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## Parliamentary Commission discusses draft amendments to Civil Code on online publication

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The Parliamentary Commission on Legal Affairs, Public Administration, and Human Rights has considered and discussed a draft amendment proposed by MP Majlinda Bregu on January. The amendment proposes to add a new article to Article 617 of the Civil Code, titled “Liability for online publication of comments that infringe on a person's honour, personality or reputation.” The proposed article further specifies civil regulation of defamation, extending to online publication. The proposed amendment will force administrators of electronic portals, including those of the media, to “prevent publication of any comment that infringes on a person's honour, personality or reputation.” If the administrator fails to prevent such publications, he/she will be held liable for damage caused. The draft amendment also forces the administrator to delete published comments, once the person whose reputation has been harmed claims such harm from the administrator. In case the administrator fails to respond to such claims and does not delete the comment, he/she again is held liable. The draft amendment also stipulates that if the person commenting is identifiable, he/she is also liable, apart from the administrator. If the commentator is not identifiable, the liability rests only with the administrator, who is supposed to delete such comments in due time.

The draft amendment states that any damage caused in this respect “shall be classified as non-property damage arising from infringement of a person's honour, personality or reputation.” Furthermore, the proposed amendment overrides any exemptions of the website's liability on published comments, stating that such claims shall be considered invalid. The portals should also publicly make available the full data of the administrators and modes of contact with him/her. The authority responsible for Electronic Communications shall forbid public access to any electronic portal that fails to abide by this obligation.

Upon approval of such law, the administrator of an electronic portal, including official websites of printed or visual media, shall, within 30 days from the date the present law enters into force, publish his/her full data in the portal and provide full information on modes of contact with him/her. The competent authority for Electronic Communications is in charge of monitoring observation of this obligation and shall take measures to prevent public access to the electronic portal, when the full data of the administrator of the portal and modes of communication with him/her are not published, according to the draft amendment.

The report on the draft amendment claims that the purpose of this amendment is to further harmonize Albanian legislation to the case law of European Court of Human Rights, citing specifically Case Delfi AS versus Republic of Estonia. In this case the court has held Delfi company liable for the comments of users of its portals, in those cases when the comments have exceeded acceptable criticism, stating the company should have prevented publication of such comments that infringe the honor and reputation of a person. The report states that the draft amendment is proposed at a time when social media is gaining ground and most of the comments published are denigrating and offensive, beyond ethical norms. The Commission discussed the amendment on April 1, generally supporting the initiative. However, the MPs decided to allow for a longer period to examine them from the legal and technical point of view.

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