



Fil-Qorti tal-Magistrati (Malta)

bhala Qorti ta' Gudikatura Kriminali

MAGISTRAT DR FRANCESCO DEPASQUALE

Seduta ta' nhar l-Erbgha hamsa u ghoxrin (25) ta' Jannar 2017

Libell Nru 11/2012

L-Onorevoli Imhalled Carmelo Farrugia Sacco

vs

Il-President Emeritus l-Onorevoli Joseph Said Pullicino

Il-Qorti,

Rat l-akkuzi migjuba permezz ta' Tahrika Privata kontra l-kwerelat l-President Emeritus l-Onor Joseph Said Pullicino talli, bejn il-11 u 12 ta' Dicembru 2012, b'kitba ossija ittra indirizzata lill-Eccellenza Tieghu l-President tar-Repubblika, izda moghtija lill-istampa u ppubblikata f'diversi positjiet tal-media, inter alia, website tat-Times of Malta, Maltastar, stazzjonijiet tat-Televizjoni u gazzetti lokali fil-hargiet tal-11 u 12 ta' Dicembru 2012, ingurja u ta' malafama lill-kwerelant, l-Onor Imhalled Carmelo Farrugia Sacco, bil-hsieb li jtellef jew inaqqas mir-reputazzjoni jew gieh tieghu, bi ksur tal-Artikolu 252 (1), (2) u (3) tal-Kap 9, kif ukoll id-disposizzjonijiet tal-Kapitolu 248.

Il-kwerelant talab ukoll illi, apparti l-piena msemmija fil-Ligi, timponi wkoll kull rimedju skond il-Ligi biex tigi rimedjata l-hsara sofferta mill-kwerelant.

Rat l-ittra illi dwarha ilmeta l-kwerelant, li kienet tghid is-segwent:

11 ta' Dicembru 2012

*L-Eccellenza Tieghu Dr George Abela
President ta' Malta u
President tal-Kummissjoni ghall-Amministrazzjoni tal-Gustizzja
Il-Palazz
Il-Belt Valletta*

Eccellenza

L-ahbar li l-Imhallef tal-Qrati Superjuri gie implikat minn awtorita' sportiva internazzjonali f'kaz ta' korruzzjoni ixxukkjatni kif hasdet ukoll lill-pajjiz. Hi ahbar li fiha nfisha, lil hinn minn kull gudizzju ta' htija, timmina gravement l-fiducja fl-Amministrazzjoni tal-Gustizzja.

Bhala Ombudsman jiena prekluz bil-Ligi (Art 1 tal-Att XXI tal-1995) milli nesprimi ruhi fuq l-Gudikatura u allura fuq l-agir ta' Membri tal-Gudikatura fil-qadi tad-doveri taghhom. Dan, pero, ma jimpedinix milli naghti opinjoni dwar l-effetti tal-agir taghhom fuq l-amministrazzjoni tajba tal-gustizzja fil-pajjiz, aktar u aktar meda dan ikun jirrigwarda agir li bl-ebda mod ma hu konness mal-funzjonijiet li jaqdi gudikant.

Hi f'dan l-ispiritu, Sur President, li qieghed inwassel il-fehma konvinta tieghi li l-Kummissjoni minnek preseduta ghandha tuza l-awtorita' morali li ghandha biex tassigura li, sakemm jigu ghal kollox determinati l-akkuzi migjuba kontra l-Imhallef allegatament involut fl-iskandlu, process li jehtieg li jsir fil-harsien shih tad-drittijiet kostituzzjonali tieghu, fosthom dak tal-prezunzjoni ta' innocenza, jigi b'effett immedjat prekluz milli jattendi ghad-doversi gudizzjarji tieghu. Decizjoni din li finalment tispetta lill-Unur Tieghu l-Prim Imhallef fl-ezercizzju tal-funzjonijiet proprji tieghu.

Dan dejjem sakemm l-Imhallef involut b'att ta' responsabbilta' u b'effett immedjat ma jissospendix lilu nniffsu milli jattendi ghad-doveri gudizzjarji tieghu u dan biex ikun jista jiddefendi ruhu bl-ahjar mod u bl-inqas hsara lill-Amministrazzjoni tal-Gustizzja.

Fil-fehma tieghu, dan il-pass huwa mehtieg li jsir ukoll fid-dawl tal-parir li nghatajt illum mill-Onorevoli Prim Ministru li l-Parlament jigi xolt fis-7 ta' Jannar 2013.

Rat ukoll l-Ittra esebita mill-kwerelant u mahruqa mill-**International Olympic Committee** fis-16 ta' Jannar 2013 fejn jinghad is-segwent:

Re: Mr Lino Farrugia Sacco

To Whom It May Concern

With respect to the IOC Ethics Commission's decision with recommendations dated 26th November 2012 and the IOC Executive Board's decision dated 4 December 2012, the International Olympic Committee (IOC) herewith expressly certifies the following:

- 1. No sanctions whatsoever have been imposed by the IOC on Mr Lino Farrugia Sacco, President of the Maltese National Olympic Committee, nor was he censored or reprimanded in any way. In particular, the IOC did not accuse or find guilty Mr Lino Farrugia Sacco of corruption or any other offence or misconduct. The recommendations issued by the IOC Ethics Commission did not mention that Mr Lino Farrugia Sacco has tarnished the reputation of the Olympic Movement.*

2. *By adopting the above mentioned decisions, the IOC did not have the intention to impair or otherwise harm the reputation or honour of Mr Lino Farrugia Sacco*

The present, along with the above mentioned decisions, may be used as deemed appropriate by Mr Lino Farrugia Sacco to demonstrate the above.

Rat l-eccezzjonijiet tal-kwerelat ippresentati fis-17 ta' Jannar 2013 fejn eccepuxxa s-segwenti:

1. Illi s-subinciz 1 tal-Artikolu 25 tal-Att XX1 tal-1995 dwar l-Ombudsman jipprovdi illi ma jistghu jittiehdu ebda procedimenti civili jew kriminali kontra l-Ombudsman jew kontra xi membru tal-Ufficju tieghu ghal dak li jista jaghmel jew jirrapporta jew jghid matul it-twertieq jew it-twertieq mahsub tal-funzjonijiet tieghu bis-sahha ta' dak l-Att, kemm il-darba ma jigix provat li jkun agixxa in mala fede. Tali prova allura tispetta se mai lil-kwerelant.
2. Illi hu agixxa, f'dan il-kaz doloruz, bil-massima buona fede u jitlob ghalhekk minn din il-Qorti dikjarazzjoni f'dan is-sens.
3. Illi hi l-funzjoni primarja tal-Ombudsman Parlamentari illi jagixxi biex jassikura amministrazzjoni pubblika tajba, gusta, ekwa, trasparenti u nadifa. Din il-funzjoni jexercitaha fl-oqsma kollha tal-amministrazzjoni pubblika inkluz dik tal-amministrazzjoni tal-gustizzja hliel, fost ohrajn, fejn jirrigwarda l-‘Gudizzjarju’

L-eccepjent jirrikonoxxi illi m'ghandux gurdizzjoni li jinvestiga fatti li jirrigwardaw Membri tal-Gudikatura u li din il-materja taqa' esklussivament fil-kompetenza tal-Kummissjoni ghall-Amministrazzjoni tal-Gustizzja

4. L-eccepjent jissottometti illi, fil-kwalita' tieghu ta' Ombudsman Parlamentari, hu kellu u ghandu kull dritt illi jirreagixxi, kif fil-fatt irreagixxa, ghall-effetti, gravement negattivi fuq l-amministrazzjoni tal-gustizzja fil-pajjiz, tal-incident li fih hu involut il-kwerelant, Imhalled fil-Qrati Superjuri ta' Malta. Dan l-incident wassal ghal decizjoni ta' organu internazzjonali fil-qasam sportiv li implikatu f'agir irregolari sal-punt illi iccensuratu u talbet illi jittiehdu passi dixxiplinari kontra tieghu. Fin-nuqqas, dak l-organu qal li qed jikkonsidra l-applikazzjoni tas-sanzjoni estrema illi ma jhallix lil Malta tippartecipa fl-akbar manifestazzjoni sportiva fid-dinja.
5. Fic-cirkostanzi, l-eccepjent jissottometti li hu kien ghal kollox intitolat u gustifikat illi jwassal il-fehma konvinta tieghu dwar dan l-incident lill-Kummissjoni ghall-Amministrazzjoni tal-Gustizzja. Fehma li l-istess Kummissjoni kienet libera li taccetta jew tinjora. Zgur, pero, li l-opinjoni tieghu nghatat fl-ahjar interess tal-Amministrazzjoni tal-Gustizzja. L-opinjoni tal-eccepjent ma tesprimi l-ebda gudizzju dwar l-agir tal-kwerelant, lanqas hi l-konsekwenza ta' xi investigazzjoni li ghamel dwaru.
6. L-eccepjent jissottometti ghalhekk illi l-fehma espressa fl-ittra tieghu tal-10 ta' Dicembru 2012 hi ghal kollox intra vires. Min jesprimi opinjoni dwar il-komportament ta' gudikant fl-ezercizzju ta' funzjoni pubblika, aktar u aktar meta dan bl-ebda dubju, ma ghandu x'jaqsam mad-doversi hudizzjarji tieghu, ma jistax jigi iccensurat jew tenut hati ta' malafama.

Rat illi fis-17 ta' Jannar 2013, il-partijiet qablu illi l-Qorti kellha tisma l-provi u tiddeciedi dwar l-eccezzjoni imqajma mill-kwerelat a tenur tal-Artikolu 25 (1) tal-Kap 385.

Semghet ix-xhieda ta' l-**Imhalled Carmelo Farrugia Sacco** moghtija fis-17 ta' Jannar 2013.

Rat id-dokument esebit mill-prosekuzzjoni, ossija kopja tal-Ittra datata 16 ta' Jannar 2013, gia esebita mill-kwerelant, izda din id-darba ffirmata wkoll minn Jacques Rogge, President tal-International Olympic Committee (fol 17)

Rat illi, fis-seduta tal-21 ta' Marzu 2013, il-Prosekuzzjoni iddikjarat illi ma kienetx qieghda tinsisti aktar ghall-applikabilita' tal-Artikolu 252 (3) tal-Kap 9, filwaqt illi insistew fuq l-applikabilita' tal-Artikolu 252 (1) u (2) tal-Kap 9.

Rat illi fil-21 ta' Marzu 2013 il-Prosekuzzjoni iddikjarat illi ma kellhiex aktar provi x'tippresenta dwar l-ewwel eccezzjoni.

Semghet ix-xhieda tal-**President Emeritus l-Imhallef Joseph Said Pullicino** moghtija fil-21 ta' Marzu 2013.

Rat illi fis-16 ta' Mejju 2013 il-kwerelat iddikjara illi ma kellux aktar provi x'jippresenta dwar l-ewwel eccezzjoni.

Rat illi fil-11 ta' Lulju 2013, il-Qorti, permezz ta' sentenza preliminari, cahdet l-eccezzjoni imqajjma mill-kwerelat a tenur tal-Artikolu 25 (1) tal-Kap 385, u ghamlet is-segwenti osservazzjonijiet:

Illi minn harsa akkurata tal-ligi li taghti l-poteri lill-akkuzat fil-kwalita' tieghu ta' Ombudsman, imkien ma jidher illi hemm il-poter li l-Ombudsman jikkummenta dwar kwistjoni minghajr ma jkun hemm xi investigazzjoni qabel tali kumment jinghata u certament ma jidher imkien illi hemm ebda poter moghti lill-Ombudsman sabiex jikkummenta "dwar l-effetti tal-agir tal-Magistrati u Imhallfin fuq il-pubbliku" u dwar "il-kwistjoni li tirrigwarda l-amministrazzjoni tal-gustizzja" kif sahaq l-istess akkuzat quddiem dina l-Qorti.

Illi, anzi, jidher car illi l-istess Ombudsman huwa prekluz milli jikkummenta fuq il-gudikatura kif jidher car fit-Taqsima A tal-Ewwel Skeda li lilha ssir referenza fl-artikolu 12 (3) (a) tal-Kap 385.

Illi tenut kont ta' dawn l-fatti, jidher car illi l-azzjoni mehudha mill-akkuzat, fil vesti tieghu ta' Ombudsman, meta baghat l-ittra lill-President ta' Malta fil 11 ta' Dicembru 2012 u sussegwentement ippubblikaha, ma taqax fil-funzjonjiet tieghu stabbiliti fil-Ligi li ghalihom, eventwalment, huwa protett minn kwalsiasi azzjoni civili u kriminali salv kaz ta' malafede.

Illi ghalhekk huwa car li d-difiza mressqa mill-akkuzat abbazi tal-Artikolu 25 (1) tal-Kap 385 ma tregix peress illi l-azzjoni illi ghamel l-akkuzat, bhala Ombudsman, ma taqax taht il-funzjonjiet tieghu kif stabbiliti fil-Kap 385 u ghalhekk, fil-kaz odern, il-privilegg moghti lili a tenur tal-artiklu fuq imsemmi ma ghandhux japplika.

Il-Qorti ghalhekk qieghda tichad l-eccezzjoni preliminari imressqa a tenur tal-Artikolu 25 (1) tal-Kap 385 u tordna l-prosegwiment tal-kawza.

Semghet ix-xhieda tal-**Imhallef Carmelo Farrugia Sacco** moghtija fis-17 ta' Ottubru 2013 u rat id-dokumentazzjoni minnu esebita.

Rat illi wara varji seduti iffissati għall-presentata ta' dokumentazzjoni, fit-22 ta' Ottubru 2014, wara illi gew ippresetati dokumentazzjoni ulterjuri, il-kwerelant iddikjara illi ma kellux aktar provi x'jipprenta.

Semgħet ix-xhieda ta' **Reno Bugeja**, Kap tal-Kamra tal-Ahbarjiet ta' Television Malta mogħtija fil-25 ta' Marzu 2015 u rat id-dokumentazzjoni minnu esebita.

Semgħet ix-xhieda tal-**President Emeritus Joseph Said Pullicino** mogħtija fil-25 ta' Marzu 2015 u rat id-dokumentazzjoni minnu esebita.

Semgħet il-kontro ezami tal-**President Emeritus Joseph Said Pullicino** illi saret fl-20 ta' Mejju 2015.

Rat illi fil-15 ta' Lulju 2015, il-Qorti għet infurmata illi l-partijiet kienu qed jikkontemplaw il-possibilita' illi jittransigu l-vertenza ta' bejniethom.

Rat illi fid-19 ta' Ottubru 2016, wara tmien differimenti fejn il-Qorti għet mgharrfa illi t-transazzjoni kienet għadha ma intlahqietx, il-Qorti ordnat illi fis-seduta li jmiss, il-partijiet jittrattaw il-kaz sabiex jigi deciz.

Semgħet it-trattazzjoni ta' l-abbli difensuri tal-partijiet mogħtija fl-14 ta' Dicembru 2016, wara liema trattazzjoni il-kawza għet differita għas-sentenza għallum.

Ikkunsidrat

Jirrizulta, mill-provi prodotti, illi l-kwerelant, l-Imhalled Carmelo Farrugia Sacco, fil-mument tal-pubblikazzjoni ta' l-ittra meritu tal-kawza odjerna, kien Imhalled sedenti fil-Qrati Superjuri ta' Malta, liema kariga huwa kien jokkupa għal hafna snin, minn liema posizzjoni huwa irtira bl-eta' waqt il-mori tal-kawza.

Jirrizulta wkoll illi l-Imhalled Carmelo Farrugia Sacco kien ukoll, fuq bazi personali, jokkupa il-kariga ta' President tal-Kumitat Olimpiku Malti, liema kariga huwa kien ilu jokkupa għal hafna snin ukoll, għalkemm dina ma kienetx in linea mal-Kodici tal-Etika tal-Gudikatura, minn liema kariga huwa spicca waqt il-mori tal-kawza hekk kif spicca t-termini tieghu ta' President.

Jirrizulta illi l-kwerelat, l-President Imhalled Joseph Said Pullicino, kien Prim Imhalled irtirat tal-Qorti, kif ukoll, fil-mument illi kiteb l-ittra meritu tal-kawza odjerna, kien fil-kapacita personali tiegħi, Ombudsman, liema kariga huwa baqa' jzomm sakemm skadilu t-terminu waqt il-mori tal-kawza odjerna.

Jirrizulta illi, fis-17 ta' Gunju 2012, il-gurnal Ingliz '**The Sunday Times**' ippubblika storja intitolata '**Exposed: mass black market in 2012 tickets**', u dana b'referenza għall-biljetti relatati mal-Olimpiadi ta' Londra illi kienu ser jinzammu ftit gimghat wara. Fi kliem l-awturi tal-artikolu (fol 108):

A two-month undercover investigation by The Sunday Times found widespread corruption among officials and agents controlling the tickets for no fewer than 54 countries.

L-istess storja tkompli tigi rappurtata fl-istess gurnal u, taht titolu li jghid '**Fans lose out as countires sell allocation to highest bidders**', l-artikolista jagħmlu referenza għal-laqgħa illi

kellhom mal-kwerelant l-Imhallef Carmelo Farrugia Sacco, fil-vesti privati tieghu ta' President tal-Kumitat Olimpiku Malti, u jghidu s-segwenti (fol 110):

Greece was not alone in being happy to allow its tickets to be sold abroad. The reporters also met Judge Lino Farrugia Sacco and Joseph Cassar, President and Secretary General of the Maltese Olympic Committee. The officials were tempted by a £60,000 offer for their Winter Games tickets. They told the reporters they would need to set up a European office and it would be fine to sell across the continent as long as the left "a few tickets" for the Maltese people.

Sacco said "Frankly, we are just interested in just in our needs, because we realise that if the person is willing to pay you that much money, that person wants to make a profit."

Jirrizulta illi dina l-istorja giet percepita mill-media lokali u, l-ghada li dehret fis-Sunday Times ta' Londra, fuq il-faccata tal-gazzetta lokali **The Times** tat-18 ta' Gunju 2012, dehret storja intitolata **"No wrongdoing" in Olympics ticket sting – Malta Judge and official in UK newspaper investigation**, liema storja kienet tghid is-segwenti (fol 102):

The head of Malta's Olympic Committee, Mr Justice Lino Farrugia Sacco, yesterday featured in an investigative report by The Sunday Times of London about abuse in the sale of Olympic Games tickets.

He denied any claims of wrongdoing, saying: "We would never go against the rules of the International Olympic Committee (IOC). It's not worth it."

Following a two-month undercover investigation, the British newspaper alleged widespread corruption among officials and agents in 54 countries, prompting an IOC probe.

National Olympic committees were willing to sell chunks of their official ticket allocations to international touts knowing they would be sold against the IOC's rules, according to the newspaper. Undercover reporters who posed as envoys of a Middle Eastern ticket tout found 27 officials and agents willing to do business, the weekly said.

Among those secretly filmed were Mr Justice Farrugia Sacco and MOC general secretary Joseph Cassar.

In the footage, posted on the paper's website, the two appear to be explaining how the rights on Malta's allocated tickets for the 2014 Winter Games in Sochi (Russia) could be bought. Mr Cassar also explained how the tickets could be marketed and sold within "subtle" bundle package deals at a mark-up.

National committees are not allowed to sell tickets outside their borders or to anyone intending to resell. Nor can they add more than 20 per cent to the original price.

The report by The Sunday Times had this to say about the Maltese officials: "Greece was not alone in being happy to allow its tickets to be sold abroad... The (Maltese) officials (Mr Justice Farrugia Sacco and Mr Cassar) were tempted by a £60,000 offer for the Winter Games tickets.

"They told the reporters they would need to set up a European office and it would be

fine to sell across the continent as long as they left 'a few tickets' for the Maltese people."

Mr Justice Farrugia Sacco is quoted as saying: "Frankly, we are just interested in our needs because we realise that if the person is willing to pay you that much money, that person wants to make a profit."

When contacted yesterday about the undercover investigation by the British journalists, Mr Justice Farrugia Sacco said: "The MOC has no problems about it, in the sense that we have not done anything that is in any way wrong."

"Regarding the other national committees, I'd rather not comment because I have no information and, in my line of work, I'm accustomed not to pass any comments before I have any evidence. If they are guilty, they should be punished, if they are not they should not even be accused."

He recalled the conversation with the undercover reporters last April. "They pretended to be working for some sheikh and were interested in the Sochi 2014 (Winter Olympics) tickets and that's how the conversation started."

He said he left midway through the meeting because he thought they were people simply attempting "a venture".

"Quite frankly, I didn't give them much importance."

Asked whether he would have sold the tickets if the request was genuine, Mr Justice Farrugia Sacco said: "We would never go against the rules of the IOC, it's not worth it."

Asked whether he felt the report by The Sunday Times incriminated him, he said: "Well, I can say you hurt somebody even if you wouldn't have. Anybody can say anything but the important thing is whether you did it or not... Or whether you even attempted."

"But they do not have any proof that any of us or the MOC executive in any way ever tried to do that."

The tickets, he said, had not even been issued yet. "Even with all the bad intentions in the world, one wouldn't have managed."

Mr Justice Farrugia Sacco described the IOC's rules as "a very awkward system" where a national committee whose athletes did not qualify could end up suddenly loaded with expensive tickets that could not be sold.

Although the IOC does not allow countries to sell their tickets outside their borders, EU free trade laws said you could, provided it was within the EU, Mr Justice Farrugia Sacco pointed out.

Fid-19 ta' Gunju 2012, l-ghada illi dehret l-istorja fuq imsemmija, fil-faccata tal-gurnal lokali **The Times**, dehret storja ohra, din id-darba intitolata '**Minister calls for probe on judge**', liema storja kienet tghid is-segwenti (fol 104):

The Justice Minister has asked President George Abela to investigate Mr Justice Lino Farrugia Sacco, head of the Malta Olympic Committee, over the Olympics ticket scandal which emerged in The Sunday Times of London.

“The minister wrote to the President, as Chairman of the Commission for the Administration of Justice, and asked the Commission to investigate the matter,” Chris Said’s spokesman told The Times when contacted.

The British newspaper has accused certain National Olympic Committees of selling tickets to third parties for resale on the black market, which is prohibited by the International Olympic Committee (IOC). The MOC was not one of these.

However, the newspaper suggested Malta may have been willing to have its tickets sold by agents outside its borders. The IOC does not allow countries to sell their tickets abroad.

It also filmed MOC general secretary Joe Cassar explaining to two undercover reporters posing as envoys of a Middle Eastern ticket tout – in Mr Justice Farrugia Sacco’s presence – how high mark-ups for the tickets could be “camouflaged” through “subtle” marketing techniques.

The Times today publishes a transcript of the footage filmed secretly by The Sunday Times of London which is only available behind a paywall on the iPad version of the newspaper. Mr Justice Farrugia Sacco has strongly denied any wrongdoing.

When asked yesterday, he said the episode should not reflect badly on his role as a Judge and lashed out at “attacks” about his dual role. He said no other country in the world prevented judges from serving on sport-related committees.

“If perceptions are wrong, it is not my fault,” he said, adding that he had spoken to the IOC following the launch of its global investigation. He was assured Malta had done “nothing wrong”.

“Otherwise the IOC would have thrown me out. It’s the other countries that are the problem,” he added.

Asked whether it made sense to attend such business meetings, he said: “I’m not an international Judge and I don’t ever deal with businessmen in Malta. Never!”

According to the IOC, its investigation was launched “after claims that several national committees and ticket retailers were reportedly willing to break the rules by offering to buy or sell tickets outside their territory, sell tickets at inflated prices, or sell tickets to unauthorised resellers.”

But Mr Justice Farrugia Sacco says Malta is allowed to sell its rights to an authorised ticket retailer who then sells the island’s allocated tickets to people in EU countries, as long as some tickets are sold locally.

He says the EU’s free trade laws allow tickets to be sold across the union and the IOC has “accepted” this rule, “whether formally or informally”.

In fact, Malta’s tickets for the London 2012 Games have been given to the highest

bidder, Marcus Evans group (THG), which is also the authorised seller for Greece and Ireland.

Mr Justice Farrugia Sacco also defended Mr Cassar, saying the rules allow agents to bundle accommodation together with ticket prices.

Asked if the Maltese were given the opportunity to buy the tickets, Mr Justice Farrugia Sacco said the tickets were advertised on the MOC's website.

"Nobody ever complained to us that they were turned down," he said.

The MOC issued a statement last night again denying any wrong-doing and saying its officials never asked for payments, mark-ups or percentages from its tickets and never planned to buy tickets to resell them. It accused The Sunday Times reporters of having deceitful intentions and trying to catch people in a "net".

It said the Marcus Evans agreement was approved by the IOC and the income was used to train Maltese athletes for the London Olympics.

L-istess gazzetta ppubblikat wkoll it-"transcript" tal-video illi kien ittieded bil-mohba tal-laqgħa illi l-gurnalisti kellhom ma' l-Imhallef Carmelo Farrugia Sacco u Joseph Cassar, liema transcript il-kwerelant Imhallef Carmelo Farrugia Sacco jinsisti illi kien imbagħbas billi inbidlet is-sekwenza ta' kif graw l-affarjiet, u dana peress illi jinsisti illi d-diskors illi għamel Joe Cassar mal-gurnalisti u li jidher li sar qabel ma huwa dahal fix-xena, attwalment sar wara illi huwa telaq u mhux qabel.

Tali traskrizzjoni tghid is-segwent:

Transcript of the video involving Maltese officials – The Sunday Times of London

Introductory text: *Undercover reporters met Joe Cassar and Judge Lino Farrugia Sacco, general secretary and president of the Maltese Olympic Committee in April. They explained how the reporters could profit from becoming Malta's official ticket agent for the Sochi Winter Olympics.*

(Malta Olympic Committee general secretary Joe Cassar is being secretly filmed at the restaurant table by two undercover reporters pretending to be agents for a sheik from the Middle East. They question him about how they can obtain tickets for the Sochi 2014 Winter Olympics)

Male reporter: *Say if we were going to pay you for the Sochi tickets, if we pay you £60,000, we're not paying you for the tickets, we're paying you for the right...*

Joe Cassar: *No, that's like a royalty, like a... whatever...*

Male reporter: *Ah I see, we're paying you for the right to buy the tickets, I see...*

Cassar: *That is for the right of working on our behalf.*

Female reporter: *OK so for...*

Male reporter: *And then within that we could make our own mark-up on the tickets.*

Cassar: *I think it is... I think there is a restriction of how much you can. I mean, if a ticket costs \$500 you cannot sell it to \$5,000. I think there is a 20 per cent or something.*

Female reporter: *Right, OK, but if...*

Male reporter: *But do they check up on that?*

Cassar: *If you advertise it then it is checkable. But if you then insert it into a package and [say] 'I will give you a folder and a this and this and this'. Then you are, you know camouflaging in a way, I think.*

Female reporter: *OK.*

(Blackout. MOC president Judge Lino Farrugia Sacco appears at the table by Mr Cassar's side.)

Cassar: *But let us suppose your agent takes the agency. So he cannot... if he's from outside the EU first thing you probably have to do is register an office in Europe.*

Lino Farrugia Sacco: *In the EU...*

Cassar: *Two, he's still supposed to be selling those tickets in Malta but because of EU rules, the 'free trade' whatever you call it, without making publicity he could sell them in England, France, Germany or whatever.*

Reporters: *Oh OK.*

Cassar: *But you cannot say, listen....*

Farrugia Sacco: *Because Malta is part of the EU.*

Cassar: *...I am the agent from Malta and you can buy... So it has to be sort of subtle marketing and so on.*

Farrugia Sacco: *Quite frankly we are interested just in our needs because we realise that if a person is willing to pay you that much money that person wants to make a profit. Obviously, he's doing it in order to make a mark-up and get his money back, plus a profit, so obviously you've got to be reasonable and not demand too much. And we know that. And as long as we get our allocation, as long as some sales are made for the Maltese we... (indecipherable).*

Text: *The officials even offered to obtain tickets to the 2012 London Games for the reporters to sell to their clients.*

Cassar: *If you want some tickets, we don't... we have a lot of contacts and so on and if there is anything specific that you wish we can help you get them. Maybe... Or...*

Farrugia Sacco: *We can try.*

Cassar: *We know about half a dozen agents who are friends of ours. So if one doesn't have I can say, listen can you give me these for a friend of mine or whatever?.*

Jidher illi sussegwentement il-kaz gie mgħoddi lill-Kummissjoni għall-Amministrazzjoni tal-Gustizzja sabiex dana jigi investigat kif misthoqq.

Fil-5 ta' Dicembru 2012, l-istorja regghet inghatat spinta ohra hekk kif, fuq il-gazzetta Ingliza **The Telegraph**, dehret storja intitolata '*IOC demands sanctions after officials sold London 2012 tickets on the black market*', u sotto-titolo illi kien jghid "*Four national Olympic committees will be forced to impose severe sanctions against their officials after London 2012 tickets were sold on the black market for up to 10 times face value.*" (fol 138)

L-artikolu imbghad kien jghid is-segwenti:

After conducting an investigation into the affair, the IOC says it is unable to directly sanction the officials involved, but will apply overt pressure on the national Olympic Committees to take action. The IOC will threaten to withdraw support for the committees at the 2014 Games in Sochi and Rio de Janeiro 2016.

Profiteering on Olympic tickets is strictly forbidden. But following violations by Olympic officials in Greece, Lithuania, Malta and Serbia, as well as some of the authorised ticket resellers, the IOC has committed to an internal review that will decide whether it should take over the entire ticketing operation. The review will be completed by the end of January.

IOC president Jacques Rogge, who promised to change the loophole in the IOC's code that prevents it from directly sanctioning individuals within national Olympic committees, said: 'The overwhelming majority of tickets sold in London were to our general satisfaction, although there have been problems.'

In the past, and for ticket sales to Sochi, each national Olympic committee has been able to appoint an authorised ticket reseller for sales within their borders. However, some committees might have to reconsider these contracts following the ethics investigation, which found some resellers broke rules by selling tickets outside their jurisdiction.

The Olympic officials under the spotlight are the president of the Greek Olympic Committee, Spyros Capralos; the general secretary of Serbia's Olympic committee, Djordje Visacki; Malta's Olympic committee president Lino Farrugia Sacco and general secretary Joseph Cassar, who were preparing to sell on most of its Sochi winter Olympic tickets for £60,000; and Lithuanian officials involved in deals with its ticket reseller, the Baltic Clipper representative Asta Zirlyte.

Many of the smaller national Olympic committees rely on the sale of these tickets and contractual deals with ticket resellers to underpin development and sports funding in their country.

Locog released 12 per cent, or 1.2 million, Olympic tickets to authorised ticket resellers for sale in overseas territories.

L-ghada, 6 ta' Dicembru 2012, l-istorja gie rappurtata mill-Kamra tal-Ahbarjiet ta' **Television Malta** u, fl-ahbarjiet ta' TVM tat tmienja ta' filghaxija, giet riprodotta storja illi, fl-introduzzjoni tagħha kienet tghid is-segwenti (fol 120 -123) :

L-agir ta' sitt ufficjali, fosthom zewgt Maltin, wassal lill-Kumitat Olimpiku Internazzjonali biex jibda process li jista jwassal ghal riforma shiha fil-bejgh tal-biljetti ghall-Olimpijadi.

Dan wara li rapport tal-Kummissjoni Etika tal-Kumitat Olimpiku Internazzjonali irrikmanda li l-Kumitat Olimpiku Malti u l-persuni implikati jiehdu l-passi mehtiega fejn ir-reputazzjoni tal-Moviment Olimpiku giet intappna.

F'kaz li l-Kumitat Olimpiku Malti jonqos milli jiehu l-passi mehtiega, il-Kumitat Olimpiku Internazzjonali jiet jiehu passi hu. L-istess sanzjoni tinsab imdendla fuq ras il-Kumitat Nazzjonali tas-Serbja, il-Grecja u l-Litwanja.

L-istorja principali imbghad kienet tghid is-segwenti:

Il-laqgha li l-President tal-Kumitata Olimpiku Malti, l-Inhalled Lino Farrugia Sacco, u s-Segretarju tal-istess Kumitat, Joe Cassar kellhom f'April li ghadda ma' zewgt gurnalisti tal-gazzetta Ingliza The Sunday Times li kienu qed jippuzaw ta' agenti tal-biljetti mill-Lvant Nofsani wasslet ghal rakkomandazzjoni biex tittiehed azzjoni.

Fi kliem il-Kummissjoni tal-Etika tal-Kumitat Olimpiku Internazzjonali, Joe Cassatappan ir-reputazzjoni tal-Moviment Olimpiku waqt li l-Imhalled halla lill-gurnalisti Inglizi jippruvaw il-punt taghhom.

Dan minhabba skandlu dwar il-bejgh tal-biljetti li hareg fid-deher ftit gimghat qabel l-Olimpiadi tas-sajf li ghadda f'Londra. Minbarra z-zewgt Maltin, fir-rapport jissemew erbgha ufficjali ohra mill-Kumitati Olimpici tal-Grecja, il-Litwanja u s-Serbja.

Kelli ghall-Kumitat Olimpiku Internazzjonalo qa li, minhabba lil-Kumitat ma jistax jiehu passi kontra individwi, talab lill-erba Kumitati Olimpici Nazzjonali, fosthom dak ta' Malta, biex jiehdur passi.

Mark Adams, kelliem ghall-Kumitat Olimpiku Internazzjonali (qal):

“the EB (Executive Board) has asked the four NOC's (National Olympic Committees) involved, whose officials tarnished the reputation of the Olympic movement, to take appropriate measures. Should they fail to do so, it is at the discretion at the EB to initiate further measures against those individuals.”

Skond il-gurnalisti Inglizi, iz-zewgt ufficjali Maltin kienu dehru interessati bl-offerta ta' sittin elf lira sterlina biex l-agenti mill-Lvant Nofsani jirbhu d-dritt li jbieghu il-biljetti allokati ghal Malta ghall-Olimpiadi tax-Xitwa ta' sentejn ohra.

Fil-film li ngibed bil-mohbi, iz-zewgt ufficjali Maltin bdew jispjegawhom li biex ikunu jistghu ibieghu il-biljetti, l-ewwel iridu jirregistraw ufficju fl-Ewropa.

Il-Kummissjoni Etika tal-Kumitat Olimpiku Internazzjonali qalet li kull min ghandu kariga f'ghaqda sportiva, speccjalment Kumitat Olimpiku Nazzjonali, ghandu jagixxi b'mod impekkabli u ma jtebbax ir-reputazzjoni al-moviment olimpiku.

Dwar l-Imhalledf Farrugia Sacco, il-Kummissjoni qalet li l-fatt li l-taqa' mal-Agenti li ppruvaw jghawgu r-regoli biex ikunu jistghu ibieghu l-biljetti tal-Olimpiadi ta' sentejn ohra, l-Imhalledf halla lill-gurnalisti jippruvaw il-punt taghhom.

Fir-rigward tas-Segretarju Generali tal-Kumitat Olimpiku Malti, Joe Cassar, il-Kummissjoni ziedet tghid li l-fatt li ssugerixxa kif setghu idiru mar-regoli u jbieghu il-biljetti, is-Sur Cassar ipprova l-argument tal-gurnalisti li fl-isport hemm nies lesti jiksru r-regoli.

Ghadd ta' mistoqsijiet li TVM baghat lill-Imhalledf Farrugia Sacco u s-Sur Cassar baqghu mhux imwiegba.

Fid-9 ta' Dicembru 2012, il-gazzetta lokali tal-Hadd, **The Sunday Times**, ppubblikat storja fil-faccata taghha, intitolata '**Chief Judge laments muzzled watchdog**', fejn l-istorja kienet tghid is-segwenti (fol 132):

Chief Justice Silvio Camilleri has lamented the “unhappy state of affairs” with the Commission for the Administration of Justice being unable to make statements in the face of allegations about a member of the judiciary.

He would not confirm or deny whether the Commission was looking into allegations against Mr Justice Lino Farrugia Sacco, in light of the censure the Maltese judge received from the International Olympic Committee’s Ethics Commission in his capacity as Malta Olympic committee president.

The Chief Justice said that the law binds the Commission to secrecy. But he made clear that he was not pleased with the situation. “I know this is an unhappy state of affairs. It is not a situation I am happy with and I have already said, in speeches I made, that the situation within the Commission needs to be reviewed. For as long as the situation stays as it is, however, I will respect the law,” he said.

The comment comes after the IOC’s ethics body on Thursday rapped Mr Justice Farrugia Sacco and Joe Cassar — the president and general secretary of the MOC — for engaging in a conversation with undercover journalists posing as ticket agents looking to circumvent the official sales mechanism for the 2014 Winter Games in Sochi, Russia.

The journalists, from The Sunday Times of London, secretly filmed a conversation with Mr Justice Farrugia Sacco and Mr Cassar.

With regard only to Mr Cassar, the IOC commission said that by explaining “which means could be used to get around the mechanism”, he helped to prove the journalists’ point that the sports world and those who work for it “are prepared to violate the rules”.

“As a result, Mr Cassar helped the reputation of the Olympic movement to be tarnished,” it said.

When the allegations first surfaced in June, Justice Minister Chris Said had written to the Commission requesting an investigation, in light of Mr Justice Farrugia Sacco’s position as a judge.

President George Abela, who heads the Commission, later announced that he had abstained because he had represented the judge as legal counsel in the past.

Nothing else about the matter has been heard since. However, on Friday the Nationalist Party called on the judge to resign, while Dr Said declared that he would not “hesitate” to move an impeachment motion if the Commission found grounds to do so.

Sources have told The Sunday Times that a hearing is taking place but could not give any information on its status.

The Commission, which in the absence of the President will be chaired by the Chief Justice, acts very much like a court in which a judge or magistrate facing the proceedings would make a defence plea, often aided by a lawyer.

Asked if the Commission would be making a statement, the Chief Justice said: “If there is a development that the Commission feels it can make a statement on, it will make a statement, but if there is nothing it means there isn’t something that the Commission feels it can make a statement on.”

Mr Farrugia Sacco has denied any wrongdoing but has been unavailable for questions, as has Mr Cassar.

However, David Farrugia Sacco, the judge’s son and lawyer, said the legal team would be evaluating the matter over the weekend.

Five years ago, the Commission for the Administration of Justice had ruled that Mr Justice Farrugia Sacco was in breach of the judiciary’s code of ethics as long as he remained president of the Malta Olympic Committee.

The code of ethics, a non-binding set of principles, states that members of the judiciary “cannot hold any position, even if temporary, voluntary or honorary, and neither can they carry out any activity which, in the view of the commission... may compromise their position, duties or functions”.

However, Mr Justice Farrugia Sacco remained in his position on the MOC after disagreeing with the council’s ruling.

To date, there has never been a successful impeachment of a member of the judiciary.

In the early 1990s a motion to impeach Magistrate Carol Peralta over allegations that he was a freemason was withdrawn after he made a declaration saying that he had acted as a lawyer for a lodge before being appointed to the bench but was not actually a member.

A decade later, in 2001, a vote on the impeachment of Judge Anton Depasquale failed to achieve the required two-thirds majority after the Labour Opposition voted against it because it disagreed with the procedure used.

Dr Depasquale had conscientiously objected and did not attend court for almost seven years in protest at the 1994 law setting up the Commission for the Administration of Justice, which he considered to be unconstitutional.

In 2002, impeachment proceedings had started against Noel Arrigo and Patrick Vella, then Chief Justice and judge respectively, when they were accused (later convicted) of taking a bribe to reduce the prison sentence of a drug trafficker. However they resigned before they could face impeachment.

European Olympic Committees ‘support’ those implicated

A board representing European Olympic Committees yesterday pledged its “unanimous support” to those rapped by an ethics commission of the parent International Olympic Committee.

The statement takes the side of six officials from Malta, Greece, Lithuania and Serbia.

The EOC’s executive board said at the end of a three-day conference in Rome that it had reservations about the lack of opportunity given to those concerned to appear before the full membership of the IOC Ethics Commission.

Malta was represented at the conference by the two men named by the IOC, Malta Olympic Committee president Lino Farrugia Sacco and its general secretary Joe Cassar.

The EOC also expressed reservations about the process of “entrapment” (the members were secretly filmed by journalists from The Sunday Times of London posing as ticket agents) through which evidence was obtained, and the lack of legal representation. The EOC President has now been asked to make representations to the president of the IOC. Mr Justice Farrugia Sacco is a prominent member of the EOC, holding the chairmanship of the Audit Committee of the European Olympic Committees Association and that of the Co-ordination Commission of the International Committee of the Mediterranean Games.

Dakinhar stess, 9 ta’ Dicembru 2012, filghaxija, il-Kamra tal-Ahbarjiet ta’ **Television Malta**, tellgħet storja li kienet tirrapporta x’kien gara dakinhar, u li fiha ingħad is-segwenti (fol 124):

L-Imhalledf Farrugia Sacco, fil-kariga ta’ President tal-Kumitat Olimpiku Malti, huwa involut flimkien mas-Segretarju Generali tal-Kumitat Olimpiku Malti, u ufficjali ohra mis-Serbja, l-Litwanja u l-Grecja, f’kaz dwar xiri ta’ biljetti għall-Olimpiadi tax-Xitwa, li hareg fil-berah minn gurnalisti tas-Sunday Times ta’ Londra. Kelliem għall-Kumitat Olimpiku Internazzjonali qal li, minhabba li l-kumitat ma jistax jiehu passi kontra individwi, talab lill-erba Kumitati Olimpici Nazzjonali, fosthom dak Malti, biex jiehd pass.

Il-laqgħa li l-President tal-Kumitat Olimpiku Malti, l-Imhalledf Lino Farrugia Sacco u s0-Segretarju tal-istess Kumitat, Joe Cassar, kellhom f’April li għadda ma’ zewgt gurnalisti tas-Sunday Times ta’ Londra, li kienu qed jippuzaw ta’ agenti tal-biljetti mill-Lvant Nofsani, wasslet għal rakkomandazzjoni biex tittiehed azzjoni. Fi kliem il-Kummissjoni tal-Etika tal-Kumitat Olimpiku Internazzjonali, Joe Cassar tappan ir-reputazzjoni tal-moviment Olimpiku, waqt li l-Imhalledf Farrugia Sacco halla lill-gurnalisti jippruvaw il-punt tagħhom. Kemm Farrugia Sacco u Cassar kienu caħdu l-akkuzi fil-konfront tagħhom. Skond l-Imhalledf Farrugia Sacco, kumitati Ewropej qalu li

ma sar xejn mhux f'loku imma li l-proceduri uzati kienu hzienu. TVM pprova jaghmel kuntatt mal-Imhalledf Farrugia Sacco izda ma kellniex risposta.

Il-Prim Ministru Lawrence Gonzi sejjah ghar-rizenja tal-Imhalledf Farrugia Sacco dalghodu f'Haz-Zebbug u qal li l-posizzjoni tieghu mhijiex tenibbli. Qal li l-posizzjoni ta' Farrugia Sacco ttappan il-kredibilita' tal-Gudikatura.

Il-Prim Ministru Gonzi qal li jekk l-Imhalledf Farrugia Sacco ma jirrizenjax, il-Gvern se jiehu l-passi necessarji skont il-Ligi.

Alternattiva Demokratika, fi stqarrija, ukoll espremiet dizappunt li l-Kummissjoni ghall-Amministazzjoni tal-Gustizzja ghadha ma kkonkludietx l-investigazzjoni li talab il-Ministru tal-Gustizzja f'Gunju li ghadha ghall-involvement tal-Imhalledf Farrugia Sacco. Id-Deputat Chairperson tal-AD, Carmel Caccopardo qal li l-Kummissjoni ghandha tikkomkludi l-investigazzjoni minnufih issa li hareg ir-rapport tal-Kummissjoni tal-Etika tal-Kumitat Olimpiku Internazzjonali.

Dakinhar stess ukoll, fid-9 ta' Dicembru 2012, is-sit elettroniku www.timesofmalta.com irnexxilu jottjeni kummenti minghand l-kwerelant l-Imhalledf Carmelo Farrugia Sacco hekk kif kien l-ajruport u, fi storja intitolata '**Judge Farrugia Sacco will not resign - MOC President embroiled in ticketing controversy says Prime Minister "is talking nonsense"**', taht video ta' l-intervista illi kienet saritlu, l-istorja qalet is-segweni (fol 134):

Malta Olympic Committee President and Judge Lino Farrugia Sacco this afternoon said he had no intention of giving up either post, saying that Prime Minister Lawrence Gonzi was "talking nonsense" when he called for his resignation this morning.

Mr Justice Farrugia Sacco is embroiled in an Olympic ticketing controversy, following an investigation by two undercover reporters from The Sunday Times of London.

The International Olympic Committee's Ethics Commission rapped Mr Justice Farrugia Sacco last Thursday, saying that by entertaining the two undercover reporters, he had "allowed the journalists to prove their point".

Prime Minister Lawrence Gonzi this morning said that he expected Mr Justice Farrugia Sacco to resign and said the judiciary's credibility was at stake.

But Mr Justice Farrugia Sacco this afternoon said he had no intention of doing so.

"The Prime Minister either said what he said for his own reasons, or else he doesn't know the facts. Forty-nine European countries yesterday said nothing improper happened, and that only the procedures were wrong. Now if we'd like to make up our minds without knowing what went on, we can be mediaeval and do that."

He said he had every intention of continuing on as MOC chief. "I'll go on working as usual. After all the corruption allegations, it turns out none of it is true. The only thing the IOC decision found was that the English journalists wanted to prove that not everything in the sports world was clean, and that they had proven that."

Mr Justice Farrugia Sacco said that the secret footage published by The Sunday Times of London had been "manipulated".

He now plans on taking the case to the sports world's highest court, the Court of Arbitration for Sports, which is based in Switzerland.

"I've been advised that there aren't grounds for me to file a suit [against the UK journalists], but I'm not happy with the way things were handled so I'll be taking my case to the World Tribunal of Sports as well as Lausanne courts."

Mr Justice Farrugia Sacco's MOC colleague Joe Cassar, also censured by the IOC last Thursday, said the media seemed determined to ignore the facts.

"There have been calls for our resignation. But we should have resigned had we not done what we did. We were working hard to get more for the MOC, but it's been completely twisted around."

L-ghada, 10 ta' Dicembru 2012, il-gazzetta lokali **The Times** ippubblikat storja fil-faccata taghha, intitolata **'I will not resign – Farrugia Sacco'** b'titolu iehor fuq il-pagna 6 fejn tkomplet l-istorja, li jghid: **'Choose the honourable path – Gonzi'**. Dina l-istorja, imbghad, kienet tghid is-segwenti (fol 136):

Judge and Maltese Olympic Committee President Lino Farrugia Sacco has no intention of stepping down from either post, saying yesterday that the Prime Minister was "trying to be funny" in calling for his resignation.

He insisted it would be business as usual for him and MOC secretary Joe Cassar, and said he would be taking his case to the sports world's highest court, the Switzerland-based Court of Arbitration for Sport.

Both men are embroiled in an Olympic ticketing controversy, sparked by secret footage taken by two undercover reporters from The Sunday Times of London.

The published footage prompted an International Olympic Committee investigation, which last Thursday found that Mr Justice Farrugia Sacco had "allowed the journalists to prove their point" by talking to undercover reporters clearly looking for ways to circumvent the official mechanisms.

Mr Cassar was also rapped by the IOC, which said his actions had "helped the reputation of the Olympic movement to be tarnished".

Prime Minister Lawrence Gonzi yesterday called on Mr Justice Farrugia Sacco to "choose the honourable path" and resign, saying that the judiciary's credibility was at stake.

"If he does not do so, the necessary procedures allowed by law would have to be taken," Dr Gonzi warned in the course of an interview held at a PN meeting in Żebbuġ.

Calls for his resignation were echoed by Alternattiva Demo-kratika, which also said the Commission for the Administration of Justice needed to "pull up its socks" and conclude its investigation into the matter.

Quizzed by The Times upon his return to Malta from Rome yesterday, Mr Justice Farrugia Sacco suggested the Prime Minister had spoken too hastily.

“He’s trying to be funny. Does the Prime Minister know the facts? Forty-nine European countries yesterday said nothing improper happened and that only the procedures were wrong.”

Those countries are the various European Olympic Committees which on Saturday pledged their “unanimous support” for Mr Justice Farrugia Sacco, Mr Cassar and four other Olympic officials from Greece, Lithuania and Serbia also implicated in the The Sunday Times of London sting.

The 49 committees say those accused were not given a fair hearing by the IOC and that the London newspaper operation was a clear case of entrapment.

Mr Justice Farrugia Sacco said that those beating the drum for his resignation had a “mediaeval mentality”.

“The IOC decision simply said that the English journalists wanted to prove that not everything in the sports world was clean, and that they had proven that.”

He dismissed suggestions that Malta’s participation in future Olympics games was at stake and said if any sanctions followed, they would concern ticket accreditations.

The IOC investigation found that the words of those investigated had not been “altered or taken out of context” in press articles. But Mr Farrugia Sacco said that the secret footage had been “doctored” to give the impression he was present at times when he wasn’t. “It’s a farce,” he said.

Asked by The Times whether he planned on suing The Sunday Times of London for having libelled him, Mr Justice Farrugia Sacco admitted he did not have much of a case.

“My Italian lawyers told me there aren’t grounds for filing a case because the journalists said nothing about me,” he said. He however added that he would nevertheless be taking the matter to the Lausanne courts, where the sports world’s highest judicial body meets.

MOC secretary Joe Cassar also denied any wrongdoing and accused the media of ignoring their declarations.

“We’ve always been consistent. People have called for our resignation. But we should have resigned had we not done what we did, because we were working for the MOC’s benefit. Unfortunately it’s been completely misinterpreted in the papers.”

Jirrizulta, imbgħad, illi, fl-isfond ta’ dana kollu, fil-11 ta’ Dicembru 2012, il-kwerelat il-President Imħallef Joseph Said Pullicino għazel illi jikteb ittra lill-President ta’ Malta, bhala President tal-Kummissjoni għall-Amministrazzjoni tal-Gustizzja, liema ittra hija ġia riprodotta aktar ‘l fuq, u li giet mibgħuta wkoll lill-mezzi tax-xandir.

Di fatti, fuq is-sit elettroniku www.timesofmalta.com, dakinhar stess, 11 ta’ Dicembru 2012, giet pubblikata storja intitolata ‘**Ombudsman writes to the President: Farrugia Sacco should be relieved from his duties until his case is resolved**’, u taht il-video ta’ l-intervista tal-kwerelant illi kien għamel l-istess sit elettroniku ftit jiem qabel, dehret l-istorja segwenti (fol 83):

The Ombudsman, Joseph Said Pullicino has written to the President expressing his concerns over the allegations made against Mr Justice Lino Farrugia Sacco by the International Olympic Committee.

In his letter, Dr Said Pullicino, a former Chief Justice, told President Abela in his capacity as head of the Commission for the Administration of Justice that the commission should use its moral authority to ensure the judge allegedly involved in this scandal is immediately relieved from attending to his judicial duties. This should be until the charges levelled against him are finally determined in full respect of his constitutional rights, including that of the presumption of innocence.

In his letter, the Ombudsman wrote:

"The news that a Judge of the Superior Courts has been implicated by an international sporting authority in a case of corruption has shocked me as indeed also our nation. The news in itself, irrespective of any judgement as regards guilt or otherwise, severely undermines trust in the Administration of Justice.

"Article 12 of Act XXI of 1995 precludes me as Parliamentary Ombudsman, to express an opinion on the Judiciary and consequently on the behaviour of members of the judicature in the exercise of their duties. This does not however prevent me from expressing my opinion on the effects of such behaviour on the proper administration of justice in the country, all the more so when this concerns actions which are not in any way related to the recognised functions of a Judge.

"It is in this spirit, Mr President, that I am submitting my well-formed opinion that the Commission over which you preside should use its moral authority to ensure that the Judge allegedly involved in this scandal is immediately relieved from attending to his judicial duties until the charges levelled against him are finally determined in full respect of his constitutional rights, including that of the presumption of innocence. This decision ultimately rests with His Honour the Chief Justice in the proper exercise of his functions.

"This decision finally devolves on the Chief Justice in the exercise of the functions of his Office.

"The above opinion applies so long as the Judge, against whom the allegations have been made, does not immediately and responsibly suspend himself from the exercise of his judicial duties so as to be best able to defend himself with the least possible negative effects on the Administration of Justice.

"I am of the opinion that such action needs to be taken also in the light of the advice tendered to you by the Honourable Prime Minister to dissolve Parliament on 7 January 2013."

L-istorja giet ukoll rappurtata fil-gazzetta lokali **The Times**, l-ghada, 12 ta' Dicembru 2012, bit-titolu '**Ex Chief Justice: suspend Farrugia Sacco – Ombudsman calls for suspension of Judge**'

kif ukoll fuq varji gazzetti ohra, bhal The Malta Independent, li ppubblikat storja intitolata ‘**Judge should be ‘relieved of his duties’**’, u l-Orizzont li ppubblika storja intitolat ‘**Ombudsman jitlob ghas-sospensjoni ta’ mhallef**’

Dakinhar stess, 12 ta’ Dicembru 2012, fuq is-sit elettroniku www.timesofmalta.com, ittellghet storja intitolata ‘**Farrugia Sacco to sue Ombudsman for criminal libel**’, liema storja kienet tghid is-segwentu (fol 75):

Mr Justice Lino Farrugia Sacco said today that he will sue Ombudsman Joseph Said Pullicino for criminal libel over a letter he sent yesterday to the President of Malta and copied to the press.

The issue is over allegations made against Mr Justice Farrugia Sacco on the sale of tickets for the Sochi Winter Olympics.

Dr Said Pullicino, a former Chief Justice, wrote to the President yesterday in his capacity as president of the Commission for the Administration of Justice.

In a statement issued through his lawyers, Mr Justice Farrugia Sacco said:

"Reference is made to the various reports, letters, and blogs appearing recently in various parts of the media regarding the sale of Olympic Tickets.

It is completely false to state that MOC officials were implicated by an international sporting authority in a case of corruption. Nowhere in the text of the IOC or during proceedings were such words used or implied.

"From the Web site of the IOC from the Ethics Commission report, one can read the relevant text about the President of the MOC which reads as follows:

"Mr Lino Farrugia, President of the Maltese NOC - After taking cognisance of all the evidence and his observations, the Commission observes that, by agreeing to take part, with the NOC Secretary General, in a discussion concerning the ATR contract for the Games in Sochi, when it was apparent that his interlocutors seemed to be looking for ways to circumvent the official mechanism, Mr Farrugia allowed the journalists to prove their point."

"As a matter of fact the IOC Board approved the recommendations "noting that none of the steps taken by the journalists (sale / purchase of tickets, negotiation of ATR contract for Sochi) led to any kind of transaction, and that the journalists were seeking merely to prove a point".

"This makes it abundantly clear that any reference to corruption or black market tickets is a false statement. Indeed the European Olympic Committees issued two statements on the 8th December (scanned copy is being sent to the press) in this regard. One states: 'Due to the false press release, dated Friday 6th and 7th, by sections of the Maltese press, we hereby confirm that Mr Justice Lino Farrugia Sacco was not at any point punished or suspended from the Olympic Movement.

'On the contrary Mr Justice Farrugia Sacco enjoys our full and unanimous support and we look forward to working with him in the future.'

"Part of the second statement reads: '...calls for full respect for the rule of law to be applied and upheld. The members of the Executive Committee expressed their unanimous support for those implicated in the December 2012 Report of the IOC Ethics Commission.

"In particular they noted that the evidence on which the IOC Ethics Commission formulated its proposals was never made available in a timely manner to those implicated nor made available to the relevant National Olympic Committees. Given the seriousness of the allegations where reputational damage to senior members of the Olympic Family is at stake, the Committee expressed reservations about the lack of opportunity for those concerned to appear before the full membership of the IOC Ethics Commission, reservations about the process of entrapment through which evidence was obtained and reservations about the absence of legal representation. The Board has asked the President of the EOC to make representations to the President of the International Olympic Committee and the President of ANOC to reflect the views of the EOC Executive Board and its membership.'

"Furthermore, the MOC President is nonetheless filing an action to CAS (Court of Arbitration for Sports – the World's highest Tribunal on Sports) and in the Courts of Lausanne Switzerland complaining about the proceedings of the Ethics Commission.

"Here reference is made to what the EOC stated and the fact that [i] the documentation submitted by the London Sunday Times was not available to persons referred to by the Commission, that [ii] the video on the web site was "doctored", [iii] that no cross examinations were allowed, [iv] the lack of opportunity to appear and submit before the full Commission as well as the IOC Board, and [v] the fact that the Secretary of the Board acted as prosecutor and Judge. When the MOC President was present there were no indications that his interlocutors seemed to be looking for ways to circumvent the official mechanism and he left the meeting half way through.

"In view of the above the MOC President has filed criminal libel proceedings against President Emeritus Joseph Said Pullicino regarding the contents of his letter addressed to His Excellency the President of the Republic and handed to the media for circulation.

"Furthermore Mr. Justice Farrugia Sacco shall also be communicating with the Commission of Administration of Justice, in order to provide the real sequence of events, and not the malicious interpretations given by certain journalists and politicians, which politicians should respect one of the most important pillars of a democracy being the separation of powers. Such pillar exists in order to have any member of the judiciary give his or her judgments, of whatever nature, in accordance with the oath taken, being that of acting without fear and hence not feel intimidated when giving such judgment."

Mr Justice Farrugia Sacco has been serving in the Judiciary for 32 years

L-ghada, 13 ta' Dicembru 2012, il-gazzetti lokali lkoll irrappurtaw illi l-Imhallef Carmelo Farrugia Sacco kien ser iniedi proceduri ta' libell kriminali fil-konfront tal-kwerelat, fejn il-gazzetta The Malta Independent qalet '**Judge to file libel against Ombudsman**' (fol 62), Times of Malta qalet '**Farrugia Sacco files criminal libel suit against Ombudsman**' (fol 63) u l-Orizzont qal '**Imhallef se jaghmel libell kontra eks-Prim Imhallef**' (fol 64).

Fuq is-sit elettroniku www.timesofmalta.com, dakinhar 13 ta' Dicembru 2012 ittellghet storja intitolata '**Farrugia Sacco files criminal libel suit against Ombudsman**', illi fiha gie rappurtat is-segwenti (fol 65):

Lino Farrugia Sacco, a Judge and the Maltese Olympic Committee President, yesterday filed a criminal libel suit against the Ombudsman in reaction to a strongly worded letter that called for his suspension.

In a statement circulated to the media, Mr Justice Farrugia Sacco said it was "completely false" to say that MOC officials were implicated in "a case of corruption".

He was referring to a letter Ombudsman Joseph Said Pullicino, a former Chief Justice, sent to the President on Tuesday, which was also circulated to the media.

Dr Said Pullicino called for the judge to be "relieved of his duties" until he cleared his name in the scandal linked to the sale of Winter Olympic tickets.

Mr Justice Farrugia Sacco and MOC general secretary Joe Cassar were mentioned by the International Olympic Committee in a probe over the sale of Olympic tickets. The investigation started after a probe by undercover reporters of The Sunday Times of London, who posed as ticket agents.

When contacted, Mr Justice Farrugia Sacco said he had no alternative but to file a criminal libel case over the Ombudsman's use of the word "corruption". "It does not exist anywhere. I am saddened because I considered him to be a friend but he is totally mistaken," Mr Justice Farrugia Sacco said.

Together with his statement, the judge attached the IOC ethics commission's report and a statement by the European Olympic Committee underlining the fact that corruption was never mentioned.

When contacted for his comments, Dr Said Pullicino said: "Every person has a right to defend himself in the best way possible."

Mr Justice Farrugia Sacco has denied any wrongdoing and will be challenging the proceedings of the IOC ethics commission in the court of arbitration for sports.

Justice Minister Chris Said had asked the Commission for the Administration of Justice, chaired by President George Abela, to investigate the case involving the judge when The Sunday Times of London reported on its investigation last June.

The commission's proceedings are secret and Dr Abela decided to withdraw from the hearing because, in the past, he had defended Mr Justice Farrugia Sacco before the same commission over accusations of breaching the judiciary's code of ethics.

The Ombudsman's letter came hot on the heels of Prime Minister Lawrence Gonzi's call for the judge to "do the honourable" thing and resign.

Rebutting the criticism yesterday, Mr Justice Farrugia Sacco said he would be communicating with the commission to provide "the real sequence of events and not the malicious interpretations given by certain journalists and politicians".

Jirrizulta illi dakinhar, 13 ta' Dicembru 2012, indipendentement mill-kaz tal-kwerelant u bl-ebda konnessjoni maghha, tressaq il-Qorti l-Imhallef Raymond C Pace akkuzat ta' tixhim fil-qadi ta' dmirijietu, liema storja giet rrapportata fil-media lokali kollha l-ghada, 14 ta' Dicembru 2012. It-Times of Malta ppubblikat storja fil-faccata intitolata '**Judge charged with accepting a bribe**' b'sotto titolu illi jghid '**PM threatens impeachment if Pace, Farrugia Sacco do not resign**'.

Jirrizulta illi l-Imhallef Raymond C Pace sussegwentement irrizenja mill-kariga tieghu ta' Imhallef tal-Qrati Superjuri.

Jirrizulta illi fid-19 ta' Dicembru 2012 giet ippresentata fir-Registru tal-Qorti it-Tahrira ta' Kawza Privata kontra l-kwerelat l-President Emeritus L-Imhallef Joseph Said Pullicino, u li hija l-meritu tal-kawza odjerna.

Ikkunsidrat

Jirrizulta, mix-xhieda tal-kwerelant l-Imhallef Carmelo Farrugia Sacco, illi huwa hassu malafamat bil-kontenut ta' l-ittra mibghuta mill-kwerelat l-President Imhallef Joseph Said Pullicino, peress illi, a differenza ta' dak illi kien qieghed jikkontendi l-istess kwerelat, tali ittra ma ntbgħatiet fil-kapacita' tieghu ta' Ombudsman, izda intbgħatet fil-kapacita' personali tieghu u bl-intiza illi tagħmel hsara lill-kwerelant, in vista tal-posizzjoni illi precedentement kien jokkupa l-istess kwerelat, ossija Prim Imhallef tal-Qorti.

L-Imhallef Carmelo Farrugia Sacco ilmenta illi l-fatt li l-ittra giet cirkolata mal-mezzi tax-xandir kienet, minnha innifisha, prova sufficjenti biex turi l-malizzja li biha intbgħatet l-ittra, liema ittra spiccat biex influwenzat hazin lill-Prim Ministru tal-gurnata, illi spicca nieda proceduri ta' tnehhija tieghu minn Gudikant fil-Parlament.

L-Imhallef Carmelo Farrugia Sacco jinsisti illi l-kelma 'korruzzjoni' intuzat l-ewwel darba mill-kwerelat l-President Imhallef Joseph Said Pullicino, u dina turi l-hsieb tal-kwerelat sabiex jagħmel hsara lir-reputazzjoni tieghu.

Jirrizulta, mill-banda l-oħra, illi l-kwerelat l-President Imhallef Joseph Said Pullicino sahaq illi huwa hass li, bhala Ombudsman, kellu l-obbligu lejn ic-cittadin illi jsemmi lehnu u jwassal it-thassib tieghu dwar dak illi kien qieghed jigi allegat fil-konfront tal-kwerelant, u dana sabiex ukoll jilqa għal kritika illi l-Gudikatura kienet ser tircievi rizultat ta' tali allegazzjonijiet.

Il-President Imhallef Joseph Said Pullicino insista illi huwa kellu obbligu ta' trasparenza u kien għalhekk illi bagħat l-ittra lill mezz tax-xandir, u dana anke in vista tal-fatt illi l-involvement tal-kwerelant f'dina l-kwistjoni w tal-istituzzjoni tal-Qrati kienet daqstant serja illi hass li kellu d-dover li jikkummenta, kemm bhala Ombudsman, kif ukoll bhala Prim Imhallef irtirat u cittadin komuni.

Il-President Imhalled Joseph Said Pullicino jinsisti wkoll illi, filwaqt illi huwa ma ghamel ebda akkuzi fil-konfront tal-kwerelant, huwa ghamel referenza ghall-kelma ‘korruzzjoni’ unikament ghax kienet gia issemmiet qabel fuq il-mezzi tax-xandir u kienet anke issemmiet mill-kwerelant stess, liema kelma, kellha implikazzjonijiet serji.

Il-President Imhalled Joseph Said Pullicino sahaq ukoll illi huwa kellu l-biza li, bhalma kien ser jigri fil-kaz tal-ex-Prim Imhalled Noel Arrigo, fejn dakinhar kien ukoll semma lehn pubblikament mal-awtoritajiet kompetenzi, dwar il-gravita’ tal-akkuzi li kienu qed isiru, dakinhar fil-kapacita’ bhala Prim Imhalled Irtirat, fil-kaz odjern kienu ser isiru tentattivi sabiex l-istorja tigi mohbija u tinghatta, liema agir kien iwassal ghal aktar hsara milli gid. Huwa insista wkoll illi l-Prim Ministru kien gia wera x’azzjoni kien ser jiehu qabel ma kiteb l-ittra tieghu l-kwerelat, u ghalhekk ma kienx minnu illi l-ittra tieghu setghet influwenzat negattivament lill-istess Prim Ministru.

Ikkunsidrat

Il-Qorti tosserva illi l-ewwel eccezzjoni preliminari imqajjma mill-kwerelat, ossija illi huwa kien igawdi minn immunita’ ghal dak illi huwa kiteb stante illi kien qieghed jikteb fil-kapacita’ tieghu ta’ Ombudsman, giet michuda minn dina l-Qorti permezz ta’ sentenza in parte moghtija fil-11 ta’ Lulju 2013.

Ghalhekk, il-Qorti ser tghaddi biex tikkunsidra it-tieni eccezzjoni imqajjma mill-kwerelat, ossija illi l-azzjoni odjerna ma setghetx tigi ntavolata a tenur tal-Artikolu 252 (1), (2) u (3) tal-Kap 9 tal-Ligijiet ta’ Malta, peress illi dak ilmentat mill-kwerelant jirrigwarda stampat li ghandu jkun regolat mill-Kap 248, hekk imsejjah Ligi dwar l-Istampa.

Ikun ghalhekk opportun illi jigu ezaminati l-artikolu tal-Ligi imsemmija fit-Tahrira Privata b’harsa lejn it-tghalim tal-Qrati nostrani dwar tali artikoli.

L-Artikolu 252 tal-Kapitolu 9 tal-Ligijiet ta’ Malta jipprovdi s-segweni:

(1) *“Kull min, bil-ħsieb li jtellef jew inaqqas il-gieh ta’ xi hadd, iweggagħu bi kliem, b’gesti, b’kitba, b’disinji jew b’xi mod ieħor, jeħel, meta jinsab ħati, il-piena ta’ prigunerija għal zmien mhux aktar minn tliet xhur jew il-multa.*

(2) *Jekk l-ingurja ssir bi kliem mhux imfisser ċar jew b’ċanfir mhux speċifikat inkella bi kliem jew eġmli li jkun biss mhux xieraq, il-ħati jeħel il-pieni stabbiliti għall-kontravvenzjonijiet.*

(3) *Jekk l-ingurja ssir b’kitba, b’figuri jew b’disinji mxandrin jew esposti fil-pubbliku, il-ħati jeħel il-piena ta’ prigunerija għal zmien ta’ mhux iżjed minn sena”.*

L-Artikolu 256(1) tal-Kapitolu 9 tal-Ligijiet ta’ Malta jghid hekk:

“Fil-kazijiet ta’ ingurja li ssir bil-mezz tal-Istampa, iġhoddu d-disposizzjonijiet tal-Att dwar l-Istampa.”

Kif inghad fid-decizjoni fl-ismijiet **Il-Pulizija vs. Anton F. Attard**, moghtija fl-10 ta’ Lulju 2006, il-Qorti tal-Appell Kriminali, ppresjeduta mill-Prim Imhalled Vincent De Gaetano, qalet:

“Issa, din il-Qorti, minghajr ezitazzjoni, taqbel ma’ l- appellant li ingurja jew malafama permezz ta’ stampat, bhalma huwa ktieb li jigi ppublikat, ma taqax u ma tistax tigi punita taht l-Artikolu 252(1) (jew addirittura taht l- Artikolu 252(3)) tal-Kodici Kriminali. L-Artikolu 256 huwa car fil-portata tieghu u dejjem gie interpretat

mill- Qrati ta' Gustizzja Kriminali li, meta l-ingurja ssir bil- mezz ta' l-istampa (b'mod li l-ingurja jew il-malafama tkun allura tammonta ghal dak li komunement jissejjah libell), hi applikabbli il-Ligi dwar l-Istampa u huma applikabbli d-disposizzjonijiet tal-Kap. 248”.

Riferenza ghandha ssir ukoll ghad-decizjoni fl-ismijiet **Il-Pulizija vs. Joseph Zahra**, moghtija fit-22 ta' Settembru 2010, fejn il-Qorti tal- Appell Kriminali qalet hekk:

“Din il-Qorti, bhalma ghamlet l-ewwel Qorti, sejra tirreferi ghas-sentenza fl-ismijiet Il-Pulizija vs Joseph Sciberras et deciza fl-20 ta' Jannar 1997 minn din il-Qorti diversament presjeduta (Vol. LXXXI.iv.91). F'dak il-kaz, l-imputazzjoni migjuba kontra l-kwerelati ghal malafama kienet taht il-provvedimenti tal-Press Act. Hemm il-kwerelati kienu qeghdin jargumentaw illi l-ittra mertu tal-kaz ma kinitx intiza ghac-cirkolazzjoni ossia sabiex jigi mxandar u ghalhekk kienu japplikaw id-disposizzjonijiet tal-Kodici Kriminali. Din il-Qorti ma laqghetx dan l- argument u qalet hekk:

“Fil-fehma tal-Qorti, meta l-legislatur qed jtkellem dwar ‘stampat b'tipi tipografici’ (‘printed in typographical characters’, fit-test Ingliz) l-enfasi mhix fuq il-process tipografiku izda fuq ir-rizultat li wiehed jara stampat quddiemu, jigifieri li jara r-rizultat bhalma jhallu t-tipi li jintuzaw fil-process tipografiku. Jekk il-process ikunx dak tipografiku klassiku (‘composing type and printing from it’, Collins English Dictionary, ‘v. typography’), jew process jew sistema, sia mekkanika kif ukoll elettronika jew kombinazzjoni tat-tnejn, li taghti rizultat finali simili ghal dak tipografiku (bhal, per ezempju, phototypesetting, l-uzu ta' typewriter, l-uzu ta' printer tal-kompjuter, diversi forom ta' offset printing) hu rrelevanti.

Kif inghad, l-ittra in kwistjoni (a fol. 3 tal-process) jidher li giet stampata bil-kompjuter b'tipi tipografici u ghalhekk tikkwalifika bhala ‘stampat’ ghall-finijiet tal-Kap. 248. Ghal din il-konkluzjoni jidher ukoll li waslet ghalha l- Prim'Awla tal-Qorti Civili fis-sentenza taghha tas-7 ta' Mejju, 1991, fil-kawza fl-ismijiet Dr. Joseph M. Ciappara vs. Joseph Zammit u li ghalha ghamlet referenza ukoll l-Ewwel Qorti fis-sentenza appellata. Jekk, mill-banda l- ohra, ittra saret bitypewriter, din ukoll tammonta ghal kitba stampata b'tipi tipografici (ara f'dan is-sens ukoll, ghalkemm taht l-allura Kap. 117, is-sentenza tal-Qorti Kriminali li kienet allura tisma' appelli minn sentenzi tal- Qorti tal-Magistrati) tat-18 ta' Marzu, 1961 fl-ismijiet Tabib Dottor Henry Copperstone et al vs. Publio Schembri);

Kwantu ghar-rekwizit tal-pubblikazzjoni, l-imsemmi Artikolu 2 tal-Kap. 248 jiddefinixxi publikazzjoni bhala li tfisser: ‘Kull att li bih kull stampat jigi jew jista' jigi kkomunikat jew imgharraf lil xi persuna jew li bih kliem jew immagini vizwali jigu mxandra’.

L-appellanti jikkontendu li l-ittra kienet ‘komunikazzjoni ufficjali ta' natura privata’ mibghuta minnhom lill-kap tal-Gvern u li ma kinitx ghall-finijiet ta' jekk hemmx ‘publikazzjoni’ fis-sens tal-Kap. 248. Stampat jigi ppublikat anke jekk jigi kkomunikat jew imgharraf lil persuna wahda. Ghalhekk fetahx l-ittra l-Prim Ministru personalment jew xi membru tas-segretarjat tieghu hi wkoll konsiderazzjoni rrelevanti galadarba l-fatti malafamanti ma kinux qed jigu attribwiti lill-Prim Ministru”.

Kkunsidrat dak hawn fuq imsemmi, l-Qorti ma ghandha ebda dubju illi dak li gie kwotat hawn fuq

ghandu jigi applikat *mutatis mutandis* ghal kawza odjerna, bir-rizultat illi l-ittra illi minnha jilmenta l-kwerelant li l-kwerelat kiteb lill-President ta' Malta fil-11 ta' Dicembru 2012 ghandha tikkwalifika bhala 'stampat' ghall-finijiet tal-Kapitolu 248.

Ghalhekk, l-akkuzi migjuba kontra l-kwerelat abbazi tal-Artikolu 252 ma jissusistux fil-konfront tal-kwerelat, stante illi l-ilment jirrigwarda ittra stampata.

Madanakollu, jibqghu sabiex jigu kkunsidrati l-akkuzi migjuba abbazi tal-Kap 248 tal-Ligijiet ta' Malta u, ghalkemm l-akkuza ma taghti ebda indikazzjoni dwar l-Artikolu tal-offiza, il-Qorti tifhem illi l-akkuza hija wahda ta' malafama kif pprovduta fl-Artikolu 11 tal-Kap 248.

Ikkunsidrat

Il-kwerelant, l-Imhalled Carmelo Farrugia Sacco jilmenta illi l-kliem uzat mill-kwerelat il-President Joseph Said Pullicino, partikolarment il-kelma '*korruzzjoni*' kienu malafamanti fil-konfront tieghu, peress illi qatt ma semmiet korruzzjoni fil-konfront tieghu w l-kwerelat ghamel uzu minn tali kliem sabiex jaddebitaw lil azzjonijiet li ma kienux minnhom u li, minnhom innifishom, kienu jaghmlulu hsara, liema fatt kienet indikazzjoni cara tal 'anius injuriandi' illi kellu l-kwerelat meta baghat l-ittra u ppubblikaha.

Il-kwerelat, da parte tieghi, jishaq illi huwa ghamel referenza biss ghall-fatti illi kienu qed jigu rrapportat daww il-granet fuq il-mezzi tax-xandir u, filwaqt li insista illi r-referenza ghal '*korruzzjoni*' kienet gia sehhiet qabel ma irrefera ghalha hu fl-ittra tieghu, sahaq ukoll illi huwa hass illi kellu obbligu, lejn ic-cittadin, kif ukoll lejn il-korp tal-Gudikatura, illi jsemma lehnu u juri t-thassib tieghu dwar tali allegazzjonijiet, illi kienu certament ser jaghmlu hsara lill-Istituzzjoni tal-Qorti w il-Gudikatura.

Il-Qorti thoss illi, qabel ma tghaddi biex taghmel rendikont tat-taghlim lokali w internazzjonali dwar il-liberta ta' l-espressjoni, hija ghandha taghmel is-segweni osservazzjonijiet.

Johrog car, mill-provi prodotti, illi ghalkemm l-kwerelant l-Imhalled Carmelo Farrugia Sacco kien Gudikant u kien qieghed iservi bhala Gudikant fl-oghla Qrati tal-pajjiz, u dana ghal aktar minn tnejn u tletin sena, kemm bhala Magistrat kif ukoll bhala Imhalled, fil-mument illi gara l-akkadut li wassal ghall-istorja rrapportata fil-mezzi tax-xandir u li wasslet ghall-ittra meritu tal-kawza odjerna, il-kwerelant kien ukoll, fil-kapacita' personali tieghu, qieghed jikkupa ukoll il-kariga 'pubblika' ohra, ossija dik ta' President tal-Kumitat Olimpiku Malti.

Il-Qorti ma tistax ma tosservax illi, abbazi tal-Kodici ta' l-Etika illi jirregola l-Gudikatura kollha, ebda Gudikant ma ghandu jaccetta posizzjoni illi tista, b'xi mod, tirringi jew timpingi fuq l-operat u d-doveri taghhom fil-qadi tad-dmirijiet taghhom.

Apparti minn hekk, skond il-"*Guidelines*" mahruqa a tenur tal-Kodici tal-Etika,

a Judge should not hold any post within an association, whether in Malta or abroad, where such association, directly or indirectly, requires fund-raising from third parties not being members of that association, or which requires sponsorship solicitation, or which administers immovable property or other property of a substantial nature, or which is involved in commercial dealings; or an association which by its very nature or purpose involves the Judge in decision-making processes directly affecting or likely to directly affect the members of the association; or an association which is in receipt of funds from

the Government or which is charged with the task of giving effect to Government policy in any field.

Il-kwerelant sahaq illi huwa qatt ma kien marbut b'divejt tal-Kodici tal-Etika, stante illi dana qatt ma kien redatt f'Avviz Legali u dibattut fil-Parlament. Jirrizulta, madanakollu, illi l-Artikolu 101A (11) (d) tal-Kostituzzjoni jipprovdi illi l-Kummissjoni għall-Amministrazzjoni tal-Gustizzja għandha, bhala wahda mill-funzjonijiet, dik illi tiffirma Kodici ta' Etika li jirregola l-imgieba tal-Membri tal-Gudikatura, u l-Kodici tal-Etika vigenti huwa redatt in linea ma dak stabbilit fil-Kostituzzjoni.

Il-Qorti, madanakollu, ma tistax ma tosservax illi l-principji stabbiliti fil-Kodici tal-Etika huma principji bazilari illi għandhom jirregolaw kull Gudikant fil-qadi ta' dmirijietu, liema principji lanqas biss kien hemm il-htiega illi jigu ridotti in iskritt, peress illi huma regoli w principji ovvi ta' gustizzja naturali illi s-socjeta tippretendi minn kull persuna illi huwa mgħajjat biex iservi lill-pajjiz fil-Qrati tal-Gustizzja, liema principji huma essenzjali sabiex ic-cittadin u s-socjeta in generali jkollha dik il-fiducja u serhan tal-mohh fil-Gudikant, w il-Gudikatura in generali, illi l-Gustizzja mhux biss ser issir, izda ser tkun qieghda tidher illi qieghda ssir ukoll.

L-osservanza ta' tali regoli, għalhekk, huma essenzjali għall-ahjar amministrazzjoni tal-Gustizzja u sabiex l-istituzzjoni tal-Qorti, kif ukoll il-Gudikatura in generali, tkun tista tgawdi l-fiducja tac-cittadin u terrgħa tirbah il-fiducja u r-rispett illi tant jisthoqqilha u jimmeritaha izda li sfortunatament, fiz-zminijet recenti, safa imtappan minhabba azzjonijiet ta' certi individwi.

Il-Qorti ma tistax ma tosservax illi kieku l-kwerelant kien ottempera ruhu mal-principju stabbiliti fil-Kodici tal-Etika tal-Gudikatura u ma kienx jokkupa l-kariga ta' President tal-Kumitat Olimpiku Malti, kieku certament il-kwerelant qatt ma kien ser jigi implikat, anke minimament, fil-kaz kollu illi gie rrapportat 'l barra minn Malta u li gabet hafna rrapportagg fil-media, kemm barranija kif ukoll lokali.

Gudikant għandu obbligu, lejn il-Kostituzzjoni, l-Istituzzjoni tal-Qrati w shabu il-Gudikanti, illi jassikura li ma jagħmel xejn 'l hinn mid-doveri tiegħu illi, b'xi mod, jista jnaqqas jew itappan il-fiducja illi c-cittadin għandu jkollu fil-Qrati tal-Gustizzja, u dana sabiex l-integrità u rispettabilità tal-Qrati in generali tigi protetta w msahha, fl-ahjar interess tas-socjeta kollha Maltija.

Ikkunsidrat

Jirrizulta illi l-kwerelat, l-President Imhalef Joseph Said Pullicino, sahaq illi huwa ikkummenta biss fuq fatti illi kienu jirrizultaw ben ippruvati u tali difiza tista tigi kkunsidrata bhala eccezzjoni tal-fair comment.

Ikun għalhekk opportun illi dina l-Qorti tikkunsidra xi punti dwar id-difiza tal-fair comment. Id-difiza mqajjma mill-intimat fil-kawza odjerna kienet illi l-kummenti illi saru kienu '*fair comment*' fuq fatti sostanzjalment veri illi kienu ta' interess pubbliku u għalhekk ma setghux jitqiesu bhala malafamanti.

Dwar tali difiza **Gatley on Libel and Slander** jghid:

To succeed in a defence of fair comment the defendant must show that the words are comment, and not a statement of fact. He must also show that there is a basis of fact for the comment, contained or referred to in the matter complained of. Finally, he must show that the comment is on a matter of public interest, one which has expressly or

implicitly put before the public for judgment or is otherwise a matter with which the public has a legitimate concern. If, however, the plaintiff can show that the comment was not made honestly or was actuated by malice, he will defeat the plea.

Fil-kawza **Dr Louis Galea vs Etienne St John u Felix Agius** deciza fit 30 ta' April 2015, tali principji gew minnha mhaddna u spjegati kif gej :

... dwar l-aspett tad-difiza tal-kumment gust ilu zmien jinghad mill-Qrati taghna li, biex id-difiza tal-kumment gust tkun tghodd, jehrieg li min jistrieħ fuqha jsehħlu juri li (a) l-kumment kien imsejjes fuq fatt li jkun issemma fil-pubblikazzjoni li minnha jitressaq l-ilment; (b) il-fatt imsemmi jrid ikun sostanzjalment minnu; (c) il-kumment irid jintwera li jkun gustifikabbli jew misthoqq; (d) il-kumment irid ikun tali li jikkwalifika bhala kritika u mhux zebliħ, tghajir jew insolenza; u (e) irid jaghti l-fehma onesta tal-kummentatur u li l-pubblikazzjoni ta' dik il-fehma ma saritx b'hażen jew bil-ħsieb preċiż li jwegġa' lil dak li jkun.

Tali taghlim huwa anke riflessa fil-kawza **Spiller vs Joseph** deciza mill-Qorti tal-Appell Ingliza fl 1 ta' Dicembru 2010, fejn Lord Phillips ghamel is-segwenti konsiderazzjonijiet meta wiehed iqis id-difiza ta' 'fair comment':

... defendant had to establish that: (i) the words complained of were comment; (ii) the comment was on facts; (iii) the facts commented on constituted a matter of public interest; (iv) the comment was objectively "fair"; that is the comment was one that was capable of being honestly founded on the facts to which it related, albeit by someone who was prejudiced and obstinate; (v) the comment represented the defendant's honest opinion. If he discharged all these burdens, the defence could none the less be defeated by proof of malice on the part of the defendant, but the onus of proving malice lay on the plaintiff. Both the Court of Appeal and the House of Lords held that there was no burden on the defendant to establish the fifth element. The defendant's honesty was assumed unless the plaintiff could disprove it by establishing malice.

Finalment, dwar il-kuncett ta' 'value judgment', il-Qorti Ewropeja ghad-Drittijiet tal-Bniedem, fil-kawza **Jerusalem vs Austria** (2003) EHRR 567, para 43, tghid is-segwenti:

... even where a statement amounts to a value judgment, the proportionality of an interference may depend on whether there exists a sufficient factual basis for the impugned statement, since even a value judgment may be excessive if it has no factual basis to support it ."

Jirrizulta car, ghalhekk, mill-gurisprudenza fuq imressqa, illi hemm sabiex id-difiza ta' 'fair comment' u 'value judgment' tirnexxi, irid jigi ppruvat illi dak allegat huwa bbazat fuq fatti sostanzjalment veri.

Finalment, il-Qorti thoss illi ghandha taghmel referenza ghat-taghlim tal-Qorti Ewropea ghad-Drittijiet tal-Bniedem u partikolament ghas-sentenza **TAVARES DE ALMEIDA FERNANDES AND ALMEIDA FERNANDES v. PORTUGAL** deciza fis-17 ta' Jannar 2017, fejn qalet illi

.... It is well established in the Court's case-law that members of the judiciary acting in an official capacity may be subject to wider limits of acceptable criticism than ordinary citizens (see July and SARL Libération v. France, no. 20893/03, § 74, ECHR 2008 (extracts)). At the same time, the Court has on many occasions emphasised the special

role in society of the judiciary, which, as the guarantor of justice, a fundamental value in a State governed by the rule of law, must enjoy public confidence if it is to be successful in carrying out its duties. It may therefore prove necessary to protect that confidence against destructive attacks which are essentially unfounded, especially in view of the fact that judges who have been criticised are subject to a duty of discretion that precludes them from replying (see Mustafa Erdoğan and Others v. Turkey, nos. 346/04 and 39779/04, § 42, 27 May 2014).

Ghal dak illi jirrigwarda l-meritu tal-kaz odjern, il-Qorti Ewropeja ghad-Drittijiet tal-Bniedem ghamlet distinzjoni illi jisthoqq tigi kkunsidrata f'din il-kawza ukoll. Di fatti, fil-kaz ta' Gudikant illi ma jkun qieghed jopera fil-mansjonijet tieghu ta' Gudikant, il-Qorti taghmel distinzjoni dwar il-livell ta' kritika, u di fatti tghid:

The Court notes, however, that the instant case is distinguishable from the latter in so far as the President of the Supreme Court of Justice cannot be considered to be in the same position as any other judge: on the one hand, he is also the President of the HCJ; on the other hand, as the President of the Supreme Court of Justice he is the fourth-highest-ranking figure of State with a sit on the Council of State. The exercise of these roles is not part of adjudication. Thus, his ability to defend himself in public is wider than those of judges who exercise purely judicial acts.

Ghalhekk, il-Qorti tifhem illi la darba l-kritika illi kienet qieghda ssir kienet fil-konfront tal-kwerelant kienet dwar l-operat tieghu, mhux bhala Gudikant, izda bhala President tal-Kumitat Olimpiku Malti, ghalhekk il-livell ta' kritika permessibli lejha setghet tkun aktar oghla stante illi kien f'pusizzjoni illi jiddefendi lilu nniffsu, kif del resto ghamel.

Ikkunsidrat.

Jirrizulta illi l-malafama li qieghed jallega il-kwerelant l-Imhalled Carmelo Farrugia Sacco li ghamel il-kwerelat l-President Imhalled Joseph Said Pullicino fil-konfront tieghu tibbaza ruhha fuq l-allegazzjoni ta' korruzzjoni illi semma l-istess kwerelat fl-ittra tieghu, li wasslet ghall-proceduri odjerni.

Jirrizulta illi, kif sqarr l-istess kwerelat, huwa hassu malafamat bil-fatt illi l-kwerelat uza l-kliem "*L-ahbar li l-Imhalled tal-Qrati Superjuri gie implikat minn awtorita' sportiva internazzjonali f'kaz ta' korruzzjoni ixxukkjatni kif hasdet ukoll lill-pajjiz*" kif ukoll il-kliem "*l-akkuzi migjuba kontra l-Imhalled allegatament involut fl-iskandlu*".

Jirrizulta, madanakollu, mill-provi prodotti, illi l-kaz illi fih safa involut l-kwerelant l-Imhalled Carmelo Farrugia Sacco kien definit mill-gurnal The Sunday Times ta' Londra bhala ta' "*widespread corruption among officials*" fl-artikolu illi hareg fil-berah il-kaz kollu u li gie ppubblikat fis 17 ta' Gunju 2012, jigifieri ben sitt xhur qabel ma intbghatet l-ittra meritu tal-kawza odjerna.

Jirrizulta illi l-kwerelant stess, fil-gurnal lokali **The Times**, gie rappurtat li accetta li kien hemm allegazzjonijiet ta' korruzzjoni u, di fatti, fl-artikolu illi deher fuq is-sit elettroniku www.timesofmalta.com fid-9 ta' Dicembru 2012 gia fuq riprodott, jghid testwalment:

"I'll go on working as usual. After all the corruption allegations, it turns out none of it is true. The only thing the IOC decision found was that the English journalists wanted to prove that not everything in the sports world was clean, and that they had

proven that." (sottolinjar ta' dina l-Qorti)

Jirrizulta, finalment, illi ghalkemm il-Kumitat Olimpiku Internazzjonali hareg dikjarazzjoni fejn ikkonferma illi ebda azzjoni jew sanzjoni ma kienet qieghda tittiehed kontra l-Imhalled Carmelo Farrugia Sacco bhala President tal-Kumitat Olimpiku Malti u li qatt ma gie akkuzat minn korruzzjoni, tali dikjarazzjoni saret fis-16 ta' Jannar 2013, jigifieri aktar minn xahar wara illi kienet inkritbet l-ittra meritu tal-kawza odjerna, u aktar minn sitt xhur wara illi l-istorja illi implikat lill-Imhalled Carmelo Farrugia Sacco giet ippublikata fil-media internazzjonali.

Finalment, jirrizulta mill-provi kif prodotti, illi l-kwerelat, bl-ittra tieghu, ma kellux l-*animus injuriandi*, ossija l-intenzjoni illi jaghmel hsara lill-Imhalled Carmelo Farrugia Sacco, izda ried jesprimi t-thassib serju tieghu, kemm bhala cittadin, kif ukoll bhala Prim Imhalled Irtirat, tal hsara illi tali allegazzjonijiet kient ser jinkorru lill-Amministrazzjoni tal-Gustizzja, tant illi, fl-ittra tieghu huwa jghid is-segwenti:

Hi ahbar li fiha nfisha, lil hinn minn kull gudizzju ta' htija, timmina gravement l-fiducja fl-Amministrazzjoni tal-Gustizzja.

Ghalhekk, johrog car mill-provi kollha prodotti illi l-*animus injuriandi* mehtieg mill-Ligi fil-proceduri odjerni sabiex jirrizultaw l-akkuzi kif riprodotti a tenur tal-Artikolu 11 tal-Kap 248 ma giex ippruvat.

Konkluzjoni

Il-Qorti

Wara illi semghet il-provi kollha prodotti mill-partijiet kif ukoll semghet it-trattazzjoni ta' l-abbli difensuri tal-partijiet

Abbazi tar-ragunijiet kif fuq spjegati fid-dettall,

Tghaddi biex taqta u tiddeciedi l-kaz billi

Tillibera lill-kwerelat il-President Imhalled Joseph Said Pullicinio mill-akkuzi kollha migjuba kontra tieghu.

Kull parti ghandha tbaghti l-ispejjez taghha.

Magistrat Francesco Depasquale

Marisa Bugeja
Deputat Registratur