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PRESS RELEASE

INTERIM INTERDICT TO RESTRAIN DEFAMATORY PUBLICATIONS: CRUCIAL APPLICATION FOR LEAVE TO APPEAL COMES BEFORE COURT

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The Freedom of Expression Institute today highlighted the bases for its application for leave to appeal in the Mungandze matter in which the court granted an overbroad perpetual final interdict against a journalist.

“In our opinion the court erred in several crucial respects,” said Rea Simigiannis, FXI’s Executive Director. “Firstly, in concluding that the respondents were entitled to the interim interdict irrespective that its effect is permanent because this effectively muzzled the right to freedom of expression. Secondly in finding that the applicant should have revealed the identity of the anonymous memorandum upon which the applicant relied as a source of some news articles but should have followed authority to the effect that the applicant as a journalist was entitled to withhold the identity of his source. Thirdly, in adopting the test that a party relying on truth and public interest must prove its case while a long line of authority merely required such party to “set up” a defence. The fourth was that the court failed to strike a balance between the right to freedom of expression and the respondent’s right to reputation by placing undue emphasis on the respondent’s right to reputation at the cost of freedom of expression,” added Simigiannis.

“The court also erred in awarding costs against the journalist in a matter involving important constitutional issues as such order is likely to have a chilling effect on other journalists seeking to defend their articles,” concluded Simigiannis.