FIL-QORTI TAL-MAGISTRATI TA' MALTA

MAGISTRAT DR FRANCESCO DEPASQUALE

Seduta taʼ nhar it-Tnejn sitta u ghoxrin (26) taʼ Gunju 2017

Rikors Numru 94/15 FDP

David Thake
(ID 425465M)

vs

Aleander Balzan (ID 58685M) bhala editur ta' One TV

Il-Qorti:-

Rat ir-rikors promotur ippreesntat fit-18 ta' Matzu 2015 fejn ir-rikorrent, filwaqt illi ghamel referenza ghall-ahbar trasmessa fuq l-ahbarjiet tas-07.30pm fis 17 ta' Marzu 2015, li dehret ukoll fuq is-sit elettroniku 'Youtube', talab lill-Qorti tiddikjara tali ahbar bhala libelluza u malafamanti fil-konfront tieghu peress illi kienet intiza sabiex ittellef jew inaqqas ir-reputazzjoni tar-rikorrent filwaqt illi talab ukoll lill-Qorti tikkundanna lill-istess intimat ihallas danni a tenur ta' l-Artikolu 28 tal-Kap 248.

Rat illi l-intimat, notifikat fl-20 ta' Marzu 2015, ma deherx fis-seduta tas-27 ta' April 2015 biex jikkontesta u lanqas ma dahhal eccezzjonijiet sabiex jilqa ghal dak mitlub.

Semghet ix-xhieda tar-rikorrent **David Thake** moghtija fil 15 ta' Gunju 2015.

Rat illi fil 15 ta' Ottubru 2015 deher il-konsulent legali ta' l-intimat illi talab sabiex l-intimat jinghata zmien jippresenta d-difiza tieghu, liema dritt giet lilu moghtija.

Rat id-dokumentazzjoni esebita mir-rikorrent fil 15 ta' Ottubru 2015 li kienet tinkludi 'Expression of Interest' mahruga mill-Institute of Tourism Studies mibghuta lir-rikorrent, bhala Chairman ta' Vanilla Telecoms Ltd, fl-14 ta' Awissu 2010 (fol 16) u kuntratt iffirmat fit-13 ta' Gunju 2011 bejn l-Intsitute of Tourism Studies u r-rikorrent ghan-nom ta' Vanilla Telecoms Ltd. (fol 13)

Rat l-ahbar meritu tal-kawza odjerna, illi taghha gie esebit kemm ir-rappurtagg kif ukoll traskritt ta' l-istess, (fol 18), fejn jidher illi intqal is-segwenti:

> ***Direct order sostanzjali lil David Thake.***
>
> *Fi-2011 l-ITS iffirmat kuntratt li jilhaq is- 56640 euro ghal-provediment ta' servizz ta' WIFI dan permezz ta' direct order lil kumpanija Vanilla Telecoms lic-chairman taghha huwa David Thake DJ u prezentatur fuq ir-radju tal-Patit Nazzjonalista, kif ukoll kandidat tal-Partit Nazzjonalista ghal l-elezjoni tal-kunsilli lokali li gejjin. Fil-parlament il-ministru ghat-turizmu Edward Zammit Lewis spjega kif kuntratt gdid differenti minn dak li nghatat Thake l-ITS se tiffranka 12780 euro fis-sena. Ix-xoghol lil kumpanija ta' Thake nghata fit-13 ta' Gunju 2011 bi hlas ta' 14160 euro fis-sena. Irrizulta forst l-ohrajn li fil-11 ta' April 2011 l-ITS kiteb lis-segretarju permanenti tal-edukazzjoni biex japprovalu permess biex imur ghal-direct order. Liema approvazzjoni ghaddiet ukoll mit-taqsima tad-direct orders fi hdan il-ministeru tal-finanzi. Huwa kuriuz u mhux normali l-fatt li s-segretarju permanenti tal-edukazzjoni u t-taqsima tad-direct orders fil-ministeru tal-finanzi taw kuntratt ta' kwazi 52,500 euro li seta' ikompli jitla' ghal iktar minn 56600 sempliciment b'direct order. B'dan il-kuntratt gawdiet minnhu kumpanija ta' persuna li fil-programm tieghu fuq ir-radju tal-Partit Nazzjonalista johodha kontra kull min inhatar f'kariga pubblika fiz-zmien dan il-gvern. Thake huwa wiehed mill-favoriti ta'Simon Busutill li publikament qed juri li irid ikun sindku nazzjonalista fil-kunsil lokali ta' San Pawl il-Bahar.*

Rat l-eccezzjonijiet ippresentati fit-3 ta' Novembru 2015 mill-intimat, fejn laqa' ghal dak mitlub billi qal is-segwenti:

> 1. Illi qabel xejn jigi umilment eccepiet illi x-xandira allegatament malafamanti tikkoncerna fatti precizi u li jistghu jigu ppruvati, senjatament illi 1-kumpanija "Vanilla Telecoms Ltd", li taghha ir-rikorrenti huwa uniku direttur u rapprezentant legali (vide "Dok. AB1"), hadet, b'mod assolutament kontra r-regolamenti tal-ghoti ta' kuntratti publici u tat-tendering procedures, direct order biex tipprovdi servizz tal- WIFI fl-Istitut ghall-Istudju Turistici (ITS);
>
> 2. Illi in oltre, x-xandira in kwistjoni si tratta fatti w kummenti ta' natura politika, rigwardanti persuni politika, u ghalhekk huma fl-interess generali u pubbliku u jikkostitwixxu fair comment f socjeta demokratika;
>
> 3. Illi ghalhekk dan il-libell huwa wiehed assolutament fieragh u ghandu jigi michud, bl-ispejjez kontra r-rikorrenti.

Semghet ix-xhieda ta' **Claire Briffa**, Head of Corporate Services fi hdan l-Istitut ghat-Turizmu, moghtija fit 23 ta' Novembru 2015 u rat id-dokumentazzjoni minnha esebita illi kienet tirrigwarda il- '*Provision of Wi-Fi System for the Institute of Tourism Studies'* (fol 31-86)

Semghet ix-xhieda in ezami u kontro ezami tar-rikorrenti David Thake moghtija fit 28 ta' Jannar 2016, wara liema data ir-rikorrent ddikjara illi ma kellux provi x'jippresenta.

Rat l-affidavit ta' l-intimat **Aleander Balzan** ippresentat fis 7 ta' April 2016.

Rat illi fit 30 ta' Mejju 2016 il-Qorti ddikjarat il-provi intimati bhala maghluqa, salv d-dritt ta' kontro ezami.

Semghet ix-xhieda in kontro ezami tar-rikorrenti David Thake moghtija fl 10 ta' Novembru 2016.

Rat illi fl-10 ta' Novembru 2016 il-partijiet qablu illi ma kienx ghad fadal provi x'jippresentaw.
Rat is-sottomissjonijiet bil-miktub ippresentati mill-konsulent legali tar-rikorrent fl-10 ta' Jannar 2017.

Rat is-sottomissjonijiet bil-miktub ippresentati mill-konsulent legali ta' l-intimat fis-7 ta' Marzu 2017.

Rat illi fid 9 ta' Marzu 2017 il-konsulent legali tar-rikorrent talab illi jaghmel sottomissjonijiet orali, liema sottomissjonijiet daru fit 8 ta' Mejju 2017, wara liema sottomissjonijet il-kawza giet differita ghallum ghas-sentenza.

Ikkunsidrat

Jirrizulta fatt mhux kkontestat illi r-rikorrent, apparti illi huwa imprenditur fil-qasam tat-Teknologija tal-Informatika, huwa wkoll persuna pubblika, kemm peress illi huwa prezentatur radjofoniku fuq l-istazzjoni tar-radju tal-Partit Nazzjonalista, kif ukoll in vista tal-fatt illi huwa Kunsiller mtella fil-lista tal-Partit Nazzjonalista fil-Kunsill Lokali ta' San Pawl il-Bahar u kkontesta ghall-Elezzjonijiet Generali tas-sena 2017 fil-lista tal-Partit Nazzjonalista.

Jirrizulta, ghalhekk, illi r-rikorrenti ghandu jitqies bhala politiku w ghalhekk bhala persuna pubblika soggetta ghall-livell ta' kritika u skrutinju rikjesta f'kull pajjiz demokratiku.

Jirrizulta wkoll illi, bhala propretarju tas-socjeta Vanilla Telecoms Limited, huwa gie mgharraf b' "Expression of Interest" mahruga mill-Istitut tat-Turizmu fit-13 ta' Awissu 2010 illi kienet tghid is-segwenti: (fol 16)

> *Expression of Interest*
>
> *Interested service providers are being invited to submit an expression of interes for the following services:*

- *At least 30 megabit symmetrical internet connection*
- *At least 30 megabit dedicated downlad*
- *At least 30 megabits upload*
- *Wifi signal covering ITS Campuses in St. Julian's and in Pembroke*
- *Wifi authentication services*
- *Maintenance/Support Agreement on an annual basis*
- *Optional Web Hosting Services*

> *All interested service provides are requested to submit their expression of interest including a proce list by not later than noon on Friday 3rd September 2010.*

Jirrizulta illi r-rikorrent baghat l-offerta tieghu fit 30 ta' Awissu 2010. (fol 86)

Jirrizulta illi, flimkien mar-rikorrent, kien hemm tlett kumpanniji ohra illi baghtu l-offerti taghhom, u dawna kienu Melita plc, BMIT Limited u SIS Limited sa meta nghalqet id-data indikata tat 3 ta' Settembru 2010.

Jirrizulta illi fis-17 ta' Dicembru 2010, l-ICT Contracts & Services Officer fi hdan l-Information Management Unit illi kien hemm fil-Ministeru tal-Edukazzjoni kien rrediga rapport fejn, *inter alia*, kien qal (fol 42) illi "*Expression of Interest should be awarded to the cheapest and compliant offer as per report, following 15 days period from publicationof report. That is Vanilla Telecoms Ltd with €1,180 inc VAT per month for a total of €14,160 inc Vat yearly (no one time fee) with absolutely no other charges*". (fol 42) L-istess rapport kien jghid ukoll "*Contract period should be for a maximum of 3 years with the above conditions with an extensionof one year on agreement from both sides.*"

Jirrizulta illi, sussegwentement, fi Frar 2011, fuq talba tal-Ministeru tal-Edukazzjoni, l-Istitut ta' Turizmu irrediga *Evaluation Report* fejn qal is-segwenti (fol 33-35):

> *The four companies have submitted offers with similar specifications. In respect of Messrs Melita pic and SIS Ltd the offers went above and beyond that required by the call in so far as they offered entirely new installation for the infrastructure already present. There is no obvious need for such an installation as the infrastructure is already in place at ITS, is quite recent and is also robust enough for the Institute's Data communication needs.*
>
> *Except for Vanilla Telecoms and BMIT, the service providers have quoted exorbitant costs to deploy a Wi-fi system. Messrs BMIT Ltd have offered an ADSL connection which is not suitable for the ITS main campus in St. Julian's.*
>
> *Moreover, except for Messrs Vanilla Telecoms, all service providers have requested quite hefty one time fees in addition to monthly fees.*
>
> *The cheapest offer is that of Messrs Vanilla Telecoms. This amounts to a simple €1000 monthly charge excluding VAT. No one time payment has been requested by Messrs Vanilla Telecoms.*
>
> *The Board recommends that the Expression of Interest is awarded to the cheapest and compliant offer, that is Vanilla Telecoms Ltd with €1,180 (including VAT) per month for a total of €14,160.00 (including VAT) yearly with no other charges included subject to the following conditions:-*
>
> 1. *No maintenance agreement is entered into but the service provider binds himself on a payment per call agreement and determining a pre-set time period in which a request for service is addressed.*
> 2. *Maintenance bills should not exceed €200 per month.*
> 3. *Optional Web Hosting services offered will not be taken up.*
> 4. *The contract will have a validity period of three years which can be extended by a further period of one year on agreement from both sides.*
>
> *Submitted for your approval.*

Jirrizulta illi fid 9 ta' Marzu 2011 id-Direttur Ezekuttiv tal-Istitut tat-Turizmu kiteb lis-Segretarju Permanenti fi hdan il-Ministeru tal-Edukazzjoni fejn gharraf is-segwenti (fol 32):

> *Re: Provision of Wifi Services to the Institute of Tourism Studies.*
>
> *In 2009, the Institute of Tourism Studies introduced a Wifi service to its students and academic staff. This service was provided free of charge.*

Eventually in order to provide a high band width synchronous system for the ITS e-learning platform (which could not be provided either by MTTA or by an ADSL provider) we shifted our e-learning platform to Wi-fi also.

Following the success of this Wi-fi system, the entire Institute except for accounts and the stores departments also shifted to wifi which now covers the entire St Julian's and Pembroke campuses.

At this stage it was decided to proceed to a formal arrangement with a commercial Wifi provider and a public call for an expression of interest was made.

4 companies submitted offers in reply to this public call for Expression of Interest. At this point in time we consulted IMU-MEEF and it was suggested that a technical report is drawn up, and forwarded to DCS for recommendation and afterwards to Mr. Robert Grixti of Contracts Department for endorsement by the DCC. At this point it was felt that there was no need to issue a tender following a public expression of interest.

In view of Minute 20 and 22 from DCS, approval is being sought to request MFEI approval for the issue of direct order for the amount of € 14,160 per annum in respect of the above mentioned contract as per adjudication board recommendation. Funds are available and consequently no additional funds are being requested

Jirrizulta illi dina r-rikjesta giet approvata mis-Segretarju Permanenti ta' dak iz-zmien Dr Joachim James Calleja fit 22 ta' Marzu 2011 u sussegwentement, ir-rikjesta intghatet lill-Ministeru tal-Finanzi ghall-approvazzjoni taghhom.

Jirrizulta illi, fl-14 ta' April 2011, il-Ministeru tal-Finanzi approva r-rikjesta (fol 31) u qal is-segwenti:

Provision of Wi-fi System for the Institute of Tourism Studies

Reference is made to your letter dated 11th April 2011, on the above captioned subject

This Ministry, in terms and for the purposes of the Public Procurement Regulations, 2010 (L.N. 296 of 2010), is granting approval to the Institute of Tourism Studies within the Ministry of Education, Employment and the Family to award Messrs Vanilla Telecoms for the provision of Wi-fi system for the Institute of Tourism Studies fur a period of three years which contract can be extended by a further period of one year, for the cost of €14,160 per annum, inclusive of VAT, as per attached agreement and information contained in your letter under reference.

This approval is granted on the assumption that quotations were opened at a fixed time and date and provided that:-

1. *funds are available;*
2. *the Institute of Tourism Studies ensures that this service is actually and unavoidably required;*
3. *the Institute of Tourism Studies ensures that the cost is fair and reasonable and represents best value for money in all respects; and*
4. *the amount of €14,160, per annum, inclusive of VAT, is not exceeded; and*

> *After the elapse of 3 years, if the Institute of Tourism Studies opts to extend the contract by a further period of one year, the Institute of Tourism Studies is requested to inform this Ministry for record purposes. No further extensions are allowable under the agreement.*

Jirrizulta illi fit-13 ta' Gunju 2011 gie iffirmat kuntratt ta' tlett snin bejn is-socjeta Vanilla Telecoms Limited u l-Institute of Tourism Studies abbazi ta' dak fuq indikat.

Ikkunsidrat

Jirrizulta illi r-rikorrent jikkontendi illi l-ahbar kif pubblikata kienet reazzjoni ghal fatt illi huwa kien beda jxandar programm fuq ir-radju ta' l-istazzjoni tal-Partit Nazzjonalista fejn kien qieghed regolarment jattakka abbuz illi huwa kien ihoss li kien qed isir, u ghalhekk l-ahbar kienet intiza sabiex tghaddi l-messagg illi anke ir-rikorrent kien ghamel abbuz meta inghata 'direct order' sostanzjali.

Jirrizulta, di fatti, illi r-rikorrent jilmenta illi l-frazi "*Huwa kurjuz u mhux normali l-fatt li s-segretarju permanenti tal-edukazzjoni u t-taqsima tad-direct orders fil-ministeru tal-finanzi taw kuntratt ta' kwazi 52,500 euro li seta' ikompli jitla' ghal iktar minn 56600 sempliciment b'direct order"* kienet libelluza w malafamanti fil-konfront tieghu.

Ikkunsidrat

Jirrizulta, fl-affidavit ta' l-intimat Aleander Balzan, huwa stqarr is-segwenti:

> *Wara ricerka li ghamilt irrizulta li 1-kumpanija kienet Vanilla Telekom, li cermen taghha kien hemm David Thake.*
>
> *F'One News ta' 17 ta' Marzu rrapportajna dan il-fatt fejn ghidna kif din il-kumpanija inghatat Direct Order sostnazjali. Dan ghax skont persuni ta' esperjenza fic-civil, kuntratt ta' iktar minn €56,000 li jinghata b'direct order huwa wiehed meqjus bhala wiehed sostanzjali tant li jitlob li jkun hemm diversi approvazzjonijiet.*
>
> *Intant iktar minn hekk jirrizulta li f'Jannar 2015 1-ITS ghazel servizz ta' wi-fi differenti, li skont student li tkellmu maghna huwa wiehed tajjeb, li abbazi tieghu, fuq medda ta' erba snin, is-somma tammonta ta' hlas tammonta sa massimu ta' €5,520.*
>
> *B'hekk 1-Istitut ghall-Istudji Turistici ser ikun qed jiffranka €12,780 fis-sena ghall-istess servizzi ta' WI-FI. Ghaldaqstant, Ustitut ser ikun ha jiffranka nefqa ta' €51,120 fuq erba' snin.*
>
> *Ghalhekk mhux biss ir-rapportagg kien fattwali, izda kienet gusta wkoll 1-osservazzjoni li d-direct order lill-Vanilla Telecom kienet wahda sostanzjali. Xi haga li tidher li dejqet lil David Thake.*

Jirrizulta, madanakollu, apparti dana l-affidavit ta' l-intimat, l-intimat ma ressaq ebda dokumentazzjoni jew provi in sostenn ta' dak minnu allegat.

Il-Qorti kienet tippretendi illi, ghall-anqas, l-intimat kien jippresenta il-Mistoqsija Parlamentari illi abbazi taghha huwa hejja r-rapport meritu tal-kawza odjerna.

Madanakollu, l-Qorti ma tistax ma tosservax illi l-intimat, tul il-proceduri odjerni, naqas milli jiddefendi l-kaz tieghu kif misthoqq, u ma ressaq assolutament ebda tip ta' prova biex jiggustifika l-allegazzjoni tieghu illi d-Direct Order moghtija lis-socjeta tar-rikorrenti kienet, kif qal hu stess, fatt *"kurjuz u mhux normali"*, filwaqt illi serrah biss fuq il-provi kollha prodotti mir-rikorrent, liema provi juru bic-car illi s-socjeta tar-rikorrenti inghatat kuntratt wara illi gew segwiti l-proceduri kollha kif rikjesti kif ukoll wara illi l-offerta tieghu, minn fost erbgha offerenti, kienet l-aktar wahda vantaggzjuza ghas-servizz illi kien qed jigi rikjest mill-Institute of Tourismu Studies.

Ikkunsidrat

Jirrizulta illi l-intimat, fid-difiza minnu mressqa, iqajjem id-difiza illi dak minnu hemm irrapurtat kien 'fair comment', u ghalhekk ma setax jitqies bhala libelluz.

Ikun ghalhekk utili li wiehed jezamina l-principji tad-difiza tal-'*fair comment*' sabiex wiehed ikun jista jikkunsidra l-fatti kif fuq stabbiliti fl-ottika tal-principji generali tad-difiza tal-'*fair comment*'.

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-difiża tal-kumment ġust ilu żmien jingħad mill-Qrati tagħna li, biex id-difiża tal-kumment ġust tkun tgħodd, jeħtieġ li min jistrieħ fuqha jseħħlu 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; (ċ) il-kumment irid jintwera li jkun ġustifikabbli jew mistħoqq; (d) il-kumment irid ikun tali li jikkwalifika bħala kritika u mhux żebliħ, tgħajjir jew insolenza; u (e) irid jagħti l-fehma onesta tal-kummentatur u li l-pubblikazzjoni ta' dik il-fehma ma saritx b'ħażen jew bil-ħsieb preċiż li jweġġa' 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.

Ikkunsidrat

Jirrizulta, anke mid-difiza mressqa mill-intimat, illi l-bazi ta' l-argument kollu ta' l-intimat huwa illi s-socjeta tar-rikorrenti *"hadet, b'mod assolutament kontra r-regolamenti tal-ghoti ta' kuntratti publici u tat-tendering procedures, direct order biex tipprovdi servizz tal- WIFI fl-Istitut ghall-Istudju Turistici (ITS)".*

Jirrizulta, madanakollu, illi, skond l-Ittra mahruga mid-'Direct Orders Section' tal-Ministeru tal-Finanzi, fuq prodotta, s-servizz illi hadet is-socjeta tar-rikorrenti sar skond ir-regolamenti vigenti dak iz-zmien, tant illi l-istess ittra tibda biex tghid, "*This Ministry, in terms and for the purposes of the Public Procurement Regulations, 2010 (L.N. 296 of 2010), is granting approval to the Institute of Tourism Studies within the Ministry of Education, Employment and the Family"*

Ma jirrizulta minn ebda provi prodotti mill-intimat illi l-procedura adottata mill-Institute of Tourism Studies ghall 'Provision of Wi-Fi System for the Institute of Tourism Studies' kienet wahda irregolari jew skorretta, kif qieghed jallega l-intimat, u kien sta ghall-intimat illi jikkorrobora l-allegazzjoni tieghu b'fatti, haga illi huwa naqas milli jaghmel.

Il-Qorti illi huwa dmir ta' gurnalist illi jirrapporta fedelment il-fatti kollha lill-qarrejja u semmiegha tieghu filwaqt illi huwa wkoll dmir ta' l-istess gurnalist illi, f'kaz illi ser jghaddi xi kumment, bhalma gara fil-kaz odjern meta uza l-kliem *"kurjuz u mhux normali"*, jassikura ruhu illi huwa kumment gust w bbazat fuq argumentazzjoni ricerkata u illi tista tigi kkorroborata u ppruvata f'kaz illi dana jigi kkontestat – fil-kaz odjern, jidher illi l-intimat ma kienx f'posizzjoni illi jissustanzja dak minnu allegat fi-konfront tar-rikorrent.

Din il-Qorti, wara kollox, ma tistax ma taghmilx referenza ghal dak li gie osservat mill-Qorti tal-Appell (Sede Inferjuri) fis-sentenza '**Sylvana Debono vs Alexander Farrugia**', deciza fis-27 ta' Jannar, 2016, fejn intqal illi:

Id-dritt tal-liberta tal-espressjoni m'huwiex licenzja biex thammeg ir-reputazzjoni ta' haddiehor u mbaghad tipprova tistahba wara dan id- dritt.

Huwa car illi fil-kaz odjern, l-artikolist kellu kull intenzjoni illi jhammeg ir-reputazzjoni tar-rikorrenti, u ghalhekk l-ahbar ma jistax ma jitqiesx bhala libelluz u malafamanri fil-konfront tar-rikorrenti.

Konkluzjoni

Il-Qorti,

Wara illi rat il-provi kollha prodotti quddiemha,

Wara illi rat is-sottomissjonjiet,

Tghaddi biex taqta u tiddeciedi l-kaz billi

Tichad l-eccezzjonijiet kollha ta' l-intimat

Tilqa t-talba attrici kif dedotta, u ghalhekk,

Tiddikjara l-ahbar trasmess fl-ahbarjiet tas-19.30 fuq One TV fis 17 ta' Marzu 2015 bhala libelluz u malafamanti fil-konfront tar-rikorrenti,

Tikkundanna, a tenur ta' l-Artikolu 28 (1) tal-Kap 248, lill-intimat ihallas lir-rikorrent is-somma ta' elf Euro (€1,000).

Spejjez tal-proceduri odjerni u imghax mid-data tas-sentenza sad-data tal-pagament effettic ikun kollu a kariku ta' l-intimat.

Magistrat Francesco Depasquale

Marisa Bugeja
Deputat Registratur