

The Chairman  
The Electoral Commission  
Counting Complex  
ex. Trade Fair Grounds  
In-Naxxar

9th February 2022

Dear Chairman,

**Re: Ivan Grech Mintoff, Leader of Political Party 'ABBA'**

I write on behalf of MGRM – Malta LGBTIQ Rights Movement, and this in relation to a libel case which it instituted and won against Mr Ivan Grech Mintoff, today leader of a political party named 'ABBA' and which shall be nominating candidates to contest the upcoming general elections on its ticket.

Mr Grech Mintoff was sued for libel by MGRM in 2015 and obtained a judgement in its favour in 2019. Mr Grech Mintoff was judged to have committed libel and was ordered to pay the sum of €3,000, with costs, to MGRM. The judgement was confirmed on appeal, which brings amount payable by Mr Grech Mintoff to MGRM up to a total of €3,975.77.

Despite empty promises by Mr Grech Mintoff that he would pay the owed amount, as well as further legal action instituted against him to secure payment (in turn incurring further costs for MGRM), Mr Grech Mintoff has to date failed to pay the owed amount.

MGRM believes that any individual who is actively and maliciously defying Court orders and refusing to pay an amount ordered by the Court should not remain unchecked and be allowed to contest any public election.

All of the above is being formally drawn to your attention by means of this letter whilst at the same time MGRM is calling upon the Electoral Commission to take all the necessary measures and action within its power against Mr Grech Mintoff and to assess the eligibility of his candidature which may submitted by his party for the upcoming General elections 2022.

Copies of the abovementioned judgements and subsequent garnishee order are being enclosed with this letter for your perusal.

MGRM and undersigned remain at your disposal should you require further clarifications and/or documentation.



**Dr Cedric Mifsud**  
*Partner*



**Dr Gianluca Cappitta**  
*Associate*



**QORTI TAL-APPELL  
(SEDE INFERJURI)**

**S.T.O. PRIM IMHALLEF  
MARK CHETCUTI**

**Illum l-Erbgha 17 ta' Gunju, 2020**

Numru 1

**Rikors Nru. 387/2015**

**Malta Gay Rights Movement**

**vs**

**Ivan Grech Mintoff**

**Il-Qorti,**

Rat ir-rikors tal-appell ta' Ivan Grech Mintoff mis-sentenza tal-Qorti tal-Magistrati tat-28 ta' Frar 2019 fejn sabet li d-dikjarazzjonijiet tal-konvenut libelluzi u malafamanti fil-konfront tar-rikorrenti u ikkundannatu jhallas lil Moviment is-somma ta' €3,000 in linea ta' danni;

Rat ir-risposta tal-appellati li issottomettew li l-appell ghandu jigi michud billi s-sentenza tal-Qorti tal-Magistrati hi gusta u timmerita konferma;

Rat l-atti kollha u semghet lid-difensuri tal-partijiet;

Rat is-sentenza tal-Qorti tal-Magistrati li tghid hekk:  
Konstatazzjonijiet fattwali

Jirrizulta illi, fit-18 ta' Ottubru 2015, giet ippubblikata ittra fuq The Malta Independent on Sunday intitolata 'Lies and assumptions about MGRM and Planned Parenthood', illi fih intqal is-segwenti: (fol 132)

In July this year, MGRM donated a number of books to the Ministry for Education as part of its mission to ensure that Maltese schools are equipped with resources that portray LGBTIQ realities and challenge gender stereotypes. This is part of an effort to foster school environments that are safe, welcoming and inclusive of all students irrespective of their sexual orientation, family of origin, gender identity, gender expression or sex characteristics. Our aims are perfectly aligned with the Ministry for Education's Respect for All Framework, and as social workers, educators, counsellors and parents in our own right, we are also well qualified in assessing the quality of the resources provided and their potential to foster positive attitudes in children.

It is not MGRM's role to defend the MEDE's policy and curriculum with regard to sexuality and relationships education although it is our understanding that considerable effort is made by schools and the Department of PSCD to ensure that parents are in fact involved in sexuality and relationships education initiatives, as is made clear in official policy documents.

What concerns us is the fact that The Malta Independent on Sunday chose to publish Ivan Grech Mintoff's ludicrous assertions without seeking to verify any of the allegations made.

MGRM always refuses to participate in TV programmes which it knows beforehand will not present a truthful and unbiased version of events and do not allow for a level playing field.

A great deal is being made of the fact that in 2009 MGRM benefited from funding from IPPF for the development of the Proposed Gender Identity Act for Malta. This was presented as a revelation despite acknowledgement of the funding never being in question, as evidenced by references in the publication itself.

IPPF is one of the foremost NGOs active in the field of sexual and reproductive health and rights. The organisation is considered an expert in this field, helping to save hundreds and thousands of lives each year. IPPF covers a wide range of public health concerns including safer sex, access to contraception, HIV/AIDS services, STI prevention, sexual violence and rape and child marriage to name a few. Also included is access to safe abortions. The IPPF is a worldwide organisation with regional offices and associate member organisations who, through staff and volunteers, provides advocacy measures and services mostly in developing countries supporting and assisting the most vulnerable communities around the world.

One of IPPF's associate members is the American Planned Parenthood. Planned Parenthood provides sexual and reproductive health services across the US. They are a recognised healthcare provider in many states and one of the few where access to healthcare is not dependent on whether the patient has medical insurance. Contrary to popular belief, only three per cent of the services provided by Planned Parenthood relate to abortion.

In July, an eight-minute video was circulated on YouTube by the right wing activist group Centre for Medical Progress featuring Dr Deborah Nucatola, one of Planned Parenthood's regional directors. The group accused Planned Parenthood of selling foetal tissue for profit. It later emerged that the video, involving two actors commissioned by Centre for Medical Progress, was highly

edited. From the threehour transcript of the entire interview and full-length video, it was found that the claims being made by the right-wing group were false and Planned Parenthood has, to this date, not been found guilty of any wrongdoing despite being subjected to intense scrutiny by the US Congress. For those who would argue that MGRM should not accept funding from an entity that provides abortion services, it would be useful to keep in mind that such a policy would exclude the take-up of any EU funding since most EU countries provide access to abortion as part of their public health services, a position which no political party, civil society organisation or NGO has so far espoused.

It is hugely disappointing that the newspaper should simply reproduce what is a blatant attempt to discredit MGRM based solely on lies and assumptions without any attempt to verify the veracity of the claims being made by Mr Grech Mintoff and his ilk - something even a quick search on the internet would have easily revealed.

Jirrizulta illi l-ghada illi deher dana l-artikolu, fid-19 ta' Ottubru 2015, l-intimat Ivan Grech Mintoff tella 'post' fuq il-pagna tieghu ta' Facebook fejn qal is-segwenti:

Gabbi Calleja's (hiding behind MGRM) reply is beyond contempt and comprehension.

In brief she:

1) ADMITS to taking money from MURDERED CHILDREN to fund her own personal agenda.

2) She justifies it by saying that IPPF perform 'safe' abortions. Safe for whom exactly? "Oh sorry son you don't get a life because IPPF gave you a save abortion. Here you go Gabi your hands are clean". Is that how it all pans out in you head Gabi? And you want us to believe that your thinking is correct?

3) Moreover, she claims the videos are fake, how shocking of us to use them. Wrong again.

<http://dailysignal.com/2015/09...>

<http://www.wnd.com/2015/09/no-...>

(just google "planned parenthood videos real and you will see that gabi is quite "liberal" with the truth.:

4) Finally To say that they have not been found guilty, "so its ok" is also verging on total incredibility. Firstly with the same argument, they have not been found innocent either. Secondly you are not dragged in to testify at a Congressional hearing for the House Committee for spitting on the pavement. You don't have tens of millions of euros SUSPENDED by the EU for nothing but because "

Planned Parenthood selling aborted baby parts"

"Europe is horrified by the scandalous harvesting and selling of human body parts allegedly for profit by Planned Parenthood in the USA," said Miroslav Mikolasik of Slovakia, chairman of a parliamentary working group."

And yet ... Gabi JUSTIFIES it all instead of at the very least apologising for such action. What will be her position when they ARE found guilty. Will she then admit fault and withdraw her harmful indoctrination.

It SERIOUSLY worries me when someone so callous and reasons like this expects us to totally hand over our children's education in order to fill their heads with harmful gender indoctrination. Who is more at fault her? Gabi or the government who is pushing her agenda?

Alleanza Bidla's stand that your agenda harms our children and how you funded it all is simply disgusting stands. Now more than ever!

Jirrizulta illi, precedentement, fuq programm televisiv li fih deher l-intimat fid-9 ta' Ottubru 2015, r-rikorrenti tikkontendi illi l-intimat allega illi "b'riferenza għall għaqda rikorrenti: ' ... jiehdu flus minghand nies li joqtlu tfal' – ir-rikorrenti ippresentat recording ta' dana ilprogramm izda qatt ma ppresentat traskrizzjoni tal-programm u wisq anqas indikazzjoni ta' fejn qal tali kliem u xi kliem qal.

Jirrizulta illi, sussegwentement fl-24 ta' Ottubru 2015, l-intimat, fuq is-sit tal-Facebook tiegħu, tella artikolu illi deher fuq is-sit elettroniku LIVEACTIONNEWS.ORG intitolat 'BREAKING: U.S. House passes bill to defund Planned Parenthood' u għamel is-segwenenti kumment:

"We are being proven right all along re MGRM & International Planned Parenthood and its associates! Gabi & MGRM feel very very ASHAMED!

Jirrizulta illi, fit 22 ta' Dicembru 2015, ir-rikorrenti nedew il-proceduri odjerni.

*omissis*

Eccezzjoni fil-meritu – "fair comment"

Jirrizulta illi dwar l-eccezzjoni, fil-meritu, illi l-kummenti tiegħu kienu 'fair comment' u 'value judgment' protetti mill-legislazzjoni kemm lokali kif ukoli estera, ikun ipportun illi jitqiesu xi principji generali stabbilit mill-Qrati lokali u esteri dwar tali kuncett.

Dwar 'fair comment', Gatley on Libel and Slander jghid:

To succeed in a defence of fair comment the defendant must show that the words are comment, and not a statement of fact. He must also show that there is a basis of fact for the comment, contained or referred to in the matter complained of. Finally, he must show that the comment is on a matter of public interest, one which has expressly or implicitly put before the public for judgment or is otherwise a matter with which the public has a legitimate concern. If, however, the plaintiff can show that the comment was not made honestly or was actuated by malice, he will defeat the plea.

Fil-kawza Dr Louis Galea vs Etienne St John u Felix Agius deciza fit 30 ta' April 2015, intqal is-segwenenti:

... dwar l-aspett tad-difiza tal-kumment ġust ilu żmien jingħad mill-Qrati tagħna li, biex id-difiza tal-kumment ġust tkun tgħodd, jeħtieġ li min jistrieħ fuqha jseħħli juri li (a) l-kumment kien imsejjes fuq fatt li jkun issemma fil-pubblikazzjoni li minnha jitressaq l-ilment; (b) il-fatt imsemmi jrid ikun sostanzjalment minnu; (c) il-kumment irid jintwera li jkun ġustifikabbli jew mistħoqq; (d) il-kumment irid ikun tali li jikkwalifika bħala kritika u mhux żebliħ, tgħajir jew insolenza; u (e) irid jagħti l-fehma onesta tal-kummentatur u li l-pubblikazzjoni ta' dik il-fehma ma saritx b'hażen jew bil-ħsieb preċiż li jwegġa' lil dak li jkun.

Tali tagħlim huwa anke rifless f'gurisprudenza estera u, di fatti, fil-kawza Spiller vs Joseph deciza mill-Qorti tal-Appell Ingliza fl-1 ta' Dicembru 2010, Lord

Phillips ghamel is-segwent i konsiderazzjonijiet meta wiehed iqis id-difiza ta' 'fair comment':

A subsidiary but important issue was what it was that a defendant had to prove in order to establish the defence of fair comment. Counsel for the plaintiff submitted that the defendant had to establish that: (i) the words complained of were comment; (ii) the comment was on facts; (iii) the facts commented on constituted a matter of public interest; (iv) the comment was objectively "fair"; that is the comment was one that was capable of being honestly founded on the facts to which it related, albeit by someone who was prejudiced and obstinate; (v) the comment represented the defendant's honest opinion. If he discharged all these burdens, the defence could none the less be defeated by proof of malice on the part of the defendant, but the onus of proving malice lay on the plaintiff. Both the Court of Appeal and the House of Lords held that there was no burden on the defendant to establish the fifth element. The defendant's honesty was assumed unless the plaintiff could disprove it by establishing malice.

Finalment, il-Qorti taghmel referenza ghas-sentenza ricenti tal-Qorti tal-Appell (Sede Inferjuri) deciza fil 21 ta' Frar 2017 fl-ismijiet "Adrian Mizzi vs Ryan Paul Galea" fejn ghamlet is-segwent i rendikont ta' taghlim dwar d-difiza tal-"fair comment":

Fil-meritu d-difiza tal-konvenut kienet li, "Il-kummenti tal-esponenti jammontaw ghall-fair comment bazati fuq fatti sostanzjalment korretti". Hemm distinzjoni bejn fatti u fair comment, li m'hijiex dejjem facli li tistabilixxi. F'opinjoni li nkitbet mill-Avukat Ġenerali Poiares Maduro fil-Qorti tal-Ġustizzja Ewropea fil-każ Marra vs De Gregorio et, 26 ta' Ġunju 2008, kiteb: "Second, a distinction must be drawn between factual allegations against particular individuals and opinions or value judgments. As the European Court of Human Rights has held 'while the existence of facts can be demonstrated, the truth of value judgments is not susceptible of proof. The requirement to prove the truth of a value judgment is impossible to fulfil and infringes freedom of opinion itself, which is a fundamental part of the right secured by Article 10'. When a Member of Parliament makes a value judgment about a matter of general importance, no matter how upsetting or offensive some people may find it, he should, in principle, be able to avail himself of absolute privilege".

Il-Qorti Ewropea ta' Strasburg fil-każ Sofranschi vs Moldova (34690/05) tal-21 ta' Diċembru 2010, qalet:

"32. A further aspect of the complaint which is relevant for the Court's determination in the present case is the distinction between statements of fact and value judgments. The applicant's letter contained both factual allegations of irregular conduct on the part of V.P. and value judgments about his unethical behaviour. It has been the Court's consistent view that, while the existence of facts can be demonstrated, the truth of value judgments is not susceptible of proof. The requirement to prove the truth of a value judgment is impossible to fulfil and infringes freedom of opinion itself, which is a fundamental part of the rights secured by Article 10 (see Savitchi v. Moldova, no. 11039/02, § 49, 11 October 2005)".

Dwar fatt u kumment, Lord Phillips fis-sentenza Joseph vs Spiller (2010) (Qorti Suprema tal-Inglaterra) qal:

"17. Second, the comment must be recognisable as comment, as distinct from an imputation of fact. If the imputation is one of fact, a ground of defence must

be sought elsewhere, for example, justification or privilege. Much learning has grown up around the distinction between fact and comment. For present purposes it is sufficient to note that a statement may be one or the other, depending on the context. Ferguson J gave a simple example in the New South Wales case of *Myerson v. Smith's Weekly Publishing Co Ltd* (1923) 24 SR (NSW) 20, 26: 'To say that a man's conduct was dishonourable is not comment, it is a statement of fact. To say that he did certain specific things and that his conduct was dishonourable is a statement of fact coupled with a comment'.

Dwar id-difiza ta' "value judgments", imqajjma wkoll mill-intimat, ssir referenza ghaddecizjoni fil-kawza *Erla Hlynsdottir vs Iceland* deciza mill-Qorti Ewropeja ghad-Drittijiet tal-Bniedem fil 21 ta' Ottubru 2014, fejn intqal is-segwent: A fundamental distinction should be made between statements that are to be categorized as factual assertions and value judgments. In its contextual examination of the disputed statement as a whole, the Court must carry out its own evaluation of the impugned statement. Furthermore, the Court has acknowledged that the distinction between value-judgments and statements of fact may be blurred, and that the issue may need to be resolved by examining the degree of factual proof.

Dana l-argument huwa rifless anke fid-decizjoni illi l-istess Qorti kienet tat fil-kawza *Sizma vs Hungary* deciza f'Ottubru 2012 fejn intqal is-segwent: "The Court would add that in order to assess the justification of the statements in question, a distinction needs to be made between statements of fact and value judgments, in that, while the existence of facts can be demonstrated, the truth of value judgements is not susceptible of proof. The requirement to prove the truth of a value judgment is generally impossible to fulfil and infringes freedom of opinion itself, which is a fundamental part of the right secured by Article 10. The classification of a statement as a fact or a value judgment is a matter which, in the first place, falls within the margin of appreciation of the national authorities, in particular the domestic courts. However, even where a statement amounts to a value judgment, there must exist a sufficient factual basis to support it, failing which it may be."

*omissis*

**Konstatazzjonijiet ta' fatti**

Jirrizulta, mill-provi prodotti, illi l-muviment rikorrenti Malta Gay Rights Movement, fit-18 ta' Ottubru 2015, kienet kitbet ittra fuq il-gurnal lokali ta' kull nhar ta' Hadd, *The Malta Independent on Sunday*, fejn, filwaqt illi ghamlet referenza ghal kummenti illi l-intimat kien precedentement ghamel fuq l-istess gazzetta – illi kopja taghhom qatt ma inghaddew lill dina l-Qorti – ghaddiet biex tispjega l-posizzjoni ta' l-istess ghaqda ghal dak illi jirrigwarda finanzjament illi l-istess ghaqda kienet irceviet minghand l-International Planned Parenthood Federation ghall progett tal-izvilupp ta' 'Proposed Gender Identity Act for Malta', liema finanzjament l-intimat kien qieghed jikkontesta u kien qieghed jallega illi inghata minn assocjazzjoni illi taghmel il-qliegħ tagħha mis-servizz tal-abortion, liema allegazzjonijiet l-istess intimat kien già ghamel precedentement fuq it-television fil-konfront ta' l-istess ghaqda.



Jirrizulta illi, wara tali ittra, l-intimat ghazel illi jirrispondi ghall tali ittra billi jaghmel 'post' fuq il-pagna tieghu fuq is-sit socjali 'Facebook', fejn, fost affarjiet ohra jghid "Gabbi Calleja's (hiding behind MGRM) reply is beyond contempt and comprehension. In brief she: 1) ADMITS to taking money from MURDERED CHILDREN to fund her own personal agenda"

Jirrizulta illi l-kwistjoni kollha tirrigwarda fondi illi allegatament il-muviment rikorrenti kien ircieva minghand l-ghada International Planned Parenthood Federation, sabiex jirredigu ligi ghall-Malta dwar l-Identita' tal-Generu, liema fondi, l-intimat jikkontendi kienu fondi illi gew ottenuti mill-promozzjoni u servizz ta' abort.

Jirrizulta illi, skond is-sit ufficjali tal-International Planned Parenthood Federation, tal-Federazzjoni ghandha s-segwenti ghanjiet:

#### Vision

All people are free to make choices about their sexuality and well-being, in a world free of discrimination.

#### Mission

Building on a proud history of 65 years of achievement, we commit to lead a locally owned, globally connected civil society movement that provides and enables services and champions sexual and reproductive health and rights for all, especially the under-served.

#### Core values

Our core values guide the way we undertake our work. We believe:

- in social inclusion with a demonstrated commitment to enable the rights of the most under-served to be realised
- in diversity, respecting all regardless of their age, gender, status, identity, sexual orientation or expression
- our passion and determination inspire others to have the courage to challenge and seek social justice for all
- in the significant contribution our volunteerism delivers across a range of roles and as activists inspiring the Federation to advance its mission
- in accountability as a cornerstone of trust which is demonstrated through high performance, ethical standards and transparency.

Jirrizulta, dejjem mill-istess sit tal-internet tal-International Planned Parenthood Federation, illi hija federazzjoni ta' varji ghaqdiet nazzjonali u, fi kliem l-istess ghaqda:

the charity is a Federation of 141 Member Associations working in 152 countries, with another 24 Partners working in 19 countries.

Jirrizulta illi fost il-141 membru ta' tali Federazzjoni, hemm l-Assocjazzjoni Amerikana imsejja 'The Planned Parenthood Federation of America' (PPFA) li, fost is-servizzi illi hija taghti, kien inkluz ukoll "330,000 abortion-related services" fis-sena 2011 – (fol 127).

Jirrizulta illi fis-sena 2017, is-Senat Amerikan ghadda legislazzjoni, imsejja Better Care Reconciliation Act, fejn, fost affarjiet ohra, l-Assocjazzjoni Amerikana Planned Parenthood Federation of America' giet mnehhija d-dritt illi tibqa tinghata fondi mill-Gvern Amerikan stante illi kien qed jigi allegat illi tali

fondi kienu qed jintuzaw għall servizzi ta' abort, liema għajna finanzjarja kienet proibita mill-legislazzjoni Amerikana.

Jirrizulta illi l-intimat Ivan Grech Mintoff, abbazi ta' tali rappurtagg u decizjoni tas-Senat Amerikan fil-konfront ta' 'The Planned Parenthood Federation of America' (PPFA) nieda kampanja fil-konfront tal-għaqda rikorrenti Malta Gay Rights Movement, fejn allega illi flejjes illi huma ottjenew biex jirredigu legislazzjoni li eventwalment wasslet għall-abbozzar u ratifikazzjoni tal-Att dwar l-Identita' tal-Generu, l-Espressjoni tal-Generu u l-Karatteristici tas-Sess (Kap 540), kienu flejjes illi gew magħmulha mil-ghoti tas-servizz ta' l-abort u l-qtil tat-tfal.

Jirrizulta, mill-provi prodotti, illi l-għaqda rikorrenti Malta Gay Rights Movement, fis 6 ta' Awissu 2010, dahhlet fi 'Advocacy Flexi Fund Funding Agreement' mal-federazzjoni 'International Planned Parenthood Federation', fejn flejjes fl-ammont ta' għaxart elef Dollaru Amerikan (\$10,000), illi kienu ser jigu lilha mogħtija b'donazzjoni mill-'David and Lucille Packard Foundation', kienu gew mogħtija għas-segħenti: (fol 69)

"This grant is provided for the project titled A Gender Identity Law for Malta/ the Grantee may not use the funds for any other purpose unless written permission has been received from the IPPF."

Jirrizulta illi f'Dicembru 2010, gie redatt rapport minn Dr Neil Falzon għall-għaqda rikorrenti, intitolat 'A Proposed Gender Identity Act for Malta', fejn saret referenza għall-Att XVIII tas-sena 2004 fejn il-Kodici Civili gie emendat biex inghata dritt lill persuni transgender jagħmlu annotazzjonijiet fic-certifikat tat-twelid tagħhom u ftali rapport biex propost abbozz ta' Ligi sabiex jizviluppa aktar l-principji mibdija bl-Att fuq imsemmi u jipprovdi għalldrittijiet godda.

Jirrizulta illi permezz ta' Att Nru XI tas-sena 2015 intitolat Att dwar l-Identita' tal-Generu, l-Espressjoni tal-Generu u l-Karatteristici tas-Sess (Kap 540), l-proposti u ideat redatti firrapport redatt mill-għaqda rikorrenti gew riflessi fl-abbozz ta' Ligi finali, fejn l-għaqda rikorrenti kienet ukoll involuta fid-diskussjonijiet li wasslu għar-ratifika ta' tali ligi.

#### *omissis*

#### Eccezzjoni fil-meritu – "fair comment"

Jirrizulta, mill-provi prodotti, illi l-intimat, illi ddikjara ruhhu bhala li għandu posizzjoni kontra l-abort filwaqt illi allega illi l-għaqda rikorrenti għandha posizzjoni favur l-abort, wasal għall konklużjoni illi la darba l-federazzjoni 'International Planned Parenthood Federation' (IPPF) kellha fi hdanha l-assocjazzjoni Amerikana 'The Planned Parenthood Federation of America' (PPFA), liema għaqda kienet, fost affarjiet ohra, stqarret illi fis-sena 2011 għamlet mal-"330,000 abortion-related services", dak kien ifisser illi meta l-għaqda rikorrenti irceviet fondi sabiex tirredigi rapport dwar l-Identita' tal-Generu mingħand l-IPPF, daww il-fondi kienu rizultat ta' qtil ta' trabi – fi kliem l-intimat stess "taking from MURDERED CHILDREN"

Jirrizulta, madanakollu, mill-provi prodotti quddiemha, partikolarment mill-għaqda rikorrenti, illi meta fis-sena 2010 irceviet fondi mill-'International

Planned Parenthood Federation' tali fondi ma kellhom ebda konnessjoni mal-għaqda Amerikana fuq imsemmija, u kienu fondi mahruġa mill- David and Lucille Packard Foundation li kienet qiegħda tghaddi tali flejjes unikament sabiex jigi redatt ir-rapport intitolat 'A Gender Identity Law for Malta'.

Jirrizulta, għalhekk, a differenza ta' dak illi allega diversi drabi l-intimat, kemm fuq ittelevizjoni nazzjonali, kif ukoll fuq il-'Facebook posts' tiegħu, il-flejjes illi l-għaqda rikorrenti inghatat sabiex tiffinanzja il-progett tagħha ma kienux flejjes rizultanti mill-"qtil ta' trabi" kif minnu allegat u wisq anqas kienu flejjes illi kienu intizi għall-promozzjoni tal-abort f'Malta, kif ried jagħti x'jifhem l-intimat, kemm fil-kummenti tiegħu kif ukoll fix-xhieda minnu mogħtija varji drabi quddiem dina l-Qorti.

Il-Qorti tifhem illi s-suggett tal-abort u l-introduzzjoni-jew-le ta' l-abort gewwa Malta huwa suggett ta' interess pubbliku u suggett illi jista jwassal għall-posizzjonijiet kontrastanti u, possibbilment, qawwija da parte ta' min jemmen li ma għandhux jidhol jew inkella għandu jidhol l-abort gewwa Malta, madanakollu dana ma jfissirx illi wiehed jista jaqbad u jibni argumentazzjoni u jasal għall konklużjoni kontra agir ta' entita', f'dan il-kaz l-għaqda rikorrenti, fuq cirkostanzi remoti hafna u li certament mhux sostanzjalment korretti, bħal fil-kaz odjern.

Dana qiegħed jingħad għax l-intimat jibbaza l-argumentazzjoni tiegħu kollha fuq il-fatt illi l-għaqda Amerikana The Planned Parenthood Federation of America qiegħda tagħmel flus mis-servizz ta' abort u, la darba tali għaqda hija membru tal-federazzjoni International Planned Parenthood Federation, dak ifisser illi kwalsiasi flejjes illi l-għaqda rikorrenti irceviet mingħand l-International Planned Parenthood Federation kienu flejjes generati mill-qtil ta' trabi permezz ta' l-abort.

Jirrizulta car, mill-provi prodotti, illi tali asserzzjonijiet u konklużjonijiet da' parte ta' l-intimat, huma kemm skorretti kif ukoll zleali lejn il-hafna segwaci illi l-intimat għandu, stante illi huwa naqas milli jgħarraf lis-segwaci tiegħu illi l-għaqda Amerikana hija wahda mill-mija u wiehed u erbghin (141) għaqda li jiffurma l-International Planned Parenthood Federation u naqas milli jinforma wkoll illi l-istess International Planned Parenthood Federation għandha, bħala vizjoni, dik illi telimina d-diskriminazzjoni bejn is-sessi – dritt fundamentali illi huwa protett kemm mill-Kostituzzjoni Maltija, kif ukoll mill-Konvenzjoni Ewropeja (ECHR) u l-Konvenzjoni ta' Nazżjoni Uniti (UN).

Il-Qorti tagħlaq billi tosserva illi kullhadd għandu dritt għall-opinjoni tiegħu u għandu wkoll id-dritt illi jxandarha u jiddefendiha fil-pubbliku, imma hadd ma għandu d-dritt illi jgħawweg il-fatti bi hsara lill min huwa kontrib sabiex jinfluwenza lill min għandu fiducja fih u jagħti stampa ta' fatti illi ma huwiex minnhom, partikolarment persuna bħall-intimat illi huwa persuna fil-politika u li għandu obbligi lejn ic-cittadin li, mingħandu, bħal mingħand kull politiku, jippretendi lealta' lejn il-verita' u l-onesta, liema lealta, din id-darba, l-intimat naqas lejha meta dawwar fatti biex jostakura lill-għaqda rikorrenti.

Konsiderazzjonijiet ta' danni

Il-Qorti tosserva illi fil-kawza deciza mill-Qorti tal-Appell fl-ismijiet 'Dr Andrew Borg Cardona et vs Aaron Farrugia' deciza fit 18 ta' Dicembru 2018, il-Qorti kellha dan xi tghid dwar il-kalkolu tad-danni:

"il-Qorti hi tal-fehma li jkun iktar floku jekk f'kawza ta' libell l-ewwel qorti fissentenza taghti r-ragunijiet li jkunu wassluha biex tillikwida s-somma li tikkundanna lill-konvenut ihallas. Hemm diversi ragunijiet, bhal per ezempju:

- In-natura u s-serjeta tal-allegazzjoni li tkun saret fid-dikjarazzjoni malafamanti;
- Il-mezz tal-pubblikazzjoni;
- Kemm id-dikjarazzjoni malafamanti tkun inxterdet;
- Li l-awtur ikun ghamel apologija jew offra li jaghmel apologija;
- Provi dwar ir-reputazzjoni tal-attur;
- Fejn il-konvenut ikun invoka l-verita tal-fatti, jekk parti mill-fatti li jkun gew imxandra jkunu rrizultaw li huma veri; "

Din il-Qorti tikkondividi pjenament il-hsieb u l-konsiderazzjoni tal-Qorti tal-Appell, u filwaqt illi taghmilha taghha, taghmel ukoll referenza ghall-gurisprudenza ohra fejn jirrigwarda lkalkolu ta' danni.

Jirrizulta illi fil-kaz CLEESE V CLARK & Associated Newspapers deciz mill-England and Wales High Court (Queen's Bench Division) fis-sitta ta' Frar 2003, l-Imhalef Eady kellu dan xi jghid dwar l-kuncett ta' danni:

37. The purpose of libel damages is threefold:

- (1) to compensate for distress and hurt feelings;
- (2) to compensate for any actual injury to reputation which has been proved or which may reasonably be inferred;
- (3) to serve as an outward and visible sign of vindication.

38. It is necessary always to take into account the full circumstances of the case. Such factors have to be borne in mind as the gravity of the allegations, the scale of publication, the extent to which any readers believed the words to be true, any impact upon the claimant's feelings, reputation or career. There may be matters of aggravation or mitigation which also need to be put in the scales. It is, moreover, often the case that the claimant's own conduct will have a part to play in arriving at the appropriate figure. A fundamental point always to be remembered is that the purpose of such damages, and indeed compensation awarded under s.3(5), is compensatory and not punitive. It is also well sealed that financial compensation (unlike any penalty) is to be awarded without regard to the parties' means. It is thus inappropriate to award higher compensatory damages because a newspaper group is perceived as having immense wealth; correspondingly, it would be inappropriate to award a rich claimant a greater sum than one who is less well off simply because the damages in contemplation might seem to him or her merely a drop in the ocean.

Lokalment, jirrizulta illi fil-kawza deciza fis sitta ta' Frar 1950 mill-Prim Awla fl-ismijiet Onor. Paul Boffa noe et vs Paul Zammit (vol. XXXIV p. II. p. 480), intqal is-segwent:

"Il-mezzi li l-ligi tuza sabiex tirrepara u tirristabilixxi d-dritt vjolentement spostat fuq il- bazi tiegħu huma diversi... Infatti... min jonqos minn obbligazzjoni jigi

obbligat jadempilha fil-forma specifika jew jigi kundannat għar-riparazzjoni taddanni bħala surrogat reintegrattiv. Imma hemm certi fattijiet li huma rriperabbli bħal meta jkun hemm id-distinzjoni, il-għaliex hu logiku u naturali li dak li jigi distrutt ma jistax jerga' jirritorna taht l- ebda forma. (Il-bniedem maqtul, l-unur tal-persuna kalunjata jew malafamata huma eżempju ta' fattijiet irriperabbli)."

Fil-kaz 'Lawrence Cachia Zammit et vs Carmelo Chetcuti A&CE', deciz mill-Prim'Awla fit-8 ta' Novembru 1957, il-Qorti qalet is-segwenti:

"L-interess biex wieñed jagixxi jista' jkun pekunarju u anke morali, purche' guridiku, jigifieri korrispondenti għall-lezzjoni ta' veru dritt; u għalhekk ittra mibgħuta lil persuna, li tilledi l- onorabilita' ta' persuna oħra, tagħti lil dan ta' lañhar id- dritt li titlob il-protezzjoni tal-ligi biex tottjeni dikjarazzjoni mill-Qorti tal-falsita' tal-kontenut ta' dik l-ittra; u dan avvolja l-persuna offiża ma tkunx sofriet danni materjali."

Finalment, fil-kaz "Carmel Tonna et –vs- Felix Agius et", deciza fit- 23 ta' Marzu 1993 (Vol LXXVII p11 p87) il-Prim'Awla tal-Qorti Civili presjeduta mill-Onor. Imhallef Joseph Said Pullicino, kienet irriteriet li kellha tinzamm sens ta' proporzjon in materja tallikwidazzjoni tad-danni. Il-Qorti, di fatti, kienet qalet illi "l- azzjoni ta' libell, biex tkun verament effikaci u gusta, ghandha tigi adoperata b'gudizzju u cirkospezzjoni, tenut kont ta' l-ingurja, il-gravita` taghha, lejn min tkun diretta u lil min tkun mahsuba tilhaq u x'danni konsegwenzjali diretti jew indiretti tista' tiggenera".

Mehud dana kollu in konsiderazzjoni, il-Qorti taghmel is-segwenti osservazzjonijiet:

a. L-għaqda rikorrenti, hija certament "persuna" pubblika, stante illi fil-passat hadet posizzjonijiet dwar varji kwistjonijiet ta' interess pubbliku u certament ghandha titqies bhala entita pubbliku illi dwarha kullhadd jista jtkellem u jikkummenta u għalhekk ghandha tkun esposta għal kritika għal-agir u l-azzjonijiet taghha, possibbilment anke sal-livell estrem accettat għall-persuna politika;

b. La darba ir-rikorrenti hija meqjusa bhala persuna pubblika, il-Qorti tifhem illi l-ghan ewlieni taghha ta' azzjoni ta' libell huwa illi jirrettifika kwalsiasi informazzjoni skorretta illi tkun inharget kontra taghha u li, fil-pubbliku, tigi skagunata u mehlusa minn kwalsiasi akkuza illi tkun saret kontra taghha infondament;

c. Ir-rikorrenti, fil-kaz odjern, di fatti, ma kkwantifikat ebda danni finanzjarji illi setghet sofriet rizultat ta' dak imxandar.

d. L-intimat Ivan Grech Mintoff, da parte tieghu, huwa politiku u mexxej ta' partit politiku u, bhala tali, ghandu kemm id-dritt kif ukoll id-dover illi jtkellem u jikkummenta fil-pubbliku dwar kwistonijiet ta' interess pubbliku, stante illi c-cittadin jistenna minghandu direzzjoni u ideal dwar kwistjonijiet varji, fosthom dik tal-abort.

e. L-intimat, madanakollu, għazel illi jaghmel asserzjonijiet fil-konfront ta' l-għaqda rikorrenti filwaqt illi naqas milli jaghti d-dettalji kollha illi huwa kien a korrent taghhom, u l-intimat kien konxjement ekonomiku fil-fatti minnu spjegati lis-segwaci tieghu u ta' stampa illi kienet ibbazata fuq fatti fuq sostanzjalment skorretti, liema fatti huwa kien ben a konoxxenza taghhom izda naqas milli jsemmi.

f. L-Qorti ma tistax ma tosservax illi tali nuqqas jew omissjoni certament turi illi lintimat ried jostura lill-għaqda rikorrenti, partikolarment fil-kwistjoni illi tirrigwarda l-abort u dana ma jistax ma jigix punit.

g. Finalment, il-Qorti tosserva illi l-allegazzjonijiet illi saru kontra r-rikorrent kienu serji, stante illi gie allegat illi hija otteniet finanzjament minn fondi generati mill-qtil ta' trabi, liema allegazzjoni huma ta' natura kriminali u serji stante illi jinvolvi akkuzi ta' qtil u certament timpingi fuq il-kredibilita' tal-għaqda f'għajn is-segwaci ta' l-intimat u l-qarrejja in generali.

Tenut kont ta' dawna l-fatti kollha, il-Qorti tqis illi jkun opportun li d-danni jigu kkwantifikati fl-ammont ta' tlett elef Euro (€3,000).

### Konkluzjoni

Il-Qorti,

Wara illi rat il-provi kollha prodotta quddiemha,

Wara illi semghet rat it-trattazzjoni ta' l-abbli difensuri tal-partijiet,

Wara illi ghamlet il-konsiderazzjonijiet kollha tagħha kif fuq spjegat,

Tghaddi biex taqta u tiddeciedi l-kaz billi

Tichad l-eccezzjonijiet kollha ta' l-intimat Ivan Grech Mintoff,

Tilqa t-talba tar-rikorrenti kif dedotti u

Tiddikjara illi l-allegazzjonijiet illi saru mill-intimat fid-9 ta' Ottubru 2015, fid-19 ta' Ottubru 2015 u fl-24 ta' Ottubru 2015 kif ahjar deskritti fir-rikors promotur kienu libelluzi u malafamanti filkonfront tar-rikorrenti u għalhekk,

Tikkundanna lill-intimat Ivan Grech Mintoff iħallas lill-għaqda rikorrenti Malta Gay Rights Movement is-somma ta' tlett elef Euro (€3,000) in linea ta' danni sofferti minnha.

Spejjez tal-proceduri odjerni għandhom ikunu a kariku ta' l-intimat

### Ikkunsidrat

L-aggravji tal-appellant huwa s-segwent:

1. L-ewwel Qorti ghamlet apprezzament zbaljat tal-fatti. Fil-qosor dawn il-fatti kienu li l-appellata ircieviet finanzjament minghand organizazzjoni li tippromuovi l-abort irrispettivament mill-iskop li għalih għadda l-finanzjament lil appellat. In oltre għalkemm wahda mill-appellati cioe Gabi Calleja xehdet li rcevev finanzjament minghand David and Lucille Packard Foundation, l-artikolu tal-moviment fil-gazzetta Independent tat-18 ta' Ottubru 2015 intqal li l-finanzjament gie ricevut minn Planned Parenthood, assocjata mal-International Planned Parenthood Federation li hi maghrufa għal pozizzjoni tagħha favur l-abort;

2. Il-Qorti tal-Magistrati qatt ma kellha tikkundanna lil konvenut is-somma ta' €3,000.

### L-ewwel aggravju

Dak li l-appellant qed jistieden lil Qorti taghmel hu li terga' taghmel apprezzament mill-gdid tal-fatti migjuba quddiem l-ewwel Qorti. Hu pacifiku fil-gurisprudenza illi Qorti tal-Appell ma tissandakax l-apprezzament u l-interpretazzjoni tal-fatti ghal ligi idoneja tal-kaz hliet f'kazijiet eccezzjonali fejn l-ewwel Qorti tkun zbaljat il-fatti li fuqhom ibbazat is-sentenza jew il-motivazzjoni principali li waslitha ghas-sentenza. Din il-Qorti fliet l-atti tal-kawza u ma tistax tghid li hemm raguni ghaliex ghandha tqis li l-ewwel Qorti fehmet hazin il-fatti migjuba jew ma haditx kont ta' xi fatti li setghu kienu sostanzjalment rilevanti ghal vertenza u li kienu jwasslu ghal decizjoni mod iehor milli dik moghtija.

Il-Qorti ma irriskontrat ebda nuqqas fl-apprezzament tax-xiehda u provi prodotti mill-appellat. Id-dokument a fol. 69 et seq. tal-process hi l-prova matrici f'din il-kawza fejn jirrizulta ampjament car li l-finanzjament li rceviet l-appellata kienet gejja mill-International Planned Parenthood Federation tramite donazzjoni moghtija minn David and Lucille Packard Foundation. Jintqal x'jintqal f'dokumenti ohra jew xiehda ma jbiddel xejn minn dak li jirrizulta mid-dokument esebit. Dawn il-flus intuzaw ghal skop ta' zviluppar ta' position paper u draft ta' ligi tal-identita tal-generu ghal Malta. Ma hemm ebda konnessjoni u ma ngiebet ebda prova mill-appellant li dawn il-flus originaw minn wiehed mill-assocjati fost mijiet ohra tal-International Planned Parenthood Federation, cioe Planned Parenthood Federation of America li jidhru anke skont ma ikkostatat l-ewwel Qorti li hi federazzjoni favur l-abort u tghin f'tali servizzi u illi fl-2017 il-Gvern Amerikan waqaf jissusidja tali federazzjoni. Pero kif irrizulta lil ewwel Qorti, ma hemm ebda accenn jew suspett li xi fondi ta' din il-Federazzjoni intuzaw jew intbaghtu lil appellat ghall-iskop fuq imsemmi. Dan hu l-pern tal-kwistjoni kollha u l-appellant ghamel uzu hazin ta' informazzjoni skorretta bi skop li jhammeg lil appellat.

Ghalhekk dan l-aggravju hu manifestament bla bazi.

### **It-tieni aggravju**

Dan l-aggravju jirrigwarda l-quantum tad-danni li l-appellant iqis hu eccessiv pero ma jaghtix ragunijiet validi ghaliex ghandu jitqies hekk. Invece l-ewwel Qorti qieset il-pozizzjoni tal-appellant li hu persuna fil-politika u ghalhekk ghandu l-forza tal-perswazzjoni tas-segwaci jew semmiegha u

konsegwentement l-obbligu li min qed jircievi l-informazzjoni jinghata l-verita b'onesta u lealta. L-ewwel Qorti qieset li l-appellant naqas bis-shih minn dan l-obbligu u a bazi tal-gurisprudenza kwotata waslet ghal likwidazzjoni ta' danni li huma ragjonevoli meta tqis il-massimu permess mill-ligi. Din il-Qorti ma tqis li ghandha tintrometti ruhha fuq id-diskrezzjoni afdana lill-ewwel Qorti meta l-konsiderazzjonijiet li wasluha ghal tali likwidazzjoni huma validi, ragjonevoli u proporzjonati ghas-serjeta tal-kontravvenzjoni.

Ghalhekk dan l-aggravju qed jigi michud ukoll.

### **Decide**

Ghal ghal dawn ir-ragunijiet l-Qorti taqta u tiddeciedi billi tichad l-appell ta' Ivan Grech Mintoff, u tikkonferma s-sentenza tal-Qorti tal-Magistrati tat-28 ta' Frar 2019, bl-ispejjez taz-zewg istanzi kontra l-appellant.

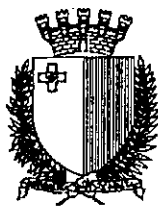
Mark Chetcuti

Prim Imhalef

Anne Xuereb

Deputat Registratur





# FIL-QORTI TAL-MAGISTRATI TA' MALTA

## MAGISTRAT DR FRANCESCO DEPASQUALE

Seduta ta' nhar il-Hamis tmienja u ghoxrin (28) ta' Frar 2019

**Rikors Numru 387/15 FDP**

**Malta Gay Rights Movement  
(VO/0039)**

vs

**Ivan Grech Mintoff  
(ID 276966M)**

Il-Qorti:-

### 1. Premessi

1. Rat ir-rikors promotur ippresentat fit-22 ta' Dicembru 2015 fejn ir-rikorrent Malta Gay Rights Movement, talbet is-segwenti:
  1. *Illi l-Malta Gay Rights Movement (MGRM) hija ghaqda registrata mal-Ufficju tal-Kummissarju ta' l-Ghaqdiet Voluntarji, bin-numru VO/0039 li ghandha bhala l-iskop il-promozzjoni ta' l-ugwaljanza ta individwi LGBTIQ fis-soċjeta Maltija.*
  2. *Illi fid-disgha (9) ta' Ottubru 2015 l-intimat ghamel diversi allegazzjonijiet waqt programm televiziv fejn allega li l-MGRM hija konnessa mal-ghaqda Amerikana iggib l-isem 'Planned Parenthood';*
  3. *Illi l-istess programm gie mtella fuq is-siti socjali 'Youtube' u 'facebook u fejn dawn l-allegazzjonijiet tkomplew jixxandru;*
  4. *Illi fid-dsatax (19) ta' Ottubru 2015 l-istess intimat tella ukoll video mehud mill-istess programm, liema video kien jismu 'MGRM - Planned Parenthood Link'. L-istess video gie mxandar fuq is-siti socjali 'facebook' u 'Youtube';*

5. Illi l-MGRM m'ghandhiex rabtiet ma l-ghaqda Amerikana 'Planned Parenthood.
6. Numru ta' snin ilu, precizament fis-sena 2010, l-MGRM akkwistat fondi minn 'International Planned Parenthood Federation' (IPPF), li hija organizazzjoni separata u distinta mill-ghaqda Amerikana 'Planned Parenthood', sabiex tistabilixxi proposti lill-Gvern dwar l-introduzzjoni ta' 'Gender Identity Act' f'Malta, li llum saret ligi:
7. Illi minkejja dawn il-fatti Ivan Grech Mintoff ghamel allegazzjonijiet libellużi, li fost oħrain (u dan kif ser jigi pprovat waqt l-istadju tal-prov), kienu jikkonsistu mis-segwenti:
  - i. Fid-dsatax (19) ta' Ottubru 2015, fuq is-sit soċjali facebook gie ddikjarat: "In brief she [representative of MGRM] ADMITS to taking money from MURDERED CHILDREN to fund her own personal agenda". Dan johrog min dokument li ged jigi anness u immarkat bhala "Dok A";
  - ii. Fid-disgħa (9) ta' Ottubru 2015 l-intimat iddikjara waqt programm televiżiv, b'riferenza għall għaqda rikorrenti: ".. jiehdu flus mingħand nies li jogtlu tfal".
  - iii. Fl-erbgha u ghoxrin (24) ta' Ottubru 2015, bi sforz sabiex jimplika li l-MGRM hija konnessa ma 'Planned Parenthood', tella artiklu fuq is-sit soċjali facebook u ddikjara: "We are being proven right all along re MGRM & International Planned Parenthood and its associates! Gabi & MGRM feel very very ASHAMED!". Dan johrog min dokument li qed jigi anness u immarkat bhala 'Dok B'
8. Illi dawn id-dikjarazzjonijiet huma foloz għall-aħhar u dan għaliex l-MGRM m'ghandha l-ebda konnessjoni ma' l-ghaqda 'Planned Parenthood' jew max-xogħol li tagħmel din l-ghaqda. L-MGRM m'ghandhiex pożizzjoni fuq ix-xogħol li jsir mill-ghaqda Planned Parenthood.
9. Illi l-MGRM tqis tali kummenti bhala libellużi fil-konfront tagħha peress illi jikkontjenu allegazzjonijiet foloz u malafamanti fil-konfront tal-ghaqda rikorrenti u għandhom bhala skop dak li jtellfu jew inaqqsu r-reputazzjoni tagħha;
10. Illi tali kummenti huma libellużi ai termini tal-Kap 248 tal-Ligijiet ta' Malta u konsegwentament jagħtu skop għal hlas ta' danni a tenur tal-Artikolu 28 tal-istess Kap 248 tal-Ligijiet ta' Malta;

Għaldaqstant, in vista tas-suespost l-ghaqda rikorrenti, Malta Gay Rights Movement, titlob lil dina l-Onorabbli Qorti sabiex:

- (i) Tiddikjara li l-kummenti imxandra fuq it-televiżjoni u s-sit soċjali 'facebook ta' l-intimat libellużi fil-konfront ta' l-MGRM peress illi jikkontjenu alegazzjonijiet foloz u malafamanti fil-konfront tal-ghaqda rikorrenti u għandhom bhala skop dak li jtellfu jew jnaqqsu r-reputazzjoni tagħha;

(ii) *Tillikwida d-danni a tenur ta' l-Artikolu 28 tal-Kap 248;*

(iii) *Tikkundana l-hlas tad-danni hekk likwidati;*

2. Rat ir-risposta tal-konvenut Ivan Grech Mintoff ipprezentat fid-19 ta' Jannar 2016, fejn laqa' ghal dak mitlub billi qajjem is-segwenti linji difenzjonali:

1. *ILLI preliminarjament, bir-rispett kollu, ir-rikors promotur li permezz tieghu gew instigati dawn il-proceduri huwa monk stante li mhux konformi mal-formalita' legali kontemplata fil-Kodici ta' Organizzazzjoni u Proceduri Civili (Kap.12) specifikament Formula 31 ta' Skeda B, (kif sostwita bl-Avviz Legali 407 tas-sena 2007) u dunque null;*
2. *ILLI minghajr pregudizzju ghas-suespost, dak li ssemma mill-intimat waqt program televizjoni tad-disgha (9) ta' Ottubru 2015 jammonta ghal 'fair comment' dwar fatti sostanzjalment korretti liema value judgments huma protetti kemm mill-Kostituzzjoni ta' Malta u kemm mill-Konvenzjoni Ewropeja;*

## 2. Provi

1. Semghet ix-xhieda ta' **Gaby Calleja**, Ko-Ordinatrici tal-Moviment rikorrenti, moghtija fl-4 ta' April 2016 u rat id-dokumentazzjoni minnha esebiti fid-19 ta' Mejju 2016.
2. Semghet ix-xhieda ta' **Colette Farrugia Benett**, prodotta mir-rikorrenti u moghtija fid-19 ta' Mejju 2016
3. Semghet ix-xhieda ta' **Dr Neil Falzon**, prodott mir-rikorrenti u moghtija fl-10 ta' Novembru 2016.
4. Semghet ix-xhieda ta' **Sylvan Agius**, prodott mir-rikorrenti u moghtija fis-27 ta' Marzu 2017.
5. Rat il-film tal-programm imtella' mill-intimat u li dwaru saret referenza , liema filmat gie esebiti fis-27 ta' Marzu 2017.
6. Rat illi fis-27 ta' Marzu 2017 ir-rikorrenti ddikjarat illi ma kellhiex aktar provi x'tipresenta.
7. Semghet ix-xhieda ta' **Paul Vincenti**, Administratur tal-Gift of Life Foundation, moghtija fit-18 ta' Mejju 2017 u rat id-dokumentazzjoni minnu ppresentata.
8. Rat illi fis-6 ta' Novembru 2017 il-partijiet qablu illi l-provi migbura fil-kawza 386/15 fl-ismijiet **Malta Gay Rights Movement vs Gift of Life** kellhom japplikaw ghal kaz odjern ukoll
9. Semghet ix-xhieda ta' l-intimat **Ivan Grech Mintoff** moghtija fis-6 ta' Novembru 2017 u rat id-dokumentazzjoni minnu ppresentata.
10. Semghet ix-xhieda ulterjuri ta' Ivan Grech Mintoff moghtija fl-14 ta' Dicembru 2017 u rat id-dokumentazzjoni minnu ppresentata.
11. Semghet ix-xhieda in kontro ezami ta' Paul Vincenti moghtija fl-10 ta' Mejju 2018.

12. Semghet ix-xhieda in kontro ezami ta' Ivan Grech Mintoff moghtija fl-10 ta' Mejju 2018.
13. Semghet ix-xhieda in kontro ezami ta' Ivan Grech Mintoff moghtija fit-18 ta' Gunju 2018.
14. Rat illi fit-18 ta' Gunju 2018 il-partijet qabblu illi ma kellhomx aktar provi x'jippresentaw u ghalhekk il-kawza setghet tithalla ghas-sottomissjonijet finali bil-miktub.
15. Rat is-sottomissjonijet rikorrenti ippresentati fil-25 ta' Ottubru 2018.
16. Rat is-sottomissjonijiet ta' l-intimat ippresentati fl-10 ta' Jannar 2019.
17. Rat illi fl-10 ta' Jannar 2019 il-kawza thalliet ghall-presentata tas-sottomissjonijet finali ta' Gift of Life fil-proceduri illi mexjin kontestwalment mal-kawza odjerna, liema sottomissjonijiet gew ippresentati fl-14 ta' Frar 2019.
18. Rat illi fl-14 ta' Frar 2019 il-kawza giet differita ghas-sentenza ghal-lum.

### 3. Konstatazzjonijiet fattwali

1. Jirrizulta illi, fit-18 ta' Ottubru 2015, giet ippubblikata ittra fuq **The Malta Independent on Sunday** intitolata '*Lies and assumptions about MGRM and Planned Parenthood*', illi fih intqal is-segwenti: (fol 132)

*In July this year, MGRM donated a number of books to the Ministry for Education as part of its mission to ensure that Maltese schools are equipped with resources that portray LGBTIQ realities and challenge gender stereotypes. This is part of an effort to foster school environments that are safe, welcoming and inclusive of all students irrespective of their sexual orientation, family of origin, gender identity, gender expression or sex characteristics. Our aims are perfectly aligned with the Ministry for Education's Respect for All Framework, and as social workers, educators, counsellors and parents in our own right, we are also well qualified in assessing the quality of the resources provided and their potential to foster positive attitudes in children.*

*It is not MGRM's role to defend the MEDE's policy and curriculum with regard to sexuality and relationships education although it is our understanding that considerable effort is made by schools and the Department of PSCD to ensure that parents are in fact involved in sexuality and relationships education initiatives, as is made clear in official policy documents.*

*What concerns us is the fact that The Malta Independent on Sunday chose to publish Ivan Grech Mintoff's ludicrous assertions without seeking to verify any of the allegations made.*

*MGRM always refuses to participate in TV programmes which it knows beforehand will not present a truthful and unbiased version of events and do not allow for a level playing field.*

*A great deal is being made of the fact that in 2009 MGRM benefited from funding from IPPF for the development of the Proposed Gender Identity Act for Malta. This was presented as a revelation despite acknowledgement of the funding never being in question, as evidenced by references in the publication itself.*

*IPPF is one of the foremost NGOs active in the field of sexual and reproductive health and rights. The organisation is considered an expert in this field, helping to save hundreds and thousands of lives each year. IPPF covers a wide range of public health concerns including safer sex, access to contraception, HIV/AIDS services, STI prevention, sexual violence and rape and child marriage to name a few. Also included is access to safe abortions. The IPPF is a worldwide organisation with regional offices and associate member organisations who, through staff and volunteers, provides advocacy measures and services mostly in developing countries supporting and assisting the most vulnerable communities around the world.*

*One of IPPF's associate members is the American Planned Parenthood. Planned Parenthood provides sexual and reproductive health services across the US. They are a recognised healthcare provider in many states and one of the few where access to healthcare is not dependent on whether the patient has medical insurance. Contrary to popular belief, only three per cent of the services provided by Planned Parenthood relate to abortion.*

*In July, an eight-minute video was circulated on YouTube by the right wing activist group Centre for Medical Progress featuring Dr Deborah Nucatola, one of Planned Parenthood's regional directors. The group accused Planned Parenthood of selling foetal tissue for profit. It later emerged that the video, involving two actors commissioned by Centre for Medical Progress, was highly edited. From the three-hour transcript of the entire interview and full-length video, it was found that the claims being made by the right-wing group were false and Planned Parenthood has, to this date, not been found guilty of any wrongdoing despite being subjected to intense scrutiny by the US Congress.*

*For those who would argue that MGRM should not accept funding from an entity that provides abortion services, it would be useful to keep in mind that such a policy would exclude the take-up of any EU funding since most EU countries provide access to abortion as part of their public health services, a position which no political party, civil society organisation or NGO has so far espoused.*

*It is hugely disappointing that the newspaper should simply reproduce what is a blatant attempt to discredit MGRM based solely on lies and assumptions without any attempt to verify the veracity of the claims being made by Mr Grech Mintoff and his ilk - something even a quick search on the internet would have easily revealed.*

2. Jirrizulta illi l-ghada illi deher dana l-artikolu, fid-19 ta' Ottubru 2015, l-intimat Ivan Grech Mintoff tella 'post' fuq il-pagna tieghu ta' Facebook fejn qal is-segwenti:

*Gabbi Calleja's (hiding behind MGRM) reply is beyond contempt and comprehension.*

*In brief she:*

*1) ADMITS to taking money from MURDERED CHILDREN to fund her own personal agenda.*

*2) She justifies it by saying that IPPF perform 'safe' abortions. Safe for whom exactly? "Oh sorry son you don't get a life because IPPF gave you a save abortion. Here you go Gabi your hands are clean". Is that how it all pans out in you head Gabi? And you want us to believe that your thinking is correct?*

3) Moreover, she claims the videos are fake, how shocking of us to use them. Wrong again.

<http://dailysignal.com/2015/09...>

<http://www.wnd.com/2015/09/no-...>

(just google "planned parenthood videos real and you will see that gabi is quite "liberal" with the truth.:

4) Finally To say that they have not been found guilty, "so its ok" is also verging on total incredibility. Firstly with the same argument, they have not been found innocent either. Secondly you are not dragged in to testify at a Congressional hearing for the House Committee for spitting on the pavement.

You don't have tens of millions of euros SUSPENDED by the EU for nothing but because "

Planned Parenthood selling aborted baby parts"

"“Europe is horrified by the scandalous harvesting and selling of human body parts allegedly for profit by Planned Parenthood in the USA,” said Miroslav Mikolasik of Slovakia, chairman of a parliamentary working group."

And yet ... Gabi JUSTIFIES it all instead of at the very least apologising for such action. What will be her position when they ARE found guilty. Will she then admit fault and withdraw her harmful indoctrination.

It SERIOUSLY worries me when someone so callous and reasons like this expects us to totally hand over our children's education in order to fill their heads with harmful gender indoctrination.

Who is more at fault her? Gabi or the government who is pushing her agenda?

Alleanza Bidla's stand that your agenda harms our children and how you funded it all is simply disgusting stands. Now more than ever!

3. Jirrizulta illi, precedentement, fuq programm televisiv li fih deher l-intimat fid-9 ta' Ottubru 2015, r-rikorrenti tikkontendi illi l-intimat allega illi "b'riferenza għall għaqda rikorrenti: ' ... jiehdu flus minghand nies li joqtlu tfal' – ir-rikorrenti ippresentat recording ta' dana il-programm izda qatt ma ppresentat traskrizzjoni tal-programm u wisq anqas indikazzjoni ta' fejn qal tali kliem u xi kliem qal.

4. Jirrizulta illi, sussegwentement fl-24 ta' Ottubru 2015, l-intimat, fuq is-sit tal-Facebook tiegħu, tella artikolu illi deher fuq is-sit elettroniku LIVEACTIONNEWS.ORG intitolat 'BREAKING: U.S. House passes bill to defund Planned Parenthood' u għamel is-segwenenti kumment:

*"We are being proven right all along re MGRM & International Planned Parenthood and its associates! Gabi & MGRM feel very very ASHAMED!"*

5. Jirrizulta illi, fit 22 ta' Dicembru 2015, ir-rikorrenti nedew il-proceduri odjerni.

#### 4. Konstatazzjonijiet legali

1. Jirrizulta illi l-intimat, fid-difiza tiegħu, qajjem zewgt difizi, wahda preliminari u wahda fil-meritu.

2. Jirrizulta illi, preliminarjament, sahaq illi r-rikors kien null ghax mhux konformi mal-formalitajiet legali stabbiliti fil-Kap 12, specifikatament Formula 31 ta' Skeda B;
3. Jirrizulta illi, sussegwentement, fil-meritu, l-intimat sahaq illi dak li qal kien jammonta ghal *fair comment* dwar fatti sostanzjalment korretti.

#### **A - Eccezzjoni Preliminari**

4. Jirrizulta illi, dwar l-eccezzjoni relatata mal-formalita' tal-mod ki gie redatt l-Avviz, l-Artikolu 171 (1) tal-Kap 12 jipprovdi illi:

*Fil-Qorti tal-Maġistrati (Malta) u fil-Qorti tal-Maġistrati (Għawdex) fil-kompetenza tagħha inferjuri, jitmexxa bil-mod ta' rikors li jkun skont l-għamla preskritta u jsir fl-għamla ta' avviz sempliċi ffirmit mir-Registratur, li jkun fih l-isem u l-kunjom tal-attur u tal-konvenut, it-talba tal-attur, u l-jum u l-ħin meta l-konvenut għandu jidher, minbarra partikolaritajiet oħra li jistgħu minn żmien għal żmien jiġu preskritti.*

5. Jirrizulta illi l-Artikolu 174 (1) tal-Kap 12, dwar x' għandu jkun fihom l-iskritturi, jipprovdi dan li gej:

*174. (1) Kull skrittura għandu jkun fiha -*

*(a) l-isem tal-Qorti u tas-sezzjoni tagħha li fiha tiġi pprezentata l-iskrittura, u, fil-każ tal-Qorti tal-Maġistrati (Għawdex), l-indikazzjoni tal-kompetenza tal-qorti;*

*(b) l-isem u l-kunjom tal-parti li tidher u tal-parti li kontra tagħha l-iskrittura ssir, u, meta hu l-każ, l-isem li fih jidhru l-partijiet:*

*Izda f'kull każ imsemmi fis-subartikolu (1) tal-artikolu 181 ikunu biżżejjed li tissemma' l-kariga tal-parti li tippreżenta jew li kontra tagħha tiġi pprezentata l-iskrittura, skont il-każ;*

*(c) l-isem tal-iskrittura; u*

*(d) jekk l-iskrittura tkun tirreferixxi għal kawża ga mressqa f'wahda mill-qrati superjuri, in-numru tar-rikors gurantat li għalihom tkun tirreferixxi.*

6. Jirrizulta, finalment, illi l-Artikolu 1007 (2) tal-Kap 12 jipprovdi illi:

*(2) Fil-qrati inferjuri, għandhom jitharsu, sakemm jistgħu jgħoddu għalihom, il-formuli tal-qrati superjuri, billi jsir fihom daww il-korrezzjonijiet jew tibdil li jagħmilhom jaqblu għall-qrati inferjuri.*

#### **B - Eccezzjoni fil-meritu – “fair comment”**

7. Jirrizulta illi dwar l-eccezzjoni, fil-meritu, illi l-kummenti tiegħu kienu '*fair comment*' u '*value judgment*' protetti mill-legislazzjoni kemm lokali kif ukoll estera, ikun iportun illi jtiqiesu xi principji generali stabbilit mill-Qrati lokali u esteri dwar tali kuncett.

8. Dwar 'fair comment', **Gatley on Libel and Slander** jghid:

*To succeed in a defence of fair comment the defendant must show that the words are comment, and not a statement of fact. He must also show that there is a basis of fact for the comment, contained or referred to in the matter complained of. Finally, he must show that the comment is on a matter of public interest, one which has expressly or implicitly put before the public for judgment or is otherwise a matter with which the public has a legitimate concern. If, however, the plaintiff can show that the comment was not made honestly or was actuated by malice, he will defeat the plea.*

9. Fil-kawza **Dr Louis Galea vs Etienne St John u Felix Agius** deciza fit 30 ta' April 2015, intqal is-segwenti :

*... dwar l-aspett tad-difiza tal-kumment gust ilu zmien jingħad mill-Qrati tagħna li, biex id-difiza tal-kumment gust tkun tghodd, jeħtieġ li min jistrieħ fuqha jseħħlu juri li (a) l-kumment kien imsejjes fuq fatt li jkun issemma fil-pubblikazzjoni li minnha jitressaq l-ilment; (b) il-fatt imsemmi jrid ikun sostanzjalment minnu; (c) il-kumment irid jintwera li jkun gustifikabbli jew misthoqq; (d) il-kumment irid ikun tali li jikkwalifika bħala kritika u mhux zebliħ, tghajjir jew insolenza; u (e) irid jagħti l-fehma onesta tal-kummentatur u li l-pubblikazzjoni ta' dik il-fehma ma saritx b'ħażen jew bil-ħsieb preċiż li jwegġa' lil dak li jkun.*

10. Tali tagħlim huwa anke rifless f'gurisprudenza estera u, di fatti, fil-kawza **Spiller vs Joseph** deciza mill-Qorti tal-Appell Ingliza fl-1 ta' Dicembru 2010, Lord Phillips ghamel is-segwenti konsiderazzjonijiet meta wiehed iqis id-difiza ta' 'fair comment':

*A subsidiary but important issue was what it was that a defendant had to prove in order to establish the defence of fair comment. Counsel for the plaintiff submitted that the defendant had to establish that: (i) the words complained of were comment; (ii) the comment was on facts; (iii) the facts commented on constituted a matter of public interest; (iv) the comment was objectively "fair"; that is the comment was one that was capable of being honestly founded on the facts to which it related, albeit by someone who was prejudiced and obstinate; (v) the comment represented the defendant's honest opinion. If he discharged all these burdens, the defence could none the less be defeated by proof of malice on the part of the defendant, but the onus of proving malice lay on the plaintiff. Both the Court of Appeal and the House of Lords held that there was no burden on the defendant to establish the fifth element. The defendant's honesty was assumed unless the plaintiff could disprove it by establishing malice.*

11. Finalment, il-Qorti tagħmel referenza għas-sentenza ricenti tal-Qorti tal-Appell (Sede Inferjuri) deciza fil 21 ta' Frar 2017 fl-ismijiet "**Adrian Mizzi vs Ryan Paul Galea**" fejn ghamlet is-segwenti rendikont ta' tagħlim dwar d-difiza tal-"fair comment":

*Fil-meritu d-difiza tal-konvenut kienet li, "Il-kummenti tal-esponenti jammontaw għall-fair comment bażati fuq fatti sostanzjalment korretti". Hemm distinzjoni bejn fatti u fair comment, li m'hijiex dejjem faċli li tistabilixxi. F'opinjoni li nkitbet mill-Avukat Ġenerali Poiares Maduro fil-Qorti tal-Ġustizzja Ewropea fil-każ **Marra vs De Gregorio et**, 26 ta' Ġunju 2008, kiteb:*

*"Second, a distinction must be drawn between factual allegations against*



*particular individuals and opinions or value judgments. As the European Court of Human Rights has held 'while the existence of facts can be demonstrated, the truth of value judgments is not susceptible of proof. The requirement to prove the truth of a value judgment is impossible to fulfil and infringes freedom of opinion itself, which is a fundamental part of the right secured by Article 10'. When a Member of Parliament makes a value judgment about a matter of general importance, no matter how upsetting or offensive some people may find it, he should, in principle, be able to avail himself of absolute privilege".*

*Il-Qorti Ewropea ta' Strasburg fil-każ Sofranschi vs Moldova (34690/05) tal-21 ta' Diċembru 2010, qalet:*

*"32. A further aspect of the complaint which is relevant for the Court's determination in the present case is the distinction between statements of fact and value judgments. The applicant's letter contained both factual allegations of irregular conduct on the part of V.P. and value judgments about his unethical behaviour. It has been the Court's consistent view that, while the existence of facts can be demonstrated, the truth of value judgments is not susceptible of proof. The requirement to prove the truth of a value judgment is impossible to fulfil and infringes freedom of opinion itself, which is a fundamental part of the rights secured by Article 10 (see Savitchi v. Moldova, no. 11039/02, § 49, 11 October 2005)".*

*Dwar fatt u kumment, Lord Phillips fis-sentenza Joseph vs Spiller (2010) (Qorti Suprema tal-Inglaterra) qal:*

*"17. Second, the comment must be recognisable as comment, as distinct from an imputation of fact. If the imputation is one of fact, a ground of defence must be sought elsewhere, for example, justification or privilege. Much learning has grown up around the distinction between fact and comment. For present purposes it is sufficient to note that a statement may be one or the other, depending on the context. Ferguson J gave a simple example in the New South Wales case of Myerson v. Smith's Weekly Publishing Co Ltd (1923) 24 SR (NSW) 20, 26: 'To say that a man's conduct was dishonourable is not comment, it is a statement of fact. To say that he did certain specific things and that his conduct was dishonourable is a statement of fact coupled with a comment".*

12. Dwar id-difiza ta' "value judgments", imqajjma wkoll mill-intimat, ssir referenza ghad-decizjoni fil-kawza **Erla Hlynisdottir vs Iceland** deciza mill Qorti Ewropeja ghad-Drittijiet tal-Bniedem fil 21 ta' Ottubru 2014, fejn intqal is-segwent:

*A fundamental distinction should be made between statements that are to be categorized as factual assertions and value judgments. In its contextual examination of the disputed statement as a whole, the Court must carry out its own evaluation of the impugned statement. Furthermore, the Court has acknowledged that the distinction between value-judgments and statements of fact may be blurred, and that the issue may need to be resolved by examining the degree of factual proof.*

13. Dana l-argument huwa rifless anke fid-decizjoni illi l-istess Qorti kienet tat fil-kawza **Sizma vs Hungary** deciza f'Ottubru 2012 fejn intqal is-segwent:

*"The Court would add that in order to assess the justification of the statements in question, a distinction needs to be made between statements of fact and value judgments, in that, while the existence of facts can be demonstrated, the truth of value judgements is not susceptible of proof. The requirement to prove the truth of a value judgment is generally impossible to fulfil and infringes freedom of opinion itself, which is a fundamental part of the right secured by Article 10. The classification of a statement as a fact or a value judgment is a matter which, in the first place, falls within the margin of appreciation of the national authorities, in particular the domestic courts. However, even where a statement amounts to a value judgment, there must exist a sufficient factual basis to support it, failing which it may be."*

## 5. Konstatazzjonijiet ta' fatti

1. Jirrizulta, mill-provi prodotti, illi l-muviment rikorrenti Malta Gay Rights Movement, fit-18 ta' Ottubru 2015, kienet kitbet ittra fuq il-gurnal lokali ta' kull nhar ta' Hadd, **The Malta Independent on Sunday**, fejn, filwaqt illi ghamlet referenza ghal kummenti illi l-intimat kien precedentement ghamel fuq l-istess gazzetta – illi kopja taghhom qatt ma inghaddew lill dina l-Qorti – ghadiet biex tispjega l-posizzjoni ta' l-istess ghaqda ghal dak illi jirrigwarda finanzjament illi l-istess ghaqda kienet irceviet minghand l-International Planned Parenthood Federation ghall progett tal-izvilupp ta' '*Proposed Gender Identity Act for Malta*', liema finanzjament l-intimat kien qieghed jikkontesta u kien qieghed jallega illi inghata minn assocjazzjoni illi taghmel il-qliegħ tagħha mis-servizz tal-abort, liema allegazzjonijiet l-istess intimat kien già ghamel precedentement fuq it-television fil-konfront ta' l-istess ghaqda.
2. Jirrizulta illi, wara tali ittra, l-intimat ghazel illi jirrispondi għall tali ittra billi jagħmel '*post*' fuq il-pagna tiegħu fuq is-sit soċjali '**Facebook**', fejn, fost affarjiet ohra jghid "*Gabbi Calleja's (hiding behind MGRM) reply is beyond contempt and comprehension. In brief she: 1) ADMITS to taking money from MURDERED CHILDREN to fund her own personal agenda*"
3. Jirrizulta illi l-kwistjoni kollha tirrigwarda fondi illi allegatament il-muviment rikorrenti kien ircieva minghand l-ghada International Planned Parenthood Federation, sabiex jirredigu ligi għall-Malta dwar l-Identita' tal-Generu, liema fondi, l-intimat jikkontendi kienu fondi illi gew ottenuti mill-promozzjoni u servizz ta' abort.
4. Jirrizulta illi, skond is-sit ufficjali tal-**International Planned Parenthood Federation**, tal-Federazzjoni għandha s-segwenti għanjiet:

### **Vision**

*All people are free to make choices about their sexuality and well-being, in a world free of discrimination.*

### **Mission**

*Building on a proud history of 65 years of achievement, we commit to lead a locally owned, globally connected civil society movement that provides and enables services and champions sexual and reproductive health and rights for all, especially the under-served.*

### *Core values*

*Our core values guide the way we undertake our work. We believe:*

- *in social inclusion with a demonstrated commitment to enable the rights of the most under-served to be realised*
- *in diversity, respecting all regardless of their age, gender, status, identity, sexual orientation or expression*
- *our passion and determination inspire others to have the courage to challenge and seek social justice for all*
- *in the significant contribution our volunteerism delivers across a range of roles and as activists inspiring the Federation to advance its mission*
- *in accountability as a cornerstone of trust which is demonstrated through high performance, ethical standards and transparency.*

5. Jirrizulta, dejjem mill-istess sit tal-internet tal-International Planned Parenthood Federation, illi hija federazzjoni ta' varji ghaqdiet nazzjonali u, fi kliem l-istess ghaqda:

*the charity is a Federation of 141 Member Associations working in 152 countries, with another 24 Partners working in 19 countries.*

6. Jirrizulta illi fost il-141 membru ta' tali Federazzjoni, hemm l-Assocjazzjoni Amerikana imsejja **'The Planned Parenthood Federation of America'** (PPFA) li, fost is-servizzi illi hija taghti, kien inkluz ukoll *"330,000 abortion-related services"* fis-sena 2011 – (fol 127).

7. Jirrizulta illi fis-sena 2017, is-Senat Amerikan ghadda legislazzjoni, imsejja *Better Care Reconciliation Act*, fejn, fost affarjiet ohra, l-Assocjazzjoni Amerikana Planned Parenthood Federation of America' giet mnehhija d-dritt illi tibqa tinghata fondi mill-Gvern Amerikan stante illi kien qed jigi allegat illi tali fondi kienu qed jintuzaw ghall servizzi ta' abort, liema ghajnuma finanzjarja kienet proibita mill-legislazzjoni Amerikana.

8. Jirrizulta illi l-intimat Ivan Grech Mintoff, abbazi ta' tali rappurtagg u decizjoni tas-Senat Amerikan fil-konfront ta' **'The Planned Parenthood Federation of America'** (PPFA) nieda kampanja fil-konfront tal-ghaqda rikorrenti Malta Gay Rights Movement, fejn allega illi flejjes illi huma ottjenew biex jirredigu legislazzjoni li eventwalment wasslet ghall-abbozzar u ratifikazzjoni tal-Att dwar l-Identita' tal-Generu, l-Espressjoni tal-Generu u l-Karatteristici tas-Sess (Kap 540), kienu flejjes illi gew maghmulha mil-ghoti tas-servizz ta' l-abort u l-qtil tat-tfal.

9. Jirrizulta, mill-provi prodotti, illi l-ghaqda rikorrenti Malta Gay Rights Movement, fis 6 ta' Awissu 2010, dahhlet fi **'Advocacy Flexi Fund Funding Agreement'** mal-federazzjoni **'International Planned Parenthood Federation'**, fejn flejjes fl-ammont ta' ghaxart elef Dollaru Amerikan (\$10,000), illi kienu ser jigu lilha moghtija b'donazzjoni mill-**'David and Lucille Packard Foundation'**, kienu gew moghtija ghas-segwent: (fol 69)

*"This grant is provided for the project titled A Gender Identity Law for Malta/ the Grantee may not use the funds for any other purpose unless written permission has been received from the IPPF."*

10. Jirrizulta illi f'Dicembru 2010, gie redatt rapport minn Dr Neil Falzon ghall-ghaqda rikorrenti, intitolat **'A Proposed Gender Identity Act for Malta'**, fejn saret referenza ghall-Att XVIII tas-sena 2004 fejn il-Kodici Civili gie emendat biex inghata dritt lill persuni transgender jaghmlu annotazzjonijet fic-certifikat tat-twelid taghhom u f'tali rapport biex propost abbozz

ta' Ligi sabiex jizviluppa aktar l-principji mibdija bl-Att fuq imsemmi u jipprovdi għall-drittijiet godda.

11. Jirrizulta illi permezz ta' Att Nru XI tas-sena 2015 intitolat **Att dwar l-Identita' tal-Generu, l-Espressjoni tal-Generu u l-Karatteristici tas-Sess** (Kap 540), l-proposti u ideat redatti fir-rapport redatt mill-ghaqda rikorrenti gew riflessi fl-abbozz ta' Ligi finali, fejn l-ghaqda rikorrenti kienet ukoll involuta fid-diskussjonijiet li wasslu għar-ratifika ta' tali ligi.

## 6. Konsiderazzjonijiet li jwasslu għall gudizzju ta' dina l-Qorti

### A - Eccezzjoni Preliminari

1. Il-Qorti, qabel ma tghaddi għall-konsiderazzjonijiet dwar il-meritu, tghaddi s-segwenti kummenti dwar l-ewwel eccezzjoni ta' l-intimat, ossija n-nullita' tar-rikors promotur stante illi l-format stabbilit mill-Ligi ma giex segwit.
2. Il-Qorti tosserva, l-ewwel u qabel kollox, illi l-formalitajiet huma mehtiega, mhux biex parti tabbuza mill-ksur tagħhom biex tipprova timmina azzjoni legittima kontrihom, izda sabiex tagħti direzzjoni dwar kif għandhom isiru u jigu redatti certi atti.
3. Jirrizulta car illi d-dettam rikjest fl-Artikolu 174 tal-Kap 12, kif fuq deskritt, gie onorata fil-kontenut tar-rikors promotur, u għalhekk ir-rikorrent ottempera ruhu ma dak rikjest mill-Ligi.
4. Jirrizulta wkoll illi l-format stabbilit fil-Formula Nru 31 fl-Iskeda B tal-Kap 12 ma jirriflettix il-hsieb tal-legislatur fl-artikolu 174 fuq imsemmi, u certament ma għadhu aktar vijabbli fil-presentazzjoni ta' kawzi bhal din odjerna quddiem dina l-Qorti, fejn, għalkemm il-Ligi tesigi li tinstema sommarjament, certament ma tista bl-ebda mod tigi meqjusa bhala procedura sommarja, in vista tas-serjeta u n-natura tagħha, u certament t-talba tar-rikorrenti ma setgħet qatt tigi limitata fl-erbgha linji illi tistabilixxi l-formula fuq imsemmija.
5. Għalhekk, l-ewwel eccezzjonji ma timmeritax illi tigi akkolta.

### B - Eccezzjoni fil-meritu – “fair comment”

6. Jirrizulta, mill-provi prodotti, illi l-intimat, illi ddikjara ruhhu bhala li għandu posizzjoni kontra l-abort filwaqt illi allega illi l-ghaqda rikorrenti għandha posizzjoni favur l-abort, wasal għall-konkluzjoni illi la darba l-federazzjoni '*International Planned Parenthood Federation*' (IPPF) kellha fi hdanha l-assocjazzjoni Amerikana '*The Planned Parenthood Federation of America*' (PPFA), liema għaqda kienet, fost affarjiet ohra, stqarret illi fis-sena 2011 għamlet mal-“330,000 abortion-related services”, dak kien ifisser illi meta l-ghaqda rikorrenti irceviet fondi sabiex tirredigi rapport dwar l-Identita' tal-Generu minghand l-IPPF, dawk il-fondi kienu rizultat ta' qtil ta' trabi – fi kliem l-intimat stess “*taking from MURDERED CHILDREN*”
7. Jirrizulta, madanakollu, mill-provi prodotti quddiemha, partikolarment mill-ghaqda rikorrenti, illi meta fis-sena 2010 irceviet fondi mill-'*International Planned Parenthood Federation*' tali fondi ma kellhom ebda konnessjoni mal-ghaqda Amerikana fuq imsemmija, u kienu fondi mahruġa mill- *David and Lucille Packard Foundation* li kienet qieghda tghaddi

tali flejjes unikament sabiex jigi redatt ir-rapport intitolat ‘**A Gender Identity Law for Malta**’.

8. Jirrizulta, ghalhekk, a differenza ta’ dak illi allega diversi drabi l-intimat, kemm fuq it-televizjoni nazzjonali, kif ukoll fuq il-‘Facebook posts’ tieghu, il-flejjes illi l-ghaqda rikorrenti inghatat sabiex tiffinanzja il-progett taghha ma kienux flejjes rizultanti mill-“*qtil ta’ trabi*” kif minnu allegat u wisq anqas kienu flejjes illi kienu intizi ghall-promozzjoni tal-abort f’Malta, kif ried jaghti x’jifhem l-itnemat, kemm fil-kummenti tieghu kif ukoll fix-xhieda minnu moghtija varji drabi quddiem dina l-Qorti.
9. Il-Qorti tifhem illi s-suggett tal-abort u l-introduzzjoni-jew-le ta’ l-abort gewwa Malta huwa suggett ta’ interess pubbliku u suggett illi jista jwassal ghall-posizzjonijiet kontrastanti u, possibbilment, qawwija da parte ta’ min jemmen li ma ghandhux jidhol jew inkella ghandu jidhol l-abort gewwa Malta, madanakollu dana ma jfissirx illi wiehed jista jaqbad u jibni argumentazzjoni u jasal ghall konklużjoni kontra agir ta’ entita’, f’dan il-kaz l-ghaqda rikorrenti, fuq cirkostanzi remoti hafna u li certament mhux sostanzjalment korretti, bhal fil-kaz odjern.
10. Dana qieghed jinghad ghax l-intimat jibbaza l-argumentazzjoni tieghu kollha fuq il-fatt illi l-ghaqda Amerikana *The Planned Parenthood Federation of America* qieghda taghmel flus mis-servizz ta’ abort u, la darba tali ghaqda hija membru tal-federazzjoni *International Planned Parenthood Federation*, dak ifisser illi kwalsiasi flejjes illi l-ghaqda rikorrenti irceviet minghand l-*International Planned Parenthood Federation* kienu flejjes generati mill-qtil ta’ trabi permezz ta’ l-abort.
11. Jirrizulta car, mill-provi prodotti, illi tali asserzzjonijiet u konklużjonijiet da’ parte ta’ l-intimat, huma kemm skorretti kif ukoll zleali lejn il-hafna segwaci illi l-intimat ghandu, stante illi huwa naqas milli jgharraf lis-segwaci tieghu illi l-ghaqda Amerikana hija wahda mill-mija u wiehed u erbghin (141) ghaqda li jiffurma l-*International Planned Parenthood Federation* u naqas milli jinforma wkoll illi l-istess *International Planned Parenthood Federation* ghandha, bhala vizjoni, dik illi telimina d-diskriminazzjoni bejn is-sessi – dritt fundamentali illi huwa protett kemm mill-Kostituzzjoni Maltija, kif ukoll mill-Konvenzjoni Ewropeja (ECHR) u l-Konvenzjoni ta’ Nazzjoni Uniti (UN).
12. Il-Qorti taghlaq billi tosserva illi kullhadd ghandu dritt ghall-opinjoni tieghu u ghandu wkoll id-dritt illi jxandarha u jiddefendiha fil-pubbliku, imma hadd ma ghandu d-dritt illi jghawweg il-fatti bi hsara lill min huwa kontrih sabiex jinfluwenza lill min ghandu fiducja fih u jaghti stampa ta’ fatti illi ma huwix minnhom, partikolarment persuna bhall-intimat illi huwa persuna fil-politika u li ghandu obbligi lejn ic-cittadin li, minghandu, bhal minghand kull politiku, jippretendi lealta’ lejn il-verita’ u l-onesta, liema lealta, din id-darba, l-intimat naqas lejha meta dawwar fatti biex jioskura lill-ghaqda rikorrenti.

## 7. Konsiderazzjonijiet ta’ danni

1. Il-Qorti tosserva illi fil-kawza deciza mill-Qorti tal-Appell fl-ismijiet ‘*Dr Andrew Borg Cardona et vs Aaron Farrugia*’ deciza fit 18 ta’ Dicembru 2018, il-Qorti kellha dan xi tghid dwar il-kalkolu tad-danni:

*“il-Qorti hi tal-fehma li jkun iktar floku jekk f’kawza ta’ libell l-ewwel qorti fis-sentenza taghti r-ragunijiet li jkunu wassluha biex tillikwida s-somma li tikkundanna lill-konvenut ihallas. Hemm diversi ragunijiet, bhal per eżempju:*

- *In-natura u s-serjeta tal-allegazzjoni li tkun saret fid-dikjarazzjoni malafamanti;*
- *Il-mezz tal-pubblikazzjoni;*
- *Kemm id-dikjarazzjoni malafamanti tkun inxterdet;*
- *Li l-awtur ikun ghamel apologija jew offra li jaghmel apologija;*
- *Provi dwar ir-reputazzjoni tal-attur;*
- *Fejn il-konvenut ikun invoka l-verita tal-fatti, jekk parti mill-fatti li jkun gew imxandra jkunu rrizultaw li huma veri; “*

2. Din il-Qorti tikkondividi pjenament il-hsieb u l-konsiderazzjoni tal-Qorti tal-Appell, u filwaqt illi taghmilha taghha, taghmel ukoll referenza ghall-gurisprudenza ohra fejn jirrigwarda l-kalkolu ta’ danni.
3. Jirrizulta illi fil-kaz **CLEESE V CLARK & Associated Newspapers** deciz mill-England and Wales High Court (Queen's Bench Division) fis-sitta ta’ Frar 2003, l-Imhallef Eady kellu dan xi jghid dwar l-kuncett ta’ danni:

*37. The purpose of libel damages is threefold:*

- (1) to compensate for distress and hurt feelings;*
- (2) to compensate for any actual injury to reputation which has been proved or which may reasonably be inferred;*
- (3) to serve as an outward and visible sign of vindication.*

*38. It is necessary always to take into account the full circumstances of the case. Such factors have to be borne in mind as the gravity of the allegations, the scale of publication, the extent to which any readers believed the words to be true, any impact upon the claimant's feelings, reputation or career. There may be matters of aggravation or mitigation which also need to be put in the scales. It is, moreover, often the case that the claimant's own conduct will have a part to play in arriving at the appropriate figure. A fundamental point always to be remembered is that the purpose of such damages, and indeed compensation awarded under s.3(5), is compensatory and not punitive. It is also well sealed that financial compensation (unlike any penalty) is to be awarded without regard to the parties' means. It is thus inappropriate to award higher compensatory damages because a newspaper group is perceived as having immense wealth; correspondingly, it would be inappropriate to award a rich claimant a greater sum than one who is less well off simply because the damages in contemplation might seem to him or her merely a drop in the ocean.*

4. Lokalment, jirrizulta illi fil-kawza deciza fis sitta ta’ Frar 1950 mill-Prim Awla fl-ismijiet **Onor. Paul Boffa noe et vs Paul Zammit** (vol. XXXIV p. II. p. 480), intqal is-segwent:

*“Il-mezzi li l-ligi tuza sabiex tirrepara u tirstabilixxi d-dritt vjolentement spostat fuq il- bazi tiegħu huma diversi... Infatti... min jonqos minn obbligazzjoni jigi obligat jadempaha fil-forma specifika jew jigi kundannat għar-riparazzjoni tad-danni bħala surrogat reintegrattiv. Imma hemm certi fattijiet li huma rriperabbli bħal meta jkun hemm id-distinzjoni, il-ghaliex hu logiku u naturali li dak li jigi*

*distrutt ma jistax jerga' jirritorna taht l- ebda forma. (Il-bniedem maqtul, l-unur tal-persuna kalunjata jew malafamata huma ezempju ta' fattijiet irrimediabbli)."*

5. Fil-kaz **'Lawrence Cachia Zammit et vs Carmelo Chetcuti A&CE'**, deciz mill-Prim'Awla fit-8 ta' Novembru 1957, il-Qorti qalet is-segwenti:

*"L-interess biex wiehed jagixxi jista' jkun pekunarju u anke morali, purché guridiku, jigifieri korrispondenti għall-lezzjoni ta' veru dritt; u għalhekk ittra mibgħuta lil persuna, li tilledi l- onorabilita' ta' persuna oħra, tagħti lil dan ta' l-ahħar id- dritt li titlob il-protezzjoni tal-ligi biex tottjeni dikjarazzjoni mill-Qorti tal-falsita' tal-kontenut ta' dik l-ittra; u dan avolja l-persuna offiża ma tkunx sofriet danni materjali."*

6. Finalment, fil-kaz **"Carmel Tonna et –vs- Felix Agius et"**, deciza fit- 23 ta' Marzu 1993 (Vol LXXVII pII p87) il-Prim'Awla tal-Qorti Civili presjeduta mill-Onor. Imhalef Joseph Said Pullicino, kienet irriteniet li kellha tinzamm sens ta' proporzjon in materja tal-likwidazzjoni tad-danni. Il-Qorti, di fatti, kienet qalet illi

*"l- azzjoni ta' libell, biex tkun verament effikaci u gusta, għandha tigi adoperata b'gudizzju u cirkospezzjoni, tenut kont ta' l-ingurja, il-gravita' tagħha, lejn min tkun diretta u lil min tkun mahsuba tilhaq u x'danni konsegwenzjali diretti jew indiretti tista' tiggera".*

7. Mehud dana kollu in konsiderazzjoni, il-Qorti tagħmel is-segwenti osservazzjonijiet:

- a. L-għaqda rikorrenti, hija certament "persuna" pubblika, stante illi fil-passat hadet posizzjonijiet dwar varji kwistjonijiet ta' interess pubbliku u certament għandha titgħies bhala entita pubblika illi dwarha kullhadd jista jtkellem u jikkummenta u għalhekk għandha tkun esposta għal kritika għal-agir u l-azzjonijiet tagħha, possibbilment anke sal-livell estrem accettat għall-persuna politika;
- b. La darba ir-rikorrenti hija meqjusa bhala persuna pubblika, il-Qorti tifhem illi l-ghan ewlieni tagħha ta' azzjoni ta' libell huwa illi jirrettifika kwalsiasi informazzjoni skorretta illi tkun inharget kontra tagħha u li, fil-pubbliku, tigi skagunata u mehlusa minn kwalsiasi akkuza illi tkun saret kontra tagħha infondament;
- c. Ir-rikorrenti, fil-kaz odjern, di fatti, ma kkwantifikat ebda danni finanzjarji illi setgħet sofriet rizultat ta' dak imxandar.
- d. L-intimat Ivan Grech Mintoff, da parte tieghu, huwa politiku u mexxej ta' partit politiku u, bhala tali, għandu kemm id-dritt kif ukoll id-dover illi jtkellem u jikkummenta fil-pubbliku dwar kwistjonijiet ta' interess pubbliku, stante illi c-cittadin jistenna minghandu direzzjoni u ideal dwar kwistjonijiet varji, fosthom dik tal-abort.
- e. L-intimat, madanakollu, għazel illi jagħmel asserzjonijiet fil-konfront ta' l-għaqda rikorrenti filwaqt illi naqas milli jagħti d-dettalji kollha illi huwa kien a korrent tagħhom, u l-intimat kien konxjement ekonomiku fil-fatti minnu spjegati lis-segwaci tieghu u ta' stampa illi kienet ibbazata fuq fatti fuq sostanzjalment skorretti, liema fatti huwa kien ben a konoxxenza tagħhom izda naqas milli jsemmi.
- f. L-Qorti ma tistax ma tosservax illi tali nuqqas jew omissjoni certament turi illi l-intimat ried jiskura lill-għaqda rikorrenti, partikolarment fil-kwistjoni illi tirrigwarda l-abort u dana ma jistax ma jigix punit.

- g. Finalment, il-Qorti tosserva illi l-allegazzjonijiet illi saru kontra r-rikorrent kienu serji, stante illi gie allegat illi hija otteniet finanzjament minn fondi generati mill-qtil ta' trabi, liema allegazzjoni huma ta' natura kriminali u serji stante illi jinvolvi akkuzi ta' qtil u certament timpingi fuq il-kredibilita' tal-ghaqda f'ghajn is-segwaci ta' l-intimat u l-qarrejja in generali.
8. Tenut kont ta' dawna l-fatti kollha, il-Qorti tqis illi jkun opportun li d-danni jigu kkwantifikati fl-ammont ta' tlett elef Euro (€3,000).

## **Konkluzjoni**

Il-Qorti,

Wara illi rat il-provi kollha prodotta quddiemha,

Wara illi semghet rat it-trattazzjoni ta' l-abbli difensuri tal-partijiet,

Wara illi ghamlet il-konsiderazzjonijiet kollha taghha kif fuq spjegat,

Tghaddi biex taqta u tiddeciedi l-kaz billi

**Tichad** l-ecezzjonijiet kollha ta' l-intimat Ivan Grech Mintoff,

**Tilqa** t-talba tar-rikorrenti kif dedotti u

**Tiddikjara** illi l-allegazzjonijiet illi saru mill-intimat fid-9 ta' Ottubru 2015, fid-19 ta' Ottubru 2015 u fl-24 ta' Ottubru 2015 kif ahjar deskritti fir-rikors promotur kienu libelluzi u malafamanti fil-konfront tar-rikorrenti u ghalhekk,

**Tikkundanna** lill-intimat Ivan Grech Mintoff ihallas lill-ghaqda rikorrenti Malta Gay Rights Movement is-somma ta' tlett elef Euro (€3,000) in linea ta' danni sofferti minnha.

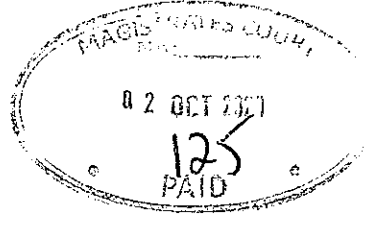
Spejjez tal-proceduri odjerni ghandhom ikunu a kariku ta' l-intimat

**Magistrat Francesco DePasquale**

**Rita Sciberras**  
Deputat Registratur



1317/20 ✓



Nru. 12

Mandat ta' Sekwestru

Fil-~~Porti~~ tal-  
Magistrati  
(Malta)

(Sekwestrant) Malta Gay Rights  
Movement VO/0039

Prez: €50.00c  
6 Marixxal €42.00  
6 Kopji €6.30  
€98.30

vs  
(Sekwestrat) Ivan Grech  
MINTOFF ID 267966M

Rikors ta' Malta Gay Rights Movement;

Jinghad bil-qima/u jigi kkonfermat bil-gurament: -

Illi din l-Onorabbi Qorti joghobha tordna l-hrug ta' mandat ta' sekwestru f'idejn isekwestratarju jew sekwestratarji kif jissemma hawn isfel, kontra s-sekwestrat ghall-kreditu infraskritt u ghall-ispejjez ta' din il-procedura, in kawtela tal-kreditu hawn taht indikat/in esekuzzjoni tat-titlu esekuttiv hawn isfel imsemmi.

KOLLAZZ  
Esp. Reg.  
Saver Jappes  
2/10/2020

€3,000 Helt eley enos.

Kreditu: [ Sorti Imghax Spejjez ] €1411.63 of erba mija u tndax u enutlekkutan Centerm

Kawzali/Titolu ezekuttiv: - Sentenza ta' dina l-onorabbi qorti ta' 28 Mar 2019 kkonfermata fl-Appeal 17 Gunju 2020 (387/15)

Sekwestratarju/i

Avukat Av. Naomi Bugre  
Mifsud and Mifsud Advocates  
123, Melita Street,  
Valletta VLT 1123

Prokuratur Legali  
PAUL SULLIVAN B.A., L.P.  
Legal Procurator

- 1 Bank of Valletta Plc
- 2 HSBC Bank Malta Plc
- 3 Lombard Bank Plc
- 4 APS BANK Ltd
- 5 BNF BANK Malta Plc

Illum, 02 OCT 2020

Hkonfermat bil-gurament quddiem, wara li qrajtlu l-kontenut, u fil-prezenza ta'

bhala xhud tal-identita u

ipprezentat minn PL. D. Sullivan

Simon Simpson  
Deputat Registratur  
Deputy Registrar  
Qorti tal-Gustizzjal (Malta)  
Law Courts (Malta)

Deputat Registratur

\* shord zang taxxi anessi li  
inkwidi vat. ky ukoy  
€ 160.93 spejjer  
ta' den u. mender li

Ji. Qew  
Poririnkov

Inkwidi VAT

5 kolbx € 4,572.56.

Tilg. + tala

Jail-trip tek mender

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dimutawen (Glas-janus Na)

ell miteji u tmeje u elbjti

lwo u disjta u elbjtin centenu

(€1,248.49) inkluz taxxa fup il-

Vakre mizjed fup id-skantjei lejali.

Sekwestrat: 32 Pansh sw nosta

Magistrat Dr Rachel Montebello B.A. II  
5-10-2020

Sekwestrat: 2 Salina Park flat 1  
Mg kappella tal-Lunjata Naxxer

- Sekwestrarju:
- 1 BOV
  - 2 HIBC
  - 3 Embard } vauetta.
  - 4 APS - Fioluane
  - 5 BNF - Gura

Mandat ta' Sekwestru

Nru. 12

Inti għarraf illi, ai termini tal-artikolu 376(2) tal-Kapitlu 12 tal-Liġijiet ta' Malta illi notifika ta' tali Mandat fidejki jimporta li:  
Inti ma thallasx jew ma tagħtix lid-debitur jew lil xi persuna oħra il-flus jew il-hwejjeġ li jistgħu jinstabu għandek u li huma tad-debitur u dana taht piena ta' ilas tad-danni u imghax u:  
Inti għandek tiddepozita bi spejjez tad-debitur, fi zmien dsatax-il (19) jum min-notifika tal-mandat, mar-Registratur tal-Qorti, xi flus jew hwejjeġ li jkunu proprjetà tad-debitur, sekwestranti tal-mandat.



## REPUBBLIKA TA' MALTA

### MANDAT TAL-QORTI

Lil

Marixxall tal-Qorti

BILLI gie prezentat ir-rikors ta' hawn fuq, u jirrikorru l-elementi mehtieġa skont il-liġi għall-ordnijiet infraskritti;

Inti għaldaqshekk, fuq ir-rikors imsemmi, ordnat illi, b'kopja li tagħti ta' dan il-mandat, l-ewwel lis-sekwestratarji hawn fuq imsemmija u mbagħad lis-sekwestrat fuq imsemmi, iġġieghel lill-istess sekwestratarji li jzommu għandhom bhala issekwestrata sakemm jaghlaq iż-żmien li fih il-mandat jibqa' jsehħ skont il-liġi, jew, sakemm jinghata ordni iehor, jew li jqiegħdu fir-Registru ta' din il-Qorti, mill-imsemmija hwejjeġ jew flus tas-sekwestrat kwantità (jew somma) biżżejjed sabiex biha tithallas it-talba tas-sekwestrant hawn fuq imsemmi, flimkien mal-ispejjeż ta' dan il-mandat taht piena tad-danni u l-imghaxijiet kemm-il darba jinkiser dan l-ordni.

U wara li tkun ghamilt dan, jew jekk tiltaqa' ma' xi xkiel fl-esekuzzjoni ta' dan il-mandat, inti għandek minnufih tgharraf lil din il-Qorti.

Mogħti mill-Qorti

hawn fuq imsemmija

bix-xieħda ta'

Duttur tal-

Ligi,

Quddiem il-Magistrat  
Dr. Rachel Montebello LL.D.

tal-Qorti hawn fuq imsemmija

Illum, 5 ta' Ottubru 2020

20