Breach of fair hearing
Lack of criminal trial within a reasonable time

IN THE FIRST HALL OF THE CIVIL COURT

MR. JUSTICE GRAZIO MERCIECA

Today, 16th June, 2020

Constitional Application Number 159/19GM

Stephen Izechukwo Egbo

vs.

The Attorney General who by law was substituted by
The State Advocate

The Court

Having considered that:

On the 29th November 2010, Applicant was brought under arrest before the Court of Magistrates (Malta) as a Court of Enquiry and accused of associating himself with others to traffic cocaine.

On the 16th December 2010, the Court of Magistrates completed the compilation of evidence, found that there were sufficient reasons for a bill

of indictment to be issued against the accused and sent the record of the proceedings to the Attorney General.

On the 30th March 2017 the Attorney General issued the bill of indictment, which stated:

> **"First and Only Count**
>
> That on the twenty seventh (27) day of November two thousand and ten (2010), and during the preceding months, decided to start dealing, offering, supplying and importing drugs illegally into the Maltese Islands in agreement with others.
>
> In fact on the dates abovementioned, the accused Ikechukwu Stephen Egbo conspired and agreed with another person or persons to illegally deal in, import and receive from the Netherlands to the Maltese Islands a quantity of the drug cocaine. An agreement was reached in relation to the mode of action as to how this drug consignment was to reach Malta and eventually how it was to be dealt with in Malta following its arrival. This drug consignment was to be exported from the Netherlands and imported into Malta by a man, Attila Somlyai, who was to travel from Dusseldorf to Malta by air, and once in Malta, Somlyai had to meet the accused and deliver to him the drug consignment.
>
> In execution of the said plan, on the twenty sixth (26) day of November two thousand and ten (2010), Somylai boarded the Air Malta flight KM353 leaving from Dusseldorf, Germany destination Malta, carrying inside his body a total of sixty (60) capsules filled with the drug cocaine in order to eventually deliver the said drug to the accused. However, the Malta Customs Officials and the Malta Police Force managed to intervene in due time before this amount of drug cocaine reached its intended final destination in the Maltese Islands to the respective consignee. The Customs Officials and the Police apprehended Somlyai following his arrival in Malta at the Malta International Airport. After that he was conducted to Mater Dei Hospital, it transpired that Somlyai had ingested sixty (60) capsules containing five hundred eighty two point forty six (582.46) grams of the drug cocaine with a purity of circa 38% as determined later by the

Court appointed expert. The street value of this drug as determined by the same expert is that of forty four thousand two hundred and sixty six euro and ninety six euro cents (€44,266.96).

Somlyai decided to cooperate with the Police and informed them that he was sent to Malta by another person in this conspiracy referred to as the "chief", in order to carry this drug consignment. Somylai also stated that he was given instructions to book a room at the Roma Hotel in Sliema and wait for further instructions in relation to the delivery of the drug consignment. Somylai agreed to collaborate with the Police and he agreed to take part in a controlled drug delivery, which eventually led to the arrest of the accused. In fact, on the twenty seventh (27) day of November two thousand and ten (2010), the accused Ikechukwu Stephen Egbo was apprehended by the police when he went to collect the drug consignment. When the accused realised that there were Police officers he tried to escape, only to be apprehended by the Police some distance away. Somylai also recognized the accused Ikechukwu Stephen Egbo as the same person who had collected another drug consignment from the same hotel in October two thousand and ten (2010), when he had brought to Malta twenty four (24) cocaine filled capsules upon instructions received from the same person referred to as the "chief".
The drug cocaine is scheduled as per Part 1 of the First Schedule of the Dangerous Drugs Ordinance.

The consequences :

By committing the abovementioned acts with criminal intent, the accused Ikechukwu Stephen Egbo rendered himself guilty of conspiracy to deal in dangerous drugs (cocaine) in breach of the provisions of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta.

The accusation :

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, accuses Ikechukwu Stephen Egbo of being guilty of having, on the twenty seventh (27) day of November of the year two thousand and ten (2010) and during the preceding months, with criminal intent, with another one or more persons in Malta, or outside Malta, conspired for the purpose of selling or dealing in a drug (cocaine) in the Maltese Islands against the provisions of the Dangerous Drugs Ordinance

(Chapter 101 of the Laws of Malta) or by promoting, constituting, organizing or financing such conspiracy;

On the 22nd July 2017 a jury found the applicant guilty of the accusation against him by 7 votes against 2. On the same day of the verdict, and on the strength of that verdict, the Criminal Court declared Ikechukwu Stephen Egbo guilty as charged;

On the 10th August 2017 applicant appealed demanding that the judgement of the Criminal Court be repealed and that he be declared not guilty;

The Court of Criminal Appeal considered that the appeal was basically founded on one grievance, namely that :-

> *21. ... that all the evidence tendered points to the fact that the appellant had no involvement in any drug conspiracy and that it is only Somylai who indicates the appellant`s involvement. Put simply – it is only through Somylai`s testimony that the jurors could have found a guilty verdict.*
>
> *22. Somylai`s evidence is tainted with so many inaccuracies, incorrect statements and lies that his whole testimony cannot be trusted. It is to be kept in mind that Somylai`s testimony led to him being given a lesser prison sentence.*

The Court held that the grievance on which the appeal was based revolved on the question of appreciation of evidence made by the jurors. For the reasons, and because of the circumstances, explained above, appellant states that there was no credible evidence to link him in any manner whatsoever to his accuser. The Court considered that in numerous occasions the Court had, even when differently composed, consistently affirmed the principle that when faced with a grievance related to the appreciation of evidence, the Court acts with caution not to disturb the appreciation made by the jurors because these had the advantage of not

only hearing the testimony of the witnesses but also to evaluate the behaviour of the persons who testified in front of them. It held that the inconsistencies pointed out by appellant relating to absence of guilt on his part were evidently not strong enough for the jurors to overrule the combination of established facts and circumstances that lead them to determine by a vote of seven against two proof of guilt of the accused beyond reasonable doubt and discarding them as satisfactory as proof on a balance of probabilities which is the criterion that rests on the accused. This Court concluded that the jurors legitimately and reasonably concluded that appellant was involved in a conspiracy to import and deal in cocaine with Somylai and others;

The Court of Criminal Appeal noted that the appellant referred to matters that were not identified as a grievance in the application of appeal; in particular he criticised the address of the judge presiding the trial to the jurors with regard to the benefit that Attila Somlyai ("**Somlyai**") obtained when Sec 29 of Chapter 101 was applied in his favour. The Court remarked that although in his grievance as detailed in the application of appeal, the appellant did point out the benefit obtained by Somlyai as a primary reason for rejecting his version, the appellant in the application of appeal did not mention as a grievance the legality of the manner how the presiding judge addressed this matter. Quoting jurisprudence, the Court of Criminal Appeal held that the grounds of appeal were to be limited to those stated in the Application of Appeal, additional grounds by subsequent submissions were inadmissible unless they could be deduced from the grounds stated in the Application of Appeal. Nevertheless, the Court examined the summing-up of the presiding judge to the jurors, with particular reference to the question of article 29 of Chapter 101 and found that the explanation given by the presiding judge was fair and according to law. The jurors, as the judges of fact, had enough insight to carry out their analysis;

Having further considered that:

Alleged lack of fair hearing

According to the appellant, the Court of Criminal Appeal violated his right to a fair hearing by refusing to consider the legal submissions put forward by his counsel during the oral hearing of the appeal but which were not to be found in his Application of Appeal; namely that the Court:

(i) wrongly cited Article 419(1) of the Criminal Code, not realizing that the words "under pain of nullity", qualifying the requisite that all grounds must be stated in the Application of Appeal had been deleted;

(ii) ignored Article 498 of the Criminal Code (more precisely, Article 498(4)) which confers upon it the "full power to determine, in accordance with this Title, any questions necessary to be determined for the purpose of doing justice in the case before the court.

(iii) completely ignored the audi alteram partem rule;

In his Application before this Court, applicant reproduced in detail his oral submissions before the Court of Criminal Appeal;

In his written note of submissions, applicant pointed out that part of his oral submissions had not been recorded, ostensibly due to a technical failure and that nevertheless the Court proceeded to deliver judgement without hearing the submissions afresh;

Having further considered that:

Applicant's grievance is, in substance, that the decision of the Court of Criminal Appeal declaring as inadmissible his submissions made during

the oral hearing and which were not based upon the grievances which he had included in his Application of Appeal violated his right to a fair hearing – specifically, the right to be heard – because the declaration of inadmissibility was based upon a wrong application of the law;

The applicant's grievance cannot be looked into without a prior decision by this Court as to whether the decision of the Criminal Court of Appeal not to consider the further submissions was valid or not according to the rules of criminal evidence. This entails this Court acting as a third court of appeal, or as a court of cassation – which lies beyond its jurisdiction. Article 6 entails that an accused be given ample opportunity to put forward his case. This must be done according to the rules of preclusion laid down by the rules of criminal evidence of member states. There is no right to be actually heard; only the right to be given the opportunity to do so. The rules of preclusion are applied and interpreted by the court of criminal jurisdiction. Whether these rules have been properly applied and interpreted by that court is an issue of criminal law. The issue might possibly give rise to grounds for rehearing; but not to a breach of Article 6, which recognizes the fundamental right of the accused of the opportunity to put forward his case, but does not dictate how this opportunity is made available. If this were the case, Article 6 would become a Trojan Horse enabling human rights courts to become courts of appeal or of revision of courts of criminal justice;

Furthermore, "Article 6, para 1 does not lay down any rules as to the admissibility of evidence which is primarily a matter for regulation under national law"[1]. The grievance of applicant does not relate to the admissibility of evidence as such; only to the admissibility of grounds of appeal not made in the Application of Appeal. If admissibility of evidence is beyond the scope of Article 6, *multo magis* would be the admissibility

[1] Karen Reid, A Practioner's Guide to the European Convention on Human Rights, 5th Ed., 2015, para. 15-005

of grounds of appeal;

One of the principal submissions not admitted for consideration by the Criminal Court of Appeal centred upon the alleged illegality of the conviction by the accused upon the evidence of an accomplice. This issue has been addressed by the European Court of Human Rights: "Issues of fairness may arise where an accomplice, who has been granted immunity, gives evidence against an applicant. However, where the fact was known to the defence and the court, and the accomplice extensively examined as to his reliability and credibility, no unfairness was found"[2]. As already stated, the Court of Criminal Appeal, notwithstanding its decision not to take cognizance of additional grounds of appeal, did in fact address this issue, finding that the jury was properly directed by the presiding judge on this point, and that they had enough insight to weigh the evidence;

Length of the proceedings

Having also considered that:

Both in criminal and in civil proceedings, the hearing of the case by the Court must take place 'within a reasonable time' – *dans un delai raissonable.* It has also been held that criminal proceedings will generally be expected to be pursued more expeditiously than civil proceedings[3]. In criminal proceedings, the issue of delay may also be governed by article 5(3) to the extent that the individual is detained;

Rationale

[2] Cornelis v Netherlands (App No.994/03)(Dec.) 25 May 2004, ECHR 2004-V cited by Karen Reid, op.cit. para. 15-006, page 187

[3] for example, Kalashnikov v. Russia 15 July 2002, ECHR 2002-VI at (132), "particular diligence" required

The rationale for the principle, in criminal proceedings, 'is based on the need to ensure that accused persons do not have to remain too long in a state of uncertainty as to the outcome of the criminal accusations against them[4]. Furthermore, 'the vicissitudes of criminal proceedings that remain pending for too long generally also harm the reputation of the alleged offender'[5];

Dies a quo

The parties agree that the relevant date on which the proceedings started is 29th November 2010;

Dies ad quem

European Court case-law established that this occurs when the case is finally determined; in the present case by the Court of Criminal Appeal 12th June 2019;

average length of time

> "To borrow the words of John Selden, *reasonable time* is a roguish thing, and rather like the Chanellor's foot it may be long, or short, or indeterminate, depending on many factors. In attempting to set guidelines for application of the principle of trial within reasonable time, the case law does little more than proclaim that this is to be assessed 'in the light of the particular circumstances of the case… in particular the complexity of the case, the applicant's conduct and the conduct of the competent authorities'[6]. Although the subject seems to resist mathematical analysis, two commentators have suggested what they describe as a 3-5-7 schematic for criminal proceedings: less than 3 years and the court is unlikely to find an infringement, more than 7 and it will usually consider there is a violation. The threshold between reasonable and unreasonable is around 5 years, 'where the

[4] Kart v Turkey (GC) no. 8917/95m §68, ECHR 2009
[5] ibid. §70
[6] Pelissier and Sassi v. France (GC) no 25444/94m §67 ECHR 1999-II u oħrajn

different criteria interact in a difficult puzzle and where predicting the outcome seems the most hazardous'[7].

"The Court considers that where there is repeated remittal of cases for re-examination because of errors committed by lower courts within the same set of proceedings, this indicates 'a serious deficiency in the judicial system imputable to the State in the determination or reasonable time'[8];

Reid[9] cites the following criminal cases in the UK where there was found to be a violation:

Howarth v UK 21 September 2000: over 2 years for an Attorney-General's reference on sentence

Massey v UK 16 November 2004: 4 years 9 months

Henworth v UK: 6 years (including retrials)

Crowther v UK 1 February 2005: 8 years 5 months (including confiscation procedure)

Bullen and Soneji v UK 8 January 2009: 5 years 6 months (including confiscation procedure)

Piper v UK: over 11 years (including confiscation procedure)

Criteria establishing what is a reasonable time

In the words of Van Dijk et.[10], "According to established case-law, when assessing the reasonableness of the relevant period the Court applies, in particular, three criteria: (1) the complexity of the case; (2) the conduct of the applicant; and (3) the conduct of the authorities concerned. However, in an increasing number of cases the Court applies, in connection with the

[7] Marc Henzelin and Heloise Rordorf, When Does the Length of Criminal Proceedings Become Unreasonable According to the European Court of Human Rights, (2014) 5 New Journal of European Criminal Law 78 at p. 96
[8] Willima A. Schabas, The European Convention on Human Rights, A Commentary Oxford, 2015, pages 291 - 292
[9] Karen Reid, op.cit. para 23-009
[10] Peter van Dijk, Fried van Hoof, Arjen van Rijn, Leo Zwaak, Theory and Practice of the Europenan Convention on Human Rights 5th ed. Para 6.3, page 592

conduct of the authorities, a fourth criterion: (4) the importance of what is at stake for the applicant[11];

Complexity of the case

According to Reid:[12] "All aspects of the case may be relevant to the assessment of complexity of the proceedings, including the subject matter, whether there are disputed facts, the number of accused, international elements, the number of witnesses, and the volume of written evidence. The economic nature of the offences will not render proceedings especially complex per se, the Court looking more into the procedural aspects, as well as factual and legal issues in each case[13].

"The complexity of the case, balanced with the general principle of securing the proper administration of justice may justify a not inconsiderable length of time. In Boddaert v Belgium[14] the Court found that six years and almost three months was not unreasonable since the case concerned a difficult murder enquiry and the parallel progression of two cases. Nor did seven years and ten months disclose a violation in CP v France where the criminal proceedings concerned complex company fraud investigations[15]…

"However, even where a case is complex there is a point where this caeses to suffice as justification for the lapse of time[16]…

[11] see e.g. Abdoella v the Netherlands EctHR 25 November 1992, appl. No. 12728/87 para 24 and others
[12] Karen Reid, A Practioner's Guide to The European Convention on Human Rights, 5th edition 2015
[13] Pelissier and Sassi 25 March 1999, ECHR 1999-II at (71)
[14] Boddaert v Belgium, 12 October 1992, Series A, No 235
[15] CP v France 1 August 2000
[16] Ferrantelli and Santangelo v Italy 7 August 1996, R.J.D. 1996-III, No 12 where applicants were convicted after 16 years; the case concerned a complex murder trial involving juveniles

conduct of the authorities

"Excuses as regards backlog or administrative difficulties are not accepted, since states are under an obligation to organize their judicial systems in such a way that their courts can meet the Convention's requirements[17]…"

The unfolding of the criminal proceedings in the present case

That the proceedings against complainant unfolded, chronologically, as follows:

29.11.2010	Applicant arraigned before Court of Magistrates
03.12.2010	Inspector Theuma, PS Johan Micallef, gave evidence. Martin Bajada appointed court experts to examine mobile phones.
07.12.2010	Martin Bajada given further instructions; time for report extended
16.12.2010	Decree prima facie delivered
20.01.2011	Godwin Sammut exhibited Dok GS; PS Chris Baldacchino and WPC Antonella Vella and WPC Carmen Gauci gave evidence. Translation of process verbal into English ordered.
02.03.2011	Dr Maria Cardona, PC Cedric Buhagiar gave evidence
24.05.2011	Attorney General asks Court to hear more witnesses
14.06.2011	PC Raymond Debono; Inspector Dennis Theuma gave evidence
26.07.2011	Martin Bajada, WPC Ruth Sammut, PC Farrugia, PS Theo Vella, PC Chris Ebejer, Anthony Cutajar, Neville Cesareo gave evidence
31.08.2011	WPC Geraldine Buttigieg gave evidence. Task of Martin Bajada further extended in view of his report
09.11.2011	Decree refusing bail delivered

[17] Pellissier and Sassi v France, above cited, at §74

28.09.2011 Record of criminal enquiry remitted to Magistrate asking for further evidence
30.09.2011 PC David Borg, Inspector Dennis Theuma
10.11.2011 PC David Borg, WPC Geraldine Buttigieg, Maria Barbara
15.11.2011 Tunda Egbo wife of the accused
17.11.2011 Bail request again denied
23.11.2011 Prosecuting officer did not turn up
24.11.2011 Acts remitted to Attorney General
22.12.2011 Bail denied again
31.01.2012 Alphone Cauchi gave evidence. Other witnesses were not produced by the prosecution
14.02.2012 Dr Christina Mintoff, WPC Ruth Sammut, PC Charles Farrugia, PC Chris Ebejer, Neville Cesareo, Anthony Cutajar
17.02.2012 Tunde Egbo, Attilla Somylai, Adrian Petrilla
14.03.2012 David Debattista
15.03.2012 Bail granted
30.03.2012 Dr Martin Bajada not ready
10.05.2012 Dr Martin Bajada gave evidence
14.06.2012 Attila Somlai gave evidence
21.06.2012 PS Jeffery Hughes
21.06.2012 Dr Martin Bajada
26.06.2012 Dr Martin Bajada did not attend sitting

31.07.2012 Court orders legal copy of proceedings in another case
Dr Martin Bajada gave evidence
11.09.2012 Inspector Johann Fenech
18.10.2012 Dr Daniela Falzon, Yvette Ellul Alzon
29.11.2012 Prosecution declared that it had no more evidence to produce
10.01.2013 Court gives various orders regarding certain witnesses
26.02.2013 Letters rogatory ordered; accused gave evidence
28.02.2013 Alex Borg
11.04.2013 Awaiting letters rogatory
13.06.2013 Ditto
30.07.2013 Court clarified certain bail conditions
28.08.2013 Letters rogatory executed by the authorities of the Kingdom of Spain exhibited
09.10.2013 Translation of letters rogatory from Spanish awaited
12.11.2013 Imelda Fede
27.11.2013 Imelda Fede
08.01.2014 Defence counsel asks for an adjournment

18.02.2014 No one appeared
25.02.2014 Lawyer for witness Csaba Fazakas asked Court time to consult with client
04.03.2014 Csaba Fazakas gives evidence.
14.05.2014 PS Johann Micallef, PS Chis Baldacchino, WPS Carmen Gauci.
18.06.2014 Insp. Dennis Theuma not present since he is involved in exams
30.07.2014 Godwin Sammut, Insp Dennis Theuma, Uchena Anya
09.09.2014 Prosecution asks for adjournment since he does not have positive summons of Registrar of Criminal Courts and Tribunals
23.09.2014 Andre Azzopardi.
29.12.2014 Prosecuting officer declares he has not further witnesses
04.03.2015 Court draws attention of Attorney General that there had been at least four extensions acquired by the AG in order for him to decide whether to issue a bill of indictment, the first one dated 26.09.2014. Court rhetorically brings to his attention length of time prejudicing accused, regarding outcome of proceedings
06.04.2015 AG requests another extension
14.04.2015 Prosecution declared it has not further evidence. Acts remitted to AG
15.05.2015 Extension requested byAG
23.06.2015 Magistrate elevated to judge
23.07.2015 Extension requested byAG
20.08.2015 Case put off "for legitimate reasons"
24.09.2015 Extension requested byAG
08.10.2015 Extension requested byAG
15.10.2015 Uchena Anya
26.11.2015 No witnesses summoned
07.01.2016 Accused fails to appear
15.02.2016 Accused fails to appear
23.02.2016 Accused fails to appear
17.03.2016 AG requests international warrant of arrest
05.04.2015 No one appeared
17.05.2016 Prosecuting officer fails to appear
28.06.2016 Accused fails to appear. Insp. Dennis Theuma testifies. Casse adjourned sine die
29.07.2016 Accused arrested and brought to court
10.08.2016 Dr Joseph Mifsud, defence counsel, asks for adjournment since he is abroad. Magistrate recuses himself
18.08.2016 Accused gave evidence

01.09.2016	Prosecution declares it has no further evidence
06.10.2016	File not sent back by AG
25.10.2016	Case adjourned due to Court having another case
31.10.2016	Prosecuting officer could not attend
17.11.2016	Dorian Portelli, Alexia Attard, Alfons Cauchi, Adrian Petrila, PS Adrian Sciberras, PS John Micallef
20.12.2016	Court solicited AG to issue bill of indictment
26.01.2017	Attilia Somilai
07.02.2017	Case adjourned without anything done
23.01.2017	AG requests extension
14.02.2017	Dr Martin Bajada. Court again solicits issue of bill of indictment
30.03.2017	Bill of indictment issued
11.04.2017	Court informed that bill of indictment had been issued
22.07.2017	Criminal Court gave judgement
12.06.2019	Court of Criminal Appeal gave judgement on appeal by respondent

That the proceedings spanned over a period of eight and a half years. Of these, seven months are attributable to the complainant who absconded. Thus it can be said that the length of time the criminal proceedings took to be concluded without any fault on the part of complainant is almost eight years. Whilst the proceedings proceeded expeditiously once the bill of indictment was issued, both before the Criminal Court (hearing by judge and jury) and the Court of Appeal, the proceedings before the Court of Magistrates took an inordinately long time, with witness being brought before the Court in an endless procession. The Court of Magistrates held frequent sittings but progress was frustrated by the repeated remands by the Attorney General. So much so that on more than one occasion the Court of Magistrates urged the Attorney General to issue the bill of indictment without delay. Whilst it is true that there was a letters rogatory, these did not take too long. There was certainly no complexity of law. There was but one single charge against the complainant. Nor was there a complexity of fact. The Court therefore finds that there was a breach of complainant's right to be processed within a reasonable time-frame.

Compensation

The consequences of a breach of a hearing within a reasonable time are not laid down in the Consitution or the Convention. According to some writers[18], *It would seem to ensue from this provision that, if the reasonable time has been exceeded and, consequently, the determination can no longer be made within a reasonable time, the proceedings would have to be stopped and the civil action and the criminal charge be declared inadmissible. However, in the Strasbourg case law a more flexible view has been adopted: 'an excessive length of criminal proceedings can in principle be compensated for by measures of the domestic authorities, including in particular a reduction of the sentence on account of the length of procedure'. ... in criminal procedures the public interest in the prosecution and conviction of the criminal may be so great that the prosecution should not be stopped for the sole reason that the reasonable time has been transgressed: another, more proportionate compensation should be awarded to the victim of the transgression*"

That it is established in such cases that the compensation is for moral damages[19];

After considering the criteria used by the ECtHR and by our national courts[20], this court is of the view that for the violation of the applicants' right for a fair hearing within a reasonable time the appropriate remedy is for the applicant to be compensated for moral damages. After considering

[18] [Van Dijk, van Hoof, van Rijn, Zwaak *op. cit.* pag. 611];

[19] Kost. **3.2.2009** fil-kawża fl-ismijiet *Gasan Enterprises Limited vs Awtorita` ta' Malta dwar l-Ambjent u l-Ippjanar*];

all the particular circumstances of this case, the Court establishes the sum of two thousand, five hundred euros (€2,500) by way of compensation to applicant for moral damages as a result of the breach of his fundamental right as established above.

Decide

For these reasons the Court decides this case as follows:

1. Rejects the applicant's claim that there was a breach of fair hearing due to violation of the *audi alteram partem* rule;

2. Finds that the length of time the proceedings against applicant in the case in the names *The Republic of Malta v Izechukwu Stephen Egbo* (Bill of Indictment 1/2017) is in breach of applicant's right to a fair hearing within a reasonable time protected under article 39 of the Constitution of Malta and under article 6 of the European Convention for the Protection of Human Rights and Liberties.

3.Orders the Attorney General to pay applicant the sum of two thousand and five hundred euros (€2,500) by way of compensation for the violation of the right to a fair trial within a reasonable time.

Costs are to be divided equally between the complainant and the respondent.

Read out in open Court.

THE HON. MR. JUSTICE

GRAZIO MERCIECA