



**Court of Magistrates (Malta)
As a Court of Criminal Judicature**

Magistrate Dr. Donatella M. Frendo Dimech LL.D., Mag. Jur. (Int. Law)

Criminal Inquiry No.: 791/2021

**The Police
(Inspector Sarah Kathleen Zerafa)**

-vs-

Begtash Muka holder of Albanian Passport number BE0750359

Today, the 16th day of July, 2025

The Court,

Having seen the charges brought against the defendant **Begtash Muka** for having:

On the 26th of January 2020, at around 9:00hrs, at the Corradino Correctional Facility Paola:

1. Without the intent to kill or to place someone's life in manifest jeopardy, you caused grievous injuries to the person of Silvano Cilia, as certified by Dr David Grech, registration number 3585

The Court was requested to apply the provisions of article 33A of Chapter 9 of the Laws of Malta;

The Court was also requested to provide for the security of Silvano Cilia by applying the provisions of article 382A, 383, and 412C of Chapter 9 of the Laws of Malta;

The Court was finally requested to, in case of guilt, order the defendant to pay the costs related to the appointment of experts in the proceedings as contemplated in article 533 of Chapter 9 of the Laws of Malta.

Having seen the note by the Attorney General indicating the Articles of Law in terms of Article 370(3)(a) of Chapter 9 of the Laws of Malta, dated the 14th June, 2024, namely:¹

- Articles 214, 215 and 216 of the Criminal Code, Chapter 9 of the Laws of Malta;
- Article 33A of the Criminal Code, Chapter 9 of the Laws of Malta;
- Articles 382A, 383, 384, 385, 386, 412C, 412D, 532A, 532B u 533 of the Criminal Code, Chapter 9 of the Laws of Malta.

Having heard the defendant declare that he does not object to the case being tried summarily by this Court.²

Having heard witnesses.

Having seen all the acts and documents exhibited.

Having heard the prosecution and defence counsel make their final submissions.

Considers,

Whereas this case was assigned to this Court as presided through the “Assignment of a Case” by His Honour The Chief Justice dated the 2nd February, 2024.

Whereas this Court, as presided, held its first sitting on the 7th February 2024;

Evidence

¹ Fol. 161

² Sitting of the 16th July, 2025

Inspector Sarah Kathleen Zerafa testified and explained that on the 26th of January 2020, she was informed by PS 1258 that they had received a report from the Corradino Correctional Facility regarding a fight between two inmates. The Inspector confirms that they elevated the CCTV footage from the facility, and when she saw the footage, she could see the defendant Begtash Muka punching Silvano Cilia.³

When cross examined by learned defence counsel, she confirmed that she was the only investigating officer on the case. She also confirms that the defendant was the only person to be charged in relation to this case. The Inspector confirmed that a third inmate was involved in the case, however no action was taken against him since he was deported back to his country.⁴

In his **statement**, released on the 2nd August 2021, the defendant chose to exercise his right to remain silent.⁵

Inspector Helenio Galea, from the Corradino Correctional Facility (hereinafter referred to as CCF), confirmed that Begtash Muka was in prison from 2018 until December 2020. The document⁶ exhibited by the witness that the defendant was admitted to prison in November 2018 and was subsequently released on bail on the 22nd of December 2020.⁷

Clint Zahra, from CCF, was charged with extracting the CCTV footage from inside the prison.⁸ This footage shows the altercation which transpired between the defendant and the victim, Silvan Cilia on the 26th January, 2020. He also confirms that the injuries sustained by the victim were clearly caught on the footage.⁹

The witness presented a pendrive¹⁰ with the footage after transferring the same footage recorded on **Dok.CZ1** on to a pendrive.¹¹

CO¹² 104 Ronald Caruana, testified that, on the 26th of January 2020, he was stationed in Division 11. While observing the cameras, he noticed some

³ Fol.75

⁴ Fol.168

⁵ Fol.4-5

⁶ **Dok.HG1** a fol.17

⁷ Fol.14-15

⁸ **Dok.CZ1** a fol.74

⁹ Fol.18 et seq

¹⁰ **Dok.CZ1X** a fol.104

¹¹ Fol.84-85

¹² Correctional Officer

commotion in the lower level. Caruana and his colleagues immediately left to see what was going on however upon their arrival, the fight had already been diffused. Caruana states that from the information they managed to gather, a fight broke out between Bagtesh Muka and Silvan Cilia. The officer also confirms that when they arrived, he noticed that Silvan Cilia had blood on his face.¹³ Caruana confirms that he witnessed the fight from the monitors:

*"[Rajthom] Kont naf li huma t-tnejn qed jiggieldu....fil-cameras xorta....huma t-tnejn inqabbdu, xorta. Xorta huma inqabdu. Ahna rajna konfuzjoni ta' nies imma xorta huma t-tnejn inqabbdu jiggieldu. It-tnejn li huma kienu qed jiggielduRajthom minn fuq il-cameras."*¹⁴

CO 193 Matthew Vella explained that on the day of the incident, while he was in the guard room, he saw a commotion and together with his colleagues rushed to the scene. Once they arrived, the fight had already fizzled out. Vella confirms that the defendant Muka and Silvan Cilia were involved in the fight and that Cilia's face was covered with blood. He was on the ground floor and thus could see the whole altercation through the perspex. Muka was locked in his cell whilst Cilia was taken to the medical infirmary.¹⁵

CO 206 Christian Gafà, explained that on the 26th of January 2020, while he was on duty observing the CCTV monitors in the guardroom, he noticed that a fight broke out in the lower level. Together with his colleagues he rushed to calm the situation however the other inmates had already separated the individuals who were involved in the fight. Gafà explained that he saw Cilia's blooded face and identified Muka as being involved in the skirmish.¹⁶

CO 152 Mario Dimech¹⁷ explained that on the day of the incident, while he was walking in the corridor, he heard a lot of noise on the other side: "*Sakemm dhalna ahna l-glieda lahqet waqqfet. Rajt lil Silvan Cilia qed iqum mill-art u wiccu bid-demm. Gbart lil Silvan. Rajt lil kollegi tieghi li hadu lill-ohrajn li kienu involuti fil-glieda u sakkruhom. U jiena tlajt b'Silvan Cilia fl-MI Room ghax kellu xi demm ma' wiccu*".¹⁸ Dimech confirms that he did not see the actual fight, however Cilia had told him that the defendant Muka had punched him.¹⁹

¹³ Fol.47

¹⁴ Fol.51

¹⁵ Fol.53-57

¹⁶ Fol.59-62

¹⁷ Fol.63 et seq

¹⁸ Fol.64

¹⁹ Fol.66

The victim, **Silvano Cilia** stated his testimony by stating that this altercation was the result of a misunderstanding which ensued due to language difficulties in communicating with Muka:

“Nuqqas ta’ komunikazzjoni nemmen jien ghax forsi ghedtlu xi haga hazina jien, fhimt? Bhal speċi ghax jien ma nifhimx bl-Ingliz, ma nafx x’beda jghid....xejn qisna qbadna naghtu. Nuqqas ta minn naha tieghi hfirtlu jien. Minn naha tieghi nahfirtlu jien”.²⁰

Cilia confirmed that on the day of the incident he had asked the defendant to move the table and, due to the fact that Cilia does not speak or understand English, he could not communicate properly with Muka and as a result a fight broke out between them. **He confirmed that Muka punched him in the eye “daqqa ta’ ponn...hawnehkk f’ghajnejja”.**²¹ He also confirms that he was taken to the health clinic due to his having sustained injuries but remains reluctant in giving further details. He adds that when the fight broke out he was next to his cell.²²

John Sacco downloaded stills of the footage presented by the prison authorities.²³ From the said footage it is evident that Cilia was savagely beaten up by the defendant.

From an analysis of the footage it emerges that after Cilia approached the defendant who was seated at a table with another inmate and spoke to him, **Muka got up and punched Cilia in the face. After Cilia was knocked to the ground, Muka kept hitting him.** Another inmate, who had been standing by Muka’s table, also started kicking and punching Cilia. Cilia is seen getting up but he is knocked back down again by Muka and the other inmate.

Considered,

The nature of the Injuries

Dr. Mario Scerri reported his findings after examining Silvano Cilia:

“I examined him on the 10th July 2023. As a result of this aggression, he was taken to Paola Health Centre where some sutures were inserted. He showed me a

²⁰ Fol.27-29

²¹ Fol.29

²² Fol.30-31

²³ **Dok.JSR** a fol.95B et seq

*lesion on the supraorbital ridge. This lesion of a very very faint scar. Being the result of blunt trauma. And the scar is **barely visible from within talking distance**".²⁴*

In his report Dr Scerri concludes:

1. *"Illi Silvano Cilia allega mal-esponent illi madwar tlett snin qabel l-ezami waqt li kien fil-Facilita' Korrettiva ta' Kordin dan qala' daqqa ta' ponn minghand wiehed Albaniz;*
2. *Illi, rizultat ta' dan l-allegat incident, dan kellu jmur il-Paola Health Centre fejn gew inseriti xi suturi;*
3. *Illi l-lezjoni muriija lill-esponent kienet tikkonsisti f'cikkatrici irqiqa, rizultat ta' lacerazzjoni, rizultat ta' blunt trauma u **din ic-cikatrici ma tidhrx from a walking distance**".²⁵*

Dr. David Grech confirmed that he had examined the victim Silvan Cilia:

"...when I examined him, he had a laceration on the left frontal area on his head about 3 centimeters long and the other thing I noticed at the time was that one of his lower front teeth was also moving but otherwise there was nothing else and they were considered greivous because of the laceration on his forehead basically".²⁶

In the judgement delivered by the Court of Criminal Appeal, **Il-Pulizija vs Salvinu Vella**, the Court of Criminal Appeal considered *funditus* the difference between grievous injuries under articles 216 and 218 of the Criminal Code.

17. L-artikolu 216 (1)(b) jtkellem fuq mankament jew sfregju fil-wicc, fil-ghonq jew f'wahda mill-idejn tal-offiz. It test Inkliz juza l-kelma "*hands*" u dan hu ta' ghajnuna ghad-dibattitu mqanqal mill-imputat meta jghid li la darba l-ligi titkellem fuq l-idejn dan minnu nniissu jeskludi id-drigh, ossia li l-id ma tinkludix id-drigh. Tajjeb li ssir referenza ghal dak li jinsinja l-Professor Mamo fin-**Notes On Criminal Law** – Revised Edition 1954-1955 pp 228 meta jelenka l-elementi ta' dan ir-reat u jghid: "*Any external injury which detracts from the appearance of the face, or of the neck or of either of the hands – the most conspicuous parts of the human body...*" (Sottolinear tal-Qorti);

18. Meta offiza ggib mankament jew sfregju fill-wicc, l-ghonq jew wahda mill-idejn, dik l-offiza tkun wahda gravi ex artikolu 216(1) (b) tal-Kodici Kriminali anke jekk dak l-isfregju jdum ghal ftit hin. Jekk jipperdura, fejn allura jkun jehtieg ezami vizwali minn distanza mhux ragjonevoli, dak l-isfregju jitqies sfregju gravi fit-termini tal-artikolu 218(1)(b).

22. Tajjeb li in rigward issir referenza ghas-sentenza ta' din il-Qorti tat-28 ta' Marzu 2008, **Il-Pulizija vs Desmond Falzon**, li ccit b'approvazzjoni s-sentenza taghha **Il-Pulizija vs Paul Spagnol** tat-12 ta' Settembru 1996, fejn kien ritenut hekk:

²⁴ Ibid.

²⁵ Fol.127

²⁶ Fol.158

B'mankament ... fil-wicc, il-ligi qed tirreferi ghal kull deterjorament ta' l-aspett tal-wicc li, anke minghajr ma jnissel ribrezz jew ripunjanza, jipproduci sfigurament "cioe' peggioramento d'aspetto *notevole o complessivo, o per l'entita' della alterazioni stessa o per l'espressione d'assieme del volto*" (Manzini, V., Trattato di Diritto Penali, Volume Ottavo, Cap. XXVIII, p. 235). Sfregju, mill-banda l-ohra u a differenza ta' mankament, hija kull hsara li tista' ssir fir-regolarita' tal-wicc, fl-armonija tal-lineamenti tal-wicc, u anke f'dik il-hija s-sbuhija tal-wicc. Skond guriprudenza ormaj pacifika, din il-hsara li tammonta ghal sfregju trid tkun vizibbli minn distanza li hi dik 'li soltu jkun hemm bejn in-nies meta jitkellmu ma' xulxin' (Il-Pulizija vs Emily Zarb App Krim. 15/2/58, Kollez. Deciz. XLII.iv.1245, 1248). Ghalhekk mhix korretta l-proposizzjoni li temergi mill-bran tas-sentenza appena citata, li jekk ikun hemm cikatrici necessarjament hemm sfregju, izda ma jkunx hemm sfregju jekk ikun hemm simplici skolorament tal-gilda. Anke skolorament tal-gilda jista' jipproduci kemm sfregju kif ukoll mankament fil-wicc fis-sens spjegat. Kollox jiddependi mill-entita' tal-hsara; mhux importanti x'tissejjah il-hsara fil-gergo mediku jew popolarment; dak li hu importanti hu l-effett li thalli fuq il-wicc.

19. Naturalment dak li intqal dwar il-wicc huwa ugwalment applikabbli ghall-ghonq u ghall-idejn. Ghalhekk sabiex ikun pruvat l-aspett materjali ta' dan ir-reat mhux necessarju li l-offiza tkun tali li "tista" thalli mankament jew sfregju. Dik il-possibilita' tirrafigura biss fl-ezami tar-reat kontemplat fl-artikolu 216(1)(a). Sabiex tkun skontata l-prova tar-reat kontemplat fl-artikolu 216(1)(b) huwa bizzejjed li l-offiza kienet fuq l-idejn, fl-ghonq jew fuq il-wicc u l-kwistjoni ta' permanenza jew possibilita' jew probabilita' ta' permanenza ma jiccentraw xejn. Dan hu hekk ghaliex il-legislatur donnu jaghti protezzjoni specjali ghal dawk l-estremitajiet tal-gisem li solitament huma dejjem mikxufin u ghaliex mankament jew sfregju fihom igibu magghom il-konsegwenzi naturali u ovvji fuq l-offiz.

20. Fis-sistema legali tagha, l-offiza fuq il-persuna tista' tkun wahda hafifa u ta' importanza zghira, hafifa, gravi jew gravissima. Issa, kif tajjeb imfisser fis-sentenza ta' din il-Qorti fl-ismijiet **Il-Pulizija vs Fortunato Sultana** tal-5 ta' Frar 1998, fost diversi ohrajn, il-ligi ma tirrikjedix li l-isfregju jipperdura ghal zi zmien partikolari. Sfregju fil-wicc, fil-ghonq jew f'wahda mill-idejn anke jekk ta' ftit zmien jibqa' sfregju ghall-finijiet ta' l-imsemmija disposizzjoni. Il-permanenza ta' l-isfregju hi rilevanti biss meta, abbinata mal-gravita', taghti lok ghal-hekk imsejha "offiza gravissima" skond l-artikolu 218(1)(b) tal-Kodici Kriminali. Ghal-esposizzjoni aktar profonda tal-kwistjoni in tema, tajjeb li ssir referenza ukoll ghas-sentenza ta' din il-Qorti deciza fil-15 ta' Frar 2011 fl-ismijiet **Il-Pulizija vs Jonathan Farrugia** fejn oltre s-sentenza citata saret refeneza ghal-diversi sentenzi ohra foshom dik **Il-Pulizija vs Antonio sive Anthony Randich** tat-2 ta' Settembru 1999 kien ritenut hekk:

Kif din il-Qorti kellha l-opportunita' li tirrimarka f'okkazzjonijiet ohra, l-isfregju ('disfigurement') fil-wicc (jew fl-ghonq jew fl-id) kontemplat fl-artikolu 216(1)(b) tal-Kodici Kriminali jista' jkun anke ta' natura temporanea, bhal per ezempju, sakemm il-ferita tfiq. Huwa biss fil-kaz tal-hekk imsemmija 'offiza gravissima' fl-artikolu 218(1)(b) li l-ligi tirrikjedi l-permanenza (oltre l-gravita') ta' l-isfregju. Mir-ritratti esibiti din il-Qorti tara li l-ewwel Qorti setghet legalment u ragjonevolment..."

21. Fi kliem iehor, **offiza gravi tista' ssehh fuq kull parti tal-gisem, pero' fejn si tratta tal-wicc, l-ghonq jew l-idejn hija dejjem gravi jekk iggib sfregju anka ghal ftit hin kif fuq spjegat. F'kaz ta' permanenza, dik l-offiza tkun gravissima.** Issa jekk l-offiza ssir fuq parti ohra tal-gisem il-kwistjoni dwar jekk tkunx wahda hafifa, gravi jew gravissima tiddependi minn jekk tirrientrax f'dak razzonament fil-kumplement tal-artikoli 216, 218 u fin-nuqqas 221(1).

22. Hija l-fehma ta' din il-Qorti illi la darba l-offiza mhix fuq il-wicc, l-ghonq jew l-idejn tal-kwerelant, u la darba ma gabet ebda wahda mill-konsegwenzi msemija fl-artikoli 216 jew 218 fuq xi parti ohra tal-gisem, l-offiza hija wahda hafifa. Ghalhekk filwaqt li ma tistghax tinsab htija ta' offiza gravi qed tinsab htija ta' reat anqas gravi u cioe' ta' offiza hafifa fit-termini tal-artikolu 221(1) tal-Kodici Kriminali bl-aggravanti msemmi fis-subartikolu (2).

From Dr. Mario Scerri's conclusions and in the light of these teachings, it is obvious that those suffered by Cilia are classified as grievous in terms of Article 216 of the Code:²⁷

Also Considers,

Learned defence counsels submits that given that two persons assaulted the injured party, it could not be determined which of the two caused the injuries suffered by Cilia. Thus, in its learned opinion, the police ought to have charged Muka with the crime of accidental affray found in Article 237 of the Criminal Code and not that of voluntary bodily harm.

From the footage it is readily manifest that it was the defendant who punches Cilia on the face, a fact which Cilia himself testifies to, "*daqqa ta' ponn... hawnhekk f'ghajnejja*".²⁸

The Court finds no reason why it should doubt Cilia's testimony given how reluctant he was to implicate the defendant even going so far as to almost admit that the incident happened due to his being unable to communicate in English with Muka. Cilia is almost apologetic in his testimony!

Had the victim chose to embellish his version of events, he had every opportunity to do so given that the other inmate was the only witness to attest to any words which may have been uttered by Muka. There was nothing hindering Cilia to attribute to Muka, any threatening words whilst being so savagely beaten up, yet he stuck to the facts and tries to shift the blame to none other than himself as being the cause of the altercation!

In no manner does the footage exonerate Muka's actions. Furthermore the Correctional Officers also identified Muka as the person who was seen beating Cilia.²⁹

²⁷ Per His Honour Mr. Justice Giovanni M. Grixti; Appeal No. 496/2015; Dec.30th September, 2019

²⁸ Fol.29

²⁹ Vide testimony of Correctional Officers Ronald Caruana, Matthew Vella and Christian Gafa.

The Court of Criminal Appeal in its decision **Il-Pulizija vs Stephen Catania u Bernard Briffa** held:³⁰

*Illi finalment dwar l-aggravazzju imressaq 'il quddiem mill-appellanti li jikkoncerna l-applikabbilita ta' l-artikolu 237 tal-Kodici Kriminali mill-Ewwel Qorti, jinghad minnufih illi din il-lanjanza ma tistax tigi akkolta billi kif inghad huwa **ben ippruvat illi l-appellanti kien wiehed mill-persuni involuti fl-aggressjoni li wasslet ghal dan l-event kriminuz.***

[Emphasis by the Court]

In view of the foregoing, the Court finds that the prosecution has satisfactorily proved its case.

Punishment

In its considerations on punishment the court took note of the nature of the offence of which the defendant is being found guilty, his clean criminal record, and most notably the fact that although there was only a handful of witnesses, this case protracted for over five (5) years through no fault of the parties.

Reference is made to the judgement by the Court of Criminal of Appeal **Il-Pulizija vs. Joseph Azzopardi** [30.7.2004]: -

"... bhala regola, meta si tratta ta' vjolenza fuq il-persuna il-piena ghandha tkun dejjem dik ta' prigionerija b' effett immedjat . Il-Qrati ta' Gustizzja Kriminali ghandhom ikunu minn ta' quddiem biex b'mod deciziv jirripresintaw l-ordni pubbliku meta dan jigi zventrat mill-arroganza jew il-prepotenza li timmanifesta ruha f' xi forma ta' vjolenza fizika "

This court differently presided made the following insightful observations in its decision **Il-Pulizija vs Francis Mamo**:³¹

Fil-verita l-iskop tal-piena muhiex wiehed ta' tpattija. Huwa ben stabbilit li l-piena m'ghandhiex isservi bhala xi forma ta' vendikazzjoni tas-socjeta` fil-konfront tal-hati. Il-piena ghandha diversi skopijiet. Wiehed minnhom huwa sabiex jigi ripristinat it-tessut socjali li jkun gie mcarrat bil-ghemil kriminali ta' dak li jkun. Taht dan l-aspett jassumu importanza, fost affarijiet ohra, kemm ir-rizarciment tad-dannu da parti tal-hati kif ukoll ir-riforma tal-istess hati.

Skop iehor tal-piena huwa dak li tigi protetta s-socjeta`. Dan l-iskop jitwettaq kemm billi fil-kaz ta' persuni li b'ghemilhom juru li huma ta' minaccja ghas-socjeta` dawn jinzammu inkarcerati u ghalhekk barra mic-cirkolazzjoni, kif ukoll billi, fil-kaz ta' reati gravi, is-sentenza tibghat messagg

³⁰ Onor. Imhalled Dr. Edwina Grima, Appell Nru: 134/2016. Seduta 31.05.2017

³¹ Qorti tal-Magistrati (Malta) Bhala Qorti ta' Gudikatura Kriminali, per Onor. Magistrat Dr. Doreen Clarke, Dec. 14.02.2013; Kump. Nru.711/2008

car li jservi ta' deterrent generali. Il-Qrati ta' gustizzja kriminali dejjem iridu jippruvaw isibu l-bilanc gust bejn dawn u diversi skopijiet ohra tal-piena.³²

Illi huwa propju ghalhekk illi ghal kull reat il-Ligi ma tistipulax piena fissa imma tistipula minimu u massimu; jispetta lill-Qorti biex fid-diskrezzjoni taghha, u entro dawk il-parametri, teroga dik il-piena permezz ta' liema, skond ic-cirkostanzi ta' kull kaz, tipprova ssib dak il-bilanc gust bejn d-diversi skopijiet li ghandhom jintlahqu

Illi huwa car li l-imputat mhux persuna ta' kondotta vjolenti jew li ghandu bzonn ta' xi tip ta' riforma fil-karattru tieghu; dan pero ma jfissirx necessarjament li huwa m'ghandux jinghata piena karcerarja jekk hija din il-piena li tohloq dak il-bilanc gust bejn id-diversi skopijiet li jridu jintlahqu permezz taghha, inkluz dak li tibghat messagg car li jservi ta' deterrent.³³

Illi fil-kaz in ezami l-imputat m'ghandux l-iskuza ta' l-inesperjenza jew il-blugha taz-zghozija; huwa ragel adult u ta' certa esperjenza li pero ghazel li jinjora dak li din l-esperjenza bil-fors kienet ghallmitu;

Citing **Lord Justice Lawton**, the Court of Criminal Appeal encapsulated one of the guiding principles of sentencing:³⁴

Jinghad ukoll li, filwaqt li gudikant, fil-ghoti tal-piena (u dan mhux biss fil-kaz ta' jekk sentenza ta' prigunerija ghandhiex tigi sospiza o meno) ghandu jiehu kont talimpatt tar-reat fuq is-socjeta' u tar-reazzjoni tas-socjeta' ghal dak it-tip ta' reat (tali reazzjoni hija r-rifless ta' dak l-impatt) ,..... Kif qal Lord Justice Lawton fil-kawza **R v. Sargeant** [(1974) 60 Cr.App. R. 74.]:

“Society, through the courts, must show its abhorrence of particular types of crime, and the only way in which the courts can show this is by the sentences they pass. The courts do not have to reflect public opinion. On the other hand, they must not disregard it. Perhaps the main duty of the court is to lead public opinion.” [Emphasis by that Court]

Mention must also be made of the Criminal Court's judgement in the Trial by Jury proceedings **Ir-Repubblika ta' Malta vs Victor Pace**:³⁵

Dan it-tip ta' agir li, fortunatament f'dan il-kaz, ma kellux konsegwenzi aktar tragici, ma jista' jigi qatt kondonat mill-Qrati li ripetutament irritenew li “l-vjolenza ghandha, bhala regola generali, dejjem iggib maghha l-piena ta' prigunerija b'effett immedjat, aktar u aktar fejn jintuzaw armi” w li “mhuwiex inoltre tollerabbli li f'socjeta' civili persuna ggorr arma fuqha kontra l-ligi – hi x'inh i r-raguni.” (Ap. Krim. Ir-Repubblika ta' Malta vs. Noel Mizzi [15-12-2005] u ohrajn). Ghalhekk l-insenjament tal-oghla Qorti fil-kamp penali huwa li f'dawn il-kazijiet m'ghandix tinghata sentenza ta' prigunerija sospiza imma wahda effettiva w immedjata.

³² **Ir-Repubblika ta' Malta vs Rene sive Nazzareno Micallef**, Appell Kriminali, Dec. 28.11.2006.

³³ **Il-Pulizija vs Antoine Cassar**, Appell Kriminali, Dec. 22.09.2009.

³⁴ Per H.H. The Chief Justice Vincent Degaetano LL.D.; **Il-Pulizija vs Maurice Agius**; 13th November 2009; App No. 328/09

³⁵ Mr. Justice Joseph Galea Debono; Sitting of the 25th January, 2006; Bill of Indictment No. 27/2003

Decide

For the above reasons, the Court, after seeing Articles 214, 215, 216(1)(b) of the Criminal Code, finds the defendant guilty of the offence of which he was charged and condemns him to a term of **eighteen (18) months imprisonment** which by virtue of Article 28A of the Criminal Code are being suspended for three (3) years from today.

In terms of Article 533 of the Criminal Code orders the defendant to pay the amount of one thousand nine hundred ninety-three Euros and ninety nine cents (**€1,993.99c**) representing expert fees.

In terms of Article In terms of Article 382A of the Criminal Code, the court is issuing a restraining order against the defendant in favour of Silvano Cilia for a period of three (3) years commencing today.

Finally in terms of Article 392A(2) of the Criminal Code, the Court orders that within six (6) working days, the Attorney General shall be given access to a scanned copy of the records, together with access to a scanned copy of the judgment.

Dr. Donatella M. Frendo Dimech LL.D., Mag.Jur.(Int. Law)
Magistrate