

QORTI TA' L-APPELL

IMHALLFIN

**S.T.O. NOEL V. ARRIGO LL.D. - PRESIDENT
ONOR. JOSEPH D. CAMILLERI B.A., LL.D.
ONOR. JOSEPH A. FILLETTI B.A. LL.D., A.R.HIST.S.**

Seduta ta' nhar il-Gimgha, 28 ta' Gunju 2002

Numru 3

Appell numru: 313/00

Anthony Cini

vs

**Il-Kummissjoni ghall-
Kontroll ta' l-izvilupp**

Il-Qorti,

I PRELIMINARI

01. Anthony Cini ("l-appellant") ghandu sit fi Triq iz-Zebbug, limiti ta' Ghasri, Ghawdex. Huwa kien applika ghal permess ta' l-izvilupp ezattament "*to sanction existing fodder store built on one floor instead of 2 floors as approved, with different*

layout but maintaining circa same floor area as approved". Il-Kummissjoni għal-Kontroll ta' l-Izvilupp kienet irrifjutat li tagħti l-permess mitlub, anke fi stadju ta' rikonsiderazzjoni, fit-8 ta' Mejju 1999 u dana għas-segweni ragunijiet:

"1. Structure Plan policy RCO 4 provides that, particularly within Rural Conservation Areas, areas of scenic value will be protected and enhanced. The area in which the site is located is of considerable scenic value. The proposal would detract from this, and so it would conflict with Structure Plan policy RCO 4.

2. The site lies outside the limits for development defined in the Temporary Provisions Scheme for Zebbug and so it is located in an area which it is proposed should remain undeveloped and open. The proposed development would run counter to this scheme and would represent unacceptable urban development in the countryside.

3. Proposal runs counter to Policy PLP 20: (Development Control Guidance - Developments outside built up areas) in which the Structure Plan strategy comprises a blank prohibition of any form of urbanisation outside areas specifically designated for urban uses in the Plan - i.e.: existing and committed built up areas and primary development areas.

4. The proposed development in terms of its floor area, height, number of rooms and site coverage is of an excessive scale and would lead to an over-development of the site. This would not be in the interests of the amenity of the area as a whole and it would exacerbate the problems of over-development in the area. The proposal is therefore unacceptable and runs counter to Structure Plan policy BEN 1.

5. The proposed development conflicts with Structure Plan Policy SET 11, which does not permit urban development outside existing and committed built-up areas. The development does not fall into a category

of non urban development which may be permitted outside existing or committed built-up areas in accordance with Paragraph 7.6 of the Structure Plan. The proposed development also therefore runs counter to policy BEN 5."

02. L-appellant appella minn din id-decizjoni quddiem il-Bord ta' l-Appell ta' l-Ippjanar ("il-Bord"). Quddiem il-Bord, l-appellant ressaq is-segwenti lanjanzi:

02. L-appellant appella minn din id-decizjoni quddiem il-Bord ta' l-Appell ta' l-Ippjanar ("il-Bord"). Quddiem il-Bord, l-appellant ressaq is-segwenti lanjanzi:

"1) As the proposal's description implies, proposal is not a new development. It consists of the sanctioning a building whose use (fodder store) has already been approved.

2) Moreover the building to be sanctioned has a total floor area less than that approved.

3) Whilst the existing building to be sanctioned is only 1 floor high, the approved building was higher, consisting of a semi-basement and an overlying floor. The building to be sanctioned is about 2.5 metres lower than that approved and hence has a lesser visual impact than the approved building.

4) Once the site is committed with a permit, the policies quoted by the DCC for ODZ (SET11, RC04, PLP 20 etc) do not apply.

Keeping this in mind, it is felt that the as built development is effectively an improvement over the approved building and hence the refusal can never be justified."

03. L-Awtorita' ta' l-Ippjanar ikkontestat l-appell u in fatti talbet li dan jigi michud wara li, *inter alia*, issottomettiet hekk quddiem il-Bord:

"The major concerns with the proposal are that:

- the footprint of the originally approved store has been increased from 160 sq.m. to 220 sq.m.;

- the store has been shifted closer to the public street, i.e. 10 metres setback instead of the originally approved 25 metre setback;

- the site on which the store to be sanctioned is located has been physically separated from the pig farm by a boundary wall 8 courses high;

- the site on which the store is located is proposed to be (and already is) surrounded by a boundary wall in franka stone, 8 courses in height.

The site to which this proposal relates is an area where Rural Conservation Policies apply. It is the policy of the Planning Authority in such areas to restrict development to a size which is appropriate in a rural area. The proposal is of such scale that it would not accord with the Planning Authority's policy and would be inappropriate in the sensitive setting.

The store has been constructed much closer to the public road than as originally approved. The originally imposed setback was 25 metres, but now this has been reduced to just 10 metres from the main road, becoming more conspicuous. The development would be highly visible when approaching Zebbug, adversely affecting the character and setting of the rural environment.

Moreover, the store which had been approved as part of a pig farm is now physically separated from the farm by a boundary wall, 8 courses high. The justification to approve the original store was only based on the fact that it was essential to the needs of agriculture and the running of the farm. Thus now that it is physically there is no justification for the proposed store itself. Indeed it

can easily be used for other purposes not related to agriculture."

04. L-appellant ghamel uzu mill-fakolta' li tah il-Bord biex iwiegeb ghall-imsemmija sottomissjonijiet ta' l-Awtorita' ta' l-Ippjanar u, infatti l-appellant kompla jissottometti hekk quddiem il-Bord:

"Regarding the first complaint brought forward by the Directorate, the appellant submits that the development will not destroy any carob tree or other protected shrubs and therefore the development does not run counter to Structure Plan policy RCO 4.

Secondly, the appellant states that as admitted by the Directorate itself, the site in question is covered by a valid permit (PB 12/91/241/81) issued on the 5th February 1991. Therefore the comments that the site lies outside the limits for development are totally superfluous since there already exists a permit for development.

Thirdly, the appellant submits that proposal does not run counter to Policy PLP 20 since the development is an accessory and extension to a farm and therefore is not for urban motives. The area in question is already committed, and adjacent to this development there are buildings duly approved by the Planning Authority operating as a pig farm.

Therefore, the blanket prohibition of any form of urbanisation outside areas specifically designated should not apply to this particular case. Set 11 Para 7.6 defines urbanisation as "the creation of new built up areas containing all or most urban uses - houses, shops, offices, factories and all the built support facilities which these accumulate. In seeking to prohibit urbanisation of existing non urban areas, it is not the intention to prohibit built structures of various kinds which are normal and

legitimate inclusions in the non urban scene - farmhouses and other genuine agricultural buildings...."

Moreover, without prejudice to the above, notwithstanding the policy against any form of urbanisation outside areas designated for urban uses in the Structure Plan, according to Set 12 "the Planning Authority will consider applications for permission to develop which infringe Policy SET 11" if reasons which warrant such apparent infringement are given. The appellant submits that he is a registered pig breeder as can be verified by the relative agriculture licence. His main farm is situated near the proposed development and it would be senseless to refuse him the possibility of having storage space near to his farmhouse, because otherwise he would have to use another place as storage for fodder which would not be adjacent to his farm with the resulting inconvenience for him and the additional transport problems that would ensue, thus putting further strain on the already problems that would ensue, thus putting further strain on the already over-used country lanes. The appellant submits that the most practical solution would be for the Planning Authority to grant him a permit for the fodder store adjacent to his farm. The appellant submits that these reasons are enough to warrant an exception to Policy SET 11 since from the environmental point of view it would make more sense to have ancillary buildings close to the main establishments reducing traffic problems. It should be pointed out in this respect that:

- a. applicant's main pig-sty, built strictly in terms of valid permits, is situated in the countryside on the opposite side of the road leading to Zebbug;
- b. Right adjacent to this site, applicant owns a building which itself too was built in terms of a valid permit;
- c. Applicant consumes around one tonne of animal pellets to feed his stock. He intends to use this fodder storage mainly as a center where he can start processing his fodder himself rather than purchasing it ready-made from other sources. In this way, he can save up to Lm20 a day on his overhead costs;

d. This fodder will then be stored very close to his pig-sty;

e. The fodder storage and processing plant cannot be built closer to the main farm, simply because the country road leading to the main farm cannot cope with such a heavy traffic and also because the site suggested by applicant is more adaptable to the building of the plant, than the site where his main farm lies;

f. Moreover, the site in question is supplied with three-phase electricity, whereas the main farm has no such supply. Three-phase electricity is necessary to run such a plant efficiently;

f. Whereas the site of the main farm possesses a certain scenic value the same definitely cannot be said of the site which he is seeking to develop.

Fortly, appellant submits that since the development which appellant is seeking to sanction is built on one storey only instead of two, as originally approved, and since the approved permits are for a fodder storage and garage, and development consists of the said fodder store and garage, it cannot be submitted that the development is of an excessive scale in terms of height and number of rooms. Furthermore, the floor area of the development effectively used (220m.k.) is smaller than was approved by the Planning Authority (255m.k.). The site coverage is slightly larger than the approved foot print (220m.k. instead of 160m.k.). Therefore, on three out of four points, the proposal is of a smaller scale than that approved and for the above reasons it is submitted that the proposal does not run counter to Structure Plan policy BEN 1, since the development would not create or exacerbate the problems of over development in the area.

Contrary to what has been submitted by the directorate, there is no boundary wall between the farm and the storage space and the fodder store is effectively an extension to the farm. The alleged boundary wall is simply a retaining wall to retain the soil and other material and dampness away from the store wall. This was rendered necessary because the development is built below soil level - in order, mainly, to eliminate its visual

impact. Moreover, the existence of this wall does not mean that applicant's property is being divided or segregated into two separate units.

Lastly, the appellant submits that contrary to what was submitted by the directorate, the development is not more visible when approaching Zebbug that it would have been if built according to plan. This is so because the appellant built on only one storey instead of two, therefore the building lies lower and is therefore obviously, less conspicuous."

05. Wara li l-Bord qies dawn is-sottomissjonijiet kollha u sema' lill-partijiet u lid-difensuri taghhom, huwa ddecieda li jichad l-appell u jikkonferma r-rifjut ghal permess mahrug mill-Kummissjoni ghall-Kontroll ta' l-Izvilupp u dana ghas-segweni motivi:

"Il-Bord jaqbel mar-ragunijiet tar-rifjut ta' dan il-permess ghall-izvilupp mahruga mill-Kummissjoni ghall-Kontroll ta' l-Izvilupp u riportati a fol. 2 u 3 ta' din id-decizjoni kif ukoll ma' l-argumenti li ngiebu mid-Direttorat ta' l-Ippjanar sabiex jiggustifikaw tali rifjut;

B'mod partikolari, il-Bord jinnota li s-sit meritu ta' dan l-appell jinsab barra z-zona permessa ghall-izvilupp, huwa sitwat ukoll f'rural conservation area w anzi jezisti zvilupp illegali fis-sit. Huwa veru li l-izvilupp propost, dak ta' fodder store, ghandu postu barra miz-zona permessa ghall-izvilupp imma l-izvilupp - li ga' sar - jeccedi b'30% il-footprint ta' dak approvat jigifieri minn 160 sq.m. l-izvilupp spicca 220 sq.m. Terga' l-permess originali kellu setback ta' 25 metri meta fis-sit il-bini ezistenti huwa ta' 10 metri biss setback mit-triq. B'hekk il-bini tressaq b'15-il metru lejn it-triq u gie ferm aktar fid-deher b'mod li jhalli impatt negattiv viziv estetiku.

Peress li l-footprint se tizdied bi 30% tapplika Policy PLP 20 li b'kollox tippermetti zvilupp barra miz-zona

permessa għall-izvilupp li ma teccedix 150 sq.m. F'dan il-kaz, l-appellant kien inghata 160sq.m. izda ddecieda li jibni 220 sq.m."

II L-APPELL

06. Billi l-appellant hassu aggravat minn din id-decizjoni tal-Bord huwa appella minnha quddiem din il-Qorti. Huwa qiegħed jitlob li din il-Qorti joghghobha tirrevoka d-decizjoni appellata tal-Bord u minflok tordna l-approvazzjoni ta' l-applikazzjoni għall-permess ta' l-izvilupp in kwistjoni. L-appellant, fir-rikors ta' l-appell tiegħu ta' riassunt tal-fatti li, fil-fehma tiegħu, kienu l-aktar rilevanti b'dan il-mod:

"Fuq dan is-sit kien inhariglu permess tal-bini li kien ikopri l-istess fodder store bid-differenza illi l-istore originali kellu jinbena fuq zewg sulari minflok fuq sular wiehed; illi l-kejl approvat kien ta' 160 metri kwadri meta nfatti l-esponenti okkupa madwar 220 metri kwadri; u illi l-istore originali kien sitwat ftit aktar 'il gewwa minn dak originali.

Is-sit ta' l-esponenti huwa ġia sit committed peress illi fuq ġia nhareg permess li kien jeccedi aktar minn 150 metri kwadri bhala floor area;

Għall-kuntrarju, il-Bord ta' l-Appell ibbaza d-decizjoni tiegħu fuq il-Policy PLP 20 li b'kollox tippermetti zvilupp barra miz-zona permessa għall-izvilupp illi ma taccedix 150 metri kwadri."

07. L-appellant enfasizza illi l-proposta tieghu kellha tigi milqugha ghaliex l-izvilupp propost kien jikkonsisti unikament fi bdil tad-dizinn ta' zvilupp li kien diga' inghata permess ghalih. Huwa jinsisti li l-bdil li ghamel l-appellant kellu l-effett li jnaqqas il-vizibbilta' u l-impatt vizwali ta' dak l-istess zvilupp. L-appellant ikompli jghid hekk:

"Infatti huwa naturali illi zvilupp fuq sular wiehed sejjer ikun anqas vizibbli milli l-istess zvilupp fuq zewg sulari. Tant huwa hekk illi l-Awtorita' ta' l-lppjanar stess thoss il-htiega illi tohrog u tinforza "height limitation guidelines" fuq id-diversi zoni ta' zvilupp gewwa l-Gzejjer. F'dan il-kaz kull ma jixtieq jaghmel l-esponenti huwa illi jwettaq l-istess zvilupp bhal dak permess bid-differenza illi tali zvilupp isir fuq sular wiehed biex hekk ikun aktar facili illi jinheba wara landscaping adegwat. Il-fatt illi l-kobor ta' dan l-izvilupp sejjer jeccedi l-permess rilaxxjat b'madwar 70 metru kwadru huwa fl-umili sottomissjoni ta' l-esponenti, immaterjali w irrilevanti ghaliex l-importanti illi dawn is-70 metru kwadru zejda sejr in ikunu mohbija fuq wara, invizibbli hlief mill-ajru, u mhux sejjer ikollhom ebda impatt viziv jew estetiku. Hekk ukoll il-fattur li l-esponenti ressaq il-bini tieghu lejn it-triq ghandu jkollu valur favorevoli ghall-approvazzjoni ta' l-applikazzjoni tieghu, ghaliex b'daqshekk l-

izvilupp tieghu gie aktar fil-baxx, (ghaliex fuq in-naha ta' wara tibda telgha li twassal ghal gholja); u ser ikun aktar facili illi dan l-izvilupp jinheba b'landscaping adegwat."

08. Biex isahhah l-argument tieghu l-appellant, fir-rikors ta' l-appell tieghu ghamel riferenza ghal diversi decizjonijiet tal-Bord stess u ssottometta li:

"Anke fil-gurisprudenza tal-Bord innifsu nsibu diversi kazi fejn gie ritenut illi sit illi huwa nnifsu committed bl-izvilupp ma jistax jigi kunsidrat bhala art vergini u ghalhekk ma humiex applikabbli ghal siti simili l-policies applikabbli ghal siti "outside development zone". F'kazijiet ohra nsibu lill-Bord jirritjeni illi anke fejn is-sit fih innifsu jkun ghadu ma giex zviluppat, izda s-siti fil-vicinanze mmedjati jkunu gew zviluppati, dak is-sit ma jistax aktar jigi kunsidrat bhala "outside development zone" u l-izvilupp ta' sit simili ghandu jigi permess."

09. L-argument principali li jressaq l-appellant fir-rikors ta' l-appell tieghu jikkonsisti fis-sottomissjoni li l-Bord ta' l-Appell

applika l-ligi hazin ghax il-kaz tieghu ma kellux jigi deciz fid-dawl tal-Policy PLP 20. L-appellant jissottometti testwalment hekk:

"Il-Bord ta' l-Appell interpreta l-ligi hazin, u applika l-ligi hazin meta ddecieda illi dan il-kaz ghandu jigi deciz fid-dawl tal-Policy PLP 20. Dan ghaliex din il-policy hija ex admissis eskluza bil-fatt illi kienu l-awtoritajiet ta' l-ippjanar stess illi rrilaxxjaw permess lill-esponenti sabiex dan jibni fodder store ta' kejl ta' 160 metri kwadri. Hawnhekk hawn kontradizzjoni netta u distinta bejn dak illi l-esponenti gia gie awtorizzat jibni, u l-Policy PLP 20. Ma jistghux l-awtoritajiet ta' l-ippjanar japplikaw ghall-kaz odjern policy illi giet eskluza minnhom stess bil-hrug ta' permess tal-bini illi jippermetti zvilupp akbar minn dak permess minn dik il-policy.

Ghaldaqstant huwa kontro-sens, illogiku w illegali illi jigu applikati policies dwar siti "outside development zone" ghal dan is-sit. Huwa dan il-pern tal-kwistjoni kollha, u huwa hawnhekk illi, bir-rispett kollu, il-Bord inkorra skorrettezza legali grossolana. Jekk ghall-kuntrarju gew applikati l-policies rigwardanti siti gia committed bl-izvilupp ghas-sit ta' l-esponenti, l-oggezzjonijiet kollha ghall-izvilupp minnu propost kienu joghsfru u jispiccaw fix-xejn, u l-applikazzjoni odjerna kellha tigi milqugha minghajr esitazzjoni.

Apparti dan, imbaghad, hemm il-punt l-iehor illi PLP 20 tapplika ghal bini residenzjali jew kummercjali, u ma tapplikax ghal binjiet ghal skopijiet agrikoli jew konnessi ma' l-agrikoltura jew trobbija ta' bhejjem bhal ma huwa l-kaz odjern. Anzi ghall-kuntrarju u ex ipotes, bini agrikolu jew konness ma' l-agrikoltura jew mat-trobbija tal-bhejjem ghandu necessarjament isir f'zoni barra miz-zoni ta' l-izvilupp u l-Istructure Plan innifisha tikkunsidra dan il-fattur."

10. L-Awtorita' ta' l-Ippjanar ikkontestat l-appell fl-ewwel lok billi qajmet il-pregudizzjali li l-appell kien wiehed null peress li ma kienx bazat fuq punt ta' ligi deciz mill-Bord. L-Awtorita' appellata ssottomettiet illi d-decizjoni tal-Bord ma kien fiha l-ebda decizjoni dwar punt ta' ligi, kien fiha biss apprezzament fattwali u tekniku da parti tal-Bord dwar il-meritu tal-kaz. Inoltre l-Awtorita' appellata sostniet illi d-decizjoni appellata kienet gusta u kienet timmerita konferma u dan ghal ragunijiet esposti fir-risposta ta' l-appell. Ghalhekk l-Awtorita' talbet li l-appell jigi michud u li d-decizjoni appellata tal-Bord tigi konfermata.

III KONSIDERAZZJONIJIET TAL-QORTI

11. Biex tigi radikata l-gurisdizzjoni ta' din il-Qorti f'appelli minn decizjonijiet tal-Bord ta' l-Appell dwar l-Ippjanar, jinhtieg li l-appellant jibbaza l-appell tieghu fuq punt ta' ligi li jkun gie deciz mill-Bord. In fatti l-Artikolu 15 (2) ta' l-Att Numru I tal-1992 jiddisponi li:

"Id-decizjonijiet tal-Bord ikunu finali hlief dwar punti ta' ligi decizi mill-Bord li minnhom ikun hemm appell lill-Qorti ta' l-Appell."

Din id-disposizzjoni tal-ligi giet analizzata u kummentata

minn din il-Qorti f'diversi sentenzi li inghataw recentement u ghalhekk ma hemmx il-htiega li l-Qorti tirrepeti ruhha.

12. Qari tad-decizjoni tal-Bord turi li l-Bord irrikonoxxa li l-izvilupp partikolari li ghamel l-appellant cioe' *fodder store* kellu postu barra miz-zona permessa ghall-izvilupp. Il-Bord irrikonoxxa wkoll li fis-sena 1991 il-P.A.P.B. kien hareg permess ta' zvilupp fuq is-sit. It-talba ta' l-appellant kienet li l-bini li ghamel l-appellant u li ma kienx jaqbel mal-permess mahrug mill-P.A.P.B. jigi sanzjonat. Jidher li l-Bord ezamina t-tibdil li ghamel l-appellant fil-bini tieghu u jidher li l-Bord qies dawn it-tibdiliet bhala tibdil sostanzjali u ghalhekk iddecieda li ma setax jawtorizza l-hrug tal-permess ghall-bini kif mibni mill-appellant. Id-decizjoni tal-Bord tindika zewg aspetti partikolari u cioe' li l-*footprint* li bena fuqha l-appellant kienet dik ta' 220 m.k. mentri l-permess tal-P.A.P.B. kien jintitolah li jibni biss 160 m.k. Il-Bord ikkwantifika dan l-eccess bhala konsistenti fi 30% aktar mill-*footprint* approvat. Inoltre, il-Bord sab li l-appellant bena b'*setback* ta' 10 metri mit-triq biss mentri skond il-permess tal-P.A.P.B. l-appellant kellu josserva *setback* ta' 25 metru. Il-Bord iddecieda li minn dan l-aspett il-bini ta' l-appellant "gie ferm aktar fid-deher b'mod li jhalli impatt negattiv viziv estetiku". Jidher car illi fir-rikors ta' l-appell tieghu l-appellant qieghed jinvita lill-Qorti li tirrevedi dan

I-apprezzament tekniku li ghamel il-Bord dwar il-bini ta' l-appellant. Biex din il-Qorti ma tirrepetix ruhha sejra taghmel ir-riferenza ghall-paragrafu 7 ta' din is-sentenza fejn l-appellant argomenta b'mod pjuttost dettaljat kif fil-fehma tieghu l-bini li ghandu bhal issa kien inaqqs il-vizibilita' u l-impatt vizwali ta' l-izvilupp meta komparat mal-bini kif originarjament approvat mill-P.A.P.B.

14. Dawn il-lamenteli li ghamel l-appellant jikkoncerna apprezzament tal-provi w apprezzament mil-lat tekniku li certament ma jaqghux fil-gurisdizzjoni ta' din il-Qorti izda jaqghu fil-kompetenza assoluta tal-Bord ta' l-Appell dwar l-Ippjanar. Ghalhekk din il-Qorti ma tistax tidhol biex tinvestiga u tezamina l-lamenteli ta' l-appellant f'dan ir-rigward billi dawn il-lamentali ma jidhlux fil-gurisdizzjoni limitatissima li ghandha skond din il-ligi specjali.

15. L-aggravju principali ta' l-appellant jikkonsisti bazikament fis-sottomissjoni tieghu li l-Bord interpreta l-ligi hazin u applika l-ligi hazin meta huwa ddecieda li japplika l-Policy PLP 20. Biex il-Qorti tevita ripetizzjonijiet inutili qiegħdha taghmel riferenza ghall-paragrafu 9 ta' din is-sentenza fejn dan l-aggravju gie anke riprodott testwalment.

16. Il-Qorti tinnota li l-appell originali interpost mill-appellant quddiem il-Bord kien gie sottomess li l-policies kollha li mmotivaw ir-rifjut, u ghalhekk anke l-Policy PLP 20, ma kienux japplikaw għall-kaz "once the site is committed with a permit". Pero' l-Qorti nnotat ukoll li fis-sottomissjonijiet bil-miktub li saru mill-appellant quddiem il-Bord, huwa rritjena li l-proposta tieghu ma kienitx tmur kontra l-Policy PLP 20:

"Thirdly, the appellant submits that proposal does not run counter to Policy PLP 20 since the development is an accessory and extension to a farm and therefore is not for urban motives. The area in question is already committed, and adjacent to this development there are buildings duly approved by the Planning Authority operating as a pig farm."

17. Din il-Qorti ezaminat akkuratament dana l-aggravju mressaq mill-appellant u jidhrilha li l-istess aggravju ma jikkoncernax punt ta' ligi li gie deciz mill-Bord. Din il-Qorti jidhrilha illi d-decizjoni tal-Bord kienet bazata sostanzjalment fuq konsiderazzjonijiet ta' l-ippjanar u nterpretazzjonijiet u applikazzjonijiet tal-*policies* rilevanti. L-applikazzjoni u l-interpretazzjoni ta' dawn il-*policies* bhala regolatal-Qorti ma jidhlux fil-kompetenza limitata ta' din il-Qorti, kif gie bosta drabi ritenut minn din il-Qorti f'sentenzi li inghataw recentement.

18. Illi ghalhekk, wara li din il-Qorti kkonsidrat l-aggravji kollha li ressaq l-appellant fir-rikors ta' l-appell tieghu waslet ghal-konkluzzjoni li l-istess appell ma kienx ibbazat fuq punt legali deciz mill-Qorti u ghalhekk u konsegwentement l-eccezzjoni preliminari ta' l-Awtorita' ta' l-Ippjanar hija ben fondata.

19. Ghal dawn il-motivi, prevja li qieghdha tintlaqa' din l-eccezzjoni preliminari ta' l-Awtorita' appellata, il-Qorti qieghdha tichad l-appell u tikkonferma d-decizjoni appellata tal-Bord. L-ispejjes kollha jithallsu mill-appellant Anthony Cini.

Deputat Registratur

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