QORTI TAL-MAGISTRATI (MALTA)
BHALA QORTI TA' GUDIKATURA KRIMINALI
Magistrat Dr. Elaine Mercieca LL.D.

Il-Pulizija
(Spettur Malcolm Bondin)
vs
Amanda Camilleri
ID: 302185(M)

Kaz Numru: 185/2015

Illum 20 ta' Gunju 2022

Il-Qorti,

Rat l-imputazzjonijiet migjuba fil-konfront ta' Amanda Camilleri ta' disgha u ghoxrin (29) sena bint Victor u Concetta nee' Caruana imwielda Pieta' nhar it-3 ta' Gunju 1985, residenti 10, Triq Matty Grima, Bormla u detentrici tal-karta tal-identita bin-numru 302185M, akkuzata talli f'dawn il-Gzejjer fil-15 ta' Settembru 2014;

a) Bhala persuna li mhux impjegata fil-habs Facilita' Korrettiva ta' Kordin, minghajr l-awtorita' legittima, dahhlet jew ippruvat iddahhal f'xi parti tal-konfini tal-Habs xi oggett ikun li jkun, li huma projbiti skont xi regolamenti maghmula skont dan l-Att, jew iggorr jew tipprova iggorr xi oggett bhal dawk barra min xi habs, u dan bi ksur ta' l-artikolu 7(1)(2) tal-Kap. 250 tal-Ligijiet ta' Malta;
b) Kellha fil-pussess taghha d-droga herojina specifikata fl-ewwel skeda ta' l-Ordinanza dwar il-medicini perikoluzi Kap. 101 tal-Ligijeit ta' Malta meta ma kinitx fil-pussess ta' awtorizazzjoni ghall-importazzjoni jew ghall-esportazzoni mahrug mit-Tabib Principali tal-Gvern skont id-disposizzjonijiet tar-4 u s-6 Taqsima ta' l-Ordinanza u meta ma kinitx bil-licenzja jew xort' ohra awtorizzata li timmanifattura jew li tforni d-droga imsemmija u meta ma kinitx b'xi mod iehor bil-licenzja mill-President ta' Malta li jkollha d-droga imsemmija fil-pussess taghha u naqset li tipprova

li d-droga imsemmija giet fornuta lilha ghall-uzu taghha skont ir-ricetta kif provdut fir-regolamenti msemmija u dan bi ksur tar-regoli ta' l-1939 dwar il-kontroll intern tad-drogi perikoluzi (G.N. 292/1939) kif sussegwentement emmendati u bi ksur ta' l-Ordinanza dwar il-Medicini Perikoluzi Kap. 101 tal-Ligijiet ta' Malta, liema droga instabet f'tali cirkostanzi li juru li ma kintix ghal-uzu esklussiv taghha;

F'dawn il-Gzejjer fil-15 ta' Settembru 2014 u fi snin ta' qabel din id-data;

c) Kellha fil-pussess taghha d-droga herojina specifikata fl-ewwel skeda ta' l-Ordinanza dwar il-medicini perikoluzi Kap. 101 tal-Ligijiet ta' Malta meta ma kinitx fil-pussess ta' awtorizazzjoni ghall-importazzjoni jew ghall-esportazzjoni mahrug mit-Tabib Principali tal-Gvern skont id-disposizzjonijiet tar-4 u s-6 Taqsima ta' l-Ordinanza u meta ma kinitx bil-licenzja jew xort' ohra awtorizzata li timmanifattura jew li tforni d-droga msemmija u meta ma kinitx b'xi mod iehor bil-licenzja mill-President ta' Malta li jkollha d-droga imsemija fil-pussess taghha u naqset li u tipprova li d-droga msemmija giet fornuta lilha ghall-uzu taghha skont ir-ricetta kif provdut fir-regolamenti msemmija u dan bi ksur tar-regoli ta' l-1939 dwar il-kontroll intern tad-drogi perikoluzi (G.N. 292/1939) kif sussegwentement emmendati u bi ksur ta' l-Ordinanza dwar il-Medicini Perikoluzi Kap. 101 tal-Ligijiet ta' Malta;
d) Kellha fil-pussess taghha d-droga kokajina specifikata fl-ewwel skeda ta' l-Ordinanza dwar il-medicini perikoluzi Kap. 101 tal-Ligijiet ta' Malta meta ma kinitx fil-pussess ta' awtorizazzjoni ghall-importazzjoni jew ghall-esportazzjoni mahrug mit-Tabib Principali tal-Gvern skont id-disposizzjonijiet tar-4 u s-6 Taqsima ta' l-Ordinanza u meta ma kinitx bil-licenzja jew xort ohra awtorizzata li timmanifattura jew li tforni d-droga imsemmija u meta ma kintix b'xi mod iehor bil-licenzja mill-President ta' Malta li jkollha d-droga imsemmija fil-pussess taghha u naqset li tipprova li d-droga imsemmija giet fornuta lila ghall-uzu taghha skont ir-ricetta kif provdut fir-regolamenti msemmija u dan bi ksur tar-regoli tal-1939 dwar il-kontroll intern tad-drogi perikoluzi (G.N. 292/1939) kif sussegwentement emmendati u bi ksur ta' l-Ordinanza dwar il-Medicini Perikoluzi Kap. 101 tal-Ligijiet ta' Malta;
e) Ikkommettiet reat waqt li kienet taht ordni ta' probation, moghtija mill-Qorti ta' Malta preseduta mill-Magistrt Dr. N.Galea Sciberras LL.D nhar il-21 ta' Marzu 2013, liema sentenza saret definittiva u ma tistax tigi mibdula;
f) Ikkommettiet reat waqt li kienet taht ordni ta' probation, moghtija mill-Qorti ta' Malta, preseduta mill-Magistrat Dr. A.M. Trigona LL.D. nhar

il-15 ta' Mejju 2014, liema sentenza saret definittiva u ma tistax tigi mibdula.

Il-Qorti giet mitluba sabiex barra milli tapplika l-piena skont il-Ligi, tordna lill-imputata thallas l-ispejjez li ghandhom x'jaqsmu mal-hatra ta l-esperti skont l-artikolu 533(1) tal-Kap. 9 tal-Ligijiet ta' Malta.

Rat u semghet ix-xhieda;

Rat id-dokumenti esebiti u l-atti processwali kollha ta' dan il-kaz.
Rat l-Ordni tal-Avukat Generali[1] datat l-14 t'April 2015, *ai termini* tas-subartikolu (2) tal-Artikolu 22 tal-Ordinanza dwar il-Medicini Perikoluzi (Kapitolu 101 tal-Ligjiet ta' Malta), li permezz tal-istess Ordni, ordna li l-imputata titressaq quddiem din il-Qorti biex twiegeb ghall-imputazzjonijiet migjuba kontra taghha;

Rat illi din il-kawza giet assenjata lil din il-Qorti kif preseduta b'digriet datat it-28 ta' Lulju 2021 moghti mill-Prim'Imhallef Mark Chetcuti[2];

Semghet is-sottomissjonijiet tal-partijiet;

Ikkunsidrat
Il-fatti tal-kaz odjern jirrisalu lura ghall-15 ta' Settembru 2014 ghall-habta tal-ghaxra u nofs ta' filghodu, meta l-qua imputata dahlet bhala vizitatur fil-Facilita' Korrettiva ta' Kordin ghall-*contact visit* ma Brian Pace li dak iz-zmien kien detenut fl-istess Facilita'. SCO 5 Joan Muscat tispjega fix-xhieda taghha li hekk kif kienet ha tibda t-tfittxija fuq il-persuna tal-imputata rat xi movimenti suspettuzi b'halqha u ghaldaqstant ordnathiela tiftah halqha. Camilleri ma kkoperatx mal-ewwel madanakollu wara ftit fethet halqha u tat borza trasparenti zghira kontenenti sustanza kannella lill-ufficjal li kienet qed taghmilha t-tfittxija. Minn tfittxija fil-basket tal-istess Camilleri (fil-prezenza ta' PC2062 Antonia Degiorgio) rrizulta li kellha borza zghira b'likwidu kannella. Dawn iz-zewgt oggetti elevati gew mghoddija minghand SCO Muscat lil PS185 Roger Mifsud.

[1] Fol. 12 tal-atti processwali odjerni.
[2] Fol. 54 tal-atti processwali.

Amanda Camilleri gie arrestata u mehuda fil-Kwartieri Generali tal-Pulizija fejn hemmhekk irrillaxxat stqarrija u dana wara li rrifjutat id-dritt tal-assistenza legali li dak iz-zmien kien ristrett ghal siegha qabel it-tehid tal-istqarrija. Minn analizi tas-sustanza hawn fuq imsemmija, x-xjenzat Godwin Sammut ikkonkluda:

> *"Illi fuq estratti mehuda mit-trab ta' lewn kannella li hemm fid-dokument 092_17_01 instabet is-sustanza eroina. Din is-sustanza hija kkontrollata bil-ligi taht l-Ewwel Skeda, Taqsima 1, tal-Kapitolu 101 tal-Ligijiet ta' Malta."*[3]

<u>Kunsiderazzjonijiet dwar il-htija:</u>
Fl-ewwel lok dina l-Qorti ser tiddetermina l-piz li ghandha taghti lill-istqarrija rrillaxata mill-*qua* imputata lill-pulizija fil-15 ta' Settemrbu 2014 u dana wara li rrifjutat id-dritt tal-assistenza legali qabel l-istqarrija. Dan ser isir anke fid-dawl tat-talba tad-difiza fl-udjenza tal-14 ta' Gunju 2022 permezz ta' liema intalab li din il-Qorti, *tistrieh fuq l-istqarrija rrilaxxata mill-imputata f'dawk il-partijiet biss li mhumiex inkriminanti ghall-imputata u dan ghaliex ma kinitx akkumpanjata mill-avukat difensur u ma nghatax dan id-dritt.*

Illi minn qari tal-istqarrija jirrizulta li l-imputata giet infurmata bid-dritt tas-silenzju u offruta d-dritt li tikkonsulta ma avukat qabel l-interrogatorju. Camilleri rrifjutat dan id-dritt u in sostenn ta' hekk il-prosekuzzjoni pprezentat dikjarazzjoni ffirmata mill-imputata u numru ta' xhieda. Mill-istess stqarrija ma jirrizultax li l-istess Camilleri giet offruta id-dritt ghall-assistenza legali <u>waqt</u> l-interrogatorju. Mill-atti processwali ma jirrizultax li kien hemm ragunijiet impellenti li jzommu lill-imputata milli tkun hekk assistieta. Fil-fatt mill-istqarrija pprezentata jirrizulta li hekk kif inghad iktar 'il fuq Camilleri giet offruta id-dritt ghall-assistenza legali qabel (mhux waqt) l-interrogazzjoni u dana dejjem skond ma kienet il-ligi vigenti dak iz-zmien. Isegwi ghalhekk li probabilment l-unika raguni l-ghaliex l-imputata ma kinitx mghotija l-possibilita' li tkun mghejjuna minn avukat waqt l-interrogazzjoni kienet l-ghaliex il-ligi vigenti dak iz-zmien ma kinitx tippermettieha. Dak iz-zmien li fiha ttiehdet l-istqarrija odjerna l-ligi kienet tippermetti biss li l-imputata tkun tista' tikkonsulta ma avukat qabel ma tittiehed l-istqarrija sa massimu ta' siegha. Id-dritt tal-assistenza legali waqt l-

[3] Fol. 23 tal-atti processwali.

istqarrija gie ntrodott fil-Kodici Kriminali permezz ta' l-Att LI fit-28 ta' Novembru 2016.

Illi l-guriprudenza lokali ricenti fir-rigward tal-assistenza legali waqt l-interrogatorju jidher li qed tistrieh fuq l-insenjament mghoti fil-kaz **Beuze v il-Belgju** (App. Numru 71409/10) tad-9 ta' Novembru 2018, li kien jitratta ukoll sitwazzjoni fejn il-ligi domestika relevanti ma kinitx tippermetti l-assistenza legali waqt l-interrogazzjoni u fejn ma kienx hemm ragunijiet impellenti ghalfejn ma tigiex offruta l-assistenza tal-avukat. F'dan il-pronunzjament intqal:

> *"120. The fairness of a criminal trial must be guaranteed in all circumstances. However, what constitutes a fair trial cannot be the subject of a single unvarying rule but must depend on the circumstances of the particular case (see Ibrahim and Others, ... § 250). The Court's primary concern, in examining a complaint under Article 6 § 1, is to evaluate the overall fairness of the criminal proceedings ... ... "*
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> *121. As the Court has found on numerous occasions, compliance with the requirements of a fair trial must be examined in each case having regard to the development of the proceedings as a whole and not on the basis of an isolated consideration of one particular aspect or one particular incident, although it cannot be ruled out that a specific factor may be so decisive as to enable the fairness of the trial to be assessed at an earlier stage in the proceedings. ... ... "*
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> *... ... ... "139. The stages of the analysis as set out in the Salduz judgment – first looking at whether or not there were compelling reasons to justify the restriction on the right of access to a lawyer, then examining the overall fairness of the proceedings – have been followed by Chambers of the Court in cases concerning either statutory restrictions of a general and mandatory nature, or restrictions stemming from case- specific decisions taken by the competent authorities.*
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> *"140. In a number of cases, which all concerned Turkey, the Court did not, however, address the question of compelling reasons, and neither did it examine the fairness of the proceedings, but found that systematic restrictions on the right of access to a lawyer had led, ab initio, to a violation of the Convention ... ... Nevertheless, in the majority of cases, the Court has opted for a less absolute approach and has conducted an examination of the overall fairness of the proceedings, sometimes in summary form ... and sometimes in greater detail ...*
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> *"141. Being confronted with a certain divergence in the approach to be followed, in Ibrahim and Others the Court consolidated the principle established by the Salduz judgment, thus confirming that the applicable test consisted of two stages and providing some clarification as to each of those stages and the relationship between them (see Ibrahim and Others, ... §§ 257 and 258-62).*
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> *"144. In Ibrahim and Others the Court also confirmed that the absence of compelling reasons did not lead in itself to a finding of a violation of Article 6. Whether or not there are compelling reasons, it is necessary in each case to view the proceedings as a whole (see Ibrahim and Others, ... § 262). That latter point is of particular importance in the present case, since the applicant relied on a certain interpretation of the Court's case-law on the right of access to a lawyer ...*

to the effect that the statutory and systematic origin of a restriction on that right sufficed, in the absence of compelling reasons, for the requirements of Article 6 to have been breached. However, as can be seen from the Ibrahim and Others judgment, followed by the Simeonovi judgment, the Court rejected the argument of the applicants in those cases that Salduz had laid down an absolute rule of that nature. The Court has thus departed from the principle that was set out, in particular, in the Dayanan case and other judgments against Turkey.

"145. Where there are no compelling reasons, the Court must apply very strict scrutiny to its fairness assessment. The absence of such reasons weighs heavily in the balance when assessing the overall fairness of the criminal proceedings and may tip the balance towards finding a violation. The onus will then be on the Government to demonstrate convincingly why, exceptionally and in the specific circumstances of the case, the overall fairness of the criminal proceedings was not irretrievably prejudiced by the restriction on access to a lawyer[4] *(see Ibrahim and Others, ... § 265).......*

"147. Lastly, it must be pointed out that the principle of placing the overall fairness of the proceedings at the heart of the assessment is not limited to the right of access to a lawyer under Article 6 § 3 (c) but is inherent in the broader case-law on defence rights enshrined in Article 6 § 1 of the Convention ... ...

"148. That emphasis, moreover, is consistent with the role of the Court, which is not to adjudicate in the abstract or to harmonise the various legal systems, but to establish safeguards to ensure that the proceedings followed in each case comply with the requirements of a fair trial, having regard to the specific circumstances of each accused.......

"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, ... § 274, and Simeonovi, ... § 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;

[4] Emfazi ta' dina l-Qorti

> *"(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".*

Fil-kaz odjern li jirrizulta huwa li l-qua imputata giet offruta u ghazlet li ma tikkonsultax ma avukat qabel l-interrogatorju mill-pulizija izda ma kinitx offruta d-dritt ghall-assistenza legali waqt l-istqarrija. L-istqarrija ttiehdet wara li l-imputata nstabet flagrante delicto fil-pussess ta' sustanza suspettata droga perikoluza. Minn qari tal-istess stqarrija kjarament jirrizulta li l-qua imputata inkriminat lilha nnifsha mhux biss fir-rigward tas-sustanza misjuba fil-pussess taghha izda ukoll ghal numru ta' reati ohra. Dan sar bi pregudizzju ghad-difiza taghha fl-eventwali proceduri quddiem Qorti ta' Gustizzja Kriminali. Dan tant kien il-kaz li adirittura hemm numru ta' imputazzjonijiet li jistriehu unikament fuq l-istqarrija tal-imputata.

Jinghad ukoll li l-istqarrija hija wahda. Konsegwentament l-imputata ma tistax taghzel fuq liema partijiet din il-Qorti tista' tistrieh jew xort'ohra fil-kunsiderazzjonijiet taghha. Din il-Qorti tfakkar li l-iskartar tal-istqarrija meta l-imputat ma jkunx gie mghoti d-dritt tal-assistenza legali waqt l-istqarrija ma jsirx biex tigi agevolata t-tezi ta' xi parti jew ohra fil-kawza izda ssir sabiex jigi assigurat li l-imputat li jkun jinghata d-dritt ta' smigh xieraq hekk kif garantit mill-Kostituzzjoni ta' Malta u anke mill-Konvenzjoni Ewropeja dwar id-drittijiet fundamentali tal-Bniedem. Galadara

Ghaldaqstant dina l-Qorti, wara li hadet konjizzjoni tal-provi migbura u l-gurisprudenza relatata mal-valur probatorju li hija ghandha taghti l-istqarrija mehuda f'cirkostanzi simili ghal dawk tal-kaz odjern, partikolarment il-fatturi stabbiliti sabiex isir l-analizi tal-*overall fairness* tal-proceduri, ma thossx li jkun opportun tikkunsidra l-istqarrija sabiex tistabillixi r-reita o meno tal-imputata ghall-imputazzjonijiet odjerni. Isegwi ghalhekk li ghar-ragunijiet suesposti u fid-dawl tal-principju tal-*overall fairness,* dina l-Qorti ma

hijiex ser tikkunsidra l-istqarrija rrillaxxata mill-imputata meta tigi sabiex tikkunsidra ir-reita' taghha o meno ghall-imputazjonijiet odjerni.

Illi stabilliti dawn il-principji, kif ukoll tenut kont li l-unika prova in sostenn tat-tielet u tar-raba' imputazzjoni dedotta fil-konfront ta' Camilleri kienet l-istqarrija rrillaxxata minnha li ormai giet skartata, dina l-Qorti ser tghaddi sabiex tillibera lill-istess Camilleri mill-imsemmija imputazzjonijiet dedotti fil-konfront taghha.

Illi ghal dak li jirrigwarda l-ewwel imputazzjoni, din il-Qorti hija tal-fehma li din l-imputazzjoni tirrizulta ppurvata sal-grad rikjest mil-ligi galadarba l-imputata, hekk kif inghad iktar 'il fuq, inqabdet *flagrante delicto* iddahhal sustanza f'halqha u fil-basket taghha gewwa l-konfini tal-habs, li minn analizi rrizulta li kienet is-sustanza eroina.

Illi ghal dak li jirrigwarda t-tieni imputazzjoni, din il-Qorti hija tal-fehma, hekk kif inghad izjed 'il fuq li ma hemm l-ebda dubbju li l-qua imputata kienet fil-pussess xjenti ta' sustanza kemm f'halqha kif ukoll fil-basket taghha. Illi din is-sustanza wara l-analizi li saret fuqha rrizulta li kienet is-sustanza eroina li hija sustanza regolata ai termini tal-Kap. 101 tal-Ligijiet ta' Malta. Stabbilit dan, ikun jonqos biss li din il-Qorti tiddetermina jekk il-pussess kienx wiehed ghall-uzu esklussiv taghha jew inkella xort'ohra u dana wara li tikkunsidra c-cirkostanzi tal-imsemmi pussess.

Mill-provi ma jirrizultax li l-imputata kienet fil-pussess ta' ammont kbir t'eroina. Fil-fatt mir-rapport tax-xjenzat Godwin Sammut jirrizulta li l-imputata kienet fil-pussess ta' tracci t'eroina. Madanakollu din il-Qorti ma tistax tqis din ic-cirkostanza wahedha u tinjora cirkostanzi ohra. Fis-sentenza mghotija nhar is-27 ta' April 2017 mill-Qorti tal-Appell hekk kif preseduta mill-Onor. Imhallef Edwina Grima fl-ismijiet: il-Pulizija vs. Lawrence Fabri nghad:

> "*Dan ifisser allura li aktar mill-kwantita jew ammont ta' droga li tinsab fil-pussess tad-delinkwent, huma ic-cirksotanzi kollha tal-kaz u x'inferenza tista issir mill-istess li ghandha tiggwida lill-gudikant meta si tratta tar-reat tal-pussess aggravat ta' droga ikun x'ikun l-ammont, kwalita jew kwantita ta' droga involuta. Illi l-qrati Maltin jiggwidaw lil min hu imsejjah biex jiggudika illi ghalkemm l-ammont ta' droga*

<u>misjuba ghand il-persuna suspettata hija indikattiva madanakollu mhux din ic-cirkostanza biss hija indikattiva tal-pussess aggravat</u> u allura imxew fuq dak stabbilit fil-Konvenzjoni tal-Gnus Maghquda surriferita. Illi allura l-Ewwel Qorti iggwidat b'dawn il-linji gwida gurisprudenzjali u legali sewwa ghamlet meta minn ezami tac-cirkostanzi tal-kaz setghet fid-diskrezzjoni fdata lilha bil-ligi tinferixxi illi d-droga li instabet fil-pussess ta'l-appellanti kienet tali li tindika li din ma kenitx intiza ghall-uzu esklussiv tieghu." (emfazi ta' dina l-Qorti)

Illi mill-provi mressqa jirrizulta li l-imputata nqabdet fil-pussess tal-imsemmija sustanza fil-konfini tal-habs wara li marret hemm sabiex izzur lill-partner taghha Brian Pace. Jirrizulta ukoll li dakinhar hija kellha skedata 'contact visit' mal-istess prigunier. Hija kienet ben konsapevoli li kienet diehla f'post ristrett. Mix-xhieda jirrizulta ukoll li din ma kinitx l-ewwel darba li l-imputata marret il-habs. Il-fatt li l-imputata hadet ir-riskju u dahlet l-istess droga l-habs b'riskju kbir ghaliha hija indikazzjoni cara li din is-sustanza ma kinitx intiza ghaliha biss. Kieku din is-sustanza kienet ghaliha biss kien ikun izjed facli li Camilleri taghmel uzu mill-istess sustanza barra mill-konfini tal-habs u dana b'riskju ferm inqas li hija tinqabad.

Ghaldaqstant, fid-dawl ta' dawn ic-cirkostanzi rizultanti mill-provi mressqa mill-prosekuzzjoni, dina l-Qorti hija tal-fehma li l-pussess xjenti tas-sustanza eroina mill-imputata kien wiehed f'cirkostanzi li juru li ma kinitx ghall-uzu esklussiv taghha. B'hekk il-Qorti hija tal-fehma li t-tieni imputazzjoni giet sodisfacentament ippruvata.

Illi ghal dak li jirrigwarda <u>l-hames u s-sitt imputazzjoni</u> dedotta fil-konfront tal-qua imputata, minn analizi tal-atti processwali jirrizulta li l-prosekuzzjoni ma prezentat l-ebda prova li s-sentenzi mghotija minn din il-Qorti (diversament preseduta) fil-21 ta' Marzu 2013 (MB2) u l-15 ta' Mejju 2014 (MB4) ghaddew definittivament in gudikat. Ghaldaqstant dina l-Qorti ma tistax issib htija fir-rigward ta' dawn iz-zewgt imputazzjonijiet.

Ai fini ta' piena, dina l-Qorti qieset in-natura u c-cirkostanzi gravi tal-imputazzjonijiet li taghhom il-qua imputata ser tinstab hatja u l-fedina penali tal-imputata.

Decide:

Ghal dawn il-mottivi, wara li rat l-Artikoli 22(1)(a), 22(2)(b)(i) tal-Kap. 101 tal-Ligijiet ta' Malta; r-Regolamenti 4 u 6 tal-Legislazzjoni Sussidjarja 101.02; u l-artikolu 7(1)(2) tal-Kap. 260 tal-Ligijiet ta' Malta, dina l-Qorti, **qed tillibera lill-qua imputata mit-tielet, raba', hames u sitt imputazzjoni dedotta fil-konfront taghha filwaqt li qed issib lill-istess imputata Amanda Camilleri hatja tal-ewwel u t-tieni imputazzjoni hekk kif dedotti fil-konfront taghha u konsegwentament qed tikkundana ghall-piena ta' seba' xhur prigunerija effettiva u ghall-hlas ta' multa ta' sitt mitt Ewro (Eur. 600) li b'applikazzjoni tal-artikolu 14(2) tal-Kodici Kriminali tista' tithallas b'rati mensili u konsekuttivi ta' mitt Ewro (Eur. 100) fix-xahar**. F'kaz li l-hlas ikun ha jsir b'rati mensili, l-ewwel pagament ghandu jsir fi zmien xahar millum, b'dan illi jekk il-hatja tonqos milli thallas pagament wiehed, il-bilanc jigi dovut minnufih u jekk dan ma jithallasx jigi konvertit fi prigunerija skont il-ligi.

A tenur tal-artikolu 533 tal-Kodici Kriminali dina l-Qorti qeghda tordna lill-hatja Amanda Camilleri thallas l-ispejjez fl-ammont ta' Eur. 220.11 konnessi mal-hatra ta' l-esperti fil-proceduri odjerni.

Finalment, il-Qorti tordna d-distruzzjoni tad-droga ezebita hekk kif din is-sentenza tghaddi in gudikat u dan taht il-harsien tar-Registratur li ghandu jirredigi Process Verbal li jiddokumenta l-procedura tad-distruzzjoni, liema dokument ghandu jigi nserit fl-atti ta' din il-kawza mhux aktar tard minn hmistax-il jum minn tali distruzzjoni.

Dr. Elaine Mercieca
Magistrat

Ms. Christine Farrugia
Deputat Registratur