[MK] Libel and Defamation to Be Decriminalised

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After years of debate between professional journalists, NGO's, legal experts and governmental representatives and supported by the Council of Europe, the draft text of the Act on Civil Responsibility for Libel and Defamation has entered the Parliamentary procedure.

The public discourse of the so-called "decriminalisation of libel and defamation" is multi-facetted: the national Government, which proposed the law, states that during the preparation of the draft text "the remarks of the Council of Europe expert Gavin Millar ... and the rich jurisprudence of the European Court for Human Rights" have been incorporated, including the Document 11305 (2007) of the Parliamentary Assembly of the Council of Europe, titled "Towards Decriminalisation of Defamation". Also a comparative analysis of the respective law in other countries has been made.

In addition, it was decided that the 325 pending criminal charges for libel and defamation against journalists will be stopped and transferred to the civil courts.

The current Criminal Code, which regulates defamation, sets no limit to the possible financial sanctions that the Court can impose on the affected journalists. This led to the imposition of sanctions of even EUR 30,000 or more, which is a huge amount in a country with an average salary of about EUR 300. Now, the new law foresees to set the limit at a maximum of EUR 27,000, out of which the author of the text would pay EUR 2,000, the editor in chief EUR 10,000 and the owner of the media outlet EUR 15,000. Hence, the responsibility in future would be distributed among several persons. This may entail a risk of influence by company owners and chief editors on the reporters' work and jeopardize the environment of free journalistic investigation and reporting.

However, according to Article 8 of the bill, the author of a text will not be held responsible, if he proves that he was ordered to write the text by the company or in a case where the text was significantly altered by the editor.

The bill also regulates internet portals, websites and blogs. Information society experts have located shortcomings in Article 11 of the draft, which could endanger the freedom of expression. The non-governmental Metamorphosis Foundation comments "Given that every online service provider or website administrator has the technical capabilities to control all content (the form of

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control can ultimately be deletion or removal of the website from the internet), contrary to the principle of presumption of innocence, with this Article (Article 11) the owners are put in a situation to have to prove that they were innocent, instead of the plaintiff(s) having to offer evidence for their guilt or malicious intent." Furthermore, according to Article 23 of the bill, courts are given the possibility to stop a journalist from publishing information, by means of so-called 'temporary judicial measures': "...this leaves a space for misuse during the implementation (of the law), in order to limit the freedom of expression", claims a representative of the Journalists' Trade Union. In general, the Association of Journalists of Macedonia is satisfied with the proposed text and hopes that by the time the bill will be voted by the Parliament, all shortcomings and gaps will have been corrected based on the on-going public debates.

Предлог закон за граѓанска одговорност за навреда и клевета

http://www.sobranie.mk/ext/materialdetails.aspx?Id=548ae3f6-ab2a-480d-ac2c-20b9b0b0f192

Bill on Civil Responsibility for Libel and Defamation

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