

Front Against Censorship

01/06/2018

Draft Amendment to Counter SLAPP Lawsuits against the Media

#. (1) On an application by an interested party to the competent court in Malta demanding the enforcement of a defamation judgement which has become *res judicata* and which was delivered by a competent court outside Malta against an author, editor or publisher domiciled in Malta or who otherwise operates within Malta, the competent court in Malta shall, before acceding to such demand, take into account one or more of the following:

- (a) Whether the defendant was afforded equivalent rights and defences as set out in this Act;
- (b) Whether the moral damages awarded in such judgement shall gravely prejudice the economic capacity of the defendant such that they will likely result in his financial ruin or his inability to operate;
- (c) Whether such judgement, taken as a whole, impedes or is likely to impede the defendant's journalistic freedoms or freedom of expression or if it is contrary to public policy or to the internal public law of Malta.

(2) Any author, editor or publisher domiciled in Malta or who otherwise operates within Malta may file an application to the competent court in Malta demanding that a libel or defamation judgement delivered by a competent court of a Member State of the European Union which has become *res judicata* should not be recognised or enforced on the grounds set out in paragraphs (a) to (c) of sub-article (1) as well as the grounds established in Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

(3) An appeal shall lie from any decision given by the competent court in Malta in terms of sub-articles (1) and (2) to the Court of Appeal.

Verżjoni bil-Malti

#. (1) Rigward applikazzjoni minn parti interessata lill-qorti kompetenti ta' Malta li qed titlob l-infurzar ta' sentenza ta' diffamazzjoni li saret *res judicata* u li ngħatat minn qorti kompetenti barra minn Malta kontra awtur, editur jew pubblikatur iddomiċiljati f'Malta jew li b'mod ieħor joperaw f'Malta, il-qorti kompetenti ta' Malta għandha, qabel tilqa' talba bħal din, tqis wieħed mill-elementi li ġejjin jew it-tnejn li huma:

- (a) Jekk il-konvenut inghatax id-drittijiet u d-difiżi ekwivalenti kif stabbiliti f'dan l-Att;
- (b) Jekk id-danni morali mogħtija fit-tali ġudizzju humiex se jippreġudikaw sew il-kapaċità ekonomika tal-konvenut b'tali mod li x'aktarx jirriżultaw ir-rovina finanzjarja tiegħu jew l-inkapaċità tiegħu sabiex jopera;
- (c) Jekk it-tali ġudizzju, meqjus kollu kemm hu, ixejjilx jew x'aktarx ixejjil il-libertajiet ġurnalistiċi jew il-liberta tal-espressjoni tal-konvenut jew jekk huwiex kontra l-ordni pubbliku jew il-liġi pubblika interna ta' Malta.

(2) Kwalunkwe awtur, editur jew pubblikatur iddomiċiljat f'Malta jew li b'mod ieħor jopera f'Malta jista' jippreżenta rikors lill-qorti kompetenti ta' Malta fejn jitlob li libell jew sentenza ta' diffamazzjoni mogħtija minn qorti kompetenti ta' Stat Membru tal-Unjoni Ewropea li saret *res judicata* m'għandiex tkun rikonoxxuta jew infurzata għar-raġunijiet stabbiliti fil-paragrafi (a) sa (c) tas-subartikolu 1) kif ukoll ir-raġunijiet stabbiliti fir-Regolament (UE) Nru 1215/2012 tal-Parlament Ewropew u tal-Kunsill tat-12 ta' Diċembru 2012 dwar il-ġurisdizzjoni u r-rikonoxximent u l-eżekuzzjoni ta' sentenzi fi kwistjonijiet ċivili u kummerċjali.

(3) Jista' jsir appell minn kwalunkwe deċiżjoni mogħtija mill-qorti kompetenti ta' Malta f'termini tas-subartikoli (1) u (2) lill-Qorti tal-Appell.