QORTI TAL-MAGISTRATI (MALTA)
BHALA QORTI TA' GUDIKATURA KRIMINALI

MAGISTRAT DR. JOSEPH MIFSUD
B.A. (LEG. & INT. REL.), B.A. (HONS.), M.A. (EUROPEAN), LL.D.

Il-Pulizija

vs

Robert Galea

SEDUTA KOLLIZZJONIJIET
Illum 25 ta' Marzu, 2019

Il-Qorti;

Rat li Robert Galea bin Rosario u Mary nee' Baldacchino imwieled fit-30 ta' Lulju, 1980 u joqghod 24, "Arcades", Triq Pawlu 6, Siggiewi, ID 420780M

Billi akkuzat talli fit-3 t'April, 2016 ghall-habta ta' 14:20 hrs gewwa Triq Mon Mikiel Azzopardi, Siggiewi, waqt li kien qed isuq il-vettura bin-numru tar-registrazzjoni RBZ 222;

1. Saq vettura Nru RBZ 222 b'manjiera (a) traskurata;

2. Saq vettura Nru RBZ 222 b'manjiera (b) perikoluza.

3. Saq vettura Nru RBZ 222 b'manjiera bla kont.

4. Waqt li kien qed isuq l-imsemmija vettura qasam il-linja/i l-bajda/bojod kontinwi.

5. Talli saq b'velocita' aktar milli jmissu.

6. Naqas li jezercita l-kura u attenzjoni xierqa u jaghmel sinjal meta kien ser ibiddel id-direzzjoni tieghu.

7. B'nuqqas ta' hsieb u bi traskuragni jew b'nuqqas ta' hila fl-arti jew professjoni jew b'nuqqas ta' tharis tar-regolamenti tat-traffiku, habat ma vettura nru FBN 274 u involontarjament ikkaguna hsarat ghad-dannu ta' James Busuttil.

8. U b'nuqqas ta' hsieb, bi traskuragni jew b'nuqqas ta' hila fl-art jew professjoni jew b'nuqqas ta' tharis tar-regolamenti tat-traffiku, habat ma vettura nru KTH 211 u nvolontarjament ikkaguna hsarat ghad-dannu ta' Keith Lia;

Il-Prosekuzzjoni talbet li jigi skwalifikat mill-licenzji kollha tieghu tas-sewqan.

Rat li wara d-decizjoni tal-Qorti tal-Appell tal-1 ta' Novembru 2018 li annullat is-sentenza li nghatat minn din il-Qorti diversament preseduta fis-27 ta' Frar 2018, din il-kawza giet assenjata lil din il-Qorti b'digriet tal-Prim Imhallef Joseph Azzopardi datat 10 ta' Dicembru 2018.

Rat illi fis-seduta tat-23 ta' Jannar 2019 il-partijiet ezentaw lil din il-Qorti milli tisma' mill-gdid ix-xhieda u dan anke minhabba dak li dikjarat il-Qorti tal-Appell "*In-nullita' hija limitata biss ghas-sentenza u kull parti ohra precedent kontra l-appellant tibqa' mhux mittiefsa u ghalhekk kull ma jrid isir hu li l-Ewwel Qorti terga' tippronunzja s-sentenza billi ssegwi l-vot tal-artikolu 382 tal-Kap 9 tal-Ligijiet ta' Malta u xejn aktar u konsengwentement l-appellant irid jitpogga mill-gdid fil-pozizzjoni li kien immedjatament qabel ma giet ippronunzjata s-sentenza appellata*"[1].

Rat l-atti tal-kawza u d-dokumenti ezebiti u cioe' *full road traffic accident report*, dikjarazzjoni ta' rifjut ghal jedd tal-parir legali, affidavit ta' PS 1240 Joseph Camilleri, tliet ritratti, certifikat mediku mmarkat bhala Dok RG1, sett ritratti mmarkati bhala Dok JB1, sett ritratti mmarkati bhala Dok JB2.

Rat ix-xhieda tal-Prosekuzzjoni u cioe' lill-Nicola Grima, James Busuttil, Mandy Fenech u PS 1240 Joseph Camilleri.

Rat ix-xhieda tad-Difiza u cioe' lill-George Baldacchino.

Semghet trattazzjoni orali.

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[1] Ara s-sentenza tal-Qorti tal-Appell Kriminali fl-ismijiet 'Il-**Pulizija (Spettur Carmelo Bartolo) vs Stephen Bonsfield**' deciza nhar is-27 ta' April 2006 (Appell numru 327/2005)

Preliminari[2]

Din hija Qorti ta' Gudikatura Kriminali. Quddiemha persuna jew persuni jigu mixlija li wettqu reati kriminali. Il-Qorti hija adita bl-imputazzjonijiet li jingiebu quddiemha u li jkunu maghmula mill-prosekuzzjoni. Hemm limitu kemm il-Qorti tista' tkun flessibbli fir-rigward tal-interpretazzjoni tal-imputazzjonijiet li jingiebu quddiemha.

Għalkemm verament li l-komparixxi li fuqha hemm l-imputazzjonijiet hija ritenuta bħala *un avviso a comparire*, l-imputazzjonijiet huma dejjem ta' indoli penali. Ir-regoli tal-procedura ma jistgħux jigu interpretati b'mod wiesa' tali li l-parametri tal-azzjoni penali jigu spustati jew mibdula. Altrimenti d-difiza ma tkunx tista' tiddefendi ruħha kif jixraq.

Quddiem din il-Qorti jekk persuna tinstab ħatja teħel piena. Jekk ma tinstabx ħatja tigi meħlusa mill-imputazzjonijiet dedotti. Il-valutazzjoni dwar jekk persuna tkunx ħatja jew le tiddependi dejjem fuq il-provi li jingiebu quddiemha (u quddiem ebda post jew *medium* ieħor) u l-istess valutazzjoni hija marbuta mal-imputazzjonijiet kriminali li jkunu gew miktuba u prezentati quddiemha mill-Pulizija Ezekuttiva jew skont kif ikunu gew mizjuda jew mibdula fl-istadju opportun – u dejjem mhux aktar tard minn meta l-Prosekuzzjoni tkun iddikjarat il-provi tagħha magħluqa. Altrimenti jekk ma jkunx hekk l-akkuzatur ikun jista' jbiddel il-parametri tal-azzjoni penali skont meta jidhirlu u skont l-andament ta' dak li jkun qed iseħħ jew li jkun irrizulta matul il-kors tal-process penali.

[2] Il-Qorti qiegħda tibbaza dan fuq l-ispjega li ta l-kollega l-Magistrat Aaron Bugeja fil-kawza il-**Pulizija vs Joseph Calleja et**. deciza fil-5 ta' Frar 2016

Għalkemm hemm element ta' flessibilita' provdut minn certu gurisprudenza fir-rigward tal-procedimenti quddiem dawn il-Qrati ta' gurisdizzjoni limitata, din il-flessibilita' trid tkun tali li ma tkunx ta' pregudizzju għall-proceduri penali u għad-drittijiet tad-difiza.

Is-setgħat ta' din il-Qorti u r-rimedji li din il-Qorti tista' tagħti f'kull kaz huma limitati u ristretti għal dawk li huma previsti mil-Ligi u fil-Ligi. Din il-Qorti ma għandiex is-setgħa, ossia *carte blanche* li tiddeciedi kif trid u tipprovdi kull rimedju li jidhlilha f'moħħha jew li trid jew li tkun tixtieq tagħti. Il-provvedimenti tagħha huma limitati għal dawk provduti fil-Kodici Kriminali.

Din il-Qorti ma tistax tieħu post jew tissostitwixxi l-Qorti Civili kompetenti jew tagħti rimedji ta' natura civili li mhumiex previsti mill-Kodici Kriminali bħala li jistgħu jigu emanati minn Qorti ta' Gudikatura Kriminali.

F'kull kaz pero', stante li din hija Qorti ta' Gudikatura Kriminali hija marbuta bit-termini tal-imputazzjoni skont kif spjegat aktar 'il fuq. Aktar minn hekk, quddiemha, huwa dmir tal-Prosekuzzjoni li tipprova l-kaz tagħha skont kif proferit fl-imputazzjoni kontestata sal-grad ta' konvinciment morali u sufficjenza probatorja lil hinn minn kull dubju dettat mir-raguni. Mill-banda l-oħra, jekk id-difiza tagħzel li tressaq xi provi jew sottomissjonijiet kif sar f'dan il-kaz, huwa bizzejjed għad-difiza li tikkonvinci lil Qorti bit-tezi tagħha fuq bazi ta' konvinciment morali li jistrieħ fuq bilanc ta' probabilita' u f'kaz li dan iseħħ, u l-Qorti ma tħossiex moralment konvinta li l-Prosekuzzjoni laħqet il-grad ta' prova rikjesta minnha, allura l-Qorti trid tillibera lill-imputat.

Dawn huma principji kardinali li jsawru l-procediment penali Malti. Jogħġbuna jew ma jogħġbuniex, dawn huma wħud mir-regoli bazilari li jistrieħ fuqhom il-procediment penali Malti.

Biss din il-Qorti ma tistax tieqaf hawnhekk. Hija marbuta li tiggudika dan il-kaz skont l-akkuza li giet magħmula mill-Prosekuzzjoni kontra l-imputat u ma tistax tbiddel hi bis-setgħa tagħha stess il-parametri tal-kawza intrapriza mill-Prosekuzzjoni u tiddeciedi kif jiftlilha jew tmur lil hinn mill-imputazzjoni prezentata lilha mill-Prosekuzzjoni.

L-ghodda biex tiddeciedi

Il-Gudikant li jkun se jiddeciedi kif se jaghzel is-sikkrana mill-qamh? It-twegiba nsibuha f'decizjonijiet li taw il-Qrati taghna:

> *Il-Gudikant għandu jezamina bir-reqqa l-provi rilevanti li jkollu quddiemu u mbagħad jiddeciedi l-kawza abbazi tal-ligi applikabbli, tal-gurisprudenza, u tal-provi li fl-opinjoni tiegħu huma konsistenti, konvincenti u korroboranti.*[3]

F'decizjoni tal-Qorti tal-Appell Kriminali moghtija fit-23 ta' Jannar, 2007 fil-kaz **Il-Pulizija** *vs* **Charles Bianco**[4] l-Imhallef Giannino Caruana Demajo kkummenta dwar meta jkun hemm diskrepanzi fix-xhieda:

> Din il-Qorti kellha okkazjoni tisma' x-xhieda u – ħlief forsi għal ftit ecitament li jħossu xi xhieda meta jsibu ruħhom fl-ambjent ta'

[3] Appell Civili Numru. 140/1991/2 - **Norbert Agius v. Anthony Vella et., deciz** fil-25 ta' April, 2008 mill-Prim Imhallef Vincent De Gaetano u l-Imhallfin Joseph D. Camilleri u Joseph A. Filletti.
[4] Appell Kriminali Numru. 115/2006

awla tal-Qorti, ukoll jekk ikunu familjari ma' dak l-ambjent iżda jkunu qegħdin jixhdu *in rebus suis*, u aktar meta jkunu qegħdin jirrakkontaw episodju li għalihom kien trawmatiku – ma rat xejn "nevrasteniku" jew isteriku fix-xhieda ta' John Bonello. Id-diskrepanzi żgħar bejn ix-xhieda ta' John Bonello u dik tal-Avukat Irene Bonello, li baqgħu għalkemm, kif jgħid l-appellant fir-rikors tiegħu, "żgur kellhom ħafna opportunitajiet li jitkellmu bejniethom dwar il-każ u jfakkru lil xulxin x'gara dakinhar tal-allegat incident", aktar milli sinjal illi x-xhieda ma tistax toqgħod fuqha huma sinjal illi x-xhieda ma kinitx orkestrata, u illi t-tnejn xehdu dak li ftakru u kienu onesti biżżejjed biex ma "jikkorregux" il-verzjonijiet biex igibuhom jaqblu ma' xulxin, għalkemm kellhom okkażjoni jagħmlu hekk u għalkemm setgħu jobsru illi d-diskrepanzi x'aktarx kien sejjer jaqbad magħhom l-appellant biex joħloq argument. Differenzi ta' dettal fil-mod kif xhud jara episodju trawmatiku huma ħaga normali u, sakemm fis-sostanza x-xhieda tkun taqbel, ma jfissrux illi dik ix-xhieda għandha tigi skartata.

Artikolu 637 tal-Kapitolu 9 jipprovdi gwida cara lill-Gudikant kif ghandu japprezza xhieda ta' xhud:

> *id-deċiżjoni titħalla fid-diskrezzjoni ta' min għandu jiġġudika l-fatti, billi jittieħed qies tal-imġieba, kondotta u karattru tax-xhud, tal-fatt jekk ix-xiehda għandhiex mis-sewwa jew hix konsistenti, u ta' fattizzi oħra tax-xiehda tiegħu, u jekk ix-xiehda hix imsaħħa minn xiehda oħra, u taċ-ċirkostanzi kollha tal- kaz.*

Il-fatti specie tal-kaz

<u>Nicola Grima</u> jghid li hu u jsuq bil-vann Kia fil-by-pass tas-Siggiewi, kellu tliet karozzi quddiemu u ra karozza blu taqbzu u lit-tliet karozzi ta' quddiemu, izda kif wasal mat-tielet karozza, Nicola Grima ra karozza ohra gejja mid-direzzjoni opposta. Izid jghid li l-karozza kellha hoss qisha karozza tal-giri u ma kienx ghaddej b'velocita' baxxa. Minhabba l-fatt li din il-karozza blu kienet qed taqbez il-karozzi, kienet qieghda ssuq fin-nofs bejn zewg lanes u l-karozza li kienet gejja minn faccata, sabiex tiskapulah kellha tikser ghal fuq in-naha taghha u telghet xi zewg bankini. Meta mistoqsi jekk jafx in-numru ta' registrazzjoni jew jekk jgharafx lil sid il-vettura, Nicola Grima rrisponda fin-negattiv ghaz-zewg domandi.

<u>James Busuttil</u> jghid li hu flimkien ma Mandy Fenech kienu qeghdin fil-karozza tieghu ta' kulur silver, u kienu sejrin lejn is-Siggiewi, izda kif James Busuttil wasal fejn il-Limestone Heritage, lemah karozza Subaru Impreza blu li kienet ghaddejja b'velocita' qawwija ssuq fl-istess karreggjata tieghu. Izid jghid li sabiex jevita impatt, kellu jikser fuq in-naha tal-passiggier b'konsegwenza li kisser il-karozza tieghu. James Busuttil jghid li peress li s-Subaru Impreza blu kienet ghaddejja b'certa velocita' u kellha anke t-twieqi tinted, ma setax jiehu n-numru ta' registrazzjoni tal-istess karozza. Pero' jghid li seta' jinnota li s-Subaru Impreza kellha spoiler fuq in-naha ta' wara u kienet indikazzjoni ohra ta' kif wasal ghall-identita' tas-sewwieq, apparti indikazzjonijiet ohra bhar-rapport tal-pulizija u social media. James Busuttil jikkonferma li anke hu ra s-Subaru Impreza jaqbez madwar tliet karozzi.

Mandy Fenech kienet il-passiggiera fil-karozza ta' James Busuttil u tikkonferma li kienu sejrin direzzjoni lejn is-Siggiewi. Tikkonferma wkoll li kif qabzu l-Limestone Heritage, rat karozza sportiva blu li kellha spoiler fuq wara li kienet gejja fil-karreggjata taghhom b'velocita' qawwija. Ghaldaqstant James Busuttil, l-gharus ta' Mandy Fenech ma kellux alternattiva li jiskapula impatt hlief li jikser fuq in-naha tal-passiggier b'konsegwenza li farrak il-karozza tieghu. Meta giet mistoqsija jekk ratx lix-xufier, Mandy Fenech tghid li peress li kien ghaddej b'certa velocita u t-twieqi kienu tinted, ma setghetx tiddentifikah.

PS 1240 Joseph Camilleri jghid li huwa kien ircieva telefonata anonima fejn gie nfurmat li l-incident sehh minhabba li s-sewwieq tal-karozza blu u cioe' Robert Galea qabez ghal fuq il-karreggjata opposta sabiex jaqbez il-karozzi li kienu qed isuqu fil-karreggjata tieghu u ghalhekk James Busuttil kellu jikser ghal fuq in-naha tal-passiggier sabiex jevita l-impatt.

George Baldacchino jghid li huwa kien qieghed l-ghalqa tieghu s-Siggiewi u qabel is-saghtejn ta' wara nofsinhar, Robert Galea li jigi n-neputi tieghu mar hdejh. Robert Galea rcieva telefonata mill-ghassa ta' Hal-Qormi fejn infurmawh sabiex jinzel l-ghassa. Kemm George Baldacchino u kemm Robert Galea nizlu l-ghassa fejn il-pulizija saqsew lil Robert Galea jekk xtaqx ikellem avukat, izda peress li hu beda jghid li ma ghamel xejn hazin, huwa ghazel li ma jkellimx Avukat.

***Presumption of facts* u provi cirkostanzjali**

Il-Qorti qabel tghaddi biex tanalizza l-imputazzjoni migjuba kontra l-imputat thoss li ghandha taghmel espozizzjoni dwar il-*presumption of facts* u l-provi cirkostanzjali.

Fi kliem Sir Rupert Cross,

> *Presumptions of fact (*praesumptiones hominis*) are merely frequently recurring examples of circumstancial evidence, and instances which have already been mentioned are the presumption of continuance, the presumption of guilty knowledge arising from the possession of recently stolen goods and the presumption of unseaworthiness in the case of a vessel which founders shortly after leaving port. These are all inferences which may be drawn by the tribunal of fact.*[5]

Bhala ezempju ta' prova indizzjarja li minnha wiehed jista' jigbed konkluzzjoni partikolari, l-istess awtur jaghti l-ezempju tad-drawwa (*habit*):

> *The fact that someone was in the habit of acting in a given way is relevant to the question whether he acted in that way on the occasion into which the court is inquiring.*[6]

U fl-edizzjoni tal-2018 ta' **Archbold** jinghad hekk dwar presunzjonijiet ta' fatt:

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[5] Cross, R., Cross on Evidence Butterworths (London), 1979, p. 124. Ikkwotat mill-Prim Imhallef Vicent Degaetano fl-Appell Kriminali Inferjuri Il-Pulizija vs Louis Gauci Borda deciz 24 ta' April, 2002: Appell Nru 228/2001

[6] ibid. p. 40.

These are inferences which the court may draw from the facts which are established, but it is not obliged to draw.

For example where a defendant charged with handling stolen goods is found to be in possession of those goods without any explanation, this circumstantial evidence may give rise to a provisional conclusion that the defendant is the handler of those goods.

In some cases a rebuttable presumption of law imposes a legal burden of proof which must be satisfied to the requisite standard of proof in order to rebut the presumption, whereas some presumptions merely impose an evidential burden. For example, the presumption that a machine was working properly may be rebutted by merely adducing evidence to the contrary: *Tingle, Jacobs and Co v. Kennedy* [1964] 1 W.L.R. 638. In contrast, in order to rebut the presumption, created by section 74(3) of the Police and Criminal Evidence Act 1984, that the defendant committed an offence of which he was convicted, the Court of Appeal has held that the defence must prove on the balance of probabilities that the defendant did not commit the offence: *Watson* [2006] EWCA Crim. 2308. Similarly, in *Miell* [2008] 1 Cr.App.R. 23, the Court of Appeal treated s.74(3) as shifting the burden of proof onto the accused. In *C*[2011] 1 Cr.App.R. 17, however, the Court of Appeal, without reference to *Watson*, referred, at p.225, to s.74(3) as creating an "evidential presumption" and indicated that "if the defendant does adduce evidence to demonstrate that he is not guilty of the

offence, it remains open to the Crown then to call evidence to rebut the denial". In *Clift* [2012] EWCA Crim. 2750 the Court of Appeal indicated that s.74(3) shifts the burden of proof to the defendant and that the prosecution is not required to prove to the criminal standard the matters covered by s.74(3). Equally, in *R. v. O'Leary* [2013] EWCA Crim 1371 the Court of Appeal held at para.19 that, "The effect of section 74(3) is that the defendant bears the burden of proving that he did not commit the offence".

In *Zawadzka* [2016] EWCA Crim 1712, where evidence of a theft conviction committed in Poland by the defendant was admitted in a murder trial, the Court of Appeal accepted that the judge should have directed the jury that if the defendant proved on the balance of probabilities that she had not committed the offence then the jury should 'dismiss it from their minds'.

Even where a presumption imposes a legal burden of proof, if the imposition of a legal burden of proof upon the defence would give rise to a violation of art. 6(2) of the ECHR it may be necessary to read down the relevant statutory provision under section 3(1) of the Human Rights Act 1998, in line with the principles that were considered at §§ 10-11 and 10-12, *ante*, such that it merely imposes an evidential burden. Indeed, statute may expressly impose the evidential burden of rebutting a presumption upon the defendant. For example, in relation to the evidential presumptions about consent which section 75 of the Sexual Offences Act 2003 created, s.75(1) provides that:

> "… the complainant is to be taken not to have consented to the relevant act unless sufficient evidence is adduced to raise an issue as to whether he consented, and the defendant is to be taken not to have reasonably believed that the complainant consented unless sufficient evidence is adduced to raise an issue as to whether he reasonably believed it."
>
> It appears that the effect of this provision is that the burden of disproving the relevant issue remains on the prosecution provided that evidence that is not merely "fanciful or speculative" has been adduced to raise the issue: *Ciccarelli*[2011] EWCA Crim. 266.[7]

Huwa minnu li fl-**Artikolu 638(2) tal-Kap. 9** ix-xhieda ta' xhud wiehed biss, jekk emmnut minn min ghandu jiggudika fuq il-fatt hija bizzejjed biex taghmel prova shiha u kompluta minn kollox, daqs kemm kieku l-fatt gie ppruvat minn zewg xhieda jew aktar. Ghalhekk jispetta lill-Qorti tara liema hija l-aktar xhieda kredibbli u vero simili fic-cirkostanzi u dan a bazi tal-possibilita'. Huwa veru wkoll li l-Qorti ghandha tqis provi cirkostanzjali jew indizzjarji sabiex tara jekk hemmx irbit bejn l-imputat u l-allegati reati. Dan qed jinghad ghaliex ghalkemm huwa veru li fil-kamp penali l-provi indizzjarji hafna drabi huma aktar importanti mill-provi diretti, pero' hu veru wkoll li provi indizzjarji jridu jigu ezaminati b'aktar attenzjoni sabiex il-gudikant jaccerta ruhu li huma univoci.

Fil-fatt il-Qorti hawnhekk taghmel referenza ghal-sentenza moghtija mill-Qorti tal-Appell Kriminali fil-hmistax (15) ta' Gunju, 1998 fil-kawza fl-

[7] Archbold: Criminal Pleading, Evidence and Practice – 2018 Sweet & Maxwell (London), para. 10-15, p. 617-618.

ismijiet '**Il-Pulizija vs Jason Lee Borg'**, fejn kien gie ritenut li provi jew indizzji cirkostanzjali ghandhom ikunu univoci, cioe' mhux ambigwi. Ghandhom ikunu indizzji evidenti li jorbtu lill-akkuzat mar-reati u hadd iktar, anzi l-akkuzat biss, li huma l-hati u l-provi li jigu mressqa, ikunu kompatibbli mal-presunzjoni tal-innocenza tieghu. Illi ghalhekk huwa importanti fl-isfond ta' dan il-kaz li jigi ppruvat li kien l-imputat biss li ghamel dak li gie akkuzat bih u ghalhekk il-Qorti sejra tikkunsidra kwalunkwe prova possibilment cirkostanzjali li tista' torbot lill-imputat b'mod univoku bir-reati addebitati lilu. Fil-fatt kif gie ritenut fis-sentenza moghtija mill-Qorti tal-Appell Kriminali fis-sitta (6) ta' Mejju, 1961 fil-kawza fl-ismijiet '**Il-Pulizija vs Carmelo Busuttil'**,

> "*Il-prova ndizzjarja ta' spiss hija l-ahjar prova talvolta hija tali li ipprova fatt bi precizjoni matematika.*"

Illi huwa veru li fil-kamp penali, il-provi indizzjarji hafna drabi huma aktar importanti mill-provi diretti. Hu veru wkoll li l-provi indizzjarji jridu jigu ezaminati b'aktar attenzjoni sabiex wiehed jaccerta ruhu li huma univoci.

Archbold jghid:

> "*Where reliance has been placed by the prosecution on circumstantial evidence the proper approach is to determine whether a reasonable jury properly directed would be entitled to draw an adverse inference from the combination of factual circumstances by dismissing other possible explanations in relation to that evidence: Jabber [2006] EWCA Crim. 2694; G [2012] EWCA Crim. 1756. In London Borough of Haringey v. Tshilumbe, 174 J.P. 41, a senior environmental health practitioner for*

the local authority had affixed a hygiene emergency prohibition notice to T's premises. After the notice was affixed he returned to the premises and found a group of individuals sitting at a table eating food from plates and drinking from cans. It was alleged that T had failed to comply with the notice as he had continued to operate the premises as a food business. The magistrates held that T had no case to answer as the local authority had produced no evidence that the food and drink that were on the table had been provided to the occupants of the premises by T in the course of a food business. It was held that justices had been wrong to find that there was no case to answer; it could be inferred from the circumstances that the premises were being used for a food business and the defendant should have explained himself at trial. Strong circumstantial evidence may be sufficient for the court to find a case to answer: Danells [2006] EWCA Crim. 628.[8]

Illi din hija ezattament il-pozizzjoni hawn Malta, kif fil-fatt giet konfermata b'sentenza moghtija mill-Qorti tal-Appell Kriminali nhar id-disgha ta' Jannar, 1998 fil-kawza fl-ismijiet '**Il-Pulizija vs Emanuel Seisun**'.

Din il-Qorti thoss u tghid li provi cirkostanzjali huma bhall-katina li tintrabat minn tarf ghal tarf, b'sensiela ta' ghoqiedi li jaqblu ma' xulxin u li flimkien iwasslu fl-istess direzzjoni[9].

[8] Ibid. Pg. 533 para 8-119

[9] Il-Qorti fliet fid-dettal l-argumenti migjuba fis-sentenza fl-ismijiet Il-**Pulizija vs Abdellah Berrard et** moghtija mill-Magistrat Consuelo Scerri Herrera fid-19 ta' Mejju 2014

Prezunzjoni tal-innocenza

Ir-rizultat huwa li fi proceduri penali l-onus ta' prova tistrieh fuq il-Prosekuzzjoni matul il-kumpilazzjoni kollha, bhala regola generali, u hija l-eccezzjoni li d-difiza trid tipprova xi haga, bhal per ezempju d-difiza tal-insanita'.

Huwa principju fundamentali fi proceduri penali li persuna akkuzata hija prezunta innocenti sakemm ippruvata hatja, u dan ai termini tal-Artikolu 40 Subinciz 5 tal-Kostituzzjoni ta' Malta, li jiddisponi is-segwenti:

> "*every person who is charged with a criminal offence shall be presumed to be innocent until he is proved or has pleaded guilty...*"

Dan il-principju gie wkoll sanat fis-sentenza moghtija minn Sir Augustus Bartolo fl-ismijiet **'Il-Pulizija v Michele Borg et'** (deciza mill-Qorti tal-Appell Kriminali nhar it-13 ta' Mejju, 1936) fejn intqal:

> "*illi skont il-principju u s-sistema tal-ligi u procedura penali taghna mfassla fuq dak tal-Ingilterra u li huma strettament d'ordine pubblico;* '*the accused is presumed innocent until proved guilty.*' "

U issa ghalhekk wiehed jistaqsi xi tfisser verament prezunzjoni tal-innocenza? Din tfisser li l-akkuzat ma jrid jipprova xejn dwar l-innocenza tieghu - hija l-Prosekuzzjoni li trid tipprova l-htija tieghu. Ghalhekk peress li hija l-Prosekuzzjoni li allegat il-htija tal-imputat, l-onus generali tal-prova, u cioe' tal-prova tal-htija, tistrieh fuq il-Prosekuzzjoni, li ghandha ghalhekk tipprova kull element tar-reati partikolari sabiex tasal ghal din l-istess konkluzjoni.

Il-Prosekuzzjoni trid tipprova l-kaz taghha *beyond a reasonable doubt*, li tipprova kaz dettat bla dubju dettat mir-raguni, li tfisser li l-grad ta' buon sens jew ghaqal li jwassal gudikant sabiex jaqbel mat-tezi taghha u cioe' tal-Prosekuzzjoni.

L-obbligu li tipprova l-htija tal-akkuzat irid ikun assolut, oltre kull dubju dettat mir-raguni u f'kaz li jkun hemm xi dubju ragjonevoli, il-Prosekuzzjoni tigi kunsidrata li ma ppruvatx il-kaz taghha ta' htija u ghalhekk il-Qorti hija obbligata li tillibera.

Ikkunsidrat:

Dak in-nhar tat-3 t'April 2016, James Busuttil jghid li kien ghaddej minn Triq Mons Mikiel Azzopardi, Siggiewi meta ra gejja fuq il-karreggjata tieghu minn quddiemu karozza ta' lewn blu tal-marka Subaru Impreza, li kienet gejja b'tant velocita' li biex isalva hajtu u hajjet min kien mieghu swervja ghal fuq in-naha tal-passiggier bil-konsegwenza li dahal go sigra. James Busuttil mar jaghmel ir-rapport u ftit wara fl-istess gurnata l-pulizija irceviet informazzjoni li l-vettura l-blu li kienet ikkawzat dan l-incident kienet RBZ 222 li tghajjat lill-imputat Robert Galea.

Id-difiza hawnhekk qed tikkontesta li dan l-incident sehh tort ta' l-imputat u l-argument taghha hu li dan Subaru Impreza ta' lewn blu mhux wahda biss hawn u certament ma jistax jigi konstatat, anke galadarba l-imputat qed jinnega li kien involut fl-incident.

Hawn fatti li jindikaw li l-imputat li kien ghaddej bil-vettura tieghu dak in-nhar tat-3 ta' April 2016 fis-2.20pm minn Triq Mons Mikiel Azzopardi, Siggiewi. Primarjament, l-imputat huwa mis-Siggiewi, u huwa propjetarju ta' vettura Subaru Impreza ta' lewn blu kif ipprezentat mill-iscreenshots tal-profil *Facebook* tieghu, ix-xhud okulari Nicola Grima ra li l-karozza li ikkawzat l-incident kienet karozza blu, James Busuttil gharaf li l-karozza kienet Subaru Impreza u dan ghaliex jifhem fil-karozzi u Mandy Fenech ikkonfermat l-istess. L-istess ikkonferma x-xhud in difesa, George Baldacchino li qal li dak in-nhar l-imputat mar ghandu l-ghalqa fis-Siggiewi stess, kellu jghaddi minn Triq Mons Mikiel Azzopardi biex jasal ghandu u gie bil-karozza tieghu Subaru Impreza. Ghalhekk il-Qorti ghalkemm hadd ma kkonferma li n-*number plate* tal-karozza kienet effettivament RBZ222 u hadd ma seta' jikkonferma li s-sewwieq kien Robert Galea, jirrizulta minn provi indizjarji li kien l-imputat li dak il-hin ghadda minn Triq Mons Mikiel Azzopardi Siggiewi, fejn dawk li segwew l-incident jghidu li qabez ammont ta' karozzi u dahal fil-karreggjata ta' James Busuttil b'dan li ikkawza l-incident li sehh.

Il-kuncett tal-*bonus pater familias*

Is-seba' (7) imputazzjoni migjuba kontra l-imputat tghid li "*bin-nuqqas ta' hila fl-arti jew professjoni jew nuqqas ta' tharis ta' regolamenti ...*". Fi kliem iehor ma hux ipotezzat reat fejn hu mehtieg id-dolo, izda l-fatt illi l-imputat agixxa b'mod li bih seta' jobsor (meta fil-fatt ma basarx) illi bl-agir tieghu kien ser johloq is-sinistru. It-test f'dan il-kaz huwa jekk l-imputat, waqt li kien qieghed isuq, kienx qieghed isuq bil-galbu u skont ir-regolamenti vigenti tat-triq *qua bonus paterfamilias* jew le. Jekk kien

qieghed jagixxi b' dan il-mod, wiehed irid jasal ghall-konkluzjoni illi l-incident sehh minhabba raguni accidentali li ma setghat QATT u bl-ebda mod tigi evitata. Izda dak li jigi ipotezzat f' dawn ic-cirkostanzi huma ohrajn: illi minghajr il-hsieb li jikkawza dan l-incident, huwa naqas milli jagixxi bhala *bonus paterfamilias*, u proprju minhabba din in-non-kuranza ikkawza l-incident de quo.

Il-Qorti taghmel referenza ghas-sentenza moghtija mill-Qorti tal-Appell Kriminali fil-kaz **Il-Pulizija v. Kevin Sammut**[10] fit-23 ta' Jannar 2009. F'din id-decizjoni l-Prim Imhallef Vincent Degaetano jidhol fid-dettal dwar il-kuncett tal-*bonus pater familias* u xi jkollu f'mohhu bniedem ta' intelligenza ordinarja:

> Fi kliem iehor, il-kwistjoni tibqa' dejjem dik ta' x'kellu verament f'mohhu l-agent fil-mument li wettaq l-att materjali u mhux x'seta' kellu f'mohhu li kieku kien bniedem ta' intelligenza ordinarja jew ta' sagacja ordinarja jew – biex wiehed juza l-espressjoni uzata mill-ewwel qorti – kieku kien *bonus pater familias*. Argument analogu (u fil-kuntest ta' reati differenti) gie elaborat minn din il-Qorti (kollegjalment komposta) fis-sentenza taghha tat-12 ta' Dicembru 2007 fil-kawza fl-ismijiet **Ir-Repubblika ta' Malta v. John Polidano et**. F'dik is-sentenza nghad hekk:
>
> > **Ghalkemm huwa veru li wiehed irid jiddesumi l-intenzjoni ta' dak li jkun kemm mill-att materjali kif ukoll mic-cirkostanzi**

[10] App Nru 192/08

antecedenti, konkomitanti u sussegwenti ghall-istess att materjali, l-intenzjoni dejjem tibqa' kwistjoni soggettiva – jigifieri x'kellu f'mohhu l-agent (l-akkuzat) fil-mument li ghamel l-att – u mhux semplicement kwistjoni oggettiva ta' x'missu anticipa jew x'kienet tanticipa l-persuna ta' intelligenza ordinarja. Jigifieri m'ghandhiex issir enfasi preponderanti fuq il-konsegwenzi li rrizultaw mill-att. Kif jispjega Gerald Gordon fil-ktieb tieghu *The Criminal Law of Scotland*[11]:

"Intention, then, is subjective, but is proved objectively. Or at least this is so in most cases. Since it is in the end subjective, the jury cannot be prevented from claiming intuitive knowledge of the accused's state of mind, or from believing his account of his state of mind against all the objective evidence. Or at least they should not be so prevented, if they are, as they are always said to be, the judges of fact. The law should not at one and the same time lay down a subjective criterion, and then require the jury to determine whether the criterion has been satisfied by reference solely to an objective standard, the standard of the

[11] W. Green and Son Ltd (Edinburgh), 1978.

reasonable man. It has from time to time been said that a man is presumed to intend the natural consequences of his acts, but in the first place this is at most a presumption, and in the second place it applies only if "natural" is read as meaning "blatantly highly probable": if this were not so, all crimes of intent would be reduced to crimes of negligence."[12]

U l-istess awtur, fil-kuntest tal-kuncett ta' "recklessness" (li fil-ligi Skocciza *"is advertent and involves foresight of the risk"*[13] u li ghalhekk hu tista' tghid identiku ghall-kuncett taghna ta' intenzjoni pozittiva indiretta) jghid hekk:

"When the reasonable man is used as a test of subjective recklessness the position is that if the reasonable man would have foreseen the risk, it will be accepted as a fact that the accused foresaw it, unless there is strong evidence to the contrary. But if the accused can show that in fact he did not foresee the risk, then it is illogical to characterise him as reckless on the ground that a reasonable man would have foreseen it. As Hall[14] says, *'In the*

[12] Para. 7.28, pp. 232-233.
[13] Para. 7.45, p. 241; "…negligence is inadvertent and involves an absence of such foresight."
[14] Hall, J., ***General Principles of Criminal Law*** 2nd ed., Indianapolis, 1960, p. 120.

determination of these questions, the introduction of the "reasonable man" is not a substitute for the defendant's awareness that his conduct increased the risk of harm any more than it is a substitute for the determination of intention, where that is material. It is a **method** *used to determine those operative facts in the minds of normal persons'*.

"Since evidence of the accused's state of mind must normally consist of objective facts from which the jury will draw an inference as to his state of mind, the more careless the accused's behaviour the more likely it is that he will be regarded as reckless, since the more likely it will be that he foresaw the risk involved. A man who kills another by punching him on the jaw may be believed when he says that he did not foresee the risk of death; but a man who kills another by striking him on the skull with a hatchet will be hard put to it to persuade a jury that he did not realise that what he was doing might be fatal. In ***Robertson and Donoghue*** **Lord Justice-Clerk Cooper directed the jury that 'In judging whether…reckless indifference is present you would take into account the nature of the violence used, the**

condition of the victim when it was used, and the circumstances under which the assault was committed'. All these are objective factors affecting the degree of the carelessness of what the accused did, viewed as something likely to cause death. The jury proceed by way of syllogism to infer from these objective factors that the accused was subjectively reckless, and the major premise is that a reasonable man would have foreseen the risk. So they argue: all reasonable men would foresee the risk of death as a result of what the accused did; the accused is (*ex hypothesi*) a reasonable man; therefore the accused foresaw the risk."[15]

Fis-sentenza moghtija mill-Qorti tal-Appell Kriminali nhar s-sitta ta' Mejju, 1997 fil-kawza fl-ismijiet **Il-Pulizija v Alfred Mifsud[16]**, inghataw t-tifsiriet lil kull tip ta' sewqan li jiddipartixxi minn sewqan proprju:

"**Sewqan traskurat** (*negligent driving*) hu kwalsiasi forma ta' sewqan li jiddipartixxi minn, jew li ma jilhaqx il-livell ta' sewqan mistenni minn sewwieq ragonevoli, prudenti, kompetenti u ta' esperjenza. Bhala regola l-ksur tar-regolamenti tat-traffiku kif ukoll in-non-osservanza tad-disposizzjonijiet tal-*Highway Code* li jincidu fuq il-mod jew il-kwalita' ta' sewqan ta' dak li jkun, jammonta wkoll ghal sewqan traskurat.

[15] Gerald Gordon, *op. cit.* para. 7.53, pp. 245-246.
[16] Deciza mill-Imhallef Vincent DeGaetano

Sewqan bla kont (*reckless driving*) hu deskritt fis- Subartikolu [2] tal- imsemmi Artikolu 15, bhala 'sewqan bi traskuragni kbira'. Din t-tieni ipotesi, jigifieri ta' sewqan bla kont, tikkontempla s-sitwazzjoni fejn il-grad ta' traskuragni tkun kbira, u tinkludi l-kazijiet 'fejn wiehed deliberatament jiehu riskji fis-sewqan li m'ghandux jiehu, minhabba l-probabilita ta' hsara li tista' tirrizulta lil terzi, kif wkoll kazijiet fejn wiehed ikun indifferenti ghal tali riskji'.

Sewqan perikoluz (*dangerous driving*) jirrikjedi li fil-kaz partikolari, s- sewqan kien ta' perikolu ghal terzi jew ghal proprjeta taghhom. Biex wiehed jiddeciedi jekk kienx hemm dana l-perikolu, wiehed irid jara c-cirkostanzi kollha tal-kaz, inkluzi l-hin w il-lokalita tal-incident u l-presenza o meno ta' traffiku iehor jew ta' nies ghaddejjin bir-rigel. Naturalment, sewqan f'kaz partikolari jista jaqa' taht tnejn jew aktar minn dawn t-tlett forom ta' sewqan, f'liema kaz, japplikaw id-disposizzjonijiet tal-ligi w id-dottrina in materja ta' konkors ta' reati. Ai finijiet ta' piena, l-legislatur pogga s-sewqan bla kont w is-sewqan perikoluz fl-istess keffa. Ir-reat ta' sewqan traskurat hu kompriz w involut f'dak ta' sewqan bla kont u f'dawk ta' sewqan perikoluz."

Illi din il-Qorti hija tal-fehma li f'materja ta' incidenti stradali il-provi indizzjarji, hafna drabi jista' jkunu siewja ferm, u xi drabi jistghu anki jkunu siewja ferm aktar minn dawk okulari li, kultant jistghu ikunu biss soggettivi u kultant, u x'aktarx iva milli le, ikunu kuluriti b'dak li jissejjah "esprit de voiture". U mbaghad fejn ma jkunx hemm xhieda okulari li jistghu jiddeskrivu jew jispjegaw dak li gara, dawn il-provi

indizzjarji, jistghu facilment u minghajr bzonn ta' hafna tigbid, jaghtu stampa cara tad- dinamika tal-incident. S'intendi, bhal kull prova indiretta ohra, jridu jkunu tali li jwasslu ghal konkluzzjoni univoka u li biha l-gudikant ikun moralment konvint lill hinn minn kull dubju dettat mir-raguni mill-htija jew responsabbilta' kriminali tal-imputat jew akkuzat.

Il-Qorti tirrileva li dak applikabbli fil-ligi Civili r-*res ipsa loquitur* [l-fatti jitkellmu wehidhom) m'ghandhiex applikazzjoni diretta fil-Ligi Kriminali izda kif intqal fil-kaz **Wilkinsons** f'para 5.52:

> "*the fact that res ipsa loquitor has no application to criminal law does not mean that the prosecution have to negative every possible explanation of a defendant before he can be convicted of careless driving where the facts at the scene of an accident are such that, in the absence of any explanation by the defendant, a court can have no alternative but to convict*".

Kif tajjeb gie osservat fil-kawza **Giuseppa Debono –vs- Philip Camilleri et**, Appell Civili, 23 ta' Frar 1962:

> *"hu obbligu li kull driver jirregola s-sewqan skond il- kondizzjonijiet u c-cirkostanzi, bhal ma huwa l-hin ta' bil-lejl, il-vizwali ostakolata bid-dlam u bix-xita, l-piz tal-vejikolu, l-istat ta' l-art, u rapporti ohra kontingenti; u hu anke dmir ta' driver li jzomm dik li komunement tissejjah 'a reasonable careful look-out' liema dmir igib mieghu li d-driver jara dak li jkun ragjonevolemnt vizibbli"*.

Issa meta qieset kollox, din il-Qorti ghamlet apprezzament ta' fatt, u li fil-fehma taghha ghandha kull dritt li tasal ghal konkluzjoni li qed tasal ghaliha stante c-cirkostanzi kollha migbura fil-process.

Illi huwa principju ben stabbilit li sewwieq ghandu l-obbligu li jzomm 'l hekk imsejjah "*proper look out*". Gie ritenut li:

> *Hu dover ta' driver to see what is in plain view... u li min ma jarax dak li ragonevolment ghandu jara jfisser li ma kienx qed izomm a proper lookout... Keeping a proper lookout means more than looking straight ahead – it includes awareness of what is happening in one's immediate vicinity. A motorist should have a view of the whole road from side to side and, in the case of a road passing through a built up area, of the pavements on the side of the road as well*.[17]

Illi l-istess Qorti ta'l-Appell Kriminali rriteniet ukoll li

> *... biex nuqqas ta'proper look out iwassal ghal responsabbilta penali l-Qorti trid tkun sodisfatta illi kieku ma kienx ghal dak in- nuqqas dik il-hsara x'aktarx kienet tigi evitata jew x'aktarx li ma kenitx issehh f'dak il-grad li effettivement sehhet...*[18]

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[17] **Pulizija vs Roderick Debattista**: Appell Kriminali deciza 26 ta'Mejju 2004
[18] **Pulizija vs Joseph Grech**: deciza 6 ta' Gunju 2003

Illi dwar velocita m'hemmx dubju li *speed* jista jkun ecessiv anke jekk ma jiskorriex il-limiti regolamentari ghal dik il-lokalita izda jiskorri dawk dedatti mill-prudenza u mill-fatturi ambjentali tal-mument.[19]

Id-doveri tas-sewwieq gew sottolinjati ukoll fil-kawza fl-ismijiet **Il-Pulizija vs George Muscat** deciza fis-6 ta' Mejju 1961 mill-Qorti tal-Appell Kriminali fejn qalet li:

> *"ma tistax tigi nvokata mid-driver l-iskriminanti ta' l-emergenza subitanea meta tikkonkorri l-kolpa ta' l-awtista, li tkun impedietu milli jevita l-konsegwenzi ta' l-emergenza. Il-konducenti ta' vetturi … ghandhom dejjem jivvalutaw tajjeb il-kontingenzi stradali u jirregolaw il-velocita` taghhom b'margini sufficjenti ta' sikurezza"*

Konkluzjoni

Il-Qorti tissottolinea li huwa ben risaput li l-apprezzament tal-provi ghandu jsir mhux biss b'mod spezzettat u individwali izda l-provi ghandhom jigu analizzati flimkien fl-assjem taghhom sabiex wiehed jara x'inferenzi jew interpretazzjoni ragjonevoli u legali jista' jaghti lil dawk il-provi hekk interpretati. Ma tistax tinstab htija jew nuqqas ta' htija semplicement fuq analizi individwali jew separata tal-provi. Dawn ghandhom jigu kkunsidrati kemm individwalment kif ukoll

[19] **Pulizija vs Haden Vella** op cit

komplessivament. Dan hu appuntu l-ezercizzju li ghamlet din il- Qorti, u cioe' li ezaminat bir-reqqa kollha l-provi prodotti f'dan il-kaz.

Certament ix-xiehda ta' xhud wiehed biss, jekk emmnut, hija bizzejjed biex tikkostitwixxi prova shiha u kompluta minn kollox, daqs kemm kieku l-fatt ikun gie pruvat minn zewg xhieda jew aktar[20]. U kif gie ritenut fis-sentenza fl-ismijiet **Il-Pulizija vs Joseph Thorne** tad-9 ta' Lulju 2003, "*mhux kull konflitt fil-provi ghandu awtomatikament iwassal ghal-liberazzjoni tal-persuna akkuzata. Imma l-Qorti, f'kaz ta' konflitt fil-provi, trid tevalwa l-provi skond il-kriterji enuncjati fl-artikolu 637 tal-Kodici Kriminali u tasal ghall-konkluzjoni dwar lil min trid temmen u f'hiex ser temmnu jew ma temmnux*"[21].

Il-Qorti a bazi tal-fatti li hargu waqt is-smiegh tal-kaz hija moralment konvinta li fuq dak li qalu x-xhieda kien l-imputat ghaddej mit-triq u ma kienx ezemplari bis-sewqan tieghu. Il-Qorti ma temminx lil George Baldacchino li qal li dak il-hin ta' l-incident l-imputat kien mieghu.

Wara li l-Qorti analizzat ix-xhieda hija konvinta li l-imputat kien qed isuq **b'mod traskurat u bla kont** meta ddecieda li jaqbad u jaqbez xi karozzi. Il-verzjoni li ghandha l-Qorti hi li l-imputat **ddahal fil-karreggjata opposta minghajr kont** tal-karozzi li kienu jew li setghu jghaddu mill-karreggjata opposta tieghu. Dan ghamilu minghajr **ma ta xi indikazzjoni** li kien se jaqsam ghall-karreggjata l-ohra. U ghalhekk se tinstab htija tal-ewwel (1), tielet (3), raba' (4) u s-sitt (6) imputazzjoni.

[20] Ara artikolu 638(2) tal-Kap. 9.
[21] Ara wkoll Appell Kriminali **The Police vs Graham Charles Ducker**, 19 ta' Mejju 1957.

Il-Qorti izda tinnota li a bazi tal-provi prodotti u dan anke minhabba l-fatti spjegati aktar 'l fuq, l-Prosekuzzjoni ma gabitx il-provi tal-elementi rikjesti mill-ligi ghar-reati addebitati lill-imputat fit-tieni (2), l-hames (5) u s-seba' (7) imputazzjoni u 1-provi migjuba mill-prosekuzzjoni jieqfu ferm il-boghod mill-piz tal-prova rikjest mill-ligi u cjoe dak fi grad ta' certezza morali minghajr dubju dettat mir-raguni. Li kieku l-ispeed camera li hemm fl-inhawi kienet hemm dakinnhar tal-allegat incident kieku kien ikollna prova valida tal-velocita' li biha kien ghaddej l-imputat. L-istess dwar il-habta li inghad li saret mal-vettura FBN 274, li kieku saret il-habta allura fuq il-vettura tal-imputat ma kienx ikun hemm xi tracci ta' din il-habta?

Il-Qorti thoss li ghandha twissi dwar it-triq in kwistjoni, Triq Monsinjur Mikiel Azzopardi li hemm min juzha bhal cirkwit tat-tigrijiet tal-vetturi, liema vetturi 'l mod mghaggel li jghaddu bih kemm trakkijiet kif ukoll tipi ohra ta' vetturi huwa ta' perikolu kontinwu. Inutli li twahhlet speed camera lil hinn minn fejn hemm binjiet fuq iz-zewg nahat fil-bidu tat-triq hekk kif tidhol is-Siggiewi. Il-Qorti zaret l-inhawi diversi drabi u setghet tinnota kif ikun hemm min ikun ghaddej b'velocita' ferm gholja imbaghad inaqqas l-ispeed meta tkun qrib l-*ispeed camera*. Il-Qorti tirrakomanda li ghandu jkun hemm *speed calming measures* minnufih minn fejn jibda l-bini f'din it-triq int u diehel is-Siggiewi minn din it-triq. Ikun tajjeb li f'din it-triq jintuzaw *mobile speed cameras* [22] ohra li ghandhom il-pulizija biex ghall-gharrieda jkejlu l-velocita' ta' dawk li jkunu jabbuzaw bis-sewqan

[22] Speed limit enforcement device

taghhom u jikkagunaw periklu kontinwu ghal min jghix jew ikun ghaddej mill-inhawi.

Decide:

Ghal dawn il-motivi l-Qorti ma ssibx lill-imputat hati tat-tieni (2), tal-hames (5) u tas-seba' (7) imputazzjoni u minnhom tilliberah u wara li rat l-Artikolu 15(1)(a)(2)(3) tal-**Kapitolu 65** tal-Ligijiet ta' Malta, Sezzjoni 75 u III(A)(1) tal-Legislazzjoni Sussidjarja bin-numru 65.11 r-**Regolamenti dwar il-Vettura bil-mutur**, qed issib lill-imputat hati ta' l-ewwel (1) tat-tielet (3), tar-raba' (4), u s-sitt (6) imputazzjonijiet kif migjuba fil-konfront tieghu u tikkundannah multa ta' mitejn Ewro (€200) u tiskwalifikah minn kull licenzja tas-sewqan ghal zmien sebat'ijiem li jibda min-nofs il-lejl tal-lum.

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Dr Joseph Mifsud
Magistrat