



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

**Magistrat Dr. Monica Vella LL.D., M.Jur.**

**Kumpilazzjoni Nru. 170/2014**

**Il-Pulizija  
(Spettur Clayton Camilleri)**

**Vs**

**John Borg**

**Illum, 9 ta' Dicembru, 2020**

**Il-Qorti,**

Rat l-imputazzjonijiet migjuba kontra:

**“John Borg, I.D. 598257(M).**

Billi akkuzatu talli matul il-gurnata tat-23 ta' Dicembru 2013 waqt li kont gewwa dawn il-gzejjer:

1. Permezz ta' xi network jew apparat ta' komunikazzjoni elettronika ingurjajt w/jew heddidt lil Christian Borg bi kliem;

2. U aktar talli ghamilt uzu mhux xieraq b'apparat ta' komunikazzjoni elettronika (Mobile);
3. U aktar talli f'xi hin matul il-gurnata tat-23 ta' Dicembru 2013 gewwa l-fond 21, Triq Ghajn Zejtuna, Mellieha hebbejt ghall-imsemmi Christian Borg minghajr ma drabtu;
4. U aktar talli fl-24 ta' Dicembru 2013 bejn il-hin tat-15:00hrs u t-15:30hrs waqt li kont gewwa l-imsemmi fond hebbejt ghall-persuna ta' Agnes Borg u kkagunajtilha feriti ta' natura hafifa skond kif iccertifika Dr. Edward Basil MD mic-centru tas-sahha tal-Mosta
5. U aktar talli fl-istess data u matul il-granet ta' qabel gewwa dawn il-gzejjer zammejt gewwa l-imsemmi fond jew kellek fil-pussess tieghek, taht il-kontrol tieghek jew garrejt barra minn xi fond jew fid-dintorni tieghek xi arma tan-nar jew munizzjoni minghajr ma kellek licenzja mahruga mill-Kummissarju tal-Pulizija.

Il-Qorti hija gentilment mitluba sabiex f'kaz ta' htija tipprovdi ghas-sigurta ta' Christian Borg u ta' Agnes Borg (Kap 9 sec 383).”

Semghet ix-xhieda.

Rat li fis-seduta tas-27 ta' Frar, 2019 l-imputat iddikjara li ma kellux oggezzjoni li din il-kawza tigi ttrattata u deciza b'mod sommarju.

Rat in-nota ta' l-Avukat Generali datata 13 ta' Frar, 2020 (esebita a folio 146 tal-process) fejn huwa deherlu li tista tinstab htija jew htijiet taht dak li hemm mahsub:

- Fl-artikoli 17, 31 u 533 tal-Kodici Kriminali, Kapitolu 9 tal-Ligijiet ta' Malta;
- Fl-artikolu 49(a) tal-Att biex jirregola Komunikazzjonijiet Elettronici, Kapitolu 399 tal-Ligijiet ta' Malta;
- Fl-artikoli 49(c) tal-Att biex Jirregola Komunikazzjonijiet Elettronici, Kapitolu 399 tal-Ligijiet ta' Malta;
- Fl-artikolu 399(1)(d) tal-Kodici Kriminali, Kapitolu 9 tal-Ligijiet ta' Malta;
- Fl-artikoli 214 u 221 (1) tal-Kodici Kriminali, Kapitolu 9 tal-Ligijiet ta' Malta;
- Fl-Artikoli 5(1) tal-Att dwar l-Armi, Kapitolu 480 tal-Ligijiet ta' Malta;
- Fl-artikoli 383, 384 u 385 tal-Kodici Kriminali, Kapitolu 9 tal-Ligijiet ta' Malta;
- Fl-artikolu 412C tal-Kodici Kriminali, Kapitolu 9 tal-Ligijiet ta' Malta;

Semghet ix-xhieda.

Rat l-atti kollha tal-kaz u d-dokumenti ezebiti.

Rat li l-Prosekuzzjoni ddikjarat li ser tistrieh fuq l-atti fis-seduta tat-30 ta' Ottubru, 2020.

Semghet it-trattazzjoni tad-Difiza.

**Ikkunsidrat:**

Il-Qorti rat li fis-seduta tas-27 ta' Frar, 2019 id-Difiza ecepixxiet l-inammissibilita' ta' kull okkorenza, xhieda jew prova ohra innizzla minn dikjarazzjonijiet maghmula mill-imputat lix-xhud minghajr ma kien inghata ebda twissija u minghajr ma kien infurmat bid-dritt tieghu ghall-assistenza legali, ghal liema il-Prosekuzzjoni irremittiet ruhha "stante illi dan huwa kaz li jmur lura ghas-sena 2013".

Il-Qorti tinnota li jidher li mhuwiex ikkontestat illi fil-jum li fih ttiehdet l-istqarrija tal-imputat, ossia fl-24 ta' Dicembru, 2013, il-ligi Maltija kienet titlob li ghandhom jinghataw id-drittijiet kollha inkluz id-dritt ta' assistenza legali qabel tittiehed stqarrija.

Mill-atti ma jirrizultax li l-imputat inghatalu id-dritt li jikkonsulta ma' Avukat u lanqas ma jirrizulta li inghata id-dritt li jkollu Avukat prezenti waqt it-tehid tal-verzjonijiet tieghu.

Il-Qorti tinnota li l-importanza li jkun hemm Avukat prezenti waqt it-tehid tali stqarrija u f'kull stadju waqt l-investigazzjoni mhijiex biss biex jigi accertat li l-istqarrija tkun wahda volontarja izda bhala parti integrali mid-difiza tal-akkuzati u cioe' li l-Avukat ikun jista' jistrada d-difiza tieghu mill-bidu nett tal-investigazzjoni.

Il-Qorti taghmel referenza ghas-sentenza moghtija mill-Grand Chamber tal-Qorti Ewropea tad-Drittijiet tal-Bniedem fis-sentenza fl-ismijiet **'Bueze vs Belgium'** fejn saret enfazi fuq il-fatt li l-fatti u l-

proceduri iridu jigu evalwati fl-intier tagghom sabiex jigi determinat jekk kien hemm vjolazzjoni tad-dritt ghal smiegh xieraq. Filfatt gie meqjus li:

‘150. When examining the proceedings as a whole in order to assess the impact of procedural failings at the pre-trial stage on the overall fairness of the criminal proceedings, the following non-exhaustive list of factors, drawn from the Court’s case-law, should, where appropriate, be taken into account (see Ibrahim and Others, cited above, § 274, and Simeonovi, cited above, § 120):

- (a) whether the applicant was particularly vulnerable, for example by reason of age or mental capacity;
- (b) the legal framework governing the pre-trial proceedings and the admissibility of evidence at trial, and whether it was complied with – where an exclusionary rule applied, it is particularly unlikely that the proceedings as a whole would be considered unfair;
- (c) whether the applicant had the opportunity to challenge the authenticity of the evidence and oppose its use;
- (d) the quality of the evidence and whether the circumstances in which it was obtained cast doubt on its reliability or accuracy, taking into account the degree and nature of any compulsion;
- (e) where evidence was obtained unlawfully, the unlawfulness in question and, where it stems from a violation of another Convention Article, the nature of the violation found;
- (f) in the case of a statement, the nature of the statement and whether it was promptly retracted or modified;
- (g) the use to which the evidence was put, and in particular whether the evidence formed an integral or significant part of the probative evidence upon which the conviction was based, and the strength of the other evidence in the case;

- (h) whether the assessment of guilt was performed by professional judges or lay magistrates, or by lay jurors, and the content of any directions or guidance given to the latter;
- (i) the weight of the public interest in the investigation and punishment of the particular offence in issue; and
- (j) other relevant procedural safeguards afforded by domestic law and practice.’

Fl-istess sentenza gie kkunsidrat li:

‘193. In conclusion, re-emphasising the very strict scrutiny that must be applied where there are no compelling reasons to justify the restriction on the right of access to a lawyer, the Court finds that the criminal proceedings brought against the applicant, when considered as a whole, did not cure the procedural defects occurring at the pre-trial stage, among which the following can be regarded as particularly significant:

(a) The restrictions on the applicant’s right of access to a lawyer were particularly extensive. He was questioned while in police custody without having been able to consult with a lawyer beforehand or to secure the presence of a lawyer, and in the course of the subsequent judicial investigation no lawyer attended his interviews or other investigative acts.

(b) In those circumstances, and without having received sufficiently clear prior information as to his right to remain silent, the applicant gave detailed statements while in police custody. He subsequently presented different versions of the facts and made statements which, even though they were not self-incriminating *stricto sensu*,

substantially affected his position as regards, in particular, the charge of the attempted murder of C.L.

(c) All of the statements in question were admitted in evidence by the Assize Court without conducting an appropriate examination of the circumstances in which the statements had been given, or of the impact of the absence of a lawyer.

(d) While the Court of Cassation examined the admissibility of the prosecution case, also seeking to ascertain whether the right to a fair trial had been respected, it focused on the absence of a lawyer during the period in police custody without assessing the consequences for the applicant's defence rights of the lawyer's absence during his police interviews, examinations by the investigating judge and other acts performed in the course of the subsequent judicial investigation.

(e) The statements given by the applicant played an important role in the indictment and, as regards the count of the attempted murder of C.L., constituted an integral part of the evidence on which the applicant's conviction was based.

(f) In the trial before the Assize Court, the jurors did not receive any directions or guidance as to how the applicant's statements and their evidential value should be assessed.

194. The Court finds it important to emphasise, as it has done in other cases under Article 6 § 1 of the Convention in which an assessment of the overall fairness of the proceedings was at issue, that it is not for the Court to act as a court of fourth instance (see *Schatschaschwili*, cited above, § 124). In carrying out such an assessment, as required by Article 6 § 1, it must nevertheless

carefully look at how the domestic proceedings were conducted, and very strict scrutiny is called for where the restriction on the right of access to a lawyer is not based on any compelling reasons. In the present case, it is the combination of the various above-mentioned factors, and not each one taken separately, which rendered the proceedings unfair as a whole.

(iv) General conclusion

195. Accordingly, there has been a violation of Article 6 §§ 1 and 3 (c) of the Convention.'

Wara li rat li l-imputat la inghata d-dritt li jibqa' sieket ghaliex kull haga li jghid tista' tingieb kontra tieghu u wisq anqas d-dritt li jikkonsulta ma' avukat tal-fiducja tieghu, wara li l-Qorti qieset ic-cirkostanzi kollha tal-kaz inkluz il-mument li fih, l-imputat intalab jaghti l-verzjoni tieghu, il-Qorti qeghda tiddikjara li l-istqarrija moghtija mill-istess imputat hija inammissibbli.

### **Ikkunsidrat ulterjorament:**

Illi fis-seduta tat-27 ta' Frar, 2019 il-parti civile Agnes Borg iddikjarat li hija ma tixtieqx tixhed peress li tigi mart l-imputat u spjegat li trid tirrinunzja ghal dak li huwa rinunzjabbli. In oltre, dak inhar stess, il-parti civile l-iehor u cioe' Christian Borg iddikjara li huwa ma jixtieqx jixhed stante li jigi iben l-imputat u li jrid li jirrinunzja ghal dak li huwa rinunzjabbli.



Il-Qorti tinnota li l-imputazzjonijiet dedotti kontra l-imputat huwa prosegwibbli mill-Pulizija wara kwerela tal-parti leza filwaqt li l-hames imputazzjoni hija prosegwibbli mill-Pulizija ex officio.

Madanakollu, f'kazijiet ta' allegata ferita hafifa, il-Pulizija tista' tmexxi *ex officio* minghajr il-kwerela tal-parti leza, meta l-offiza allegatament issir fuq il-persuna ta' koabitant bhal fil-kaz odjern.

Inoltre, l-Artikolu 543 tal-Kodici Kriminali jippreskrivi illi: *“Il-pulizija tista' ta'gixxi, ukoll minghajr il-kwerela privata, f'kull wieħed mill-kazijiet li ġejjin:*

*[...]*

*(e) fil-kaz ta' xi reat li jinvolvi vjolenza domestika: Iżda għall-finijiet ta' dan il-paragrafu “vjolenza domestika” għandu jkollha l-istess tifsira mogħtija lilha bl-artikolu 2 tal-Att dwar il-Vjolenza abbazi tal-Generu u l-Vjolenza Domestika.”*

L-Artikolu 2 tal-Att dwar il-Vjolenza abbazi tal-Generu u l-Vjolenza Domestika (Kapitolu 581 tal-Ligijiet ta' Malta) jgħid illi: *“vjolenza domestika” tfisser kull att jew ommissjoni li tinvolvi l-użu ta' vjolenza verbali, fiżika, sesswali, psikoloġika jew ekonomika li tirriżulta fi ħsara jew tbatija fiżika u, jew morali, inkluż it-theddid ta' dak l-att jew ommissjoni, ... .. li sseħħ fi ħdan familja jew unità domestika,”.*

L-Artikolu 2 tal-Att dwar il-Vjolenza Domestika jipprovdi zewg testijiet kumulattivi għalbiex persuna titqies vittma jew imputata f'kaz ta' vjolenza domestika taht dan l-Artikolu; cjoe jrid ikun hemm il:-

(a) kwalifika ta' “membru domestiku”;

(b) kwalifika ta' “vjolenza domestika”;

Il-Pulizija tista' ta'gixxi, ukoll mingħajr il-kwerela privata, f'kull wieħed mill-kazijiet li ġejjin: (a) f'dan il-kaz jidher li zewg kriterja imsemmija fl-Artikolu 2(ii) u 2(viii) huma sodisfatti.

Jirrizulta li Agnes Borg u l-imputat huwa mizzewgin lil xulxin filwaqt li Christian Borg huwa iben l-imputat.

Skont l-Artikolu 2 tal-Kap 480 tal-Ligijiet ta' Malta: "vjolenza domestika" tfisser kull att ta' vjolenza, anki jekk verbali biss, li jsir minn membru domestiku wieħed fuq membru domestiku ieħor u tinkludi kull ommissjoni li tikkaguna ħsara fiżika jew morali lil haddieħor.

Il-Qorti tosserva li l-parte civile ma ghamlux talba ai termini tal-proviso tal-Artikolu 543(e) tal-Kodici Kriminali sabiex din il-Qorti iwaqqfu dawn il-proċeduri kontra l-imputat u ghalhekk ir-rinunzja tal-parte civile ma jistax ikollha effett fuq dawn il-proċeduri kriminali.

Il-Qorti se tghaddi issa sabiex tikkunsidra l-provi mressqa mill-Prosekuzzjoni.

## **Provi**

F'din il-kumpilazzjoni xehdu rapprezentanti tas-service providers li gew mitluba sabiex jipprovdu prova tal-telefonati li saru bejn it-23 ta' Dicembru 2013 u t-28 ta' Dicembru, 2013 min-numru 99029667 u min-numru 99422899. Jirrizulta li kemm Marisa Gauci<sup>1</sup> in rapprezentanza tas-socjeta' Vodafone Malta Limited, Amelia Abela<sup>2</sup> in

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<sup>1</sup> A folio 40 tal-process

<sup>2</sup> A folio 42 tal-process

rapprezentanza ta' Melita Limited kif ukoll Anthony Bonnici<sup>3</sup> in rapprezentanza ta GO plc, ilkoll kkonfermaw li ebda informazzjoni ma irrizultat mir-ricerka li huma ghamlu fis-sistemi rispettivi taghhom.

Mir-rapport tal-Pulizija<sup>4</sup> jirrizulta illi nhar l-24 ta' Dicembru tas-sena 2013 għall-habta ta' 15:30hrs l-għassa tal-Mellieha rceviet telefonata minghand Christian Borg, li kien fi stat ta paniku, fejn talab l-assistenza tal-Pulizija fil-fond 21 Triq Ghajn Zejtuna, Mellieha stante li missieru kien qieghed isawwar il-ommu. PS 1350 spjega li hu flimkien ma' PC1136 marru fuq il-post fejn sabu lil Christian Borg jistennihom u ftit tal-hin wara harget ommu Agnes Borg, detentrici tal-karta ta' l-identita' 220160(M) li qaltilhom li kienet giet msawta mir-ragel taghha John Borg. Qal li staqsew lil Agnes x'kien gara u hija stqarret li fit-23 ta' Dicembru, 2013 zewgha kien refa' idu fuq it-tifel taghha Christian u keccieh barra mid-dar matrimonjali taghhom u kien ukoll qabad igerger maghha minhabba l-fatt li kien hemm xi kwistjoni ta' flus bejniethom u kien infurmaha li kien ser jibda jimxi maghha b'id tal-hadid, għal liema hi fakkritu li l-flus huma tat-tnejn. Zidet tghid li l-imputat ma qabilx maghha u wara li qatlu li dan kien "kollu tort ta' ommok il-mejta", peress li skontha, z-zwieg taghhom kien sfurzat minnha. Gew infurmati li kien dak il-hin li l-imputat John Borg hebb għaliha.

Ir-rapport kompli jghid li Christian Borg stqarr mal-Pulizija li fit-23 ta' Dicembru, 2013 missieru John Borg beda jcempillu izda hu ma bedix iwiegeb peress li ma semax il-mobile u x'hin cempillu lura, missieru qabad jaghju u qallu "foxx ommok" u meta rritorna lura d-dar missieru kompli bl-insulti fil-konfront tieghu. Spjega li dan kollu inqala' fuq kwistjoni ta' cavetta, liema cavetta ghaddielu ffit tal-hin

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<sup>3</sup> A folio 49 tal-process

<sup>4</sup> A folio 2-8 tal-process

wara izda John qabad jaghtih bil-ponn meta qallu li ried jilhaq xi hwienet miftuhin. Christian Borg zied jghid li sema' lil missieru jargumenta ma' ommu fejn anke beda jisma' lil ommu tghajjat minhabba l-fatt li kienet qieghda tigi msawta u kien ghalhekk li cempel lill-Pulizija.

Ir-rapport zied jghid li mal-wasla tal-Pulizija fuq il-post, Agnes infurmathom li John Borg kien issakkar fil-kamra tas-sodda tieghu u raw ukoll li fl-strong room kien hemm numru ta' armi, filwaqt li spjega li pruvaw ikellmu lil John Borg li izda ma bediex jaghti widen u lanqas biss beda jghati kaz li kien hemm il-Pulizija. Kompla li John qalilhom li setghu jitolqu l-barra ghax l-bieb kien imsakkar u huwa kien ha jtemm hajtu hemm gew u wara diversi tentattivi il-Pulizija rnexxiela tikkonvinci lil John johrog u jidbieghed kull periklu. L-armi ttiehdu ghal "safe keeping" gewwa l-Quartermaster.

B'referenza ghall armi ir-rapport qal li dawn kienu f'isem John Borg u mill-31 arma li gew konfiskati 30 minnhom huma kollha rregistrati. Il-wahda li mhiejix rregistrata hija pistola u li fuqha m'ghandha l-ebda serial number.

Xehed **Dr. Edward Basile Cherubino**<sup>5</sup> nhar is-27 ta' Frar, 2019 fejn spjega li huwa ma jiftakarx l-incident mertu ta' din il-kawza peress li ghadda z-zmien pero' zied li l-prassi normali hi li l-pazjent jmur l-health centre u wara li jarawhom johorgu certifikat skont il-griehi. Spjega li hu ma jiftakarx ezatt x'kienu l-griehi izda jiftakar li kienu slight injuries minghajr complications.

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<sup>5</sup> A folio 60-61

Nhar is-27 ta' Frar 2019 xehed **PS 1350**<sup>6</sup> fejn ezebixxa r-rapport redatt minnu kif ukoll **PC 1136**<sup>7</sup> fejn stqarr li hu kien xoghol bhala xufier gewwa l-ghassa l-Mellieha u kienet dahlet telefonata minn Christian Borg li nformahom li kien hemm kwistjoni, marru fuq il-post, fejn sabu lil iben l-akkuzat jistennihom barra. Wara ftit tal-hin harget ommu u bdew jispjegaw lis-surgent. Tenna li jiftakar li kien hemm xi incident il-gurnata ta' qabel fejn l-akkuzat sawwat lil omm kif ukoll lil iben u l-argument rega kompla dakinhar u kompla eskala. Zied li meta dahlu sabu lil John Borg b'rasu baxxuta bilqeghda fuq siggu go l-strong room, kamra kollha hgieg, bl-armi fiha. Huma gew infurmati mill-istess John Borg li xeba' u ha jhehhi hajtu b'idejh u kien ghalhekk li hadu prekawzjonijiet, kollha inkluz li hadu l-armi kollha, u cioe' 31 wahda, li minnhom 30 kienu licenzjati u hadu lill-imputat ghall-kura.

**L-Ispettur Sandra Zammit**<sup>8</sup> xehdet nhar il-25 ta' April, 2019 fejn spjegat li kienet dahlet telefonata fl-24 ta' Dicembru 2013 rigward incident familjari go dar u surgent kellu bzonn struzzjonijiet minghandha peress li l-imputat u cioe' s-sur John Borg kellu xi jghid mal-mara tieghu Agnes Borg. Ziedet tghid li John Borg fi stat ta' paniku, agitazzjoni qawwija u kien qalilhom li kien ser jaghmel suwucidju u ghalhekk PS 1350 talabha struzzjonijiet x'kellu jaghmel. Hi talbitu jiehu l-armi ghal safe keeping u biex is-sur John Borg jittiehed gewwa l-egreb poliklinika sabiex jinvistah tabib u kienu haduh ic-centru tas-Sahha tal-Mosta fejn invistah Dr Owen Mifsud u kien irrefera lis-sur John Borg il-*psychiatric unit* ta' l-Isptar Mater Dei. Mistoqsija jekk hi kelmitx lill-imputat, hi wiegbet fin-negattiv u li lanqas marret fuq il-post.

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<sup>6</sup> A folio 62-63 tal-process

<sup>7</sup> A folio 70-74 tal-process

<sup>8</sup> A folio 81-83 tal-process

Xehed ukoll **PC 938**<sup>9</sup> nhar il-25 ta' April, 2019 fejn spjega li fl-24 ta' Dicembru 2013 ircevw telefonata gewwa l-ghassa tal-Mellieha minghand Christian Borg fejn infurmahom li missieru kien qed isawwat lil ommu. Zied li huma marru fid-dar tagghom u sabu lil Christian Borg jistennihom barra flimkien ma' ommu, fejn din ta' l-ahhar spjegatilhom li l-gurnata ta' qabel zewgha kien refa' jdejh fuq it-tifel tagghom Christian u meta semmitlu li huma zzewgu tort ta' ommu peress li skontha z-zwieg kien sfurzat minnha, John hebb ghalha. Zied li Christian tenna li l-gurnata ta' qabel u cioe' fit-23 ta Dicembru 2013 kien ircievi diversi telefonati minghand missieru u x'hin irrisponda missieru qabad joffendih b'xi kliem mhux xieraq lejn ommu. Hu sqarr li niezal id-dar, missieru kompla bit-tghajjir u talbu c-cavetta tad-dar. Qal li Christian infurma lil missieru li kien ser johrog u dak il-hin missieru qabad jghajjat mieghu u tah xi daqqiet bil-ponn. Kompla jghid li kif dahlu gewwa, sabu lill-imputat go l-strong room fejn kien hemm xi armi. Pruvaw ikellmuh izda ma bediex jirrispondihom. L-imputat kien qallilhom li ried itemm hajtu u huma nfurmaw lill-Ispettura li kienet talbithom jiehd u l-armi for *safe keeping* u sabiex jiehu lill-istess imputat sabiex jigi ezaminat minn tabib.

Xehdu wkoll **Mary Borg**<sup>10</sup> u cioe' oht l-imputat li spjegat li ma kinitx taf xejn fuq l-incidenti izda kienet involuta biss biex tiehu responsabblita' ta' l-imputat biex ma jigix mehud gewwa l-Isptar Mount Carmel u ukoll l-ex ufficjali tal-pulizija **PS 1261**<sup>11</sup> li xehed li kien *night watch* u gie xi Surgent, li ma jiftakarx min kien, u ha ritratti t'armi li kien ipproducilu l-istess Surgent li kien ma' l-imputat.

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<sup>9</sup> A folio 84-90 tal-process

<sup>10</sup> A folio 106-108 tal-process

<sup>11</sup> A folio 113-114 tal-process

**Dr Owen Mifsud**<sup>12</sup> xehed nhar it-12 ta' Settembru 2019 fejn xehed li ma jiftakarx xejn fuq il-kaz in kwistjoni. Huwa spjega li fis-sena 2013 kien jahdem il-Mosta Health Centre u izda reggha tenna li ma jiftakar xejn.

**L-ispettur Clayton Camilleri**<sup>13</sup> xehed nhar it-23 ta' Ottubru, 2019 fejn spjega li meta sehh il-kaz kien hemm Surgent li ha r-ritratti ta' 31 arma izda fis-sistema ghal xi raguni jew ohra ma setghux jelevawhom ghax ma sabuhomx.

L-akkuzat **John Borg** ma xehedx f'dawn il-proceduri.

**Decide:**

Fir-rigward ta' l-ewwel erba' imputazzjonijiet, il-Qorti thoss li fin-nuqqas tax-xhieda tal-parte civile, il-provi prodotti mill-Prosekuzzjoni kontra l-imputat – apparti l-istqarrija tal-imputat li ghalija jghodd dak li intqal fuq - huma biss *detto del detto* li se mai setghu jikkorroboraw ix-xhieda tal-parte civile, kieku dawn xehdu, pero' li wahedhom certament mhux bizzejjed biex jindikaw htija. Il-Qorti tirrileva wkoll li lanqas certifikati medici ma gew prezentati, u li r-rizultanzi mis-*service providers* kienu lkoll fin-negattiv. F'dan l-istat tal-provi, certament ma jistax jinghad li l-Prosekuzzjoni irnexxielha tipprova l-ewwel erba' imputazzjonijiet dedotti kontra l-imputat sal-grad rikjest mil-ligi fil-kamp kriminali.

B'referenza ghall-hames imputazzjoni, il-Qorti ma tistax ma tinnotax li l-prova li gabet l-Prosekuzzjoni certament ma tilhaqx id-dettami tal-

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<sup>12</sup> A folio 120-121 tal-process

<sup>13</sup> A folio 126-127 tal-process

ligi. Hija l-Prosekuzzjoni (li ghandha l-oneru tal-prova kollu fuqha) liema prova madanakollu ma tresqitx quddiem il-Qorti.

Ghal dawn ir-ragunijiet, il-Qorti issib lill-imputat mhux hati tal-imputazzjonijiet dedotti kontra tieghu, u qed tilliberah minnhom.

*(ft) Magistrat Dr. Monica Vella LL.D, M. Jur.*

(ft) Angelo Buttigieg  
Deputat Registratur