



**Organization for Security and Co-operation in Europe
Representative on Freedom of the Media
Harlem Désir**

025/18

Vienna, 24 January 2018

H.E. Owen Bonnici
Minister of Justice, Culture and Local Government
Malta

Excellency,

I am writing to you to present the attached brief legal analysis (“the Legal Analysis”) of a note sent to the Office of the OSCE Representative on Freedom of the Media by the Maltese authorities on 8 January 2018. The note concerned the recommendations of the legal analysis (“November Analysis”) done by the Office of the OSCE Representative on Freedom of the Media in November 2017 on the draft Bill of the Act “to provide for the updating of the regulation of media and defamation matters and for matters consequential or ancillary thereto” (the “Draft Law”) which was sent to the Maltese authorities on 21 November 2017.

The Legal Analysis welcomes the fact that some of the recommendations of the November 2017 analysis have been taken on board in the latest Draft Law. More specifically, we support the new definitions of “editor” and “publisher”, the introduction of a general concept of media, the replacement of the notion of “printed matter” with “written media”, the introduction of the defence of truth in public interest cases, as well as the introduction of the condition of harm to a living person’s reputation in the article about defamation of deceased persons.

At the same time, the Legal Analysis identifies a number of areas where the recommendations of the November Analysis have *not* been taken on board, for various reasons. It acknowledges the reasons given by the Maltese authorities for the requirement to have legal capacity for editorship of a newspaper and their responses regarding the proposals to have a more defined procedure for the appointment of the Media Register and on the simplification of registration requirements.

At the same time, the Legal Analysis emphasizes that the November Analysis recommended further parameters on the power of the Minister to issue regulations concerning actions to be taken by the operator of a website following notice of a complaint in order to reflect the need to balance the possible defamatory nature of a statement and the public statement and the public interest in its publication.

Availing myself of this opportunity, please accept, Excellency, the assurances of my highest consideration.

Yours sincerely,



Harlem Désir

cc.:

H.E. Joseph Muscat, Prime Minister of Malta

H.E. Keith Azzopardi, Ambassador, Delegation of Malta to the Organisation for Security and Co-operation in Europe