex ikun hemm konsistenza bejn Artiklu 41 u l-prinċipju propost li jidħol f'Kap 2 tal-Kostituzzjoni.

Il-Kumitat iħoss li l-protezzjoni tas-sorsi tal-ġurnalisti, inkluż informazzjoni li tista` tidentifika sors, għandha tkun garantita fil-Kostituzzjoni. B'hekk dan il-prinċipju li sal-lum ilu mħaddan fil-liġi ordinarja jkun elevat għall-livell Kostituzzjonali biex jingħata sinjal ċar tal-importanza ta` din l-emenda.

Il-Kumitat jerġa` jtenni wkoll il-bżonn li l-Kostituzzjoni tipproteġi b'mod espliċitu "id-dritt ta` kullħadd għall-midja ħielsa".

Obbligu fuq l-awtoritajiet li jipprovdu aċċess għall-informazzjoni

Il-Kumitat kien ippropona wkoll li fl-Artiklu 41 jidħol obbligu ċar biex awtoritajiet pubbliċi jipprovdu *'aċċess fi żmien raġonevoli għal informazzjoni miżmuma minnhom u dwar l-attivitajiet tagħhom taħt kundizzjonijiet provduti bil-liġi u ġustifikabbli f'soċjetà demokratika'*.

Il-gvern injora għal kollox din ir-rakkomandazzjoni li tpoġġi obbligu kostituzzjonali fuq l-awtoritajiet pubbliċi li jkunu trasparenti bl-informazzjoni li għandhom u għal skop ġurnalistiku għandhom jipprovduha fi żmien raġonevoli.

Il-Kumitat pero` jerġa` jtenni l-proposta oriġinali tiegħu. Il-Kumitat iħoss li din il-proposta m'għandhiex tipparalizza l-ħidma tal-gvern peress illi l-proposta tikkontempla illi dana l-obbligu fuq l-awtoritajiet li jipprovdu aċċess għall-informazzjoni minnhom miżmuma fi żmien raġonevoli ikun soġġett għal dawk il-kundizzjonijiet kif provduti fil-liġi ordinarja, għalkemm naturalment dejjem jekk huma ġustifikabbli f'soċjeta` demokratika.

Abbozz ta' Liġi għat-twaqqif ta' strutturi dwar il-protezzjoni tas-soċjeta' demokratika inkluż il-protezzjoni tal-ġurnalisti.

Saret laqgħa nhar is-16 ta' Mejju 2023 mar-rappreżentanti tal-Korp tal-Pulizija, li kienet tinkludi lill-Kummissarju tal-Pulizija Angelo Gafa, l-Assistent Kummissarju Kenneth Haber, is-Supretendent Ramon Cassar, is-Supertendent Malcolm Bondin u l-analista tal-kriminal Sean Scicluna.

Fil-laqgħa ġie diskuss l-abbozz ta' liġi msejjaħ l-Att għat-twaqqif ta' strutturi dwar il-protezzjoni tas-soċjeta' demokratika inkluż l-protezzjoni tal-ġurnalisti, ta' persuni bi rwol fil-medja u ta' persuni fil-ħajja pubblika.

Il-membri tal-Korp spjegaw li l-Pulizija diġa qegħda tħaddem Standard Operating Procedure (SOP) fejn tevalwa theddid fuq individwi u tieħu kull azzjoni li tkun neċessarja biex tingħata protezzjoni lil dawn il-persuni. Din l-SOP magħrufa bħala Malta Police Force: Managing and Responding to Threats to Life, bdiet tiġi implimentata minn Jannar 2023 mis-Central Intelligence and Analysis Unit u taħdem skont il-flow chart li tidher f'Appendiċi D.

Bħala riżultat tal-laqgħa, il-Kumitat qiegħed iressaq proposta ta` liġi emendata ferm minn dik oriġinarjament imressqa mill-Gvern fil-Parlament.

L-emendi jirriflettu wkoll ix-xewqa tat-tmexxija tal-Korp tal-Pulizija li jkun hemm mekkaniżmu ta' sorveljanza (overseeing) fuq l-operat tal-Korp fir-rigward tad-deċiżjonijiet li jittieħdu vis-a-vis l-protezzjoni ta' individwi.

Għalhekk, il-Kumitat qiegħed jipproponi, fost l-oħrajn, li l-kumitat jissejjaħ 'il-Kumitat għas-Sorveljanza ta' Miżuri għall-Ħarsien ta' Ġurnalisti, Persuni oħra b'irwol fil-Midja u Persuni fil-Ħajja Pubblika.'

Biex tiġi evitata sitwazzjoni fejn il-Korp jiġi akkużat li qed jagħmel sorveljanza fuqu nnifsu, il-Kumitat għandu jiġi presjedut (chaired) mis-Segretarju Permanenti fil-Ministeru

tal-Intern, bil-Kummissarju tal-Pulizija (jew rappreżentant tiegħu) jkunu membri fuq l-istess Kumitat.

Il-Kumitat se jkollu r-rwol li jevalwa u jagħti rakkomandazzjoni dwar it-tħaddim tal-iStandard Operating Procedures tal-Pulizija u/jew il-korpi l-oħra rappreżentati, jassikura li ġew eżegwiti l-miżuri kollha ta' protezzjoni lil dawk intitolati għaliha, u jisma` ilmenti mingħand persuni li jħossuhom aggravati minn xi deċiżjoni tal-Kummissarju tal-Pulizija meħuda f'materja li tirrigwarda s-sigurta` tal-persuna tagħhom.

Qed jiġi propost ukoll li, fil-laqgħat tiegħu, il-Kumitat jista' jsejjaħ osservatur b'interess fil-każ jew fil-materji li se jiġu trattati fil-laqgħa konċernata, bid-dritt li jinstema`.

3. Osservazzjonijiet oħra:

Il-Kumitat kien beda wkoll jistħarreġ riformi fil-liġi tal-Att Dwar il-Liberta` tal-Informazzjoni (Kap 496).

Għal dan il-għan, kienet saret laqgħa mal-Kummissarju għall-Informazzjoni u l-Protezzjoni tad-Data Ian Deguara fil-preżenza ta` Dr Kathleen Xerri, uffiċjal fl-uffiċċju tal-Kummissarju. F'din il-laqgħa ġew diskussi fit-tul elementi tal-Att. Is-sur Deguara nforma lill-Kumitat li kienu saru żewġ rapporti fuq proposti għal emendi fl-Att; wieħed minn task force fil-ministeru li dak iż-żmien kienet responsabbli għalih il-Ministru Helena Dalli. Jidher li dan ir-rapport baqa' fil-ministeru u ma ttieħdet l-ebda azzjoni.

Ir-Rapport l-ieħor sar min Aequitas Legal wara sejħa pubblika mill-Gvern. Il-kumpanija legali kellha tagħmel studju komparattiv tal-Liġi Maltija in relazzjoni mal-ligijiet fl-UE u tissuggġerixxi emendi għal dan l-Att wara konsultazzjoni ma` min hu interessat. Skont Deguara, dan ir-rapport ġie ppreżentat lill-Ministru koncernat f'Jannar tal-2022 u sussegwentement lill-Kabinett. Jidher li anke hawn ma ttieħdet l-ebda azzjoni.

Insegwitu c-Chairman kellu laqgħa mal-Ministru tal-Ġustizzja fejn dan infurmah li hu ma kienx a konjizzjoni ta' dawn iż-żewg rapporti u li l-Kumitat, indipendentement minn dawn iż-żewġ rapporti, jekk hekk jidhirlu, kellu jagħmel ir-rakkomandazzjonijiet tiegħu.

Il-Kumitat hass illi qabel ma jkompli fuq dan is-suġġett, kellu l-ewwel jieħu konjizzjoni mqar tar-rapport illi kien tħejja mill-imsemmija ditta legali wara sejħa pubblika, biex jara jekk għandux jikkonferma l-konklużjonijiet tiegħu jew inkella li jżid magħhom.

Fid-dawl ta` dan, kien ikun ezerċizzju inutli u ħela ta` riżorsi li l-Kumitat jerġa` jirrepeti ezeċcizzju li kien diġa` sar.

Il-Kumitat jidhirlu li l-Gvern għandu jippubblika r-rapport imħejji minn Aequitas Legal għall-iskrutinju pubbliku u diskussjoni iktar wiesgħa.

Xogħol ieħor tal-Kumitat

Il-bidliet proposti mill-Kumitat inħmew f'kuntest ta' riflessjonijiet, kultant jaħarqu, dwar il-qagħda tal-ġurnaliżmu illum. Ikollna ngħidu li apparti l-idjosinkraziji li huma frott tal-istorja, tal-kultura politika-ekonomika u taċ-ċokon, bosta sfidi f'pajjiżna nsibuhom ukoll f'pajjiżi oħra.

a) *Id-definizzjoni ta' min hu ġurnalist?*

Dan il-kumitat b'mod konxju ma daħalx fid-definizzjoni tal-kelma ġurnalist. Bħal ma jiġi osservat kullimkien, id-definizzjoni ta' ġurnalist qiegħda issir aktar flessibli u fluwida iżda hija neċessarja, għaliex il-ġurnalist igawdi aċċess u privileġġi. F'Malta hemm *case law* fejn id-definizzjoni toħroġ mill-*funzjoni* tal-ġurnalist. Fil-kas Gambin vs Caruana Galizia (2016) il-Qorti rreferiet għal rakkommandazzjoni tal-Kunsill tal-Ewropa addottata mill-Kunsill tal-Ministri fis-sena 2000 fejn ġurnalist huwa/hija:"**Min b'mod regolari jew professjonali jiġbor u jiddissemina l-informazzjoni lill-pubbliku permezz ta' mezzi tal-komunikazzjoni tal-massa**".

b) *Disturbi teknoloġiċi*

Mhux faċli għall-istituzzjonijiet tal-istat, inklużi l-legislattiv u l-qrati biex jlaħħqu mad-disturbi (disruptions) teknoloġiċi li jimpattaw lis-settur, bl-isfidi li jġibu magħhom. Kważi kważi bilkemm tlaħħaq l-industrija tal-media nfisha. Biex nieħdu eżempju: Waqt li konna nħejju dan ir-rapport, ChatGPT u oħrajn bhalha ġabu

innovazzjonijiet oħra fil-kommunikazzjoni li ċertament daqt jibdlu x-xenarju (forsi anke b'mod sostanzjali) b'opportunitajiet imma anke bosta sfidi prattiċi, legali u etiċi.

c) *Sistemi awto-regolatorji*

Entitajiet ġurnalistiċi bħall-Istitut tal-Ġurnalisti Maltin għandhom ambizzjonijiet awto-regolatorji. Jekk inħarsu lura, dejjem kien hemm diffikulta biex il-Kumitat tal-Etika tal-IĠM jmexxi bl-ilmenti li jidhru quddiemu, speċjalment kull darba li l-ġurnalisti jew il-media houses għażlu li ma jidhrux. Agħar minhekk, l-aħħar Kodiċi ta' Etika approvat kien tfassal fis-snin tmenin u minn dakinhar, minkejja l-isforzi kollha, qatt ma ġiet approvata verżjoni aktar aggornata għaż-żminijiet tal-lum. L-IĠM qegħda tikkunsidra *Kunsill tal-Midja*, fuq mudelli ta' pajjiżi oħra li għandu jkun pass 'il quddiem. Waqt li se jibqa diffiċili l-implimentar ta' Kodiċi ta' Etika (sakemm ma jkunx parti mill-kuntratt tax-xoghol tal-gurnalisti) aktarx jkun aktar f'waqtu jekk nisħqu dwar għarfien aħjar ta' prattiċi etiċi, partikolarment għal organizzazzjonijiet tal-media (legacy media) li jistgħu jservu ta' mudell għal ħaddieħor dwar kif nistgħu nikkomunikaw b'responsabbilta'.

d) *L-istat tal-ġurnalizmu illum*

Dan il-Kumitat qassam survey biex ikollna stampa aktar ċara tal-qagħda tal-ġurnaliżmu llum. Iżda anke t-tqassim tas-survey innifsu kien problematiku. Kien hemm min oġġezzjona għaliex ħass li m'intlaħaqx. Tnax-il ġurnalist biss wieġbu s-survey tagħna. Waqt li l-attentat tagħna ma tagħniex statistika relevanti, tweġibiet minn mistoqsijiet open-ended jixħtu dawl fuq l-istat tal-ġurnaliżmu bħalissa.

e) *Issues finanzjarji*

Il-midja ġurnalistiċi naqsilhom sewwa d-dħul mir-reklami. Qed isibu anqas min lest iħallas biex jixtri l-prodott tagħhom, għandhom kompetizzjoni qawwija mill-media online u fuq kollox mill-pjattaformi internazzjonali (bħal Facebook u Google). Għalhekk therrew il-business models ta' qabel l-era digitali. Allura, minkejja li bosta ġurnalisti jippruvaw imqar jaqtgħu linja bejn il-kontenut ġurnalistiku u r-reklami bħala prinċipju fundamentali tal-professjoni tagħhom, mhux dejjem ikun possibli jippermettu firewall organizzattiv li jiżgura li r-reklamar ma jdakkarx il-kontenut editorjali.

Bħal ma qiegħed jigri fuq livell globali fl-ahhar 20 sena llum in-numru t'individwi li jsejjħu lilhom infushom ġurnalisti naqas. Anke newsrooms li sa xi snin ilu kienu attrezzati sewwa, illum isibhom joperaw bi skeleton staff. Ġie nnotat ukoll li: Is-salarji tal-ġurnalisti m'humiex kompettivi u sar diffiċli ssib u tattira staff dedikat u nies b'esperjenza; li l-istatus tal-ġurnalist naqas, li fi wħud mill-organizzazzjonijiet issib nies ibatu minn burn out u għalhekk issib turnover qawwija;

L-inċertezzi jimpattaw l-ħajja tal-ġurnalisti, tant li bosta jinnotaw li m'hawnx wisq ħeġġa partikolari fost iż-żagħżagħ biex jidħlu għal din il-karriera fit-tul. U anke dawk li jidħlu b'ħafna entużjażmu spiss isibhom iħallu l-qasam tal-aħbarijiet biex imorru jaħdmu f'oqsma tal-kommunikazzjoni li aktarx huma anqas iebsa fuq il-ħajja personali tal-individwu u aktarx ikoll jaffordjaw iħallsu aħjar. Dan qed jiġri meta għal demokrazija b'saħħitha, il-ġurnaliżmu sar kruċjali aktar minn qatt qabel biex nippruvaw nagħmlu sens u ninterpretaw il-kakofonija ta' ħsejjes u l-baraxx ta' miżinformazzjoni li nħabbtu wiċċna magħhom bħala individwi. Demokrazija b'saħħitna tirrikjedi li jkollna l-għodda biex nirriflettu dwar il-ġrajjiet u proċessi ta madwarna.

Il-bidliet strutturali li qiegħdin nosservaw ġejjin l-aktar mid-diffikultajiet finanzjarji. Il-parti l-kbira (jekk mhux il-midja kollha) qegħdin joperaw b'baġits minimi u bosta drabi wisq inadekwati. Il-parti l-kbira minnhom qegħdin joperaw b'telf. Fil-każ tal-media tal-partiti dawn waslu biex jheżżu s-sisien tal-partiti nfushom.

Dawn li ġejjin huma issues finanzjarji serji li qegħdin jheddu l-ġejjieni tan-newsroom kif konna nafuha s'issa:

i) Il-gazzetti jinsabu f'sitwazzjoni partikolarment prekarja minħabba t-tnaqqis fil-bejgħ u allura fid-dħul tagħhom.
ii) Il-mudell finanzjarju tad-djar tal-media jiddependi wisq fuq reklamar tal-gvern filwaqt li d-dħul tagħhom naqas bir-reklamar online.
iii) Il-mudell tal-aħbarijiet online jinsab mhedded ukoll, mill-media soċjali.
iv) Qegħdin naraw proliferazzjoni ta' news providers – uħud li jaggregaw l-aħbarijiet u jservu ta' pjattaforma għal dak li jipproduċi ħaddieħor.

v) Mistoqsija li ssir spiss hija jekk il-media Maltin għandhomx imorru aktar lejn sistemi ta' abbonament, iżda nafu li fl-era diġitali ftit huma l-individwi li lesti jħallsu ghall-konsum tal-aħbarijiet.

vi) Gie osservat li f'pajjiżna ftit li xejn jeżistu inċentivi biex jgħinu lill-industrija.

vii) Hemm min jipproponi li l-gvern jagħti sovvenzjonijiet lill-media biex jibqgħu jaqdu r-rwol tagħhom, li mbagħad tqanqal issues dwar l-awtonomija ġurnalistika u kemm dawn il-media jibqgħu f'qagħda li jigdmu l-id li titmagħhom. Fost it-12 -il ġurnalist li wieġbu mistoqsijiet 'open ended' fis-survey tagħna, kien hemm reazzjoni mħallta għas-sovvenzjonijiet: Tnejn qalu li għajnuna mill-istat saret neċessarja biex jiġu mħarsa l-pluraliżmu, d-diversita u l-espressjoni demokratika; Ħamsa qalu li kollox jiddipendi min jekk ikunx hemm kundizzjonijiet marbuta magħhom. Persuna oħra approvat iżda żiedet: "*Complete transparency surrounding this funding would seem to me to be one way of diminishing the risk of being held hostage by the State.* "; 4 wieġbu: li ma jaqblux mas-subventions għax jibżgħu mill-possibilta' ta' ndħil mill-istat.

Il-Kumitat iħoss li għandu jiddaħħhal mekkaniżmu għal finanzjament pubbliku għall-midja li jista' jieħu diversi forom, fosthom grants diretti u nċentivi dwar taxxa marbuta ma investiment fir-riżorsi umani u teknoloġiċi.

Il-gvern ikollu ukoll sistema trasparenti ta` kif jitqassam il-budget tar-reklamar tas-servizz pubbliku kollu fost il-firxa tal-midja Maltija. Għandu wkoll jikkunsidra li jagħmel pressjoni fuq livell Ewropew biex tiddaħħal liġi li tobbliga pjattaformi bħal Google u Meta jinnegozzjaw ma organizzjonijiet tal-aħbarjiet sabiex iħallsu għall-kontenut li jkun ittella` fuq il-pjattaformi tagħhom. Liġi simili idaħħlet fil-Kanada u fl-Awstralja.

Ix-Xandir Pubbliku

Il-Kumitat huwa konxju tal-fatt illi l-Inkjesta Pubblika Caruana Galizia kienet għamlet rakkomandazzjoni li ssir riforma fil-qasam tax-xandir pubbliku.

Il-Kumitat iħoss li x-xandir pubbliku huwa qasam kruċjali fil-ħajja demokratika, speċjalment f'pajjiż żgħir u soċjeta` polarizzata bħal Malta. Il-Kumitat jirrakomanda illi għandu jinħatar kumitat ad hoc biex janalizza s-sitwazzjoni attwali u jipproponi riforma biex tiżgura li x-xandir pubbliku jissaħħah bil-għan li jkun tassew oġġettiv, indipendenti u mparzjali f'kuntest ta` kontabilita`, biex b'hekk jingħata l-aħjar servizz lill-pubbliku.

Konklużjoni

Għalhekk riforma fil-midja tinkludi proċess ta' evalwazzjoni u tiġdid li jmur lil hinn mill-liġijiet li qed niddiskutu f'dan il-dokument. Il-Kumitat jinnota li fl-Unjoni Ewropea għaddej proċess lil hinn mir-remit ta' dan il-kumitat, dik li hija magħrufa bħala l-European Media Freedom Act. Il-proposti jkopru kull tip ta' midja: minn xandir pubbliku u privat, pubblikazzjonijiet, media service, gazzetti u ukoll pjattaformi għall-materjal awdjoviżiv online bħal YouTube. Li ġejjin huma xi punti pożittivi, li jixirqilhom attenzjoni u diskussjoni wiesgħa.

a) Hemm proposta dwar riforma fil-governanza tax-xandir pubbliku. Jekk tgħaddi l-European Media Freedom Act, il-Bord tal-PBS, aktarx ikun irid jiġi appuntat permezz ta' proċedura trasparenti. Dan ikun ifisser li bosta pajjiżi fosthom Malta jkollhom bżonn liġi li tirregola l-istruttura tax-xandir pubbliku, li jkollha obbligi speċifiċi.

b) Il-proposta tisħaq dwar l-awtonomija tal-Awtoritajiet Regolatorji u allura dan jista jimpatta l-mod kif jinħatar il-Bord tal-Awtorita tax-Xandir. Hemm ukoll propost li jitwaqqaf *European Board for Media Services* biex jinħoloq qafas għall-kooperazzjoni bejn l-awtoritajiet regolatorji fejn ikun hemm linji gwida u best practice. Dan il-Bord jistħarreġ il-konċentrazzjoni tal-ownership fis-suq

tal-midja; jikkoordina l-infurzar minn pajjiż għall-ieħor u joħroġ linji gwida dwar il-mod kif jitkejjlu l-udjenzi.

c) Il-proposta ta' European Media Act taħseb biex ir-reklamar tal-istat jiġi allokat b' mod trasparenti, oġġettiv, proporzjonat u mhux diskriminatorju. L-allokazzjoni tar-reklamar tal-gvern tiġi ukoll monitorjata mill-awtoritajiet regolatorji. L-Istat iżda jibqa' jissovvenzjona x-xandir pubbliku kif inhu bħalissa minħabba l-obbligi pubbliċi tiegħu.

Riforma fil-midja sseħħ meta jkollna midja li huma aktar politikament u finanzjarjament indipendenti, aktar kontabbli, aktar demokratiċi u li jappellaw għal firxa akbar ta' nies. Pluraliżmu fil-midja ma jfissirx "more of the same". Riforma fil-midja trid tara li nilħqu aktar lill-gruppi diversi fis-soċjeta tagħna. Għalhekk id-diskussjoni bdiet iżda t-triq hija twila.

Imħallef Michael Mallia

Avukat Kevin Dingli

Profs. Saviour Formosa

Profs. Carmen Sammut

Saviour Balzan

Matthew Xuereb

Kurt Sansone

Neil Camilleri

APPENDIĊI A

Abbozz Nru. 17
kif emendat mill-Kumitat

ATT sabiex jipprovdi għat-twaqqif ta' Kumitat għas-Sorveljanza ta' Miżuri għall-Ħarsien ta' Ġurnalisti, Persuni oħra b'irwol fil-Midja u Persuni fil-Ħajja Pubblika

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 20,938, 10 ta' Ottubru, 2022
Taqsima C –

Nru 17

10. 10. 2022

MALTA

KAMRA TAD-DEPUTATI

ABBOZZ ta' Liġi mressaq mill-Onorevoli Jonathan Attard, M.P., Ministru għall-Ġustizzja, u moqri għall-Ewwel darba fis-Seduta tal-4 ta' Ottubru 2022.

ATT sabiex jipprovdi għat-twaqqif ta' Kumitat għar-Rakkomandazzjonijiet ta' Miżuri għall-Ħarsien ta' Ġurnalisti, Persuni oħra b'irwol fil-Midja u Persuni fil-Ħajja Pubblika.

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

HOUSE OF REPRESENTATIVES

A BILL introduced by the Honourable Jonathan Attard, M.P., Minister for Justice, and read the First time at the Sitting of the 4th October 2022.

AN ACT to provide for the establishment of the Committee for the Recommendation of Measures for the Protection of Journalists, other Media Actors and Persons in Public Life.

RAYMOND SCICLUNA
Clerk of the House of Representatives

ABBOZZ TA' LIĠI
msejjaħ

ATT sabiex jipprovdi għat-twaqqif ta' Kumitat għas-Sorveljanza ta' Miżuri għall-Ħarsien ta' Ġurnalisti, Persuni oħra b'irwol fil-Midja u Persuni fil-Ħajja Pubblika.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, ħareġ b'liġi dan li ġej:-

1. It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2022 dwar it-Twaqqif ta' Kumitat *għas-Sorveljanza* ta' Miżuri għall-Ħarsien ta' Ġurnalisti, Persuni oħra b'irwol fil-Midja u Persuni fil-Ħajja Pubblika. Titolu fil-qosor.

2. (1) Għandu jiġi mwaqqaf kumitat imsejjaħ il-Kumitat *għas-Sorveljanza* ta' Miżuri għall-Ħarsien ta' Ġurnalisti, ta' Persuni oħra b'irwol fil-Midja u ta' Persuni fil-Ħajja Pubblika li jkun maħtur mill-Ministru responsabbli għall-affarijiet ta' sigurtà, hawn iżjed 'il quddiem imsejjaħ "il-Kumitat". Kumitat għas-Sorveljanza ta' Miżuri għall-Ħarsien ta' Ġurnalisti, ta' Persuni oħra b'irwol fil-Midja u ta' Persuni fil-Ħajja Pubblika.

(2) Il-Kumitat għandu jkun magħmul mill-erba' (4) membri li ġejjin:

(a) is-Segretarju Permanenti fi ħdan il-Ministeru responsabbli għall-affarijiet ta' sigurtà, li għandu jippresjedi;

(b) il-Kummissarju tal-Pulizija jew rappreżentant tiegħu;

(ċ) il-Kap tas-Servizz tas-Sigurtà ta' Malta jew rappreżentant tiegħu;

(d) il-Kmandant tal-Forzi Armati ta' Malta jew rappreżentant tiegħu:

Iżda kwalunkwe persuna li taġixxi f'kapaċità ta'

rappreżentant fuq il-Kumitat għandha tkun persuna ta' kariga għolja fil-forza jew servizz rispettiv.

(3) Il-Kumitat għandu jkollu l-funzjoni li jissorvelja l-ħidma tal-forzi u s-servizzi rappreżentati fuq il-Kumitat u jagħmel rakkomandazzjonijiet billi:

(a) jevalwa jekk il-proċeduri adoperati mill-pulizija permezz tal-iStandard Operating Procedures (SOP) stabbiliti jkunux xierqa u adegwati skont iċ-ċirkostanzi biex iwieġbu għal kull riskju reali u immedjat ta' atti ta' vjolenza kontra ġurnalisti, persuni oħra bi rwol fil-medja, u ta' persuni fil-ħajja pubblika;

(b) jagħmel moniteraġġ tat-tħaddim tal-SOP u jagħti r-rakkomandazzjonijiet tiegħu fejn ikun meħtieġ;

(ċ) jassikura li ġew esegwiti l-miżuri kollha ta' protezzjoni lil dawk intitolati għaliha;

(d) jisma' ilmenti mingħand persuni li jħossuhom aggravati minn xi deċiżjoni tal-Kummissarju tal-Pulizija meħuda f'materja li tirrigwarda s-sigurtà tal-persuna tagħhom.

(4) Il-Kumitat għandu jopera bħala parti mill-Ministeru responsabbli mill-affarijiet ta' sigurtà u għandu jkun iffinanzjat mill-allokazzjoni finanzjarja tal-istess Ministeru.

(5) Fit-twettiq tal-funzjonijiet tagħhom, il-membri tal-Kumitat għandhom jaġixxu fuq il-ġudizzju indipendenti tagħhom u għandhom iqisu l-importanza tal-protezzjoni tal-ħajja demokratika kif ukoll ir-riżorsi u l-eżiġenzi tal-amministrazzjoni pubblika u l-prinċipju tal-proporzjonalità.

(6) Il-laqgħat tal-Kumitat għandhom jissejħu mill-persuna li tippresjedi kif ikun meħtieġ jew fuq talba ta' żewġ (2) membri tal-Kumitat.

(7) Il-Kumitat jista' jistieden osservatur b'interess fil-każ jew fil-materja li se jiġu trattati fil-laqgħa konċernata bid-dritt li jinstema'.

(8) Il-*quorum* għal-laqgħat tal-Kumitat għandu jkun magħmul mill-persuna li tippresjedi u żewġ membri oħra.

(9) Il-Kumitat għandu, bla ħsara għad-dispożizzjonijiet ta' dan l-artikolu, jirregola l-proċedura tiegħu stess.

(10) Il-Kumitat għandu jżomm il-minuti tal-laqgħat kollha tiegħu.

(11) Il-Kumitat għandu kull sena jibgħat rapport dwar il-ħidma tiegħu lill-Ministru responsabbli għall-affarijiet tas-sigurtà.

Għanijiet u Raġunijiet

L-għanijiet u r-raġunijiet ta' dan l-Abbozz huma sabiex jipprovdi għat-twaqqif formali tal-Kumitat *għas-Sorveljanza* ta' Miżuri għall-Ħarsien ta' Ġurnalisti, ta' Persuni oħra b'irwol fil-Midja u ta' Persuni fil-Ħajja Pubblika bil-għan li jkomplu jsaħħu l-miżuri li diġà ttieħdu għall-protezzjoni tas-soċjetà u tal-ħajja demokratika u għas-salvagwardja tas-saltna tad-dritt.

APPENDIĊI B

Abbozz Nru. 18
kif emendat mill-Kumitat

ATT sabiex jemenda l-Kostituzzjoni ta' Malta bil-ġħan li jissaħħaħ id-dritt tal-libertà tal-espressjoni, id-dritt tal-privatezza u l-libertà tal-midja

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 20,938, 10 ta' Ottubru, 2022
Taqsima C –

Nru 18

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MALTA

KAMRA TAD-DEPUTATI

ABBOZZ ta' Liġi mressaq mill-Onorevoli Jonathan Attard, M.P., Ministru għall-Ġustizzja, u moqri għall-Ewwel darba fis-Seduta tal-4 ta' Ottubru 2022.

ATT sabiex jemenda l-Kostituzzjoni ta' Malta bil-għan li jissaħħaħ id-dritt tal-libertà tal-espressjoni, id-dritt tal-privatezza u l-libertà tal-midja.

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

HOUSE OF REPRESENTATIVES

A BILL introduced by the Honourable Jonathan Attard, M.P., Minister for Justice, and read the First time at the Sitting of the 4th October 2022.

AN ACT to amend the Constitution of Malta with the aim of strengthening the right to freedom of expression, the right to privacy and freedom of the media.

RAYMOND SCICLUNA
Clerk of the House of Representatives

VERŻJONI ELETTRONIKA

ABBOZZ TA' LIĠI
msejjaħ

ATT sabiex jemenda l-Kostituzzjoni ta' Malta bil-għan li jissaħħaħ id-dritt tal-libertà tal-espressjoni, id-dritt tal-privatezza u l-libertà tal-midja.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, ħareġ b'liġi dan li ġej:-

Titolu fil-qosor.

1. It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2022 li jemenda l-Kostituzzjoni ta' Malta u dan l-Att għandu jinqara u jinftiehem ħaġa waħda mal-Kostituzzjoni ta' Malta, hawn iżjed 'il quddiem imsejħa "l-Kostituzzjoni".

Żieda ta' artikolu 20B ġdid fil-Kostituzzjoni.

2. Minnufih wara l-artikolu 20A tal-Kostituzzjoni għandu jiżdied dan l-artikolu ġdid li ġej:

"Protezzjoni tal-libertà tal-midja.

20B. L-istat jirrikonoxxi l-libertà tal-midja u l-irwol tal-midja bħala għassies pubbliku flimkien mad-dritt tal-eżerċizzju ta' ġurnaliżmu ħieles bħala elementi fundamentali fid-demokrazija. L-Istat għandu jħares u jippromwovi l-libertà u l-awtonomija tal-midja inkluż billi jipprovdi għall-protezzjoni tal-ġurnalisti u tas-sorsi tagħhom; kif ukoll jissalvagwardja l-pluraliżmu fis-settur.".

Sostituzzjoni tal-artikolu 38 tal-Kostituzzjoni.

3. L-artikolu 38 tal-Kostituzzjoni għandu jiġi sostitwit b'dan l-artikolu ġdid li ġej:

"Protezzjoni tal-ħajja privata u tal-familja, tal-intimità tad-dar u proprjetà oħra.

38. (1) Kulħadd għandu d-dritt għar-rispett tal-ħajja privata tiegħu u tal-familja tiegħu, ta' daru u tal-komunikazzjonijiet tiegħu.

(2) Ħlief bil-kunsens tiegħu stess jew b'dixxiplina tal-ġenituri, ħadd ma għandu jiġi assoġġettat għat-tfittix fuq il-persuna tiegħu jew proprjetà tiegħu jew għad-dħul minn oħrajn fil-post tiegħu.

(3) Ebda ħaġa li hemm fi jew li hija magħmula skont l-awtorità ta' xi liġi ma għandha titqies li tkun inkonsistenti ma' jew bi ksur ta' dan l-artikolu safejn dik il-liġi tagħmel provvediment:

(a) li jkun raġonevolment meħtieġ fl-interess tad-difiża, sigurtà pubblika, ordni pubbliku, moralità jew deċenza pubblika, saħħa pubblika, pjani regolaturi ta' bliet u rħula, l-iżvilupp u utilizzazzjoni ta' risorsi minerali, jew l-iżvilupp u utilizzazzjoni ta' xi proprjetà b'dak il-mod biex jinġieb 'il quddiem il-benefiċċju pubbliku;

(b) li jkun raġonevolment meħtieġ sabiex jinġiebu 'l quddiem id-drittijiet u l-libertajiet ta' persuni oħra;

(ċ) li jawtorizza dipartiment tal-Gvern ta' Malta, jew awtorità tal-gvern lokali, jew għaqda korporata mwaqqfa b'liġi għal skop pubbliku, li jidħol fil-post ta' xi persuna sabiex jispezzjona dak il-post jew xi ħaġa li jkun hemm fih għall-fini ta' xi taxxa, rata jew drittijiet jew sabiex jagħmel xogħol li għandu x'jaqsam ma' xi proprjetà jew xi installazzjoni li tkun legalment f'dak il-post u li tkun ta' dak il-Gvern, dik l-awtorità, jew dik l-għaqda korporata, skont il-każ; jew

(d) li jawtorizza, għall-fini ta' esekuzzjoni ta' sentenza jew ordni ta' qorti, it-tfittix ta' xi persuna jew proprjetà b'ordni ta' qorti jew dħul f'xi post b'ordni bħal dak, jew li jkun meħtieġ sabiex jiġu evitati jew mikxufa reati kriminali,

u ħlief safejn dak il-provvediment jew, skont il-każ, il-ħaġa magħmula skont l-awtorità tiegħu, hija murija li ma tkunx ġustifikabbli raġonevolment f 's oċjetà demokratika.".

Emenda tal-artikolu 41 tal-Kostituzzjoni.

4. L-artikolu 41 tal-Kostituzzjoni għandu jiġi emendat kif ġej:

(a) is-subartikoli (1) u (2) tiegħu għandhom jiġu sostitwiti b'dawn is-subartikoli ġodda li ġejjin:

"(1) Kulħadd għandu d-dritt għall-libertà tal-espressjoni mingħajr indħil. Dan id-dritt għandu jinkludi l-libertà ta' kull persuna li jkollha opinjonijiet u li tirċievi u

tagħti informazzjoni u ideat b'kull mezz mingħajr ma jittieħed kont ta' fruntieri, kif ukoll il-libertà minn indħil dwar il-korrispondenza tagħha.

(2) (a) Il-libertà, l-awtonomija u l-pluraliżmu tal-midja u l-importanza tal-irwol tal-ġurnalisti għandhom ikunu rispettati, garantiti u mħarsa minn indħil ta' kwalunkwe awtorità pubblika fl-eżerċizzju tad-dritt għall-libertà tal-espressjoni ħlief fejn hemm ħtieġa soċjali gravi u urġenti;

(b) Il-protezzjoni ta' sorsi tal-ġurnalisti, inkluż informazzjoni li tista' tidentifika sors ta' ġurnalist, hija garantita u ma tistax tiġi ristretta ħlief meta l-kxif huwa meqjus neċessarju f'soċjetà demokratika u fejn jiġi stabbilit li l-interess leġittimu fl-iżvelar huwa ta' importanza akbar mill-interess pubbliku li ma jseħħx dak l-iżvelar; u

(ċ) id-dritt ta' kullħadd għall-aċċess għall-midja ħielsa għandu jkun garantit.

;

(b) minnufih wara s-subartikolu (2) tiegħu għandu jiżdied dan is-subartikolu ġdid li ġej:

"(2A) (a) L-eżerċizzju tal-libertajiet garantiti b'dan l-artikolu, billi jġib miegħu dmirijiet u responsabbiltajiet, jista' jkun soġġett għal dawk il-formalitajiet, kondizzjonijiet, restrizzjonijiet jew penalitajiet kif preskritti bil-liġi u li jkunu meħtieġa f'soċjetà demokratika fl-interessi tas-sigurtà nazzjonali, tal-integrità territorjali jew tas-sigurtà pubblika, sabiex tiġi evitata d-diżordni jew it-twettiq ta' reati, għall-protezzjoni tas-saħħa jew tal-morali, għall-protezzjoni tar-reputazzjoni jew tad-drittijiet ta' ħaddieħor, sabiex jiġi evitat l-iżvelar ta' tagħrif riċevut b'mod kunfidenzjali jew sabiex tinżamm l-awtorità u l-indipendenza tal-ġudikatura.

(b) Jistgħu jiġu imposti b'liġi restrizzjonijiet proporzjonati fuq il-libertà tal-espressjoni ta' uffiċjali pubbliċi fil-limiti provduti f'dan is-subartikolu bil-għan li tinżamm il-fiduċja fis-servizz pubbliku.";

(ċ) is-subartikolu (3) tiegħu għandu jiġi emendat kif ġej:

(i) il-kliem "gazzetta jew ġurnal pubblikat kull jum jew perjodikament:" għandhom jiġu sostitwiti bil-kliem "gazzetta, ġurnal jew midja oħra pubblikati jew imxandra "; u

(ii) il-proviso tiegħu għandu jiġi mħassar.

(d) is-subartikolu (4) tiegħu għandu jiġi sostitwit b'dan is-subartikolu ġdid li ġej:

"(4) L-awtoritajiet pubbliċi jkunu obbligati li jipprovdu aċċess fi żmien raġjonevoli għal informazzjoni miżmuma minnhom u informazzjoni dwar l-attivitajiet tagħhom taħt dawk il-kondizzjonijiet kif ikun provdut bil-liġi u ġustifikabbli f'soċjetà demokratika; u

(e) is-subartikolu (5) tiegħu għandu jiġi sostitwit b'dan is-subartikolu ġdid li ġej:.
Dan l-artikolu ma għandux jiġi interpretat bħala li jipproteġi l-espressjoni ta' mibeġħda bħal dik fuq bażi ta' nazzjonalità, razza, ġeneru jew reliġjon illi, meħuda in konsiderazzjoni xierqa ċ-ċirkostanzi li fihom issir, tkun tikkostitwixxi inċitament għad-diskriminazzjoni, l-mibeġħda, l-ostilità jew il-vjolenza."

Emenda tal-artikolu 45 tal-Kostituzzjoni.

5. Fis-subartikolu (7) tal-artikolu 45 tal-Kostituzzjoni, il-kliem "41(2)" għandhom jiġu sostitwiti bil-kliem "41(2A)".

Għanijiet u Raġunijiet

L-għanijiet u r-raġunijiet ta' dan l-Abbozz ta' Liġi huwa sabiex jaġġorna l-Kostituzzjoni billi jissaħħu d-drittijiet fundamentali tal-libertà tal-espressjoni u tal-privatezza u l-libertà tal-midja għall-implimentazzjoni aħjar tas-saltna tad-dritt f'soċjetà demokratika.

APPENDIĊI Ċ

Abbozz Nru. 19

kif emendat mill-Kumitat

ATT sabiex jemenda diversi liġijiet, bl-enfażi tal-Kumitat tkun fuq it-tibdil fl-Att Dwar il-Midja u l-Malafama f'dak li jirrigwarda miżuri għall-protezzjoni minn kawżi li jsiru strateġikament kontra l-parteċipazzjoni pubblika (SLAPP)

L-artikolu 10 tal-Att prinċipali għandu jiġi emendat kif ġej: (a) minnufih wara s-subartikolu (1) tiegħu għandu jiżdied is-subartikolu ġdid li ġej:

Emenda tal-artikolu 10 tal-Att prinċipali.

"Protezzjoni minn kawżi li jsiru strateġikament kontra l-parteċipazzjoni pubblika.

(1A) (1) Il-Qorti għandha, fis-smigħ preliminari, jew fi kwalunkwe stadju iehor tas-smiegh ta' dik l-azzjoni, fuq talba motivata tal-konvenut jew fuq mozzjoni taghha stess, wara li tkun semgħet lill-partijiet u dawk il-provi li hija tqis meħtieġa, tiddeċiedi li ma tissoktax bis-smigħ tal-kawża jekk hija tkun sodisfatta li jkun irriżulta li l-azzjoni hija manifestament infondata.

(2) Meta titressaq talba bħal dik msemmija fis-subinciz (1) mill-konvenut, jew meta titqajjem il-mozzjoni mill-Qorti stess, skont il-kaz, wara li l-konvenut iressaq prova prima facie illi l-azzjoni hija manifestament infondata, jkun jinkombi fuq l-attur li jipprova l-kuntrarju.

(3) F'kaz illi l-Qorti kellha tqis l-azzjoni ta' malafama bhala manifestament infondata, il-Qorti tkun tista' tghaddi sabiex tiddikjara lill-attur responsabbli ghad-danni kollha sofferti mill-konvenut u sabiex tikkundanna lill-istess attur sabiex ihallas lill-konvenut dawk id-danni li jistghu jigu likwidati mill-istess Qorti, flimkien mal-ispejjez kollha tal-azzjoni. F'kull kaz il-Qorti jkollha wkoll is-setgha li fid-diskrezzjoni taghha u skont ic-cirkostanzi kollha tal-kaz, timponi penali diswassiv fuq l-attur, liema penali tkun pagabbli lill-konvenut.

(4) Ghall-finijiet ta' dana l-artikolu, azzjoni ta' malafama titqies illi hija manifestament infondata jekk il-Qorti jidhrilha illi tkun giet istitwita bhala parti minn strategija ntiza biex tpoggi piz finanzjarju ndebitu fuq il-konvenit jew inkella biex ikollha l-effett li tbezza', trazzan jew tiskoraggixxi l-partecipazzjoni pubblika fid-dibattitu fuq kwistjoijiet ta' interess pubbliku".; u

(b) fis-subartikolu (2) tiegħu, il-kliem "Il-Qorti għandha, fis-smigħ preliminari," għandhom jiġu sostitwiti bil-kliem "Mingħajr preġudizzju għad-dispożizzjonijiet tas-subartikolu (1A), il-Qorti għandha fis-smigħ preliminari,".

Żieda ta'artikolu ġdid fl-Att prinċipali. "Protezzjoni kontra sentenzi miksuba abbużivament minn qrati barra minn Malta. Kap. 12.

11. Minnufih wara l-artikolu 24 tal-Att prinċipali għandu jiżdied l-artikolu ġdid li ġej:

24A. (1) Minkejja kwalunkwe dispożizzjoni oħra fil-Kodiċi tal-Organizzazzjoni u Proċedura Ċivili jew f'xi liġi oħra, meta tintalab l-eżekuzzjoni f'Malta ta' sentenza ta' qorti barra minn Malta li tordna l-ħlas ta' danni u, jew spejjeż sew jekk għall-ekwivalenti ta' dak li jkun jikkostitwixxi libell jew inġurja skont dan l-Att, u sew jekk għall-ekwivalenti ta' dak li jkun jikkostitwixxi delitt jew kważi delitt skont il-Kodċi Ċivili jew kull liġi oħra, il-Qorti għandha l-ewwel tghaddi sabiex tisma' lill-konvenut.

(2) Jekk imbaghad wara li tkun semghet lill-konvenut, il-Qorti tqis illi l-azzjoni li tat lok għas-sentenza kienet sostanzjalment ibbażata fuq talbiet li għandhom x' jaqsmu ma' Malta, li l-azzjoni setgħet tiġi istitwita f'Malta u li probabbilment ma ġietx hekk istitwita bħala parti minn strateġija ntiża sabiex tpożżi piż finanzjarju indebitu fuq il-konvenut, jew inkella sabiex ikollha effett li tbeżża', trażżan jew tiskoraġġixxi l-parteċipazzjoni pubblika f'dibattitu fuq kwistjonijiet ta' interess pubbliku, il-Qorti ghandha bhala principju ta' ordni pubbliku tiċħad għal kollox kull talba għall-eżekuzzjoni ta' dik is-sentenza.

(3) Il-Qorti tista' ukoll tiċħad l-eżekuzzjoni f' Malta ta' sentenza kif imsemmi f'dan l-artikolu jekk hija tqis illi l-eżekuzzjoni ta' dik is-sentenza tkun

qiegħda tikser id-dritt għall-libertà tal-espressjoni kif protett fis-sistema legali ta' Malta.

(4) Fil-kunsiderazzjonijiet taghha dwar jekk sentenza msemmija f'dan l-artikolu moghtija mill-qorti barra minn Malta ghandhiex tigi ezegwita f'Malta, il-Qorti ma ghandha tnissel l-ebda inferenza negattiva fir-rigward tal-konvenut mill-fatt illi huwa seta' safa ruhu kontumaci fl-azzjoni istitwita kontra tieghu quddiem il-qorti barra minn Malta.

(5) F'kaz illi l-Qorti kellha tichad it-talba ghall-ezekuzzjoni f'Malta ta' sentenza kif imsemmi f'dan l-artikolu, il-Qorti tkun tista' tghaddi sabiex tiddikjara lill-attur responsabbli ghad-danni kollha sofferti mill-konvenut u sabiex tikkundanna lill-istess attur sabiex ihallas lill-konvenut dawk id-danni li jistghu jigu likwidati mill-istess Qorti, flimkien mal-ispejjez kollha tal-proceduri ghall-ezekuzzjoni. F'kull kaz il-Qorti jkollha wkoll is-setgha li fid-diskrezzjoni taghha u skont ic-cirkostanzi kollha tal-kaz, timponi penali diswassiv fuq l-attur, liema penali tkun pagabbli lill-konvenut."

Għanijiet u Raġunijiet: L-għanijiet u r-raġunijiet ta' dan l-Abbozz ta' Liġi huma li jiġu emendati diversi liġijiet f'materja li tinvolvi l-midja u l-ġurnalisti sabiex tissaħħaħ il-protezzjoni tal-liġi fir-rigward tal-midja u talġurnalisti u jiġi evitat l-ixkiel lill-ġurnalisti u lill-midja fl-eżekuzzjoni xierqa tal-funzjonijiet tagħhom f'soċjetà demokratika. Fost affarijiet oħra l-Abbozz ta' Liġi jintroduċi wkoll dispożizzjonijiet kontra kawżi li jsiru strateġikament kontra l-parteċipazzjoni pubblika fl-Att dwar ilMidja u l-Malafama.

APPENDIĊI D

Dokumenti oħra

Dokumenti u korrispondenza oħra li għenu fit-tfassil tar-rapport finali.

X'ippropona l-Kumitat. X'għamel il-gvern.

Abbozzi għall-protezzjoni tal-ġurnalisti...

Analiżi komparattiva bejn dak li ressaq fil-parlament il-gvern u dak li ppropona l-Kumitat tal-Esperti.

Osservazzjonijiet dwar x'jista' jitjieb u x'hemm bżonn li jinbidel.

Awtur: Kurt Sansone

Data: 15 ta' Frar 2023

WERREJ

KOSTITUZZJONI

1. Kostituzzjoni Emendi Artiklu 38: Dritt għar-rispett tal-ħajja privata

Il-gvern qed jipproponi d-dħul ta' emenda li titkellem dwar ir-rispett tal-ħajja privata, tal-familja, tad-dar u tal-kommunikazzjoni, ta' l-individwu. Il-Kumitat tal-Esperti ma kellu l-ebda kumment fuq din l-emenda li essenzjalment hi transpożizzjoni kelma b'kelma ta' dak li tgħid il-Konvenzjoni Ewropea għad-Drittijiet tal-Bniedem.

M'għandu jkun hemm l-ebda problema fuq din l-emenda, madankollu, d-dħul ta' din l-emenda fl-istess ħin li emendi oħra importanti li jissalvagwardjaw il-libertà tal-kelma u l-ġurnaliżmu ġew imwarrba jista' joħloq mistoqsijiet dwar kemm hu kommess il-gvern għall-protezzjoni tal-media.

2. Kostituzzjoni Emendi Kap. 2 – Dikjarazzjoni ta' Prinċipju, dħul artiklu ġdid

Il-Gvern laqa' l-proposta tal-Kumitat tal-Esperti li fil-parti dikjaratorja tal-Kostituzzjoni tiddaħħal referenza għall-protezzjoni tal-libertà tal-midja.

Il-gvern qed jipproponi li l-Istat għandu jippromwovi l-libertà tal-midja billi jipprovdi għall-protezzjoni tal-ġurnalisti u tas-sorsi tagħhom. Il-protezzjoni tas-sorsi qed issir referenza għaliha fil-Kostituzzjoni fuq livell ta' prinċipju iżda l-gvern ma jmurx it-triq kollha u jinkludi l-protezzjoni tas-sorsi f'Artiklu 41.

Il-gvern evita li juża l-kliem propost mill-Kumitat tal-Esperti - 'l-awtonomija tal-midja' u 'pluraliżmu'.

Għaldaqstant, dak li pproponi l-Kumitat tal-Esperti hu iktar sħiħ fl-għan li jixtieq jilħaq.

Ta' min jinnota li l-Kap. 2 tal-Kostituzzjoni hu importanti għax jiddefinixxi dak li hu importanti għall-istat Malti, imma dawn huma prinċipji dikjaratorji mhux enforzabbli bl-ebda liġi u allura importanti li l-prinċipji marbuta mal-libertà tal-midja u l-protezzjoni tal-ġurnalisti jkunu mnaqqxa f'partijiet oħra tal-Kostituzzjoni wkoll.

3. Kostituzzjoni Emendi Artiklu 41:

L-emendi prinċipali kif proposti mill-Kumitat għall-Artiklu 41 jistgħu jinqasmu fi tlieta:

3.1 Helsien u pluraliżmu rispettat

Il-Kumitat tal-Esperti ppropona li apparti l-libertà u l-pluraliżmu tal-midja u l-importanza tar-rwol tal-ġurnalisti ikun 'rispettat', jiżdied ukoll il-protezzjoni minn indħil ta' awtorità pubblika ħlief fejn hemm ħtieġa soċjali gravi u urġenti.

Il-Gvern waqaf biss sal-punt tar-rispett u ma marx oltre. L-emendi tal-gvern isemmu l-pluraliżmu hawnhekk imma mhux fil-parti dikjaratorja (Kap. 2 tal-Kostituzzjoni).

3.2 Protezzjoni tas-sorsi

Il-Kumitat tal-Esperti ppropona li l-protezzjoni tas-sorsi tidħol f'dan l-artiklu. Il-Gvern waqaf fuq il-parti dikjaratorja f'Kapitlu 2. Il-Kumitat ippropona li tidħol il-protezzjoni wkoll fuq informazzjoni 'li tista' tidentifika sors ta' ġurnalist' u hekk qed tgħin ukoll biex tinħoloq klima iktar ideali biex isir il-ġurnaliżmu ħieles.

Dak li ppropona l-Kumitat hu iktar b'saħħtu għax ikollu l-forza tal-liġi kostituzzjonali u mhux biss forza morali (kif inhu Kap. 2). Il-gvern ma ħax dan inkonsiderazzjoni fl-abbozzi mressqa.

L-emendi proposti mill-gvern huma dgħajfin u ferm 'il bogħod minn dak li ssuġġerixxa l-Kumitat tal-Esperti. Apparti hekk teżisti kontradizzjoni fl-emendi tal-gvern: Filwaqt li l-kelma 'pluraliżmu' ma tissemmix fl-emenda ta' Kap. 2 (parti dikjaratorja), tissemma fl-Artiklu 41. Min-naħa l-oħra, il-protezzjoni tas-sorsi tissemma fil-Kap. 2 imma mhux fl-Artiklu 41. Jekk xejn, iż-żewġ prinċipji għandhom jissemmew it-tnejn li huma fiż-żewġ partijiet tal-Kostituzzjoni u hekk is-salvagwardji jkunu ferm iktar b'saħħithom.

3.3 Obbligu fuq l-awtoritajiet li jipprovdu aċċess għal informazzjoni

Il-Kumitat tal-Esperti ppropona wkoll li jidħol obbligu fuq l-awtoritajiet pubbliċi li jipprovdu 'aċċess fi żmien raġonevoli għal informazzjoni miżmuma minnhom u dwar l-attivitajiet tagħhom taħt kundizzjonijiet provduti bil-liġi u ġustifikabbli f'soċjetà demokratika'.

Il-gvern injora għal kollox din ir-rakkomandazzjoni li tpoġġi obbligu kostituzzjonali fuq l-awtoritajiet pubbliċi li jkunu trasparenti bl-informazzjoni li għandhom u b'mod sinifikanti għall-ġurnaliżmu, li jipprovduha fi żmien raġonevoli.

Il-proposta tal-kumitat mhix riċetta biex tipparalizza l-gvern għax xorta jeħtieġ li jkun hemm fil-liġi ordinarja l-kundizzjonijiet ta' kif dan iseħħ. Imma hekk, ikun hemm obbligu kostituzzjonali fuq l-awtoritajiet pubbliċi li jkunu miftuħa għall-kxif tal-informazzjoni.

ATT DWAR IL-MIDJA U l-MALAFAMA

4. Artiklu ġdid: Mewt ta' attur jew editur

Il-Kumitat tal-Esperti kien oġġezzjona li kawża ta' malafama fil-konfront ta' ġurnalist tieqaf fuq talba tal-eredi tal-istess ġurnalist. Il-Kumitat madankollu qabel li l-qorti ma timponix danni f'każ ta' ħtija.

L-emendi tal-gvern jipproponu li kawża tista' tibqa' għaddejja kontra persuni responsabbli mill-medium u mhux kontra l-eredi tal-ġurnalist mejjet. Fil-każ li m'hemm ħadd responsabbli ieħor, il-qorti tista' wkoll tordna li l-proċeduri ma jitkomplewx.

Il-proposti tal-gvern jagħtu d-dritt lill-qorti twaqqaf il-proċeduri jekk m'hemm ħadd iktar responsabbli mill-kontenut u għalhekk tmur lil hinn mil-linja iktar konservattiva li addotta l-Kumitat.

Hawnhekk kien hemm attentat biex jinstab bilanċ bejn il-piż straordinarju li jista' jintefa' fuq l-eredi ta' ġurnalist u l-ħtieġa li l-prinċipji naturali tal-ġustizzja jibqgħu salvagwardjati fil-konfront ta' min qed jagħmel il-libell għax ħassu malafamat.

5. Emendi Artiklu 10: Dħul dispożizzjonijiet anti-SLAPP każijiet lokali

L-emendi tal-gvern jagħtu d-dritt lill-qorti twaqqaf il-kawża wara smigħ preliminari u 'fuq talba motivata tal-konvenut' jekk jirriżulta li l-azzjoni hija 'manifestament infondata'. L-abbozz jipproponi l-inverżjoni tal-provi f'dan l-istadju biex min qed jagħmel il-libell jipprova hu li l-kawża mhix SLAPP.

Madankollu, minkejja d-deskrizzjoni ta' din l-emenda (l-ispjega qasira maġenb il-liġi) titkellem dwar 'protezzjoni tal-ġurnalisti minn kawżi li jsiru strateġikament kontra l-parteċipazzjoni pubblika', l-emenda proposta ma' tagħmel l-ebda kwalifika dwar x'jista' jikkostitwixxi 'manifestament infondata'.

Il-Kumitat tal-Esperti kien ippropona li apparti t-talba tal-intimat, il-qorti jkollha d-dritt twaqqaf proċeduri anki fuq mozzjoni tagħha stess f'kwalunkwe stadju tal-kawża jekk jirriżulta li hija SLAPP. Il-Kumitat tal-Esperti wkoll ikkwalifika l-azzjoni bħala SLAPP jekk din tkun 'parti minn strateġija ntiża biex tpoġġi piż finanzjarju ndebitu fuq l-intimat jew inkella biex ikollha effett li tbeżża', trażżan jew tiskoraġġixxi l-parteċipazzjoni pubblika fid-dibattitu fuq kwistjonijiet ta' interess pubbliku'.

Din l-emenda qed iddaħħal il-prinċipju li kawża SLAPP lokali tista' titwaqqaf imma l-proposta tal-gvern mhix dettaljata biżżejjed. Il-proposta tal-gvern tista' titlaħħam aktar biex tirrifletti fis-sustanza d-deskrizzjoni li qed tagħti l-emenda stess. Għal dan il-għan, il-proposta tal-Kumitat hi iktar dettaljata minn sempliċiment 'manifestament infondata' kif proposta mill-gvern u tieħu kont ukoll li l-kawża tista' tbeżża' jew toħnoq il-parteċipazzjoni pubblika apparti tpoġġi piż finanzjarju fuq il-ġurnalist.

Apparti hekk, il-proposta tal-gvern tistona meta mqabbla mal-artiklu ġdid (ara isfel) intiż biex jipproteġi l-ġurnalisti kontra sentenzi miksuba abbużivament minn qrati barra minn Malta, fejn il-gvern jikkwalifika x'inhu abbuż. Dik l-istess kwalifikazzjoni tajjeb li tkun imnaqqxa f'dan l-artiklu wkoll.

Fid-dawl tad-dettal imniżżel fil-liġi kif proposta mill-Kumitat il-qorti tista' wkoll minn jedda tieħu azzjoni biex twaqqaf il-kawża f'kull stadju tagħha.

L-emendi tal-gvern u anki dawk proposti mill-Kumitat ma jitkellmux fuq id-dritt tal-qorti li twaħħal penali lil min ikun beda azzjoni SLAPP, xi ħaġa li qed tkun issuġġerita mill-Kummissjoni Ewropea, speċjalment jekk min ikun beda l-kawża jiddeċiedi jwaqqafha għax tkun ġejja kontrih.

Il-proposti wkoll ma jinkludux dritt għall-appell minn deċiżjoni tal-qorti li tiċħad kawża SLAPP fi stadju preliminari, kemm jekk tinqata' favur iċ-ċaħda u kemm jekk le, kif qed tissuġġerixxi l-Kummissjoni Ewropea.

6. Artiklu ġdid 24A: Anti-SLAPP kawżi barra minn Malta

Il-proposta tal-gvern tieħu l-pariri tal-Kumitat tal-Esperti *lock stock and barrel*, inkluż dak li jikkwalifika bħala abbuż – piż finanzjarju indebitu, effett li tbeżża', trażżan jew tiskoraġġixxi l-parteċipazzjoni pubblika.

Il-Kumitat kien issuġġerixxa li l-qorti għandha bħala 'prinċipju ta' ordni pubbliku' tagħmel il-kunsiderazzjonijiet tagħha fuq it-talba għall-eżekuzzjoni ta' deċiżjoni minn qorti barranija billi tqis jekk l-azzjoni li wasslet għas-sentenza kenitx SLAPP.

Il-qorti tista' tiċħad għal kollox l-eżekuzzjoni. Iżda l-qorti tista' wkoll tillimita d-danni għal dak li tgħid il-liġi Maltija.

L-artiklu kif inhu miktub jinħass tqil u kkumplikat u għaldaqstant jista' jkun meħtieġ li jkun issimplifikat u mqassam f'sub-artikli. Hemm ukoll il-kunsiderazzjoni li l-liġi anti-SLAPP tiehu forma iktar skjetta billi ssir emenda fil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili li twaqqaf għal kollox l-eżekuzzjoni f'Malta ta' kawża meqjusa SLAPP. Madankollu, il-problema li jista' jkollu l-leġiżlatur hi li jsib il-bilanċ bejn id-dritt għall-aċċess għall-ġustizzja mal-protezzjoni tal-ġurnalisti minn kawżi li jistgħu jkissruhom.

Dak li hemm propost sal-lum fl-abbozz iwassal biex f'każ ta' SLAPPS il-qorti tista' twaqqaf għal kollox l-eżekuzzjoni ta' deċiżjoni ta' qorti barranija. Apparti dan, hemm ukoll prinċipju overriding li jekk sentenza tikser il-libertà tal-espressjoni kif protetta f'Malta, l-qorti tista' tiċħad l-eżekuzzjoni.

Il-fatt li l-liġi proposta tgħid li l-qorti tista' tillimita d-danni għal dak li huma f'Malta jgħin biex ikunu koperti l-każijiet kollha, anki dawk li ma jkunux manifestament SLAPP iżda li jistgħu jpoġġu piż straordinarju fuq media houses u ġurnalisti Maltin.

Madankollu, jeħtieġ li l-liġi Maltija tagħmilha ċara li n-nuqqas ta' ġurnalist li jiddefendi lilu nnifsu f'kawża istitwita barra minn Malta (minħabba l-piż qawwi finanzjarju) m'għandux jintuża kontra dak il-ġurnalist fil-konsiderazzjonijiet li tagħmel il-qorti Maltija dwar jekk kawża hix SLAPP u għalhekk tistax tkun enforzabbli f'Malta.

S'issa m'hemmx blueprints ta' liġijiet Ewropej fuq SLAPP. Hemm diversi proposti minn għaqdiet li jħarsu d-dritt tal-espressjoni u forsi iktar sinifikanti l-proposta tal-Kummissjoni Ewropea fuq direttiva Ewropea anti-SLAPP għalkemm din tħalli f'idejn l-istati membri kif jilleġiżlaw.

Ta' min jinnota li fil-proposta tagħha l-Kummissjoni Ewropea tużа' l-kliem 'manifestament infondati' u tisħaq li liġijiet anti-SLAPP iżommu f'moħħhom ukoll id-dritt ta' persuna għall-aċċess xieraq għall-ġustizzja.

L-ikbar problema f'każijiet trans-nazzjonali mhix tant il-każijiet li jsiru f'pajjiżi barra l-UE imma dawk li jsiru f'xi pajjiż membru tal-UE għax hemmhekk jidħol il-prinċipju li deċiżjoni ta' qorti fi stat membru trid titwettaq fi stat membru ieħor.

Fil-kuntest li l-gvern Malti hu minn tal-ewwel li qed jipproponi liġi anti-SLAPP u għalhekk se jkun qed joħloq preċedent, ikun tajjeb li jibqa' jikkonsulta iktar biex il-liġi tkun l-aħjar possibli.

KODIĊI KRIMINALI

7. Emenda Artiklu 222: Piena ogħla għal min iwettaq reat kontra ġurnalist

Il-proposta tal-gvern tiehu l-parir tal-Kumitat tal-Esperti li flimkien mal-ġurnalisti, jiżdiedu dawk li jaħdmu fil-media, biex hekk tkopri lil camera persons u fotografi. L-emenda tħarrax ir-reat ta' vjolenza kontra l-persuna meta dan isir fil-konfront ta' ġurnalist minħabba l-qadi ta' dmirijietu.

M'hemm l-ebda referenza għal harassment kontra ġurnalisti li probabbli triq taqa' taħt emendi oħra tal-Kodiċi Kriminali.

Hemm argument li jista' jsir fuq jekk il-liġi għandix tagħmel referenza għal ġurnalisti u dawk li jaħdmu fil-midja, jew inkella tintuża definizzjoni iktar wiesgħa bħal 'persuni li qed jeżerċitaw id-dritt tal-espressjoni'.

Qatt ma kien l-iskop ta' dan l-artiklu fil-Kodiċi Kriminali li jiddefinixxi x'inhu ġurnalist. Għall-finijiet preżenti naħseb li l-użu tal-kelma ġurnalist u persuni li jaħdmu fil-midja hi suffiċjenti u d-diskussjoni dwar x'jiddefinixxi ġurnalist trid issir b'iktar profondità u tifforma parti mill-għanijiet tal-Kumitat tal-Esperti.

KODIĊI TA' ORGANIZZAZZJONI U PROĊEDURA ĊIVILI

8. Emenda Artiklu 837: Tneħħija mandati kawtelatorji

Il-proposta tal-gvern tiehu l-proposta tal-Kumitat Esperti biex ma jkunx possibbli li jsiru mandati kawtelatorji fil-każ ta' libelli.

9. Emenda Skeda A: Sospensjoni ta' tariffi

Il-proposta tal-gvern, li kienet aċċettata mill-Kumitat, hi biex tariffi tal-qorti ma jkunux dovuti meta tiġi ppreżentata r-risposta ġuramentata. Dawn ikunu dovuti wara l-kawża skont is-sentenza tal-qorti.

Dawn iż-żewġ emendi huma importanti għax itaffu mill-piż finanzjarju fuq il-ġurnalisti meta jiġu biex jiddefendu lilhom infushom f'kawżi lokali. Però, hawnhekk jeħtieġ isir il-punt li f'każ ta' kawżi li l-qorti tiddetermina li huma SLAPP, ikun ċar li l-parti li bdiet il-kawża trid tħallas hi l-ispejjeż tal-qorti u tal-avukati tal-parti l-oħra, u jekk hemmx lok għal danni morali wkoll.

KUMITAT GĦAR-RAKKOMANDAZJONIJIET TA' MIŻURI GĦALL-ĦARSIEN TA' ĠURNALISTI, PERSUNI OĦRA B'IRWOL FIL-MIDJA U PERSUNI FIL-ĦAJJA PUBBLIKA

10. Abbozz ġdid

Il-gvern aċċetta r-rakkomandazzjoni tal-Kumitat tal-Esperti dwar l-inklużjoni tas-Segretarju Permanenti bħala chair tal-kumitat tas-sigurtà. Din ir-rakkomandazzjoni kienet saret għal raġunijiet amministrattivi fil-kuntest li dan il-kumitat se jopera bħala parti mill-Ministeru responsabbli mill-affarijiet ta' sigurtà.

Il-funzjoni tal-kumitat tas-sigurtà hi mniżżla f'Artiklu 3: "...li jagħmel **rakkomandazzjonijiet** u li **jikkoordina** l-azzjonijiet tal-forzi u s-servizz rappreżentati fuqu...". L-abbozz imbagħad jelenka numru materji li se jkunu ttrattati fosthom: li jirrispondi għal kwalunkwe riskju reali u immedjat ta' atti ta' vjolenza; jiddeċiedi dwar miżuri biex jimmaniġja dawn ir-riskji; ifassal pjan ta' sigurtà bbażat fuq evalwazzjoni ta' theddid.

Dan l-abbozz qed ipoġġi f'qafas legali dak li skont ma ntqal pubblikament mill-Prim Ministru, diġà qed isir. Li jkollok kumitat li jikkoordina l-ħidma tal-forzi tas-sigurtà jista' jgħin biex ikun hemm iktar sinerġija bejnithom. Madankollu, apparti l-eżistenza tal-kumitat, iktar se jkun importanti x'tip ta' protokolli jitħaddmu u hawnhekk ikun tajjeb li jkun hemm djalogu ma' entitajiet barranin b'iktar esperjenza f'dan ir-rigward u rappreżentanti tas-settur.

Però jeżisti wkoll tħassib jekk hemmx bżonn li dan il-kumitat ikun imwaqqaf b'liġi separata meta l-pulizija diġà għandhom unit fi ħdanhom li tieħu ħsieb is-sigurtà ta' persuni importanti. Mistoqsija oħra li qamet hi jekk hux ideali li dan il-kumitat ikun immexxi mis-segretarju permanenti, li hu funzjonarju politiku, meta r-responsabbiltà aħħarija tas-sigurtà taqa' fuq il-pulizija.

--- TMIEM ---

IGM discussion meeting with journalists and interested parties on media reform laws

Date: 6 October 2022
Held at: Chamber of Commerce Valletta

Matthew Xuereb opened the meeting with a short introduction outlining that the meeting was called in view of government's decision to go ahead with tabling the laws in parliament without a public consultation.

Kurt Sansone gave a brief overview comparing the laws tabled by government with the proposals put forward by the Committee of Experts. He pointed out what government left out from the recommendations and where the Committee's own proposals lacked depth.

The discussion was opened to the floor. The following are verbatim reactions received from various individuals who participated in the event.

Journalist 1
Isn't it too late to present this report? What can we expect to change now?
Why not appoint someone else to carry out the survey [that was disseminated by DOI on behalf of the Committee of Experts]?

Former Editor 1
Government can do what it wants. But we have to make our position clear. We cannot appear complicit. I believe you [Matthew and Kurt] should propose the Committee publicly shows its disapproval on the Bills. If not, the IGM should press its points that government ignored important points raised by the Committee.
The survey should be circulated to anybody involved in journalism and not just those on the DOI list.
I know that you had good intentions when deciding to sit on the Committee. But government has now ignored substantive parts of the recommendations. Government has betrayed your good faith. You cannot continue on Committee when government ignored the Committee.

Journalist 2
Survey should be sent out to other journalists not on DOI list.
To be fair it has to be said that the government Bills were created before the Committee was formed.
I get why you agreed to some things. I believe journalistic community has more collective power than we believe.
My assessment is government will do bare minimum.

Academic 1
Why are we conforming and compromising? Is this survey a compromise because government has not carried out public consultation?
Until I hear the statement, 'yes, there is public consultation in this way', I will not budge from the statement I signed. Refusing public consultation is an infringement of my

democratic right. Either I know how it will happen, and the conditions how it will happen, or I will not play along.
The substance of these laws has not been written by people involved.

Journalist 3
It would not have surprised me at all that the Committee's recommendations were not taken up by the government. Government is proposing the inclusion in the Constitution that which has been common practice: recognising the media/journalism as the Fourth Pillar of democracy.
But then Jonathan Attard went ahead to ignore the media.
Minister claimed they consulted OSCE, international institutions, but these said government ignored them. When this happened, they detached themselves from the government.
Constitutional protection included in government's Bills provides false security.
Do not allow yourself to be called by government as partners because you need to withdraw your support.
Every day you give support, when shit hits the fan, and one of us gets seriously hurt, they will turn to you.
The security committee has no oversight – parliamentary, judicial or otherwise.
By withdrawing support, it will show you do not want to be party to this charade – this was not done by the fourth pillar of democracy.
You need to show leadership. Do the right thing and the backing will come.

Lawyer 1
We need to establish whether this is an academic exercise of sorts but as far as public consultation is concerned I have not seen any public consultation.
I don't know whether these three bills should be considered not fit for purpose, illegal or worthless.
Security Committee: Description of bill is reiteration of things we already have.
Constitution: Chapter 2 is meaningless since it says these are not enforceable at law.
Freedom of Expression: Proposals fall short of what is needed.
MADA (Media and Defamation Act): Protection of sources is already included here and I cannot see the benefit of having this included in the Constitution.
Regarding Article 10 of MADA on domestic SLAPPs, you need to have a reasoned demand and the case has to be manifestly unfounded. If the judge does accept prima facie situation the case could be a SLAPP action, then burden of proof is inverted. This is meaningless when the action has to be deemed manifestly unfounded.
Article 24A, dealing with foreign decisions, the preliminary proviso that anything contained in the law does not prejudice any treaty or EU law puts into question the rest. This is unfit for purpose.
We need to start afresh with a White Paper that draws on experience of other countries.

Activist 1
The test is whether this would have prevented Daphne's murder or any other murder in the future. It will not.
Human Rights Commissioner, OSCE... all called for public consultation.

Five years after Daphne's murder we are still waiting for a timeline with landmark dates for implementing changes that protect journalists. Why cave in to a process that is defeating its own purpose?

Lawyer 2
Committee's report is not a good report. The constitutional aspect is good but will not fundamentally change the industry.
It would not solve any of the challenges facing journalists today.
Anti-SLAPP provisions: what the hell was the Committee thinking? It did not read the OSCE report. The Committee has ignored OSCE legal analysis, Article 19 analysis... and the proposed directive from the European Commission.
Each one of your media houses has been threatened by SLAPP suits but the proposed SLAPP regulations do not even start addressing these threats.
The Committee failed to make the distinction between an 'unfounded claim' (founded in law and in fact) and an abusive claim (partly founded in facts) in its proposals. Both constitute SLAPP.
These rules offer no protection to newsrooms from local SLAPPs.
And they contain a good for nothing proposal on the enforcement of foreign judgements.
The proposals do not ask for penalties to be imposed on the person instituting abusive SLAPP action and awards no damages to the person being libelled.
Government's proposals are not good for anything. I am not going with the attitude that anything is better than nothing.
At this point forget about public consultation because government is not giving us public consultation.
What will IGM be doing?
And what about the Security Committee answerable to a minister in a country where ministers were involved in authorising SLAPPs?

Former editor 2
Journalism should be broadened to include bloggers, authors and other actors. No definition of what a journalist is and do not agree with definition.
IGM has honourable route out of this. You saw what people in industry had to say, heard OSCE, demand proper consultation exercise and failing that postpone your participation in the process.

Academic 2
These laws would have not stopped harassment that demonised Daphne Caruana Galizia and led to her death. There is nothing there. It is crap.

Journalist 4
You have to consider the government as an adversary.
First phase is hold a consultation on laws.
Second phase government interventions.
Third phase a media reform that includes industry.

Journalist 5
What will IGM do from now on? How will it escalate things?

Activist 1
Why have international organisations not been consulted? No public consultation happened. OSCE rubbished the government Bills. We still do not know how SLAPPs will be addressed. What you produced is far below the minimum in the EU directive.
And you are accepting it.

Journalist 6
Legislation tabled in parliament should be opposed. Government has opportunity to go into a whitewashing exercise in time for the fifth anniversary of Daphne's murder. And then it will be all about the media reform that nobody agrees with.

Matthew Xuereb concluded the meeting by saying that IĠM will have to go back to the drawing board.

--- END ---

11 June 2023

Malta: Opinion on the draft anti-SLAPP proposals of the Committee of Experts on Media

Table of contents

1. Introduction

Article 19 Europe, the Committee to Protect Journalists (CPJ), the European Centre for Press and Media Freedom (ECPMF), the European Federation of Journalists (EFJ) and Reporters without Borders (RSF) have commented on the updated proposals relating to Strategic Litigation Against Public Participation (SLAPPs) made by the Committee of Experts on Media (the Committee) established by the Government of Malta as part of the recommendations of the Public Inquiry on the assassination of journalist Daphne Caruana Galizia. The updated proposals as provided to us for comment consist of an amendment to article 10 by way of introducing a new subarticle thereto, and the introduction of a new article 24A in the Media and Defamation Act (see annex).

At the outset we note our ongoing concerns relating to the lack of transparency and public consultation of both the Government of Malta and the Committee at every stage of the process relating to the implementation of the recommendations of the Public Inquiry on the assassination of journalist Daphne Caruana Galizia.

While we welcome the progress in the development of the Committee's proposals relating to the enforcement of third country judgments, we note that they lack a proper framework to prevent SLAPPs. In particular, we are concerned that by limiting the proposed amendments to the law of defamation and libel the proposals do not sufficiently protect the right to public participation which should be the key feature of anti-SLAPP protections. It is not the legal grounds of the claim, in this case defamation and libel, that should determine whether a claim is a SLAPP, but it being an abuse of procedure against public participation. In this regard we are concerned by the limitation of SLAPP protections to defamation law and journalists, the vague definition of SLAPP defamation suits as "manifestly unfounded" in a manner that excludes SLAPPs which are not manifestly unfounded but which bear other hallmarks of SLAPPs, and the lack of protection from intra-EU SLAPP suits. We encourage the Committee to urge the Government to take further steps to meet its international human rights obligations and fully protect and promote a safe media environment in Malta by offering a range of recommendations for how the proposals can fully ensure comprehensive protection from SLAPPs.

Considering that Malta is the EU country with the highest number of SLAPPs per capita, where the use of suits based on the defendant's engagement in public participation are instituted by persons holding public office and other politically exposed persons, and businesses involved in public contracts, and that evidence indicates that at least in one case the proposer of a SLAPP suit against journalists in Malta was in communication with persons holding public office when deciding how to initiate claims against journalists, it becomes incumbent on the Committee and on the Government to ensure that anti SLAPP legislation meets the highest international standards rather than the minimum criteria that may be established in EU law or treaty.

In particular, we urge the Committee to recommend that the Government:

- Introduce a standalone comprehensive anti-SLAPP law with a broad personal scope which recognises that SLAPPs are aimed at restricting transparent debate on issues of public importance and can impact anybody who wants to hold power to account. The standalone legislation needs to incorporate domestic, intra EU and third country SLAPP suits. The

legislation needs to be consistent in the protection it offers against SLAPP irrespective of where the action is instituted;

- Revise the proposed definition of "manifestly unfounded" to avoid relying on a subjective enquiry into the mind of the claimant, including through a non-exhaustive list of indicative qualities to guide Courts in identifying SLAPPs. These include:
    - The scope of the claim, including whether there is a real risk it will deter acts of public participation beyond the issues in dispute;
    - The excessive or unreasonable nature of the claim, or part of it, including but not limited to the remedies sought by the claimant;
    - Any disproportion between the resources deployed by the claimant and the likely legitimate benefit of the proceedings to the claimant if the claim succeeds;
    - The claimant's litigation conduct, including but not limited to the choice of jurisdiction, the use of dilatory strategies, excessive disclosure requests, or the use of aggressive pre-action legal threats;
    - Any failure to provide answers to good faith requests for pre-publication comment or clarification;
    - The seriousness of the alleged wrong, and extent of previous publication;
    - The history of litigation between the parties and previous actions filed by the claimant against this party or others against acts of public participation;
    - Any refusal without reasonable excuse to resolve the claim through alternative dispute resolution;
    - Tangential or simultaneous acts in other forums to silence or intimidate the defendant or related parties;
    - Any feature that suggests the lawsuit has been brought with the purpose of intimidating, harassing, or otherwise forcing the defendant into silence.
- Introduce in proposed Article 10 para (1a) a mechanism for dismissal *before* the continued hearing and determination of the merits of the claim that will require claims targeting public participation to meet a higher threshold in order for the proceedings to advance to consider the merits of the claim. Such a threshold must be high enough to prevent such abusive lawsuits being stretched out. Judges should also have discretion to filter out cases that exhibit abusive qualities or would otherwise have a disproportionate impact on freedom of expression.
- Introduce in proposed Article 10 para (1a) a provision that the court must stay the hearing and the determination of the merits of the claim while it is determining whether the claim is abusive. Amendment of pleadings should not be allowed once the application for early dismissal is filed by the defendant.
- Amend the proposed Article 10 para (2) to clarify that where a defendant has applied for early dismissal, it shall be for the claimant to prove that the claim is not manifestly unfounded.
- Amend the proposed Article 10 para (3) to provide clarity as to the nature of the damages for which a claimant may be found responsible, and the extent of the penalties which may be imposed on a claimant. The court should further require the claimant to provide security for procedural costs, or for procedural costs and damages, if it considers such security appropriate in view of presence of elements of SLAPPs. Provision should also be made for exemplary damages or fines for cases where the claimant has exhibited particularly egregious conduct, and where the time and psychological harm caused to the defendant

should be compensated. Those defending acts of public participation in court should be eligible for legal aid assistance regardless of personal assets and income.

- Amend the proposed Article 24A to ensure that it is not focused on the recognition and enforcement of defamation judgments already adopted in third countries according to the legislation of that third country. The proposal must provide the court of the defendant's domicile with the power to assess whether those third country proceedings would have been considered as abusive had their own law been applied.
- The proposal should not be limited to foreign proceedings the nature of which "constitutes libel or injury" according to the Media and Defamation Act. The proposal should offer protection against any type of proceedings which arise from a claim on account of the defendant's public participation as long as they are abusive.
- A foreign judgment should be identified as and declared to be a SLAPP, and consequently the claim for recognition and enforcement should be rejected, for the same reasons that a domestic or intra-EU action amounts as a SLAPP. In this regard, the burden placed on the defendant vis-a-vis third country judgments should not be more onerous than that which the defendant faces for domestic SLAPPs. What constitutes a SLAPP suit needs to be the same irrespective of whether it is instituted before the courts of the country in which the defendant is domiciled or not. Security for costs should also be capable of being claimed in the Maltese courts in respect of foreign proceedings.
- The Committee is strongly urged to remove two of the criteria imposed on the defendant and to amend the third criterion. The court should not require that "the action was substantially based on requests that are related to Malta" nor "that the action could have been instituted in Malta". It is sufficient that the defendant is domiciled in Malta and that the third country judgment has arisen from a claim on account of the defendant's public participation. The third criterion must be reshaped to exclude the reference to a "strategy" and to include an objective test for SLAPP. The recommendations made above in this respect, are applicable.
- It is recommended that not only is it possible for the defendant to claim that the request for recognition and enforcement of a third country judgment amounts to SLAPP, but that the court before which such recognition is sought be given the power to raise this of its own motion.
- It is also recommended that the burden of proving that the foreign proceedings are abusive is not placed entirely on the defendant, but that the same approach proposed above for domestic SLAPP suits is adopted here too. This means that where a defendant has applied for early dismissal, it shall be for the claimant to prove that the claim is not abusive. Moreover, that the defendant's burden of evidence is only to the extent of prima facie.
- In so far as the liquidation of damages, the proposal would benefit from clarity to clearly indicate that damages include both actual and moral damages.
- With respect to the imposition of dissuasive penalties, the proposal would benefit from the introduction of a minimum and maximum threshold.

2. *Context*

In 2017, journalist Daphne Caruana Galizia was assassinated in Malta. At the time of her murder, she was facing 48 strategic litigation against public participation (SLAPPs) lawsuits emanating from politicians including the former Prime Minister and cabinet ministers. SLAPPs are claims with the aim which is not primarily to win compensation but to harass or subdue the media and other critical voices in society and to create a chilling effect on the right to freedom of expression. In addition, Daphne Caruana Galizia faced the threat of third country SLAPP lawsuits from the UK and US. According to the research of the Coalition Against SLAPPs in Europe (CASE), Caruana Galizia remains the individual who was subjected to the highest number of SLAPP cases in Europe. As a direct result of the advocacy of Daphne's family and civil society, an anti-SLAPP movement has grown to tackle SLAPPs in Europe. In memory of the legacy of Daphne Caruana Galizia, the draft Directive proposed by the European Commission in April 2022 is commonly referred to as "Daphne's Law." Meanwhile the Council of Europe will publish a comprehensive anti-SLAPP recommendation in early 2024.

Despite the international and domestic scrutiny of SLAPPs in Malta, these abusive processes have continued to be taken against the media both domestically, see for example three cases against Matthew Caruana Galizia which were won by Matthew Caruana Galizia at first instance and also at appeal on 3 May 2023, almost 4 years after they were initiated. Several cross-border intra-European Union cases have also been initiated, including a case in Bulgaria against blogger Manuel Delia by the owner of Satabank (a bank operating from Malta), Christo Georgiev over a blogpost. This was quashed by the Bulgarian Regional Court of Varna. The blogpost had been published in October 2018, the claim filed in February 2020 and dismissed in a final judgment in December 2021. Furthermore, there have been several threats of SLAPP suits waged at different media houses including *Times of Malta*, *The Shift News* and *MaltaToday*. It is therefore of the utmost importance that the current opportunity presented by the Committee results in comprehensive safeguards against SLAPPs taken domestically, SLAPPs within the EU and SLAPPs from third countries.

Background

In January 2022, following recommendations of the Public Inquiry on the assassination of journalist Daphne Caruana Galizia, the Government of Malta established the Committee of Experts on Media (the Committee) tasked with analysing the state of media freedom in Malta and providing legislative recommendations to the Prime Minister to rectify the situation. The Committee was also to examine "the draft legislative amendments prepared by the Government following the consultations carried out with key stakeholders". In order to reach this goal, in January 2022, the Government released drafts proposing to amend the Constitution and other laws including the Media and Defamation Act (MDA), as well as to establish structures to strengthen democratic society. Additionally, the Opposition also published its own legislative proposals.
The initiative by the Government, as well as the Opposition, to address the shortfalls of the current legislative system and further address the situation of human rights in the country was welcomed. With regard to SLAPPs, in the analysis of the previous proposals we were concerned that the

proposals would not achieve the change needed to protect journalists as they were only directed at limiting the enforcement of defamation judgements from third countries in Malta, offering no protection against those initiated in Malta. Without protections in Malta, a SLAPP case from a third country could still be enforced in Malta according to national standards. In order to limit the effect of SLAPPs, we recommended that the Government adopt comprehensive measures against SLAPPs, including early dismissal procedures for both the court and the defendant.

In April 2023, Article 19 Europe and the European Centre for Press and Media Freedom were asked to meet with the Committee of Experts in an online meeting where these organisations were invited to comment on the draft proposals relating to amending Articles 10 of the Media and Defamation Act which refers to the court's obligation in defamation cases to consider at the preliminary hearing or at any other stage during the action whether a claim is "manifestly unfounded", and the addition of a new article 24 which relates to the enforcement of third country judgments. In May, the draft proposals were circulated to our organisations for comment. Our response was also consulted with the wider group of international media freedom, freedom of expression and journalists organisations working on issues of SLAPPs and press freedom in Malta.

Our organisations welcome the initiatives by the Committee which demonstrate their receptiveness to strengthen the protection of freedom of expression and media freedom in Malta. In this brief, we examine how the proposals comply with international freedom of expression standards and offer key recommendations to the Committee and Government on how to improve these proposals.

Lack of transparent consultation

At the same time, our organisations remain concerned about the lack of meaningful and transparent consultation about these proposals. Unfortunately, despite the assertions of the Committee and of Government that the proposals were "widely consulted," at every stage the work of the Committee and the Government has been shrouded in secrecy and there have been no open consultations with civil society or a broader range of stakeholders. The only open consultation consisted of a one half-day meeting predominantly addressed by the Committee members, which was held well after the Committee's initial recommendations and the Government's presentation of legislation in Parliament. Moreover, it appears that the anti-SLAPP proposals on which we have been invited to comment, have not been made publicly accessible for comment.

Since the assassination of Daphne Caruana Galizia, our organisations have both publicly and in our meetings with officials offered our technical assistance to the Maltese authorities. In line with our repeated calls on the Maltese authorities, it is recommended that clear, transparent and time-bound processes are put in place for wide consultation both with domestic and international civil society and intergovernmental organisations on all laws or amendments relating to freedom of expression and human rights.

Proposal of the Committee relating to the Protection of Journalists from lawsuits made strategically against public participation

The Committee's drafts propose amending Article 10 of the Media and Defamation Act which relates to the court's obligation in defamation cases to consider whether a claim is "manifestly unfounded" at the preliminary hearing or during the case, and the addition of a new article 24 which relates to the enforcement of third country judgments.

There are a number of welcome positive steps in the April 2023 amended proposals from the Committee of Experts. Our organisations find it positive that the Committee is receptive to including the possibility for an early dismissal of cases, payment of damages to defendant, imposition of dissuasive penalty, and reversal of the burden of evidence. These are referred to in its draft amendment to article 10 of the Media and Defamation Act. However, as explained below more work is needed to ensure that the proposals not only meet international standards but more importantly offer meaningful and effective protection to those engaged in public participation in Malta.

In particular, we welcome the amendments to the proposed Article 24 to include the protection against the recognition and enforcement of third country judgments together with the introduction of the Court's discretion to order the payment of damages to the defendant, to impose a dissuasive penalty, and making it obligatory for the court to dismiss the case outright. The draft positively allows for the dismissal of a request for the execution of a foreign judgment if it considers that judgment to violate the right to freedom of expression as protected in the Maltese legal system. But it does not do so clearly, nor without prejudice to the defendant's right to sue for a violation of the right to freedom of expression in terms of the Constitution or the European Convention Act. Meanwhile, this defence is available in the recognition and execution of a foreign judgment but not that of SLAPPs taken within a lawsuit which falls under the Media and Defamation Act, or any other type of lawsuit.

At the same time, our organisations are concerned by the following elements of the proposed amendments.

Legal and personal scope of the proposal

1. While we are aware that the Committee has asked for our reaction to a specific draft which is limited to amending the Media and Defamation Act (MDA), we strongly recommend that a comprehensive anti-SLAPP regime must go beyond the MDA. The draft protection is limited to cases of libel or slander in terms of the Media and Defamation Act, or foreign proceedings which are similar in nature. Since the protection of participation on matters of public interest, protection from SLAPPs and freedom of expression is not being proposed as a rule of public order in terms of the general law (Code of Organisation and Civil Procedure on the enforcement of foreign judgment), it is only offering protection for libel suits, leaving defendants exposed to other types of SLAPP suits that may be instituted e.g. privacy, freedom of information. This is of particular

concern in Malta where there has been a documented rise in SLAPP litigation against the media under the Freedom of Information Act.

In addition the protections afforded in the Committee's proposal are, as indicated in the margin note proposed with the amendment, limited to "journalists" rather than for anyone exercising public participation. Under Article 10 of the ECHR member states have a positive obligation to ensure a safe and favourable environment for participation in public debate by everyone, without fear, even when their opinions run counter to those defended by official authorities or significant parts of the public. The EC's anti-SLAPP draft directive states that "typical targets of SLAPPs are journalists and human rights defenders. This extends beyond individual persons to media and publishing houses and civil society organisations, such as those involved in environmental activism. Other persons engaged in public participation such as researchers and academics may also be targeted." The EC draft directive Article 1 extends protections to "natural and legal persons, in particular journalists and human rights defenders, on account of their engagement in public participation."

Recommendations

- The Committee should propose, and subsequently the Government should adopt, comprehensive measures against SLAPPs such that it is not the legal grounds of the claim that should determine whether a claim is a SLAPP, but it being an abuse of procedure against public participation. This should also include a stand alone anti-SLAPP law with a broad personal scope which recognises that SLAPPs are aimed at restricting transparent debate on issues of public importance and can impact anybody who wants to hold power to account. An indicative list of objective criteria to measure SLAPPs should be included (see point 2 below).
- Procedural rules should include the options to initiate early dismissals proceedings at the court's own motion and upon petition of the defendant, short (six months) deadlines for initiating cases, provisions on legal aid, and awards of costs as well as the provisions on judgements from the third countries.
- Furthermore, in order to support a coherent anti-SLAPP protection, the Media and Defamation Act should be reviewed in its entirety with the purpose of granting wider protection to public participation. Elements for review include the criteria upon which a libel case may be initiated in addition to the defences that one can raise with the scope of ensuring that the law discourages frivolous claims and claims which are not necessary in a democratic society.
- Finally, the proposed draft does not prohibit the issue of garnishee orders or other precautionary warrants at the request of claimants against defendants where the claim relates to one's engagement in public participation. The Committee is urged to recommend the prohibition of garnishee orders and other precautionary warrants at the request of claimants against defendants where the claim relates to one's engagement in public participation.

2. *Definition of manifestly unfounded*

The definition of a defamation action as "manifestly unfounded" in para (4) is "an action which has been instituted as part of a strategy intended to place an undue financial burden on the defendant or otherwise to have the effect to frighten, deter or discourage public participation in the debate on matters of public interest."

a). "Manifestly unfounded" definition and use of the term "strategy".
Early dismissal of proceedings is only given for actions which are found to be "manifestly unfounded." This is in turn defined as "part of a strategy intended to place an undue financial burden on the defendant or for it to have the effect of causing fear, deter, or discourage public participation in debate on matters of public interest". The retention of the concept of "strategy" is concerning, while the putting together of manifestly unfounded and the intention or effect of the suit would require the court to undertake a subjective inquiry into the mind of the filer. Where this subjective test has been introduced in other jurisdictions for example at the state level in the Australian Capital Territory, this has been problematic.

This is being said as it appears that what is "manifestly unfounded" is in ordinary law usually considered by the Courts to be that which is clearly unfounded in law and/or in fact. This may mean that the Maltese court would require, albeit at a prima facie level, evidence from the defendant that the proceedings are fully unfounded rather than only partially unfounded but coupled with a chilling effect.

In addition, the retention of the term "strategy" may imply the requirement for the defendant to prove the claimant's actual intent of placing undue financial burden and actual chilling effect and could mean that the defendant would need to show a set of measures or series of action taken with intent on behalf of claimant. This is a subjective test and there is concern that courts may be reluctant to infer such a purpose where doing so would lead to dismissal. This formulation may be unworkable in practice given that it could be determined that any civil lawsuit is designed to place an undue financial burden on the defendant.

By introducing the concept of manifestly unfounded and then defining the manifestly unfoundedness in this manner, one may question the extent to which the action would place undue financial burden or discourage public participation. Mixing the concept of manifestly unfounded with the effect of the case, could lead to an interpretation whereby the undue financial burden or the chilling effect required is to be of a high extent.

Recommendation

- The Committee should propose the inclusion of an objective test for SLAPP suits, the hallmark of which is the targeting of public participation.
- Courts require and would welcome wide and robust criteria for identifying abuse. While SLAPPs do not necessarily include all of these characteristics, the more of them that are present, the more likely the lawsuit can be considered as a SLAPP. Such indicators include:
    1. The scope of the claim, including whether there is a real risk it will deter acts of public participation beyond the issues in dispute;

2. The excessive or unreasonable nature of the claim, or part of it, including but not limited to the remedies sought by the claimant;
3. Any disproportion between the resources deployed by the claimant and the likely legitimate benefit of the proceedings to the claimant if the claim succeeds;
4. The claimant's litigation conduct, including but not limited to the choice of jurisdiction, the use of dilatory strategies, excessive disclosure requests, or the use of aggressive pre-action legal threats;
5. Any failure to provide answers to good faith requests for pre-publication comment or clarification;
6. The seriousness of the alleged wrong, and extent of previous publication;
7. The history of litigation between the parties and previous actions filed by the claimant against this party or others against acts of public participation;
8. Any refusal without reasonable excuse to resolve the claim through alternative dispute resolution;
9. Tangential or simultaneous acts in other forums to silence or intimidate the defendant or related parties;
10. Any feature that suggests the lawsuit has been brought with the purpose of intimidating, harassing, or otherwise forcing the defendant into silence.

b) Public participation and public interest are left undefined. Though speaking of concepts such as "public participation", "matters of public interest", "undue financial burden" and "effect to frighten, deter or discourage public participation", the proposed draft does not contain any guidance to the court nor to the parties as to what these concepts refer to and leave it to the courts to interpret. Though it is likely that the national courts would rely on the ECtHR case law, these specific concepts may not be fully defined in such case law. This may render the proposal rather vague for defendants and claimants alike.

Recommendations

- It is recommended that the terms "public participation" and "public interest" should be defined in line with the rights enshrined in the European Convention on Human Rights, as interpreted by the European Court of Human Rights in its case-law.

3. *Early Dismissal*

The proposed para (1a) states that "The Court shall, at the preliminary hearing, or at any other stage of the hearing of that action, on a reasoned request of the defendant or on its own motion, after having heard the parties and evidence that it considers necessary, decide not to continue with the hearing of the case if it is satisfied that it has emerged that the action is manifestly unfounded."
The new Article 10 positively seems to allow the court to have discretion to consider a request for early dismissal at any stage of the proceedings. It is recommended that for the process on the merits to continue, the court must first be in a position to determine whether the claim is abusive of the defendant's engagement in public participation. This allows for early dismissal and reduces the prejudice that stretched-out proceedings have on public engagement.
Defendants should be able to apply for a stay of main proceedings until a final decision on early dismissal application is reached. A stay of main proceedings will contribute towards reducing procedural costs of defendants. The rules on stay of proceedings should not allow the claimant to amend the pleadings in the proceeding with the aim of avoiding a dismissal order. Any amendment of pleadings should be subject to the approval of the court.

Recommendations:

- We reiterate the recommendation made in our previous analysis for the introduction of short (six months) deadline for initiating cases relating to defamation and libel;
- There should be a mechanism for dismissal *before* the continued hearing and determination of the merits of the claim that will require claims targeting public participation to meet a higher threshold in order to advance to trial. Such a threshold must be high enough to prevent such abusive lawsuits being stretched out to trial. Judges should also have discretion to filter out cases that exhibit abusive qualities or would otherwise have a disproportionate impact on freedom of expression.
- The court must stay the hearing and determination of the merits of the claim while it is determining whether the claim is abusive.
- Amendment of pleadings should not be allowed once the application for early dismissal is filed by the defendant.

4. *Burden of proof*

The proposed para (2) states, "When a claim like that mentioned in subarticle (1) is submitted by the defendant, or when the motion is raised by the Court itself, as the case may be, after the defendant submits prima facie evidence that the action is manifestly unfounded, the onus shall be on the plaintiff to prove the contrary." Clarity to reinforce the notion that the defendant only needs to reach a prima facie level of evidence is required.

There is concern that the combination of the terms "evidence it (the Court) considers necessary" used in paragraph (1) with the terminology of paragraph (2) is not conducive to a full reversal of the burden of proof because the initial burden of proof lies with the defendant. Moreover, the proposal is vague as to what evidence a court would consider necessary.

The European Commission's proposed Directive Article 12 relating to burden of proof states, "Member States shall ensure that where a defendant has applied for early dismissal, it shall be for the claimant to prove that the claim is not manifestly unfounded."

Recommendation

- The Committee should recommend that where a defendant has applied for early dismissal, it shall be for the claimant to prove that the claim is not manifestly unfounded.
- Paragraph (2) should clearly state that the defendant's level of evidence is one of prima facie, before the paragraph passes onto to say that if this is done then there is a reversal of the burden.

5. *Damages and the costs of the action*

The proposed para (3) positively introduces the possibility for courts to "declare the plaintiff responsible for all the damages suffered by the defendant and to condemn the same plaintiff to pay the defendant those damages ... together with all costs of the action." The proposal also positively introduces the court's discretion to impose dissuasive penalties in addition to damages.

The provision is however unclear as on the one hand, it does not specify whether damages include compensation for actual loss and moral damages, and on the other hand there are no minimum and maximum thresholds for the penalties, nor any clarity on how a penalty will be calculated. With the introduction of the court's discretion to order the claimant to order the payment of damages, there is no clarity as to whether this is only for actual damages (loss) or also for moral damages. If left undefined, it is likely that this will be considered only actual damages.

In addition to costs being made available on a full indemnity basis, provision should be made for damages or fines for cases where the claimant has exhibited particularly egregious conduct, and where the time and psychological harm caused to the defendant should be compensated.

Recommendation

- To meet international standards, the provision requires clarity as to the nature of the damages for which a claimant may be found responsible, and the extent of the penalties which may be imposed on a claimant.
- The court should require the claimant to provide security for procedural costs, or for procedural costs and damages, if it considers such security appropriate in view of presence of elements of SLAPPs.
- Provision should be made for exemplary damages or fines for cases where the claimant has exhibited particularly egregious conduct, and where the time and psychological harm caused to the defendant should be compensated.
- Those defending acts of public participation in court should be eligible for legal aid assistance.

6. *Enforcement of judgments of a foreign court*

The recommendation under consideration by the Committee in Article 24 extends over three sub-paragraphs an article of law that was previously all put into one paragraph, but positively removes the Court's discretion to partially enforce a foreign judgment, obliges the court to hear the defendant first, and provides the Court with the discretion to order plaintiff to pay damages to defendant and also to impose a dissuasive penalty.

When considering the Government's original draft, the OSCE May 2022 legal analysis had raised the following concerns:

1. That recognition and enforcement of judgments from courts in EU MS and signatories of the Lugano Convention are not covered by this provision and so these rules will continue to apply fully;
2. "the analysed provisions do not establish an actual and comprehensive anti-SLAPP regime, as they are exclusively focused on the recognition and enforcement of defamation judgements already adopted in third countries, according to their own and respective legislation";
3. Judgments from third countries could still be recognised and enforced to such amount as the Court in Malta would consider appropriate;
4. Maltese courts would accept the assessment of facts and liabilities made by foreign courts based on their own national legislation, while the Maltese courts could vary the original damage compensations to the amount resulting from the application of the Maltese legal criteria to the case;
5. The Bill is "based on confusing and vague criteria, thus leaving to courts the possibility to embrace different and contradictory interpretations";

6. The draft leads to an additional burden for defendants to defend their case in the foreign court and also intervene before the Maltese courts;
7. Recommend the introduction of a series of clear and certain rules precluding the implementation of decisions that violate the right to freedom of expression as protected in the Maltese legal system.

The draft being considered by the Committee addresses the concerns included in point 3 and partially in point 4, in point 6 and in point 7. The draft also now grants the Maltese Court the discretion to impose a dissuasive penalty and to order the claimant to pay damages. This is welcomed.

The draft however does not provide an actual and comprehensive anti-SLAPP regime as it remains focused on the recognition and enforcement of a foreign judgment adopted in line with foreign law. Consequently, assessment of facts and liabilities made by a foreign court based on foreign law would be accepted by a Maltese court, unless the latter is convinced that certain criteria are fulfilled.

The draft only offers protection from foreign judgments "ordering the payment of damages and, or costs to the equivalent of what constitutes libel or injury" according to the Media and Defamation Act. This means that the protection proposed is limited to actions of libel or slander, even though SLAPPs take the form of proceedings which are of different types, and of which libel and slander are only examples.

Meanwhile, the criteria that are to be fulfilled in this proposal remain largely unchanged in wording, even if the OSCE legal analysis considered these to be "confusing and vague criteria".

The proposal sets an overly high threshold for the defendant to be able to validly claim that the foreign suit amounts to SLAPP. The defendant would have to convince the court of a number of criteria which are cumulative. These are:
i. The action was substantially based on requests that are related to Malta; and
ii.The action could have been instituted in Malta; and
iii. The action was probably instituted as part of a strategy intended to put an undue financial burden on the defendant, or otherwise have the effect to frighten, deter or discourage public participation in the debate on matters of public interest.

The threshold placed on the defendant is consequently much higher in the case of the enforcement of third country judgment than in national proceedings. This places the defendant at an overly burdensome position, where he/she would not only need to convince the court that the foreign suit was part of a strategy, but also that the action was both based on requests related to Malta as well as could have been instituted in Malta. Furthermore, there is nothing in the proposed article 24A that brings about a reversal of the burden of evidence. The draft positively allows for the dismissal of a request for the execution of a foreign judgment if it considers that judgment to violate the right to freedom of expression as protected in the Maltese legal system. But it does not do so without prejudice to the defendant's right to sue for a violation of the right to freedom of expression in terms of the Constitution or the European Convention Act. This could lead to a situation whereby if a foreign judgment is recognised by a Maltese Court,

the defendant cannot raise this claim before a constitutional court or refer it to the ECtHR. This could be either because the defendant had failed to claim this defence and so not exhausted an ordinary remedy, or because the court did consider the issue and found against the defendant even though it is not a court of constitutional jurisdiction. Meanwhile, this defence is available in the recognition and execution of a foreign judgment but not that of national SLAPPs.

The proposal also positively introduces a rule that does not bar the defendant from raising the defence that the foreign suit was a SLAPP suit if he/she had remained in default in the defamation action instituted abroad.

The proposal provides the courts with the discretion of declaring the claimant responsible for the payment of damages, and may also impose a "dissuasive penalty". Again, the nature of the damages that the court may consider is unclear, as is the amount and the determination of what is a "dissuasive penalty".

Recommendation

- We reiterate our recommendation that a meaningful anti-SLAPP regime needs to be enacted through a standalone legislation which needs to incorporate domestic, intra EU and foreign SLAPP suits. Furthermore, the legislation needs to be consistent in the protection it offers against SLAPP irrespective of where the action is instituted.
- The Committee's proposed article 24A would require a number of amendments for it to start engaging with international standards, and for it to offer at least minimally effective protection. These include:
    - The proposal must ensure that it is not solely focused on the recognition and enforcement of defamation judgements already adopted in third countries according to the legislation of that third country.
    - The proposed Article 24A should be amended to ensure that it is not focused on the recognition and enforcement of defamation judgements already adopted in third countries according to the legislation of that third country. The proposal must provide the court of the defendant's domicile with the power to assess whether those third country proceedings would have been considered as abusive had their own law been applied.
    - The proposal should not be limited to foreign proceedings the nature of which "constitutes libel or injury" according to the Media and Defamation Act. The proposal should offer protection against any type of proceedings which arise from a claim on account of the defendant's public participation as long as they are abusive.
    - A foreign judgment should be identified as and declared to be recognised as a SLAPP, and consequently the claim for recognition and enforcement should be rejected not be recognised or enforced, for the same reasons that a domestic or intra-EU action amounts as a SLAPP. In this regard, the burden placed on the defendant vis-a-vis third country judgments should not be more onerous than that which the defendant faces for domestic SLAPPs. What constitutes a SLAPP suit needs to be

the same irrespective of whether it is instituted before the courts of the country in which the defendant is domiciled or not.

- The Committee is strongly urged to remove two of the criteria imposed on the defendant and to amend the third criterion. The court should not require that "the action was substantially based on requests that are related to Malta" nor "that the action could have been instituted in Malta". It is sufficient that the defendant is domiciled in Malta and that the third country judgment has arisen from a claim on account of the defendant's public participation. The third criterion must be reshaped to exclude the reference to a "strategy" and to include an objective test for SLAPP. The recommendations made above in this respect, are applicable.
- It is recommended that not only is it possible for the defendant to claim that the request for recognition and enforcement of a third country judgment amounts to SLAPP, but that the court before which such recognition is sought be given the power to raise this of its own motion.
- It is also recommended that the burden of proving that the foreign proceedings are abusive is not placed entirely on the defendant, but that the same approach proposed above for domestic SLAPP suits is adopted here too. This means that where a defendant has applied for early dismissal, it shall be for the claimant to prove that the claim is not abusive. Moreover, that the defendant's burden of evidence is only to the extent of prima facie.
- In so far as the liquidation of damages, the proposal would benefit from clarity had it to clearly indicate that damages include both actual and moral damages.
- With respect to the imposition of dissuasive penalties, the proposal would benefit from the introduction of a minimum and maximum threshold.

7. *No recommendations on intra-EU SLAPP suits*

Both the suspended bill, and the original recommendations from the Committee focus on addressing national SLAPP suits, and the execution of third country judgments. The proposals are silent on the issue of intra-EU SLAPP suits, creating a potential loophole from SLAPPs protection.

The recommendations now being considered by the Committee focus on national SLAPP suits and the execution of third country judgments. The recommendations now being considered by the Committee retain the words, "Without prejudice to the application of the law of the European Union and of any treaty to which Malta is a party, and notwithstanding any other provision in the Code of Organisation and Civil Procedure or in any other law ...".

The OSCE analysis had indicated that this means that the Brussels Regulation and the Lugano Convention will continue to apply for intra-EU SLAPP suits. The report concluded that this means:

i. the domicile of the defendant is not necessarily the only criterion in terms of jurisdiction in cases of defamation;

ii. the legal criterion of the place where the harmful event occurred or may occur may open the door for a claimant in a defamation case to sue before the courts of the country where the latter is established, instead of the courts of the country where the defendant is domiciled;

iii. possibilities for national courts to object the recognition and enforcement of a judgment from another EU MS or party to the Lugano Convention are extremely limited due to the exceptional nature of refusal causes;
iv. the EU does not count yet on a common legislation regarding non-contractual obligations arising out of violations of rights relating to personality, including defamation.

The EC's draft anti-SLAPP directive states "SLAPPs often have a cross-border nature and where cross-border implications exist, they add an extra layer of complexity and costs, with even more adverse consequences for defendants. The fact that online media content is accessible across jurisdictions may open the way for forum shopping and hamper effective access to justice and judicial cooperation. Defendants may face multiple court proceedings at the same time and in different jurisdictions. The phenomenon of forum shopping (or libel tourism) is a factor amplifying the problem and some jurisdictions are perceived as more claimant-friendly." The failure of the proposals to address intra-EU SLAPPs would have the effect that these will remain exclusively regulated by the Lugano Convention and the Brussels Regulation and when the anti-SLAPP Directive (Daphne's Law) enters into force. Until then, those at risk of facing SLAPPs from other EU jurisdictions may remain exposed without protection in Malta.

The reform of the Brussels Ia and the Rome II Regulations has long been advocated as another, complementary measure to counter SLAPP suits in the EU. Such reform should be aimed at grounding jurisdiction in the courts of the place the defendant's domicile and to introduce predictable choice of law formulae for defamation cases.

Recommendation

- The Committee is urged to recommend the government ensure meaningful protection for intra-EU SLAPP suits and recognise that the enforcement of SLAPPs from other EU countries runs contrary to public policy. At a minimum, the proposed measures in the EU Anti-SLAPP Directive should be reflected in the Committee's proposal and intra-EU SLAPPs should be regulated in a manner which is equal to the protection to defendants facing SLAPPs in Malta and from third countries.
- The Committee should recommend that the Government of Malta support efforts to reform Brussels 1a and Rome II regulations aimed at grounding jurisdiction in the courts of the place the defendant's domicile and to introduce predictable choice of law formulae for defamation cases.

Annex - The proposed amendments

Article 10 currently reads:

"(1) In an action for defamation the Court shall appoint the case for a preliminary hearing within a period of twenty days from the time allowed for the filing of the sworn reply.
(2) The Court shall, at the preliminary hearing, after hearing the parties, decide whether the action may be determined by mediation or agreement between the parties or through an apology, in all cases with or without the payment of costs and or an amount of damages not exceeding one thousand euro (€1,000). When the court decides that there is a likelihood that the action is capable of being resolved by agreement or mediation between the parties it shall refer the parties to mediation to be concluded within a specified period after which the action shall proceed if no agreement is reach
ed between the parties.
(3) Where the Court decides that the action may not be determined as provided in sub-article (2) it shall proceed with the hearing of the cause."

The Committee proposes to add the following subarticle 1A to Article 10:

Margin Note reads: "Protection of journalists from lawsuits made strategically against public participation."
New Subarticle reads:
"(1A)(1) The Court shall, at the preliminary hearing, or at any other stage of the hearing of that action, on a reasoned request of the defendant or on its own motion, after having heard the parties and evidence that it considers necessary, decide not to continue with the hearing of the case if it is satisfied that it has emerged that the action is manifestly unfounded;
(2) When a claim like that mentioned in subarticle (1) is submitted by the defendant, or when the motion is raised by the Court itself, as the case may be, after the defendant submits prima facie evidence that the action is manifestly unfounded, the onus shall be on the plaintiff to prove the contrary.
(3) In a case where the Court had to consider the defamation action as manifestly unfounded, the Court will be able to proceed to declare the plaintiff responsible for all the damages suffered by the defendant and to condemn the same plaintiff to pay the defendant those damages that may be liquidated by the same Court, together with all the costs of the action. In any case, the Court will also have the power. at its discretion and according to all the circumstances of the case, to impose a dissuasive penalty on the plaintiff, which penalty will be payable to the defendant.
(4) For the purposes of this article, a defamation action is considered to be manifestly unfounded if the Court considers that it has been instituted as part of a strategy intended to place an undue financial burden on the defendant or otherwise to have the effect to frighten, deter or discourage public participation in the debate on matters of public interest"; and

(b) in subarticle (2), the words "The Court shall, in the preliminary hearing," shall be replaced by the words "Without prejudice to the provisions of subarticle (1A), the Court shall in a preliminary hearing,".

The new Article 24A being proposed by the Committee reads:

No margin note is being proposed for paragraphs (1) and (2).
New Article reads:
"24A.(1) Without prejudice to the application of the law of the European Union and of any treaty to which Malta is a party, and notwithstanding any other provision in the Code of Organisation and Civil Procedure or in any other law, upon the request of the execution in Malta against an author, editor, person responsible for publication or person responsible for a broadcasting medium, domiciled in Malta, of a judgment of a foreign court ordering the payment of damages and, or costs to the equivalent of what libel or injury according to this Act, the Court must first proceed to hear the defendant.
(2) If then, after having heard the defendant, the Court considers that the action that gave rise to the action was substantially based on requests that are related to Malta, that the action could have been instituted in Malta and that it was probably not so instituted as part of a strategy intended to put an undue financial burden on the defendant, or otherwise to have the effect to frighten, deter or discourage public participation in the debate on matters of public interest, the Court must, as a principle of public order, completely reject any request for the execution of that judgment.

Margin Note next to subparagraph (3) reads: "Protection against judgments obtained abusively from foreign courts. Cap. 12.".
(3) The Court may also reject the execution in Malta of a judgment as mentioned in this article if it considers that the execution of that judgment violates the right to freedom of expression as protected in the Maltese legal system.
(4) In its considerations on whether the judgment delivered by the foreign court should be executed in Malta, the Court shall not derive any negative inference in relation to the defendant from the fact that he might have been in default in the defamation action instituted against him before the foreign court.
(5) In the event that the Court had to reject the request for the execution in Malta of a judgment as mentioned in this article, the Court shall be able to declare the plaintiff liable for all damages suffered by the defendant and to condemn the same plaintiff to pay the defendant those damages that may be liquidated by the same Court, together with all the costs of the enforcement procedures. In any case, the Court will also have the power, at its discretion and according to all the circumstances of the case, to impose a dissuasive penalty on the plaintiff, which penalty will be payable to the defendant."

Tweġiba bl-email minn Article 19 Europe lil Matthew Xuereb f'isem il-Kumitat

Dear Matthew,

I hope you're well. I'm just following up on our meeting last week. Would it be possible to send us the latest draft on the anti-SLAPP provision for our review?

I'm attaching here our written remarks on the draft provisions to date which the Commission should incorporate into it's anti-SLAPP provision:

A19 SLAPP analysis:

https://www.article19.org/resources/malta-comprehensive-reforms-still-needed-to-protect-journalists/

- https://www.article19.org/wp-content/uploads/2022/07/Malta_analysis_final.pdf

OSCE analysis:

https://www.osce.org/representative-on-freedom-of-media/513220

https://www.osce.org/files/f/documents/f/e/518019.pdf

With regard to entrenching journalism as the fourth pillar of society in the Constitution:

The ECtHR already recognises the role of journalists and Malta is bound by this irrespective of what the constitution will say. So we would respectfully request that the Committee should insist this protection is entrenched in Chapter 4 as part of freedom of expression article. Whether it is entrenched or not, Malta is bound by Strasbourg judgments so it would be important to have a constitution that truly reflects those obligations. Only if the Government continues to refuse should this go in Chapter 2 of the constitution which is a declaration of principles and so not enforceable in court.

Please do send us the latest drafts and we can analyse further.

Best wishes,

Sarah Clarke

Director of ARTICLE 19 Europe

LawHub, University of Amsterdam

Nieuwe Achtergracht 164, 1018 WV Amsterdam

W: www.article19.org

Proposti dwar emendi Kostituzzjonali mibgħuta mill-Professur Joe Cannataci

Proposed constitutional amendments taking into account discussion and proposals made during UM public consultation held in the Aula Magna, University Building, Valletta, Monday 31st October 2022 and presented to the Committee during the public consultation exercise held on 15 February 2023.

delete existing Art. 41 and instead insert new Art. 41

Art 41 – Protection of right to free development of personality and associated enabling rights

(1) Every citizen and every natural person resident in Malta is entitled to respect of the supreme values of human dignity, the unhindered development of human personality, justice and political pluralism which shall also be assured by:

a) the right to private and family life which includes:

1. within the meaning of private life, the right to develop and maintain relationships with other people and the outside world. A person's sexual life is part of his/her private life, of which it constitutes an important aspect. Private life thus guarantees a sphere within which a person can establish relations of different kinds, including sexual ones and thus the choice of affirming and assuming one's sexual identity;

2. within the meaning of family life, those relationships which arise out of marriage or co-habitation or a parent and his/her child or such other ties in substance indistinguishable from those created by the traditional family irrespective of the existence of blood ties;

3. informational self-determination, that is the right of any natural person to choose to communicate or not to communicate information about himself or herself except where the requirement for such information is reasonably provided for by law

4. the right of every natural person and the obligation of all data controllers, (including all public bodies, legal and natural persons) to ensure that personal data is only collected, processed and retained in a secure manner for a public, legitimate and specified purpose for a justifiable length of time. The natural person shall also have the right to be notified of the collection and existence of such personal data and to access, demand correction and, where appropriate, deletion of all such personal data. The law shall provide appropriate safeguards for the protection of such rights in a manner where personal data is construed as being any information which can be linked to an identified or identifiable individual.

5. the right of any natural person to freedom from surveillance in both physical and virtual space except where such lawful surveillance is carried out by the competent authorities when either an individual is under suspicion of having carried out or being about to carry out a specified criminal offence or for the detection and prevention of crime provided that such surveillance is necessary and proportionate in a free and democratic society.

6. the right of any natural person to freedom from interference with private communication of any form or purpose whether such communication be in writing, spoken, electronic or any other form

7. the right to bodily integrity.

b) the right to freedom of expression which includes:

1. Freedom of expression of thoughts, opinions, or beliefs, and freedom of any creation, by words, in writing, in pictures, by sounds or other means of communication in public spaces and in private, irrespective of whether such expression or receipt of ideas occurs in a physical or virtual space.

2. the prohibition of any censorship of any form of publication

3. freedom from interference with the citizen's access to and receipt or transmission of data using electronic means [whether wired or wireless] irrespective of whether such interference is attempted by the state or by any natural or legal person and irrespective of whether such interference is physical or electronic or economic

4. the free setting up of publications using any medium.

5. the prohibition of suppression of any publication

6. the obligation upon the mass media to make public their financing source which obligation shall be provided for by law.

7. provision by law that freedom of expression shall not be prejudicial to the right of personality including the dignity, honour, privacy of a person and to the right to one's own image.

8. provision by law that any instigation to national, racial, class or religious hatred, any incitement to discrimination, or public violence, as well as any obscene conduct contrary to morality shall be prohibited.

9. provision by law that freedom of expression shall not be prejudicial to intellectual property rights the regulation of which shall also be provided for by law;

10. provision by law that The State recognises the free press as a fundamental element of democracy and recognises its role as a public watchdog, and has the obligation to promote the autonomy of the press and to safeguard pluralism in the sector. The State must protect and promote freedom of the press by providing an enabling environment to facilitate independent journalism.

11. [Except as may be provided for by law in the case of editors of media outlets], any and all mechanisms by the State for registration or accreditation of media practitioners may be made exclusively on a voluntary basis and shall not be a pre-requisite for the practice of journalism and kindred professions nor for proof of practice of such professions." _

12. provision by law that at no point and for no reason may a journalist or other author be compelled to reveal the identity of sources of information on which a publication may be based;

13. provision by law to effectively neutralise strategies intended to cripple or silence journalists including the prevention of any use of legal provisions which may create the risk of a chilling effect on journalists or other authors. In such cases the law shall inter alia provide that:

a. the Court shall make allowance for:

i. (a) editorial judgement; or

ii. (b) participation in public debates on matters of public interest

b. the Court may decide at any point in the proceedings, preliminary or otherwise, whether this was requested by the parties or of its own motion, whether to discontinue the hearing of a case if, after hearing the parties and any necessary evidence, it is satisfied that it has resulted that the action is manifestly unfounded.

c. If execution of a foreign court judgement is sought in Malta against somebody domiciled in Malta including for payment of damages for defamation the Court will, as a principle, consider if

i. the action giving rise to the judgement was substantially based on claims related to Malta

ii. the action could have been instituted in Malta but was instead instituted elsewhere to strategically create unwarranted financial burden on the journalist and discourage public participation on a matter of public interest;

iii. it should then proceed to limit execution of the judgement in its discretion and depending on the circumstances of the case to the amount the Court considers would be due in damages had the case been instituted in Malta.

without fear of legal action

iv. It should alternatively proceed to refuse the execution in Malta of a judgement if it considers that the execution of that judgement would be violating the right to freedom of expression as protected in the legal system of Malta.

c) the right to free access to public information which implies that

1. a person's right of access to any information of public interest held by a public body shall not be restricted.

2. all public bodies shall be bound to provide timely and correct information to citizens in public affairs and matters of personal interest.

3. public and private media shall be bound to provide correct information when producing all news and current affairs services and generally all works of non-fiction.

4. public radio and television services shall be autonomous. They must guarantee any social and political group the exercise of the right to an equitable portion of broadcasting time. The organization of these services and the parliamentary control over their activity shall be provided for by law.

2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of sub article (1) of this article to the extent that the law in question makes provision that is reasonably required in the interests of national security, public safety, public order, public morality or decency, or public health except so far as that provision or, as

the case may be, the thing done under the authority thereof is shown not to be necessary and proportionate in a democratic society.

3) Where the police or other competent authorities seize any electronic or other equipment utilized for publication and/or any output intended for publication on reasonable suspicion of it being the means whereby a criminal offence has been committed they shall within twenty-four hours of the seizure bring the seizure to the notice of the competent court and if the court is not satisfied that there is a prima facie case of such offence, that equipment or output shall be returned to the person from whom it was seized within forty eight hours of it having been seized.

delete existing Art. 38 and instead insert new Art. 38

(1) Except with his/her own consent or by way of parental authorisation in the child's best interests, no person shall be subjected to the search of hi/hers person or his/her property or the entry by others on his/her premises.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question makes provision which respects the essence of the fundamental rights and freedoms and constitutes a necessary and proportionate measure in a democratic society for:

a. the protection of national security, defence, public safety, important economic and financial interests of the State, the impartiality and independence of the judiciary or the prevention, investigation and prosecution of criminal offences and the execution of criminal penalties, and other essential objectives of general public interest;

b. the protection of a data subject or the rights and fundamental freedoms of others, notably freedom of expression.

c. data processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes when there is no recognisable risk of infringement of the rights and fundamental freedoms of data subjects.

(3) The derogations in sub-article (2) are made subject to the requirement that the law shall also establish one or more authorities independent of the Executive branch of Government tasked with and adequately resourced for the effective review and supervision of the implementation and operation of such derogations. Where such authority deems that the resources allocated to it by Government are inadequate for the purposes with which it is tasked it may request the Constitutional Court to compel the Government to provide such resources as it may reasonably show to require for the effective discharge of its obligations at law;

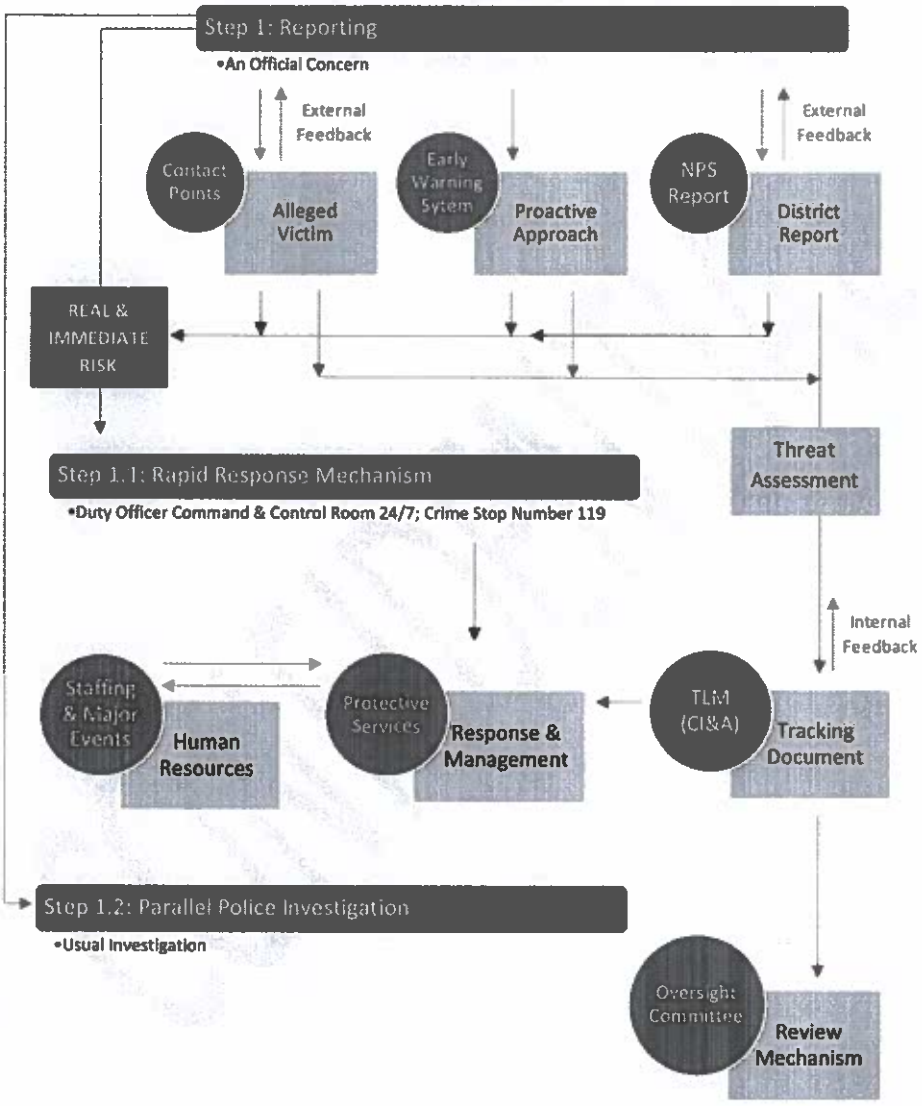
--- END ---

Standard Operating Procedure (SOP)

Malta Police Force: Managing and Responding to Threats to Life

Procedura implimentata f'Jannar 2023

Process Flow Chart



APPENDIĊI E

Minuti tal-laqgħat

Kumitat ta' Esperti maħtur mill-Gvern skont terminu ta' referenza

bid-data 11 ta' Jannar, 2022

Laqgħa miżmuma llum 15 ta' Ġunju, 2022, fil-Kwartieri tal-Akkademja tal-Forzi Dixxiplinarji f'Ta Kandja.

Preżenti c-Chairman u l-membri Dr. Kevin Dingli, Profs. Saviour Formosa, l-Profs. Carmen Sammut, Matthew Xuereb, Saviour Formosa, Kurt Sansone, Neil Camilleri u Saviour Balzan.

Il-laqgħa bdiet fid-9.30 ta' fil-għodu.

Iċ-Chairman informa lill Kumitat dwar il-laqgħa li kellu mal-Prim Ministru fl-1 ta' Ġunju, 2022, f'liema laqgħa huwa ppreżentat ir-rapport tal-Kumitat.

Il-Kumitat għadda biex jiddiskuti punti li jistgħu jiġu diskussi u trattati. Is-segwenti punti ġew imsemmija:

Definizzjoni ta' ġurnalist; it-twaqqif ta' Media Council; sapport finanzjarju/reklamar pubbliku; kodiċi ta' etika; strutturi regolatorji; sigurta' tal ġurnalisti; Media Defamation Act; Public Broadcasting; Freedom of Information Act;

Matthew Xuereb ser jgħaddi lis-segretarju d-dokument: Definition of a Journalist li għandhom il-European Federation of Journalist.

Carmen Sammut ser tgħaddi lis-segretarju d-dokument: Governance System of Public Broadcasting tal-European Broadcasting Union (EBU).

Dawn id-dokumenti għandhom jiġu ċirkolati mal-membri tal-Kumitat.

Qed ikun suġġerit li l-Kumitat jagħmel stħarriġ dwar l-istat tal-ġurnalisti u l-ġurnalizmu f'Malta. Għal dan il-għan il-Kumitat ser iqabbad lil NSO tagħmel stħarriġ, ma l-individwi li jaħdmu fil-qasam tal-ġurnaliżmu kemm dawk li jaħdmu *fulltime*, *part-time* jew *freelance*. Dan ser isir billi l-Kumitat ser ikun qed ifassal mistoqsijiet fuq x'hiex jista' jsir dan l-istħarriġ u jgħaddih lil NSO. L-NSO għandu jipprepara rapport bir-riżultat ta' l-istħarriġ u jgħaddi dan ir-rapport lil Kumitat. Għal dan il-għan il-kumitat ser ikun qed jgħaddi lil NSO lista' t'ismijiet ta' Media Houses jew persuni oħra barra mill-Media Houses.

Matthew Xuereb għandu jgħaddi l-lista lis-segretarju fi żmien ħmistax millum.

Carmen Sammut u Saviour Formosa ser ikunu qed jippreparaw il-*questionnaire* u jiċċirkolawħ mal-membri ħalli mbagħad issir il-laqħa ma l-NSO.

Sal-laqgħa li jmiss is-segretarju ser ikun qed jikkuntatja lil NSO.

Fil-laqgħa li jmiss ser jiġi diskuss ir-rapport tal-NSO jekk ikun lest.

Il-Kumitat qed jiffissa laqgħat għal-15 ta' Lulju, 2022 fid-9.00 a.m. u 29 ta' Lulju, 2022 fid-9.00 a.m.

Frankie Mercieca
Segretarju

Kumitat ta' Esperti maħtur mill-Gvern skont terminu ta' referenza

bid-data 11 ta' Jannar, 2022

Laqgħa miżmuma llum 29 ta' Lulju, 2022, online.

Preżenti c-Chairman u l-membri Dr. Kevin Dingli, Profs. Saviour Formosa, Profs. Carmen Sammut, Kurt Sansone u Neil Camilleri.

Saviour Balzan u Matthew Xuereb ma setgħux jattendu.

Il-laqgħa bdiet fid-9.00 ta' fil-għodu.

Is-Segretarju għadda biex jnforma lil Kumitat li hemm approvazzjoni mill-Uffiċju tas-Segretarju Principali Ewlieni biex isir is-survey bil-kundizzjoni li jinġabu tlett offerti.

Informa wkoll li kien kiteb lid-DOI għal-lista ta' persuni li għandhom il-*press card* imma ġie infurmat li minħabba protezzjoni tad-data ma setgħux jagħtu din il-lista. Biss id-DOI lesti li jiddisseminaw dan is-*survey* minn naħa tagħhom.

Is-segretarju għandu jikkuntatja lid-DOI biex isir appuntament mad-Direttur għal nhar it-Tlieta, 25 ta' Awwissu fejn ic-Chairman jivverifika kif jista' jsir dan.

Il-Kumitat ser jifformola *survey* li ser ikun disseminat minn entitajiet li għandhom lista ta' ġurnalisti a finijiet ta' GDP. Dawn jinkludu l-IGM, id-DOI, Pen Malta u anke permezz ta' *outreach* dirett ma edituri registrati.

Saviour Formosa ser ikun qed jieħu ħsieb it-tfassil tas-*survey online*.

Carmen Sammut qed tissuġġerixxi li jitwaqqfu *sub-groups* biex jiġu diskussi d-diversi punti li jridu jiġu evalwati minn dan il-Kumitat.

Il-laqgħa li jmiss hija skedata għal nhar it-Tlieta, 6 ta' Settembru, 2022 fid-9.30 a.m. ġewwa Ta' Kandja.

Frankie Mercieca
Segretarju

Kumitat ta' Esperti maħtur mill-Gvern skont terminu ta' referenza

bid-data 11 ta' Jannar, 2022

Laqgħa miżmuma llum 6 ta' Settembru, 2022, fil-Kwartieri tal-Akkademja tal-Forzi Dixxiplinarji f'Ta Kandja.

Preżenti c-Chairman u l-membri l-Profs. Saviour Formosa, il-Profs. Carmen Sammut, Matthew Xuereb u Kurt Sansone.

Dr. Kevin Dingli u Neil Camilleri nfurmaw lil Kumitat li ma setghux jattendu għal laqgħa tallum.

Il-laqgħa bdiet fid-9.30 ta' fil-għodu.

L-Imħallef Mallia għadda biex jinforma lil membri dwar il laqgħa li saret mal-Kap tad-DOI is-sur Paul Azzopardi u l-Aġent Kap is-Sur Roderick Caruana.

Informa wkoll li l-Ministru tal-Ġustizzja talab li ssir laqgħa mac-Chairman u l-Kumitat biex jiġu diskussi l-prosposti li ppreżenta l-Kumitat għall-emendi legali li ppropona l-Gvern. Għal dan il-għan ser issir laqgha mal-Ministru tal-Ġustizzja nhar it-Tnejn, 12 ta' Settembru, 2022. Għal din il-laqgħa ser jattendu ic-Chairman, Dr Kevin Dingli u s-Segretarju.

Ġie diskuss il-kwestjonarju li ser ikun qed jiġi disseminat fost il-ġurnalisti minn naħa tad-DOI u kien hemm qbil dwar id-domandi li ser jiġu nklużi. Ser tintbagħat ittra lid-DOI bil-link https://forms.gle/h6d7D2qujcZt2Ymt5 għas-sondaġġ u biex jiġi disseminat minn naħa tad-DOI. Ir-risposti ser ikunu qed jidħlu dirett *online* li għalihom ikollu access biss il-Bord tal-Esperti.

Għandha tintbaghat l-ittra annessa mal-minuti, liema ittra sservi bħala *covering letter* għas-sondaġġ li ser jiġi disseminat lill gurnalisti.

Wara li jidħlu r-risposti s-sondaġġ ser jiġi analiżat mill-membri tal-Kumitat.

Is-sondaġġ ser inkun qed jintbagħat lid-DOI sa nhar il-Gimgħa. Il-ġurnalisti mbagħad ser ikollhom xahar żmien biex jirrispondu. Wara, il-kumitat se ikun qed jagħmel l-evalwazzjoni tiegħu fi żmien xahar.

Il-laqgha li jmiss ser tinżamm fl-4 ta' Ottubru, 2022 fid-9.00 a.m. ġewwa Ta' Kandja. Dak in-nhar tiġi diskussa il-possibilta' ta' twaqqif ta' Media Council.

Frankie Mercieca
Segretarju

Dear Journalist,

The Committee of Media Experts appointed by the government to report on the protection of journalists and legislation relating to journalists and journalism would like to request your cooperation in answering this questionnaire that would greatly help us in our deliberations and conclusions.

The Department of Information is assisting the committee solely in the dissemination of this survey in view of GDPR restrictions.

Please be aware that the anonymous answers will be received directly by the Committee and will be seen and assessed exclusively by the Committee.

It would be greatly appreciated if your reply is sent within the month of receipt of this questionnaire.

Best Regards,

Judge Michael Mallia

Chairman.

Kumitat ta' Esperti maħtur mill-Gvern skont terminu ta' referenza

bid-data 11 ta' Jannar, 2022

Laqgħa miżmuma llum 4 ta' Ottubru, 2022, fil-Kwartieri tal-Akkademja tal-Forzi Dixxiplinarji f'Ta Kandja.

Preżenti c-Chairman u l-membri Dr. Kevin Dingli, il-Profs. Saviour Formosa, il-Profs. Carmen Sammut, Matthew Xuereb, Kurt Sansone, Neil Camilleri u Saviour Balzan.

Il-laqgħa bdiet fid-9.00 ta' fil-għodu.

L-Imħallef Mallia għadda biex jinforma lill membri dwar iż-żewġ laqghat li l-Kumitat ġie misitieden biex jattendi: mal-OSCE fl-10 ta' Novembru u ma Flutura Kusari għan-nom tal-European Center for Press and Media Freedom (ECPMF) fl-14 ta' Ottubru, 2022.

Il membri għandhom jinfurmaw lis-segretarju min ser ikun qed jattendi għal dawn il-laqgħat sa l-aħħar ta' din il-ġimgħa.

Saviour Formosa u Carmen Sammut għandhom jibgħatu lis-segretarju, sa nhar il-Ħamis 6 ta' Ottubru, 2022, il-verżjoni finali tal-kwestjonarju li ser ikun qed jiġi disseminat fost il-ġurnalisti minn naħa tad-DOI - bil-link https://forms.gle/h6d7D2qujcZt2Ymt5. Is-segretarju mbagħad għandu jitkellem mad-DOI għal dan il-ġħan. Ser tintbagħat l-ittra maqbula fl-aħħar laqgha liema ittra sservi bħala *covering letter* għas-sondaġġ li ser jiġi disseminat lill gurnalisti.

Kif ġja maqbul, wara li jidħlu r-risposti, s-sondaġġ ser ikun qed jiġi analiżżat mill-membri tal-Kumitat.

Il-Kumitat ser ikun qed janaliżża u jevalwa proposti indikati hawn taħt - liema proposti l-ewwel għandhom jaħdmu fuhom il membri kif indikat, u wara jiġu diskussi mill-membri kollha ta' dan il-kumitat:

Kodiċi ta' Etika - Mathew Xuereb, Kurt Sansone u Neil Camilleri;
Twaqqif ta' Media Council - Mathew Xuereb, Kurt Sansone u Neil Camilleri;
Tip ta' regolazzjoni tal-professjoni - Mathew Xuereb, Kurt Sansone u Neil Camilleri;
Riformi fix-Xandir Pubbliku (PBS) u l-Awtorita' tax-Xandir - Carmen Sammut u Saviour Balzan;
Diskussjoni dwar l-implimentazzjoni tal-Att dwar il-Liberta' tal-informazzjoni - Michael Mallia u Kevin Dingli;
Is-sostenabbilita' tal-midja indipendenti - Saviour Balzan;
Sigurta' tal-ġurnalisti - Saviour Formosa, Mathew Xuereb, Kurt Sansone u Neil Camilleri;

Ser tinbagħat ittra lill Gvern (kopja annessa mal-minuti tallum) fejn jiġi nfurmat li wara li l-Kumitat espleta l-ewwel parti tal-inkarigu tiegħu, issa ser ikun qed isir studju dwar is-suġġetti msemmija aktar il fuq, u jiġi nfurmat li sforz il-kritika li l-Kumitat kellu wara l-preżentata ta' l-ewwel rapport, ser jiftaħ id-diskussjoni għall-konsultazzjoni għall-pubbliku u għal kull min hu konċernat, naturalment, jekk il Gvern ma jkollux oġġezzjoni għal dan.

Il-laqgħa li jmiss ser tinżamm fil-25 ta' Ottubru, 2022 fid-9.00 a.m. ġewwa Ta' Kandja.

Frankie Mercieca
Segretarju

Kumitat ta' Esperti maħtur mill-Gvern skont terminu ta' referenza

bid-data 11 ta' Jannar, 2022

Laqgħa miżmuma llum 26 ta' Ottubru, 2022, fil-Kwartieri tal-Akkademja tal-Forzi Dixxiplinarji f'Ta Kandja.

Preżenti c-Chairman u l-membri Dr. Kevin Dingli, il-Profs. Carmen Sammut, Matthew Xuereb, Kurt Sansone, Neil Camilleri u Saviour Balzan.

Il-Profs. Saviour Formosa kien preżenti online

Il-laqgħa bdiet fis-2.00 ta' wara nofsinhar.

Saret diskussjoni dwar il-Questionnaire li ġiet disseminata aktar kmieni dan ix-xahar.

B'referenza għall-ittra tal-Prim Ministru tat-13 ta' Ottubru, 2022 il-Kumitat jaqbel li jiftaħ għal-konsultazzjoni pubblika fir-rigward tat-tlett liġijiet li ġew ppreżentati fil-Parlament u li preżentement jinsabu wieqfin quddiem il-Parlament.

Il-kumitat sar konxju tal-proposti li hemm quddiem il-Kummissjoni Ewropea li tolqot diversi mill-punti li qed jiġu diskussi minn dan il-kumitat u għal dan il għan ser tintalab kjarifika mingħand il-Gvern jekk dawn il-punti hux qed jiġu diskussi f'livell governattiv.

Il Kumitat ser jitlob lill Gvern għal riżorsi adegwati biex issir il-konsultazzjoni pubblika.

Illi l-konsultazzjoni pubblika għandha tinkludi eżami komparattiv bejn dak li propona l-Kumitat u dak li propona l-Gvern f'abbozz li preżenta quddiem il-Parlament.

Għal dan il għan intalbet kwotazzjni mill-Universita' ta' Malta u li l-konsultazzjoni ser issir nhar l-Erbgħa, 11 ta' Jannar, 2023.

L-Imħallef staqsa lil membri jekk kienx hemm progress fir-rigward ix-xogħol kif maqbul fl-aħħar laqgħa.

Matthew Xuereb u Kurt Sansone fir-rigward tal-Media Council infurmaw lill Kumitat li ser issir laqgħa on line ma persuni barranin li qed jaħdmu fuq proġett dwar Media Council in the Digital Age.

Ic-Chairman informa li ser issir laqgħa mad-Data Protection Commissioner u li għaliha ser jattendi miegħu Dr Kevin Dingli.

Il-Kumitat jaqbel li għal-laqgħa li jmiss jiġi mistieden il-Kummissarju tal-Pulizija biex jgħati nformazzjoni dwar jekk kienx hemm xi żviluppi fid-dawl tal-Att dwar it-Twaqqif ta' Strutturi dwar il-protezzjoni tas-soċjeta' demokratika.

Il-laqgħa li jmiss ser tinżamm fit-23 ta' Novembru, 2022 fid-9.00 a.m. ġewwa Ta' Kandja.

Frankie Mercieca
Segretarju

Kumitat ta' Esperti maħtur mill-Gvern skont terminu ta' referenza

bid-data 11 ta' Jannar, 2022

Laqgħa miżmuma llum 23 ta' Novembru, 2022, fil-Kwartieri tal-Akkademja tal-Forzi Dixxiplinarji f'Ta Kandja.

Preżenti c-Chairman u l-membri il-Profs. Carmen Sammut, il-Profs. Saviour Formosa, Kurt Sansone u Saviour Balzan.

Dr. Kevin Dingli ipparteċipa fil-laqgħa *online*.

Matthew Xuereb u Neil Camilleri nformaw lil membri li ma setgħux jattendu għal laqgħa tallum.

Il-laqgħa bdiet fid-9.00 ta' filgħodu.

Ic-Chairman informa lill membri li hu u Dr Dingli kellhom laqgħa mad-Data Protection Commissioner is-sur Ian Deguara. F'din il-laqgha gew diskussi fit-tuwl elementi tal-Att dwar il Freedom of Informaton. Is-sur Deguara infurmahom li kienu saru żewg rapporti, wieħed mill-ministeru, dak iz-zmien meta kienet Ministru Helena Dalli, liema rapport jidher li baqa' fil-ministeru u ma ttitħedet l-ebda azzjoni. Ir-Rapport l-ieħor sar min Aequitas Legal wara sejħa pubblika minn naħa tal-Gvern. Il-kumpanija legali kellha tagħmel studju komparattiv tal-Liġi Maltija u tissuggerixxi emendi għall dan l-Att. Jidher li dan ir-rapport ġie ppreżentat is-sena l-oħra u llum qiegħed quddiem il Kabinett. Jidher li anke hawn ma ttieħdet l-ebda azzjoni. Jidher li kienet saret rikjesta taħt il FOI imma li ġiet miċħuda minħabba li r-rapport kien quddiem il-Kabinet.

Insegwitu c-Chairman kellu laqgħa mal-Ministru tal-Ġustizzja fejn dan infurmah li hu ma kienx a konjizzjoni ta' dawn iż-żewg rapporti u li l-Kumitat, indipendentement minn dawn iż-żewġ rapporti, jekk hekk jidhirlu, kellu jagħmel ir-rakkomandazzjonijiet tiegħu.

Ġiet diskussa l-Konsultazzjoni Pubblika u ġie maqbul li din issa ssir fil-15 ta' Frar 2023 minflok kif ġja miftiehem fil-11 ta' Jannar, 2023.

Saviour Balzan u Carmen Sammut ser ikunu qed jieħdu ħsieb javvicinaw persuna biex tieħu hsieb il-loġistika u dak kollu li hemm bġonn għal din il-konsultazzjoni pubblika.

It-Tema tal-konferenza ser tkun: Konferenza dwar ir-Riformi proposti għal Leġislazzjoni dwar il-Midja.

Fir-rigward tal-catering għal jum tal-Konferenza, minn fost it-tlett kwotazzjonijiet annessi ma dawn il-minuti, ser ikun qed jiġi nkarigat Gerald's.

Fir-rigward id-dokument għal Konferenza ser ikunu qed jaħdmu Carmen Sammut, Kurt Sansone u Saviour Balzan.

Ic-Chairman ser ikun qed jieħu ħsieb jagħmel l-introduzzjoni tal-Konferenza Pubblika.

Qed ikun suġġerit li tiġi mistiedna Teresa Ribeiro u c-Chairman jitlobha tagħmel diskors qasir fuq ir-riformi fil-midja kif diskuss waqt il-laqgħa taż-żjara taghha f'Malta fl-10 ta' Novembru, 2022.

Għandha ssir preżentazzjoni qasira dwar is-sitwazzjoni tal-Midja preżenti.

Qed ikun suġġerit li jiġi mistieden ukoll Riccardo Guteres u għal dan il-għan Kurt Sansone u Saviour Balzan ser ikunu qed jagħmlu kuntatt miegħu.

Għandu jkun hemm erba' working groups li jkollhom chairman u rapporteur.

Il-laqgħa li jmiss ser tinżamm nhar il-5 ta' Diċembru, 2022 fid-9.00 a.m.

Frankie Mercieca
Segretarju

Kumitat ta' Esperti maħtur mill-Gvern skont terminu ta' referenza

bid-data 11 ta' Jannar, 2022

Laqgħa miżmuma llum 5 ta' Diċembru, 2022, fil-Kwartieri tal-Akkademja tal-Forzi Dixxiplinarji f'Ta Kandja.

Preżenti Kurt Sansone u l-Profs. Carmen Sammut

Dr. Kevin Dingli ipparteċipa fil-laqgħa *online*.

Ic-Chairman l-Imħallef Michael Mallia bagħat jinforma li ma setax jattendi għax-kellu bżonn isiefer, u l-Profs. Saviour Formosa, Saviour Balzan, Matthew Xuereb u Neil Camilleri nformaw li ma setgħux jattendu għal laqgħa tallum.

Il-laqgħa bdiet fid-9.00 ta' fil-għodu.

Qed ikun maqbul li tinħareg stqarrija hawn aktar l-isfel riprodotta, permezz tad-DOI fejn fiha jiġi mħabbar li l-Kumitat ser ikun qed jorganiżża konferenza bħala parti mill-process ta' kosultazzjoni pubblika u li din ser issir fil-15 ta' Frar, 2022 bit-tema: Konferenza dwar ir-riformi proposti għal Leġislazzjoni dwar il-Midja. L-istqarrija taqra' hekk:

Stqarrija mill-Kumitat tal-Esperti tal-Media

Il-Kumitat tal-Esperti tal-Media, maħtur skont it-termini tar-riferenza tal-Inkjesta Pubblika dwar il-qtil ta' Daphne Caruana Galizia, javża li se jorganiżża konferenza għar-riforma tal-media bħala parti mill-proċess ta' konsultazzjoni pubblika.

Il-konferenza li se ssir fi Frar għandha l-għan li tifli l-abbozzi ta' liġijiet li l-gvern ippreżenta fil-parlament li jinkludu riformi kostituzzjonali, tibdil fil-liġi tal-libelli u media, liġi anti-SLAPP, tibdil fil-Kodiċi Kriminali u tibdil ieħor legali bl-għan li tiżdied il-protezzjoni tal-media u l-ġurnalisti.

Il-Kumitat se juża din il-konferenza biex jisma' l-proposti u l-ħsibijiet tal-istakeholders u atturi oħra interessati fis-settur.

Iktar dettalji dwar il-konferenza jitħabbru fiż-żmien li ġej.

Insegwitu għall-aħħar laqgħa, Saviour Balzan u Carmen Sammut avvicinaw persuna, certu Anthea Cachia, li ser tieħu ħsieb il-loġistika u l-preparamenti kollha għall konferenza pubblika. Għada 6 ta' Diċembru ic-Chairman u l-Profs Carmen Sammut ser iżommu l-ewwel laqgħa ma Anthea Cachia. Ma dawn il-minuti ser tinbagħat ukoll kopja tad-dokument/aġenda tal-

konferenza pubblika u min irid iżied jew ibiddel xi ħaġa għandu jinforma lis-segretarju sa mhux aktar tard minn għada it-Tlieta, 6 ta' Diċembru, 2022.

B'referenza għall-preżentazzjoni dwar is-sitwazzjoni tal-Midja, din ser issir minn Carmen Sammut u Saviour Balzan.

Għall-konsultazzjoni pubbliku qed ikun suġġerit li jiġu mistiedna, fost oħrajn:

1. Data Commissioner
2. IGM members
3. PEN
4. Media Reform NGO - Fr Joe Borg
5. Academics: MAKS (Department of Media and Communications) and Faculty of Laws (Department of Media, Communications & Technology Law).
6. Daphne Foundation
7. Repubblika
8. Broadcasting Authority
9. Media Literacy Development Board
10. All media organisations
11. Chamber of Advocates
12. Commissioner of Police (or representative).

Ir-rapporteurs fil-laqgħat li ser isiru waqt il-konsultazzjoni pubblika għandhom ikunu membri ta' dan il-Kumitat.

Il-laqgħa li jmiss ser tinżamm nhar il-Ħamis, 12 ta' Jannar, 2023 fid-9.00 a.m.

Frankie Mercieca
Segretarju

Konferenza Riforma Media - 2.docx

Konferenza Riforma tal-Midja: Konsultazzjoni

15 ta' Frar 2023

Aula Magna, Valletta Campus, Universita' ta' Malta

9.00	**Reġistrazzjoni**
9.30	**Introduzzjoni:** Chairman Kumitat dwar Riformi fil-Midja L-Imħallef Emeritus Michael Mallia (*x'sar sa issa?*) *(6/7 minutes)*
9.37	**Il-Kuntest internazzjonali ta' Riforma tal-Media** (6/7 minutes each). ▪ Ir-Riforma f'Malta vis-à-vis ir-Riforma tal-Midja fl-Ewropa: TBC Teresa Ribeiro, OSCE Representative on the Freedom of the Media (RFOM) ▪ L-isfidi kurrenti ghall-Gurnalizmu internazzjonali: TBC Guterres ▪ Il-futur tal-Ġurnaliżmu: TBC. Prof Angela Phillips, Goldsmiths College, University of London.
10.05	**X'inhu propost mill-Kumitat?** Kurt Sansone, Segretarju Ġenerali IĠM. **Hin ghall-kjarifiki**.
10.35	X'fadal isir? Paper prepared by Carmen S and Saviour B? (6/7 mins)
10.42	Sfidi ewlenin fil-qasam tax-xandir fl-era diġitali: Dr Joanna Spiteri (CEO, BA) (6/7 mins)
10.45	**Waqfa ghal Kafe (15 min)**
11.00	**Reazzjonijiet dwar il-proposti ghar-riforma (Break out rooms: to identify 4 themes)** (*Id-diskussjoni ssir abbażi ta' dokument imħejji minn qabel u ċirkolat fost dawk li jirreġistraw ghall-Konferenza*). (90 mins)
12.30	Sessjoni Plenarja: Rapporteurs (Members of Committee). (20/30 mins)
12.50	Konkluzjoni: Il-passi li jmiss (Chair) (2 mins)
13.00	**Sessjoni ta' networking u 'light lunch'.**

Kumitat ta' Esperti maħtur mill-Gvern skont terminu ta' referenza

bid-data 11 ta' Jannar, 2022

Laqgħa miżmuma llum 12 ta' Jannar, 2023, fil-Kwartieri tal-Akkademja tal-Forzi Dixxiplinarji f'Ta Kandja.

Preżenti c-Chairman l-Imħallef Michael Mallia, Dr. Kevin Dingli, il-Profs. Saviour Formosa, il-Profs. Carmen Sammut, Kurt Sansone, Matthew Xuereb, Neil Camilleri u Anthea Cachia.

Saviour Balzan bagħat jinforma li ma setax jattendi.

Il-laqgħa bdiet fid-9.00 ta' fil-għodu.

L-Imħallef informa lil membri li t-terminu mogħti lil Kumitat biex jespleta l-inkarigu skada fil-11 ta' Jannar, 2023. Għalhekk ser jikteb lil Prim Ministru biex it-terminu jiġi mġedded sal-aħħar ta' Ġunju ta' din is-sena.

Anthea Cachia għandha tieħu ħsieb biex isir ir-reklamar fil-ġurnali tal-konferenza.

Is-segretarju nforma lil membri li meta kiteb lid-DOI biex tinħareġ l-istqarrija kif maqbul fl-aħħar laqgħa tal-kumitat, huwa ġie nfurmat li d-DOI ma tistax toħroġ din l-istqarrija għax mhux fil-kompitu tagħhom li joħorgu stqarrijiet ta' terzi. Għalhekk, Kurt Sansone ser jieħu ħsieb li l-IGM joħorgu l-istqarrija għan-nom tal-kumitat.

Stqarrija mill-Kumitat tal-Esperti tal-Media

Il-Kumitat tal-Esperti tal-Media, maħtur skont it-termini tar-riferenza tal-Inkjesta Pubblika dwar il-qtil ta' Daphne Caruana Galizia, javża li se jorganiżża konferenza għar-riforma tal-media bħala parti mill-proċess ta' konsultazzjoni pubblika.

Il-konferenza li se ssir fi Frar għandha l-għan li tifli l-abbozzi ta' liġijiet li l-gvern ippreżenta fil-parlament li jinkludu riformi kostituzzjonali, tibdil fil-liġi tal-libelli u media, liġi anti-SLAPP, tibdil fil-Kodiċi Kriminali u tibdil ieħor legali bl-għan li tiżdied il-protezzjoni tal-media u l-ġurnalisti.

Il-Kumitat se juża din il-konferenza biex jisma' l-proposti u l-ħsibijiet tal-istakeholders u atturi oħra interessati fis-settur.

Iktar dettalji dwar il-konferenza jitħabbru fiż-żmien li ġej.

Fir-rigward il-mistiedna barranin ghall Konsultazzjoni Pubbliku ta' Frar, ic-Chairman nforma lill membri li hu kien kiteb lil Teresa Ribeiro u ġie nfurmat li hi ma kienetx disponibbli dak in-nhar. Biss ġie nfurmat li minflok seta' jieħu sehem Antonius Van Den Brandt - Principal Adviser to the Head of Institution. Illi meta dan gie kkuntatjat, ikkonferma l-attendenza tiegħu. Matthew Xuereb informa lil Kumitat li hu kien ikkuntatja lil Ricardo Gutierrez tal-European Federation of Journalists u kien informaħ li qed jaċċetta l-istedina. Carmen Sammut ser tieħu ħsieb li tikkomunika mal-Profs Angela Phillips biex tara jekk setghetx tieħu sehem.

Ghall-konsultazzjoni pubblika s-suġġetti li ser ikunu qed jiġu diskussi fil-*breakout rooms*, u minn ser ikun qed jiċċerja u r-rapporteurs huwa kif ġej :

Sigurta' tal-ġurnalisti: Saviour Formosa u rapporteur Neil Camilleri.

Anti Slapp: Kevin Dingli u rapporteur Anthea Cachia.

Constitutional Changes : Kurt Sansone u rapporteur Carmen Sammut.

Media and Defamation Act: Matthew Xuereb u rapporteur Saviour Balzan.

Il-laqgħa li jmiss ser tinżamm nhar l-Erbgha, 1 ta' Frar, 2023 fid-9.00 a.m.

Frankie Mercieca
Segretarju

Kumitat ta' Esperti maħtur mill-Gvern skont terminu ta' referenza

bid-data 11 ta' Jannar, 2022

Laqgħa miżmuma llum 1 ta' Frar, 2023, fil-Kwartieri tal-Akkademja tal-Forzi Dixxiplinarji f'Ta Kandja.

Preżenti: Dr. Kevin Dingli, il-Profs. Carmen Sammut, Kurt Sansone, Matthew Xuereb u Anthea Cachia.

Ic-Chairman l-Imħallef Michael Mallia, il-Profs. Saviour Formosa, Neil Camilleri u Saviour Balzan ipparteċipaw fil-laqgħa online.

Il-laqgħa bdiet fid-9.00 ta' fil-għodu.

Ic-Chairman informa lil membri li t-terminu mogħti lil Kumitat biex jespleta l-inkarigu issa ġie mġedded sal-aħħar ta' Ġunju ta' din is-sena.

Carmen Sammut ikkomunika mal-Profs Angela Phillips biex tara jekk setghetx tieħu sehem fil-konferenza u din infurmata li minħabba mpenji oħra ma setgħetx.

Saviour Balzan ser jieħu ħsieb li jsir ir-reklamar għal konferenza.

Anthea spjegat lill Kumitat kif ser ikunu qed jidhru l-avviżi fil-midja, kemm bil-malti u kemm bl-ingliż, u l-Kumitat qabel. Illi llum ukoll ser tiftaħ il-facebook page u ser tieħu ħsieb il-programm kif diskuss illum, u ser ikun kemm bil-malti u kemm bl-ingliż.

Ic-Chairman ser jieħu ħsieb jikkomunika mad-Dean tal-Fakolta' tal-Liġi biex jistieden lilu u lill istudenti biex jattendu għal-konferenza.

Ic-Chairman ser jikkuntatja lil Antonius Van Den Brandt u jiftiehem miegħu għal dak in-nhar tal-konferenza.

Matthew Xuereb ser jikkuntatja lil Ricardo Gutierrez tal-European Federation of Journalists.

Min ser ikun qed jirreġistra għal konferenza, Anthea tieħu ħsieb li tibagħat acknowledgement flimkien mas-segwenti dokumenti: (a) ir-rapport tal-Kumitat li ġie ppreżentat lil Gvern (b) l-abbozzi li ppreżenta l-Gvern quddiem il-Parlament u (c) l-analiżi komparattiva li pprepara Kurt Sansone.

Għall-konferenza Anthea ser tistieden ukoll lill Ministru tal-Ġustizzja u lill Dr Karol Aquilina.

Frankie Mercieca
Segretarju

Kumitat ta' Esperti maħtur mill-Gvern skont terminu ta' referenza

bid-data 11 ta' Jannar, 2022

Konferenza Pubblika miżmuma llum 15 ta' Frar, 2023, fl-Aula Magna Valletta Campus, University of Malta. (Programm tal-Konferenza anness ma dawn il-minuti)

Preżenti: Ic-Chairman u l-membri kollha tal-Kumitat

Fid-9.00 a.m. bdew ir-reġistrazzjonijiet.

Il-Konferenza bdiet fid-9.30 ta' fil-għodu.

Ic-Chairman għamel introduzzjoni.

Ton van Den Brandt, Principal Adviser, OSCE nforma lil Kumitat li minħabba nuqqas ta' komunikazzjoni riċenti, hu ma setax jieħu sehem illum.

Tkellem Riccardo Gutierrez (on line), Director General Secretary of the European Federation of Journalists (EFJ) – Challanges at a European and globali level.

Is-sur Kurt Sansone għamel preżentazzjoni: An overview of the committee's proposals.

Profs. Carmen Sammut għamlet preżentazzjoni: Reflections on the context of the reform.

Wara waqfa qasira, dawk preżenti ġew mistiedna biex imorru fil-break out rooms għal-diskussjoni skont is-suġġetti ta' hawn taħt.

Breakout Room	Location	Chairing	Rapporteur
Sigurtà tal-ġurnalisti	Aula Magna	Saviour Formosa	Neil Camilleri
Anti SLAPP	Meeting room 101	Kevin Dingli	Anthea Cachia
Constitutional Changes	Meeting room 102	Kurt Sansone	Carmen Sammut
Media and Defemation Act	Meeting room 104	Matthew Xuereb	Saviour Balzan

Fin-12.30 p.m. wara li ntemmu d-diskussjonijiet fil-break out rooms, saret sezzjoni plenarja fl-Aula Magna li għaliha attendew dawk kollha li ħadu sehem fid-diskussjonijiet.

Fit-12.50 p.m. ic-Chairman ghamel diskors qasir fejn irringrazzja lil dawk kollha li attendew u ghalaq il-konferenza.

Frankie Mercieca
Segretarju

Kumitat ta' Esperti maħtur mill-Gvern skont terminu ta' referenza

bid-data 11 ta' Jannar, 2022

Laqgħa miżmuma llum 28 ta' Frar, 2023, fil-Kwartieri tal-Akkademja tal-Forzi Dixxiplinarji f'Ta Kandja.

Preżenti c-Chairman l-Imħallef Michael Mallia, Dr. Kevin Dingli, il-Profs. Saviour Formosa, il-Profs. Carmen Sammut, Matthew Xuereb, Saviour Balzan u Kurt Sansone

Neil Camilleri nforma li ma setgħax jattendi llum.

Il-laqgħa bdiet fid-9.00 ta' fil-għodu.

Il-Kumitat ħa nota tal-Konsultazzjoni Pubblika illi saret fil-15 ta' Frar, 2023 fl-Aula Magna tal-Universita l-Belt Valletta fejn il pubbliku kien mistieden li jattendi u jipparteċipa fid-diskussjonijiet.

Il-Kumitat filwaqt illi kellu l-okkażżjoni li jisma ċerti suġġerimenti li saru waqt il-konferenza minn dawk preżenti, esprima id-diżappunt ġenerali tieghu għan-nuqqas ta' konkorrenza speċjalment da parti ta' ġurnalisti attivi.

Saret diskussjoni dwar kif ser ikun qed jipproċedi l-Kumitat wara l-Konsultazzjoni Pubblika.

Ġie deċiż illi issa li saret il-Konsultazzjoni Pubblika, il-Kumitat għandu jipproċedi sabiex jagħlaq il-kompitu tiegħu billi jerġa jara l-proposti attwali tal-Gvern kif kontenuti fl-abbozzi riveduti li qegħdin quddiem il-Parlament u jelenka diversi aspetti oħra illi fil-fehma tal-Kumitat għandhom jingħataw attenzjoni fl-interess ta' ġurnaliżmu ħieles f'soċjeta demokratika.

Ir-rapporteurs għandhom jiċċirkolaw bejn il-membri l-punti saljenti li ssemmew fil-break out rooms sa mhux aktar tard minn ġimgħa millum.

Ic-Chairman ser ikun qed jieħu nkonsiderazzjoni s-suġġerimenti li ssemmew fil-break out rooms u materjal ieħor li kien disponibbli għall-Kumitat biex jara kif dawn jistgħu jiġu nkorporati f'rapport wieħed.

Il punti saljenti li ssemmew fil-minuti tal-laqgħa tal-4 ta' Ottubru, 2022 annessi ma dawn il minuti għandhom jiġu nkorporati fir-rapport finali.

Il-laqgħa li jmiss ser issir nhar it-Tlieta 28 ta' Marzu, 2023 fid-9.00 a.m.

Frankie Mercieca
Segretarju

Kumitat ta' Esperti maħtur mill-Gvern skont terminu ta' referenza

bid-data 11 ta' Jannar, 2022

Laqgħa miżmuma llum 28 ta' Marzu, 2023, fil-Kwartieri tal-Akkademja tal-Forzi Dixxiplinarji f'Ta Kandja.

Preżenti c-Chairman u l-membri - Dr. Kevin Dingli, il-Profs. Saviour Formosa, il-Profs. Carmen Sammut, Matthew Xuereb, Kurt Sansone u Neil Camilleri.

Saviour Balzan informa lil Kumitat li ma setax jattendi.

Il-laqgħa bdiet fl-10.00 ta' fil-għodu.

Il-Kumitat għadda biex jiddiskuti u jevalwa l-proposti u l-kummenti li rċeva waqt il-konsulatazzjoni pubblika.

Beda jsir analiżi komparattiva ta' dak li kien ġie propost u bdew isiru l emendi meħtieġa.

Ġew diskussi l-proposti li ġew abbozzati minn Dr Kevin Dingli fir-rigward tal-azzjoni ta' li Slapp formanti parti mill-abbozz tal-Gvern numru 19.

Qed ikun maqbul li għandha tiġi organizzata laqgħa on line nhar it-Tlieta 11 ta' April, 2023 ma organiżżazzjonijiet internazzjonali tal-Midja. Għal dan il għan Matthew Xuereb ser ikun qed jagħmel kuntatt magħhom.

Il-laqgħa li jmiss ser tinżamm fil-11 ta' April, 2023 fid-9.00 a.m. ġewwa Ta' Kandja.

Frankie Mercieca
Segretarju

Kumitat ta' Esperti maħtur mill-Gvern skont terminu ta' referenza

bid-data 11 ta' Jannar, 2022

Laqgħa miżmuma llum 11 ta' April, 2023, fil-Kwartieri tal-Akkademja tal-Forzi Dixxiplinarji f'Ta Kandja.

Preżenti c-Chairman u l-membri Matthew Xuereb u Kurt Sansone.

Dr. Kevin Dingli, il-Profs. Saviour Formosa, il-Profs. Carmen Sammut, Saviour Balzan u Neil Camilleri nformaw li ma setgħux jattendu.

Il-laqgħa bdiet fid-9.00 ta' fil-għodu.

Ic-Chairman informa lil Kumitat li hu kellu laqgħa ma l-Ambaxxatriċi ta' Malta għall-Awstrija Natasha Meli Daudey. F'din il laqgħa ġew diskussi elementi mix-xogħol tal-Kumitat u partikolarment l-emendi ta' li Slapp u tal-Kostituzzjoni.

Ic-Chairman informa wkoll li Aleksandar Sekulić - Human Rights Adviser – mill-OSCE (Office for Democratic Institutions and Human Rights) talab biex jiltaqa' miegħu u issa ser issir laqgħa miegħu online fit-18 ta' April, 2023 fl-10 am.

Hekk kif kien miftiehem fl-aħħar laqgha, saret laqgħa online ma Flutura Kusari - Legal Advisor ta' European Centre for Press and Media Freedom (ECPMF) u ma Sarah Clarke minn naħa ta' Article 19. Ġie maqbul li minn naha ta' ECPMF u Article 19 ser ikunu qed jgħaddu lill-Kumitat ir-reazzjoni tagħhom għall-emendi li kien ippropona l-Gvern u l-feedback tagħhom għall-proposti tal-Gvern fil-Parlament, u dan sa l-aħħar ta' din il-ġimgħa. Minn naħa tiegħu l-Kumitat ser ikun qed jipprepara traduzzjoni bl-Ingliż għall-emendi l-ġodda għall-liġi Anti Slapp u jibgħat l-istess lil ECPMF u Article 19. Matthew ser ikun qed jaħdem fuq din it-traduzzjoni u jibghatha lil Dr. Dingli ħalli jaraha mill-aspett ta' lingwa legali qabel tintbaghat.

Il-laqgħa li jmiss ser tinżamm fil-25 ta' April, 2023 fid-9.00 a.m. ġewwa Ta' Kandja.

Frankie Mercieca
Segretarju

Kumitat ta' Esperti maħtur mill-Gvern skont terminu ta' referenza

bid-data 11 ta' Jannar, 2022

Laqgħa miżmuma llum 25 ta' April, 2023, fil-Kwartieri tal-Akkademja tal-Forzi Dixxiplinarji f'Ta Kandja.

Preżenti c-Chairman, Dr. Kevin Dingli, il-Profs. Saviour Formosa, il-Profs. Carmen Sammut, Kurt Sansone, Matthew Xuereb, Saviour Balzan u Neil Camilleri.

Il-laqgħa bdiet fid-9.30 ta' fil-għodu.

Ic-Chairman informa lill membri li fit-18 ta' April, 2023 kellu laqgħa *online* ma Aleksandar Sekulić u Angelica Distefano – mill-OSCE (Office for Democratic Institutions and Human Rights). Fil-laqgħa ġie diskuss ix-xogħol li qed jagħmel il-kumitat, x'fadallu jwettaq u kif bi ħsiebu jagħlaq l-inkarigu tiegħu.

Mill-aħħar laqgħa, Matthew Xuereb għamel traduzzjoni għal lingwa ingliza tal-Leġiżżlazzjoni Antislapp li ppropona Dr Kevin Dingli u ġie approvat mill-Kumitat. Din intbagħtet lil Flutura Kusari - Legal Advisor ta' European Centre for Press and Media Freedom (ECPMF) u lil Sarah Clarke minn naħa ta' Article 19, li issa ser ikunu qed jibagħatu l-*feedback* tagħhom.

Ġie deċiż illi l-professur Saviour Formosa jibagħat lil membri tal-Kumitat il-kopja tal-abbozz tar-rapport li ġie preperat mic-Chairman u l-Profs Carmen Sammut. Il membri għandhom jippreżentaw il-kummenti legali tagħhom sas-27 ta' April, u l-bqija sat-8 ta' Mejju.

Ġie deċiż li għal laqgħa li jmiss jiġi mistieden il-Kummissarju tal-Pulizija.

Il-laqgħa li jmiss ser tinżamm fis-16 ta' Mejju, 2023 fid-9.00 a.m. ġewwa Ta' Kandja.

Frankie Mercieca
Segretarju

Kumitat ta' Esperti maħtur mill-Gvern skont terminu ta' referenza

bid-data 11 ta' Jannar, 2022

Laqgħa miżmuma llum 13 ta' Ġunju, 2023, fil-Kwartieri tal-Akkademja tal-Forzi Dixxiplinarji f'Ta Kandja.

Preżenti c-Chairman, Dr. Kevin Dingli, il-Profs. Saviour Formosa, Kurt Sansone, Matthew Xuereb, Neil Camilleri u Saviour Balzan.

il-Profs. Carmen Sammut infurmat li ma setgħetx tattendi għall-laqgħa tallum.

Il-laqgħa bdiet fid-9.30 ta' fil-għodu.

B'referenza għall-proposti ta' emendi kostituzzjonali mibugħtha lil kumitat, l-istess kumitat ma kellux kummenti x'jagħmel.

Il-Kumitat kompla jiddiskuti l-kwistjoni ta' sigurta' u emendi oħra li ġew oriġinarjarment diskussi fil-presenza tal-Kummissarju tal-Pulizija.

Il-laqgħa li jmiss ser tinżamm fis-20 ta' Ġunju, 2023 fid-9.30 a.m. ġewwa Ta' Kandja.

Frankie Mercieca
Segretarju

Kumitat ta' Esperti maħtur mill-Gvern skont terminu ta' referenza

bid-data 11 ta' Jannar, 2022

Laqgħa miżmuma llum 16 ta' Mejju, 2023, fil-Kwartieri tal-Akkademja tal-Forzi Dixxiplinarji f'Ta Kandja.

Preżenti c-Chairman, Dr. Kevin Dingli, il-Profs. Saviour Formosa, il-Profs. Carmen Sammut, Kurt Sansone, Matthew Xuereb u Neil Camilleri.

Saviour Balzan infurma li ma setgħax jattendi għall-laqgħa tallum.

Il-laqgħa bdiet fid-9.30 ta' fil-għodu.

Deher il-Kummissarju tal-Pulizija Angelo Gafa', l-Ass. Kummissarju Kenneth Haber, is-Supretendent Ramon Cassar, is-Supretendent Malcolm Bondin u s-Sur Shaun Scicluna.

Il-Kummissarju fisser kif wara r-rakkomandazzjonijiet li saru fl-Inkjesta dwar l-qtil ta' Daphne Caruana Galizia kien hemm żewġ żviluppi:

Sar taħriġ għall-pulizija dwar media relations, b'kollaborazzjoni mal-Istitut tal-Ġurnalisti. Dan sar invista ta' policy dwar kif il-korp jikkomunika u kif jikkoopera mal-ġurnalisti. Din il-policy saret ukoll b'kollaborazzjoni tad-Daphne Caruana Galizia Foundation.

Il-Kummissarju fisser kif il-persuna f'dan ir-rwol ma' baqgħax jiddeciedi unilateralment dwar talbiet għal protezzjoni permezz ta' fixed point jew meżżi oħra. L-inkjesta kienet ipproponiet unit speċifiku għal dan il-għan li skond il-Kummissarju ma' kienetx viabbli. Minflok saret policy li tirreferi għal "media actors" fejn ic-Central Intelligence and Analysis Unit qiegħed jieħu miżuri proattivi.

Minn Jannar 2023 il-pulizija bdiet topera proċedura interna (SOP) dwar kif il-Korp tal-Pulizija jwieġeb għal theddid għall-ħajja. Ic-Central Intelligence Unit ghandu 'point of contact' għall-ġurnalisti, membri tal-ġudikatura u politici li jkunu f'riskju.

Is-Sur Shaun Scicluna fisser li permezz ta' dawn l-iżviluppi, l-pulizija tista' tmur lil hinn minn rapport ta' biza' suġġettiva (subjective fear) lejn deċizjoni oġġettiva bbażata fuq assessjar tal-evidenza. Il-miżuri ta' sigurta' jmorru lil hinn minn pulizija stazzjonat barra l-bieb tal-individwu. Hemm sett ta' miżuri li jkunu wkoll jinkludu xi azzjoni konkreta min-naħa tal-individwu nnifsu: per eżempju CCTV cameras, l-istallazzjoni ta' panic button u anke f'xi każi l-għażla ta' pulizija ta' fiduċja.

Kompożizzjoni tal-kumitat tas-sorveljanza ta' miżuri għall-ħarsien tal-ġurnalisti, ta' persuni oħra bi rwol fil-medja u ta' persuni oħra fil-ħajja pubblika.

Saret diskussjoni dwar il-kompożizzjoni ta' dan il-kumitat. Ġie propost li l-kumitat ikun presedut mis-Segretarju Permanenti minħabba r-rwol tiegħu fiċ-Ċivil, fejn għandu poter jalloka r-riżorsi. Proposta alternattiva li ġiet diskussa kienet il-possibilta' li jippresedi Imħallef irtirat.

Ir-rwol tal-kumitat jkun li jevalwa u jirrevedi l-proċeduri. Għandu jkun hemm ukoll il-possibilta' li l-kumitat jistieden osservatur. Dan jagħti lok għal involviment ta' organiżżazzjonijiet tal-ġurnalisti rikonoxxuti li jistgħu jkunu mistiedna fil-proċess ta' sorveljanza u l-appell.

Frankie Mercieca
Segretarju

Kumitat ta' Esperti maħtur mill-Gvern skont terminu ta' referenza

bid-data 11 ta' Jannar, 2022

Laqgħa miżmuma llum 20 ta' Ġunju, 2023, fil-Kwartieri tal-Akkademja tal-Forzi Dixxiplinarji f'Ta Kandja.

Preżenti c-Chairman, Dr. Kevin Dingli, il-Profs. Saviour Formosa, il-Profs. Carmen Sammut, Kurt Sansone, Matthew Xuereb, Neil Camilleri.

Saviour Balzan infurma li ma setgħax jattendi għall-laqgħa tallum.

Il-laqgħa bdiet fid-9.30 ta' fil-għodu.

Il-Kumitat kompla jiddiskuti l-kwistjoni ta' sigurta' u emendi oħra li ġew oriġinarjarment diskussi fil-presenza tal-Kummissarju tal-Pulizija.

Il-laqgħa li jmiss ser tinżamm fis-27 ta' Ġunju, 2023 fid-9.00 a.m. ġewwa Ta' Kandja.

Frankie Mercieca
Segretarju

Kumitat ta' Esperti maħtur mill-Gvern skont terminu ta' referenza

bid-data 11 ta' Jannar, 2022

Laqgħa miżmuma llum 27 ta' Ġunju, 2023, fil-Kwartieri tal-Akkademja tal-Forzi Dixxiplinarji f'Ta Kandja.

Preżenti c-Chairman, Kurt Sansone u Matthew Xuereb.

Dr. Kevin Dingli, il-Profs. Saviour Formosa, il-Profs. Carmen Sammut, Neil Camilleri u Saviour Balzan infurmaw li ma setgħux jattendu għall-laqgħa tallum.

Il-laqgħa bdiet fid-9.00 ta' fil-għodu.

Il-Kumitat kompla jiddiskuti l-abbozz tar-rapport.

Il-laqgħa li jmiss ser tinżamm fl-4 ta' Lulju, 2023 fid-9.00 a.m. ġewwa Ta' Kandja. Huwa mportanti li kulħadd jattendi ħalli nagħlqu r-rapport u jiġi ffirmat.

Frankie Mercieca
Segretarju

Kumitat ta' Esperti maħtur mill-Gvern skont terminu ta' referenza

bid-data 11 ta' Jannar, 2022

Laqgħa miżmuma llum 4 ta' Lulju, 2023, fil-Kwartieri tal-Akkademja tal-Forzi Dixxiplinarji f'Ta Kandja.

Preżenti c-Chairman, Dr. Kevin Dingli, il-Profs. Carmen Sammut, Kurt Sansone, Matthew Xuereb u Neil Camilleri.

Il-Profs. Saviour Formosa u Saviour Balzan infurmaw li ma setgħux jattendu għall-laqgħa tallum.

Il-laqgħa bdiet fid-9.00 ta' fil-għodu.

Il-Kumitat kompla jiddiskuti l-abbozz tar-rapport u gie finalizzat.

Is-segretarju ser ikun qed jipprintja r-rapport u d-dokumenti li ser ikunu anness u jiċċirkolaħ mal-membri biex ikun iffirmat.

Malli r-rapport ikun iffirmat tintalab laqgħa mal-Onorevoli Prim Ministru biex ic-Chairman jgħaddilu r-rapport.

Frankie Mercieca
Segretarju