

PRESS RELEASE

COURT CURTAILS THE RIGHT TO PUBLISH

18 June 2018

The Freedom of Expression Institute (FXI) and the South African Editors Forum (SANEF) today expressed shock and disappointment at the court's judgment of 14 June 2018 to uphold an application for an interdict against a journalist. In the matter applicants sought an order to restrain publication of all future reports against them concerning the management of the pension funds pending their defamation trial which could take up to 3 years or more.

The applicants, a private investment and equity company and its director, sought to interdict a freelance journalist, whose article had appeared in IOL publications, from writing in future about allegations of impropriety and obstruction of investigations in which they were allegedly involved. They also sought a retraction of the published articles. The applicants managed a pension fund for pensions of municipal public servants. An Edward Nathan Sonnenbergs (ENS) Forensics Report had made the allegations.

“The court has in effect granted the journalist an interdict that is final in nature given the lengthy nature of defamation claims. The relief sought was just too over-broad and far-reaching and is likely to result in inadvertent media censorship as well”, said FXI's Rea Simigiannis. “Even worse was the fact that the applicants offered no justification for seeking such overbroad relief, they merely indicated that they had been defamed”, added Simigiannis. “We however welcome Judge Wepener's ruling that articles already published not be retracted”, said Simigiannis.

“In making a factual finding on the truthfulness of the allegations in the article, the Court failed to balance the alleged reputational harm to the applicants on the one hand and the right to freedom of expression and press freedom on the other. The effect of the decision has placed a limitation on the constitutional right to freedom of expression and the right of the public to be informed on the use of public funds”, added Simigiannis.

“In our view the journalist correctly maintained that it was in the public interest to publish as the story concerned substantial amounts of money in the pension fund for the benefit of municipal employees. The Court disregarded the fact that applicants had been given a right of reply by being sent a list of questions before publication as well as an express invitation to a live interview with the journalist which they declined. Furthermore, the Court failed to appreciate that it was the newspaper editor and the proprietors of the newspaper that caused the publication of the article and not the journalist”, concluded Simigiannis.

For further information and/or interviews call:

Rea Simigiannis: +27 82 859 4856

