

Tatlici v. Tatlici on Appeal: Defendant Wins as Public Policy Confronts the Financialization of Cross-Border Defamation Award

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The *Tatlici* litigation continues to unfold as one of the most noteworthy examples of how national courts in Europe are responding to transnational defamation judgments obtained in the United States. The previous commentary examined Malta's First Hall Civil Court judgment refusing to enforce the U.S. default award of US\$740 million.^[1] The Malta Court of Appeal's judgment of 14 October 2025 builds upon that foundation by upholding non-enforcement while clarifying the legal reasoning behind it.^[2] The Malta Court of Appeal's judgment came as the second major development, following an earlier first-round enforcement attempt in Turkey that had already failed on venue.^[3]

The Malta Court of Appeal upheld the First Hall Civil Court's rejection of enforcement but replaced procedural formalism with a more principled proportionality analysis grounded in *ordre public*. The judges, Chief Justice Mark Chetcuti, Hon. Judge Robert G. Mangion and Hon. Judge Grazio Mercieca, held that the magnitude and moral nature of the award—being damages for defamation—"manifestly" offended Maltese public policy.^[4] Such "astronomic" damages, the court reasoned, would have a chilling effect on free expression and thereby upset Malta's constitutional balance between protecting reputation and safeguarding democratic speech.^[5]

The court also noted that the absence of a reasoned Florida judgment hindered the court's ability to test the applicant's belated claim that the award represented "real" rather than moral damages.^[6]

It is against this backdrop that the Maltese decision must be read alongside the unfolding NEKO 2018 A, LLC receivership before the U.S. District Court for the

Southern District of Florida, which is a case that exposes how litigation finance now shapes both litigation conduct and judgment enforcement across borders.[7] The Florida proceedings, captioned *Mehmet Tatlici and Craig Downs v. Ugur Tatlici*—as cited in the Malta Court of Appeal’s judgment, directly link the plaintiff, Mehmet Tatlici, with his Florida attorney, Craig Downs, who appeared as co-plaintiff in the U.S. default judgment awarding US\$740 million in damages.

Although litigation funding was not part of the Maltese court’s formal reasoning, the *Tatlici* dispute shows how financial mechanisms behind litigation are beginning to shape the transnational life of judgments. This connection matters for private international law because recognition and enforcement today concern not only the validity of foreign judgments but also the economic structures that propel those judgments across jurisdictions.

Litigation Funding as a Governance Warning

As Cassandra Burke Robertson observes, third-party funding externalises litigation risk and encourages high-variance, high-quantum claims that might otherwise settle early.[8] Funders’ capital increases the number of transnational lawsuits filed, raises settlement values, and spreads litigation across more jurisdictions.[9] This tendency is especially visible in defamation and other reputation-based torts, where damages are inherently subjective and national legal systems diverge sharply on what counts as a proportionate remedy.

Maya Steinitz’s governance theory underlines a concern that once funders gain control over budgets and strategic decisions, they develop portfolio-level incentives to pursue outsized awards that maximise aggregate returns—even when enforcement remains uncertain.[10] This creates a structural tension that private international law cannot ignore because enforcement courts are ultimately asked to enforce judgments whose underlying dynamics are driven as much by capital as by legal merit.

The NEKO receivership makes these abstract concerns tangible. In October 2025, NEKO 2018 A, LLC, a litigation funder with an investor’s interest, secured a

collateral receivership over its funded law firm, the Downs Law Group, the same firm involved in *Tatlici*.^[11] The receivership order placed all accounts, rights to payment, proceeds, substitutes, and records under the control of a court-appointed receiver and suspended pre-trial deadlines to “*preserve resources ... without the burden of potential protracted litigation*.”^[12] This effectively turned litigation receivables into tradable assets by allowing the funder to monetise pending claims and future enforcement proceeds.

Scholars such as John Gotanda and Ronald Brand warn that this financialisation of litigation detaches judgments from substantive justice and proportionality, compelling enforcement courts—like Malta’s—to reimpose those limits through *ordre public* review.^[13] Seen from a private international law perspective, this convergence between capital markets and cross-border enforcement exposes a governance gap: Article 2(1)(k) of the Hague Judgments Convention 2019 explicitly excludes defamation from its scope, while the Convention remains entirely silent on litigation funding. This dual absence, of both defamation and funded claims, leaves national courts to fill that regulatory void case by case, relying on domestic *ordre public* standards to assess the enforceability of judgments shaped by third-party capital.

Funding Under Scrutiny for Potential Fraud on Court

The relationship between litigation funding and the manner in which a judgment is obtained deserves careful attention. While the Maltese appellate court did not address the issue of fraud, ongoing criminal proceedings in Turkey—where judicial and prosecutorial authorities are examining how the Florida judgment was obtained—illustrate how difficult it can be to distinguish legitimate litigation conduct from actions that are not merely procedural but go to the integrity of the adjudicative process.

In highly financed, cross-border cases, the line between assertive advocacy and excessive pressure can become blurred. When litigation outcomes are closely tied to the financial expectations of external funders, there is a risk that commercial considerations may influence legal strategy or procedural choices. As Steinitz’s governance analysis suggests, such dynamics can create “agency costs,” where professional judgment becomes constrained by the funder’s return-driven objectives.^[14] These constraints indicate that there must be increased protection and openness in recognition and enforcement actions to guarantee that financing

efficiency does not compromise procedural integrity in the judicial process. In extreme cases, these forces can blur the line between zealous advocacy and alleged fraudulent conduct, which has been a tension made visible in the *Tatlici* litigation.

Conclusion

The *Tatlici* litigation illustrates how the *ordre public* exception has evolved into a constitutional safeguard within the global enforcement of judgments. The Malta Court of Appeal's 2025 decision affirming the refusal to enforce a US \$740 million Florida defamation award and treating "astronomic" moral damages as incompatible with freedom of expression, the court used *ordre public* as an active tool of constitutional governance. This aligns with the argument advanced by Symeon C. Symeonides, who conceptualises the public policy exception as a constitutional checkpoint ensuring that foreign judgments do not erode the forum's fundamental rights.[15]

At the same time, *Tatlici* exposes enduring tensions between litigation finance, procedural integrity, and the enforceability of transnational awards. The claimant's connection to the US federal receivership shows how financial structures can shape litigation strategy and the formation of judgments, while the ongoing Turkish criminal inquiry into the alleged fraudulent procurement of the Florida judgment illustrates the risks that arise when capital-backed claims intersect with procedural fragility.

The case exemplifies a wider paradox in which a claimant secures an extraordinary foreign award yet lacks attachable assets in the rendering state and faces recognition refusals abroad, so the judgment's practical value collapses despite its formal validity. The defendant in the US\$740 million action now occupies a jurisdictional and enforcement limbo, subject to a judgment that can neither be executed in *foro domestico* nor circulate transnationally through recognition or exequatur.

Tatlici confirms that public policy, founded on proportionality and constitutional values, still marks the outer boundary of the transnational movement of judgments in a system increasingly exposed to the financialisation of litigation.

[1] Fikri Soral, 'Tatlici?vTatlici: Malta Rejects?\$740?Million U.S. Defamation Judgment as Turkish Case Looms' (Conflict?of?Laws, 28?April?2025)

<https://conflictoflaws.net/2025/tatlici-v-tatlici-malta-rejects-740-million-u-s-defamation-judgment-as-turkish-case-looms/>

accessed 4 November 2025.

[2] *Tatlici v Tatlici* (Court of Appeal, Malta, 14 October 2025) App ?iv 719/20/1. (“**Appellate Judgement**”)

[3] Istanbul Regional Court of Appeal, 4th Civil Chamber, Decision No 2025/3701, File No 2025/2327, 13 October 2025,

[4] Appellate Judgement (n 2) para. 53

[5] *ibid.* para 47-52

[6] *ibid.* para. 50.

[7] *NEKO 2018 A, LLC v Downs Law Group, P.A.* (US District Court for the Southern District of Florida, No 1:25-cv-24580, filed 6 October 2025) <https://dockets.justia.com/docket/florida/flsdce/1:2025cv24580/698527>

[8] Cassandra Burke Robertson, ‘The Impact of Third-Party Financing on Transnational Litigation’ (2011) 44 *Case W Res J Intl L* 159.

[9] *ibid* at 164

[10] Maya Steinitz, ‘Whose Claim Is This Anyway? Third Party Litigation Funding’ (2011) 95 *Minnesota Law Review* 1268, 1318–25 (discussing funders’ portfolio-level incentives and the resulting agency-cost problems in litigation governance).

[11] *NEKO 2018 A v Downs Law Group* (n 7).

[12] *ibid*

[13] See Ronald A Brand, ‘Recognition and Enforcement of Foreign Judgments’ (2013) 74 *University of Pittsburgh Law Review* 491, 520–28; John Y Gotanda, ‘Punitive Damages: A Comparative Analysis’ (2004) 42 *Columbia Journal of Transnational Law* 391. Both scholars argue that disproportionate awards, exacerbated by the financialisation of litigation, require recognition courts to restore proportionality through the *ordre public* exception.

[14] Steinitz (n 10) 1304, 1315.

[15] Symeon C Symeonides, 'The Public Policy Exception in Choice of Law: The American Version' (2025) *Praxis des Internationalen Privat- und Verfahrensrechts (IPRax)* (forthcoming, also to appear in *Emory Journal of International Law*).