MALTA

QORTI TA' L-APPELL KRIMINALI

ONOR. IMHALLEF
JOSEPH GALEA DEBONO

Seduta tal-11 ta' Dicembru, 2008

Appell Kriminali Numru. 247/2008

Il-Pulizija
(Spt. S. Valletta)
(Spt. C. Pullicino)
Vs
Raymond Pace
Paul Borg

Il-Qorti,

Rat l-akkuza dedotta kontra l-appellanti quddiem il-Qorti tal-Magistrati (Malta) bhala Qorti ta’ Gudikatura Kriminali talli fil-15 ta’ Lulju, 2008, filghodu, fil-Belt Valletta quddiem Kastilja,

1. ffurmaw gemgha ta’ tlett persuni jew aktar jew baqghu flimkien, ghal kull hsieb li jkun, b’mod tali u taht cirkostanzi tali ta’ vjolenza, theddid, rewwixti, ghadd ta’ nies, wiri ta’ armi jew xort’ohra, li setghu jgibu twerwir u biza’ fost in-nies f’Malta;

2. fl-istess data, lok, hin u cirkostanzi immedjatament hawn fuq imsemmija, hadu parti attiva f’gemgha ta’

ghaxra min-nies jew aktar, migburin bil-hsieb li jaghmlu reat, ghalkemm dik il-gemgha ta' nies ma kienet giet imxewxa minn hadd in partikulari, u li l-istess reat li kien mahsub fil-fatt sar;

3. fl-istess data, lok, hin u cirkostanzi ffurmaw f'parti minn gemgha ta' tnax il-persuna jew aktar, migmughin flimkien kontra l-ligi bi ksur tal-paci pubblika wara li gew formalment imwissija jew mitluba minn awtorita' kompetenti biex jixxerrdu u bil-kwiet imorru lejn darhom jew fuq xogholhom, baqghu jew issoktaw flimkien kontra l-ligi, f'numru ta' tnax jew aktar, ghal zmien siegha wara li kienet giet maghmula dik it-twissija pubblika;

4. fl-istess data, lok, hin u cirkostanzi, ma obdewx l-ordnijiet legittimi ta' l-awtorita' jew ta' wiehed li jkun inkarigat minn servizz pubbliku, jew ma hallewhx jew fixkluh waqt li jkun jaghmel id-dmirijiet tieghu jew b'xi mod iehor, bla jedd, indahlu fi dmiru, billi ma hallewx lil haddiehor jaghmel dak li b'ligi jkun ordnat jew jista' jaghmel, jew billi gabu fix-xejn jew hassru dak li haddiehor ikun ghamel skond il-ligi jew b'xi mod iehor li jkun.

Rat is-sentenza tal-Qorti tal-Magistrati (Malta) bhala Qorti ta' Gudikatura Kriminali tal-25 ta' Lulju, 2008, li biha, wara li rat l-artikoli 17, 28A, 28B, 79, 68(2), 80 u 338(ee) tal-kap. 9 tal-Ligijiet ta' Malta, sabet lill-appellant Raymond Pace, fuq ammissjoni, hati tal-akkuzi kollha migjuba kontra tieghu w tenut kont ic-cirkostanzi kollha tal-kaz inkluz il-fatt li l-appellant Raymond Pace ammetta fi stadju bikri tal-kawza w l-fedina penali tieghu, ikkundannatu ghall-piena komplessiva ta' ghoxrin (20) xahar prigunerija w elf, mija w hamsa w sittin Euro (€ 1165) multa w ordnat li din is-sentenza nkwantu l-piena ta' prigunerija m'ghandiex tibda ssehh hlief jekk matul il-perjodu ta' tlett (3) snin jikkommetti reat iehor punibbli bi prigunerija.

Sabet lill-appellant Paul Borg, fuq ammissjoni, hati tal-akkuzi kollha migjuba kontra tieghu w tenut kont ic-cirkostanzi kollha tal-kaz inkluzi l-fatt li l-appellant ammetta fi stadju bikri tal-kawza, l-eta' tenera tal-istess appellant Paul Borg u l-fedina penali netta, kkundannatu ghall-piena komplessiva ta' tmintax (18) il-xahar prigunerija w elf, mija w hamsa w sittin Euro (€ 1165)

multa w ordnat li din is-sentenza nkwantu ghall-piena ta' prigunerija m'ghandiex tibda ssehh hlief jekk matul il-perjodu ta' tlett (3) snin jikkommetti reat iehor punibbli bi prigunerija.
Finalment il-Qorti tat lill-appellanti l-ispjegazzjoni preskritta fl-artikolu 28A(4) tal-Kap. 9 tal-Ligijiet ta' Malta.

Rat ir-rikors tal-appellant Raymond Pace minnu pprezentat fil-31 ta' Lulju, 2008, li bih talab li din il-Qorti joghgobha temenda s-sentenza appellata billi tikkonferma l-htija tieghu dwar l-akkuzi kollha gia minnu ammessi, tbiddel il-piena nflitta fuqu u minflok tnaqqas l-istess piena w taghtih piena illi hija aktar moderata w addatta fic-cirkostanzi kollha tal-kaz.

Rat ir-rikors tal-appellant Paul Borg minnu pprezentat fl-4 t'Awissu, 2008, li bih talab li din il-Qorti joghgobha tvarja s-sentenza appellata billi filwaqt illi tikkonfermaha l-parti fejn sabitu hati ta' l-akkuzi kif dedotti, tirriforma s-sentenza ghal dak jikkoncerna l-piena nflitta w tipprovdi wahda aktar miti w idonea fic-cirkostanzi.

Fliet l-atti kollha processwali.

Rat il-fedini penali aggornati tal-appellanti esebiti mill-prosekuzzjoni fuq ordni tal-Qorti.

Rat il-verbal li bih Dr. Lara Lanfranco, ghall-prosekuzzjoni, eccepiet in-nullita' tar-rikorsi tal-appell taz-zewg appellanti ghaliex, fil-kaz tal-appellant Pace, ma saritx talba ghas-sospensjoni tal-esekuzzjoni tas-sentenza w lanqas ma nghatat garanzija skond il-ligi w li inoltre dan l-appellant kien sahansitra hallas parti mill-multa fl-4 t' Awwissu, 2008 w li, fil-kaz tal-appellant Borg, dan kien ottjena s-sospensjoni tal-esekuzzjoni tas-sentenza biss wara rikors li gie prezentat wara erbat ijiem mid-data tas-sentenza w b'digriet tal-Ewwel Qorti tal-istess data w cioe' id-29 ta' Lulju, 2008.

Rat is-sentenza taghha tas-27 ta' Novembru, 2008, li biha laqghet il-pregudizzjali sollevata mill-Avukat Generali limitatament w iddikjarat l-appelli taz-zewg appellanti

rritwali w nulli biss in kwantu jolqtu l-piena tal-multa erogata mill-Ewwel Qorti, pero' cahditha in kwantu dawn l-appelli jolqtu l-piena ta' sentenza ta' ghoxrin xahar prigunerija sospizi ghal tlitt snin erogata fil-konfront tal-appellant Pace u dik ta' tmintax il-xahar prigunerija wkoll sospizi ghal tlitt snin erogata fil-konfront tal-appellant Borg w ghalhekk ordnat li l-kawza tkompli tigi trattata biss fuq dan it-terren fis-seduta ta' dak in-nhar stess.

Rat illi l-aggravji tal-appellant **Pace** fil-qosor huma s-segwenti w cioe' li l-piena ta' ghoxrin xahar prigunerija sospizi ghal tlitt snin hija eccessiva meta tigi komparata mal-piena ta' probation illi wehlu imputati ohra ghall-istess akkuzi. Li l-fedina penali tal-appellant Pace ma hix daqstant imqabra li timmeritah li jigi kundannat ghal dik il-piena. Li l-fatt li hu ammetta l-akkuzi kollha fi stat bikri ma nghatax il-piz li kien jisthoqqlu meta giet imflitta fuqu din il-piena w dan ghalkemm dan il-fatt gie imsemmi fis-sentenza appellata. Li l-fatt li ghadd kbir ta' persuni ohra li hadu sehem fl-istess protesta w azzjoni ta' strajk flimkien mal-appellant, baqghu ma tressqux il-Qorti w ma ttiehdu kontrihom ebda proceduri, meta dawn l-istess persuni kienu ben notati mill-Pulizija minn ghadd ta' ritratti w filmati li ttiehdu, ma taghmilx gustizzja mal-appellant. Li l-Awtorita' Dwar it-Trasport (ADT) applikat b' mod xejn gust ir-regolament numru 131 tal-Ligi Sussidjarja 65.11 li tirregola l-vetturi bil-mutur, stante li l-appellant diga' gie kundannat u punit mill-Qorti tal-Magistrati (Malta) bhala Qorti ta' Gudikatura Kriminali w ma kellux ghalfejn ikollu l-licenzji tas-sewwieq ta' taxi rtirata ukoll, bir-rizultat li ser jitlef ukoll l-uniku mezz tal-ghixien tieghu w tal-familja tieghu. Dan il-fatt jikkostitwixxi lezjoni serja tad-dritt fundamentali tieghu stante li qed jigi punit doppjament ghall-istess attivita' tieghu.

Rat illi l-aggravji tal-appellant Borg, fil-qosor, huma s-segwenti w cioe' li l-piena kienet eccessiva tenendo kont li tista' twassal ukoll li l-appellant jitlef il-permess li jiggestixxi x-xoghol ta' xufier. L-Ewwel Qorti ma kkonsidratx bizzejjed l-eta' pjuttost zaghzugha tal-appellant u li hu ghandu fedina penali netta, l-fatt li hu ammetta fil-bidu tal-procdeduri w ic-cirkostanzi specjali li

fihom gew kommessi r-reati, cirkostanzi li huma attenwanti w l-fatt li hu ghamel xi zmien taht arrest.

Semghet it-trattazzjoni.

Rat in-Nota ta' l-appellant Borg tal-4 ta' Dicembru, 2008 u l-kopji legali tas-sentenzi annessi maghha.

Ikkonsidrat;

Illi dan l-appell issa huwa limitat biss ghall-piena ta' ghoxrin (20) xahar prigunerija sospizi ghal tlitt snin li giet erogata fil-konfront tal-appellant Pace u dik ta' tmintax (18) il-xahar prigunerija sospizi ghal tlitt snin li giet erogata fil-konfront tal-appellant Borg ghall-htijiet minnhom ammessi. Illi din il-Qorti kellha hafna okkazzjonijiet fejn ippronunzjat ruha li l-principju regolatur hu li mhux normali li tigi disturbata d-diskrezzjoni ta' l-Ewwel Qorti jekk il-piena nflitta tkun tidhol fil-parametri tal-ligi w ma jkun hemm xejn x' jindika li kellha tkun inqas minn dak li tkun fil-fatt. (Ara. "**Ir-Repubblika ta' Malta vs. David Vella**" [14.6.1999], **"Ir-Repubblika ta' Malta vs. Eleno sive Lino Bezzina"** [24.4.2003] u ohrajn). F'dan il-kaz il-piena decizament hija entro l-parametri tal-ligi ghax il-massimu taghha kien addirittura wiehed ta' tlitt snin u seba xhur u gimghatejn prigunerija effettivi, bl-applikazzjoni tal-konkors tar-reati w l-pieni skond l-art. 17(b) tal-Kap.9. Inoltre l-piena karcerarja li nghatat kienet wahda sospiza w mhux effettiva minnufieh. Ghalhekk zgur li ma hix wahda eccessiva jew barra l-parametri tal-ligi.

Illi ghar-rigward tal-aggravju komuni ghaz-zewg appellanti impernjat fuq il-paragun mal-piena li gew kundannati ghaliha, persuni ohra li ppartecipaw fl-attivitajiet konnessi mal-istrajk tal-buses u t-taxis , din il-Qorti kellha okkazzjoni li tippronunzja ruha fis-sentenza taghha fl-Appell Kriminali : **"Il-Pulizija vs. Aaron Cassar"** [28.10.2004]. F' dik is-sentenza din il-Qorti kienet ghamlet riferenza ghall-insenjament tal-Qorti tal-Appell Kriminali (kolleggjali) fis-sentenzi taghha fil-kawzi "**Ir-Repubblika ta' Malta vs. Omissis u Brian Godfrey Bartolo"** [14.11.2002] u **"The Republic of Malta vs. Omissis**

and Perry Ingomar Toornstra" [12.6.2003], fejn fiz-zewg kazijiet gew citati b'approvazzjoni brani mill-**BLACKSTONE'S CRIMINAL PRACTICE** u minn **ARCHBOLD , "Criminal Pleading , Evidence and Practice"** , li jezaminaw x' jghidu l-Qrati Inglizi f' sitwazzjonijiet simili, biex wiehed jislet certi linji ta' gwida.

Hekk fil-**BLACKSTONE'S** 2001, (para. D22.47 p.1650) jinghid :-

"A marked difference in the sentences given to joint offenders is sometimes used as a ground of appeal by the offender receiving the heavier sentence. The approach of the Court of Appeal to such appeals has not been entirely consistent. The dominant line of authority is represented by ***Stroud*** *(1977) 65 Cr App R 150. In his judgement in that case, Scarman LJ stated that disparity can never in itself be a sufficient ground of appeal – the question for the Court of Appeal is simply whether the sentence received by the appellant was wrong in principle or manifestly excessive. If it was not, the appeal should be dismissed, even though a co-offender was, in the Court of Appeal's view treated with undue leniency. To reduce the heavier sentence would simply result in two rather than one, over-lenient penalties. As his Lordship put it, 'The Appellant's proposition is that where you have one wrong sentence and one right sentence, this Court should produce two wrong sentences. That is a submission which this Court cannot accept.' Other similar decisions include* **Brown** [1975] Crim LR 177, **Hair** [1978] Crim LR 698 and **Weekes** [1980] 74 Crim App R 161….. However, despite the above line of authority, cases continue to occur in which the Court of Appeal seems to regard disparity as at least a factor in whether or not to allow an appeal (see, for example, **Wood** (1983) 5 Cr App R (S) 381). The true position may be that, if the appealed sentence was clearly in the right band, disparity with a co-offender's sentence will be disregarded and any appeal dismissed, but where a sentence was, on any view, somewhat severe, the fact that a co-offender was more leniently dealt with may tip the scales and result in a reduction.

*Most cases of disparity arise out of co-offenders being sentenced by different judges on different occasions. Where however, co-offenders are dealt with together by the same judge, the court may be more willing to allow an appeal on the basis of disparity. The question then is whether the offender sentenced more heavily has been left with 'an understandable and burning sense of grievance' (***Dickenson** *[1977] Crim LR 303). If he has, the Court of Appeal will at least consider reducing his sentence. Even so, the prime question remains one of whether the appealed sentence was in itself too severe. Thus in* ***NOOY*** *(1982) 4 Cr App R (S) 308, appeals against terms of 18 months and nine months imposed on N and S at the same time as their almost equally culpable co-offenders received three months were dismissed. Lawton LJ said :*
"There is authority for saying that if a disparity of sentence is such that appellants have a grievance, that is a factor to be taken into account. Undoubtedly, it is a factor to be taken into account, but the important factor for the court to consider is whether the sentences which were in fact passed were the right sentences."

ARCHBOLD (2001 para. 5-174,p.571 jikkumenta hekk :-
"Where an offender has received a sentence which is not open to criticism when considered in isolation, but which is significantly more severe than has been imposed on his accomplice, and there is no reason for the differentiation, the Court of Appeal may reduce the sentence, but only if the disparity is serious. The current formulation of the test has been stated in the form of the question: "would right-thinking members of the public, with full knowledge of the relevant facts and circumstances, learning of this sentence consider that something had gone wrong with the administration of justice ?" (per Lawton LJ in ***R. v Fawcett*** *, 5 Cr. App. R. (S) 158 C.A.). The Court will not make comparisons with sentences passed in the Crown Courts in cases unconnected with that of the appellant (see* ***R. v. Large****, 3 Cr. App. R. (S) 80 , C.A.) There is some authority for the view that disparity will be entertained as a ground of appeal only in relation to sentences passed on different offenders <u>on the same</u>*

*<u>occasion</u> : see **R. v. Stroud** , 65 Cr. App. R. 150 C.A. It appears to have been ignored in more recent decisions, such as in **R. v. Wood … Fawcett**, ante and **Broadbridge** , ante. The present position seems to be that the court will entertain submissions based on disparity of sentences between offenders involved in the same case, <u>irrespective of whether they were sentenced on the same occasion or by the same judge, so long as the test stated in **Fawcett** is satisfied.”</u>*

Ikkonsidrat;

Issa fil-kaz in ezami proprjament l-ilment ma jirrigwardax disparita’ fil-piena bejn iz-zewg ko- akkuzati fl-istess process, ghalkemm inghatat piena ta’ prigunerija differenti - ghalkemm sospiza - liz-zewg appellanti, izda disparita' bejn il-piena karcerarja sospiza erogata fil-konfront taghhom it-tnejn meta mqabbla mall-provvedimenti li gew applikati minn Qrati differenti ma dawk li hadu parti fil-protesti konnessi mal-istrajk tal-buses, taxis u trasport pubbliku iehor.

Certament li din il-Qorti ma tistax tqis is-sottomissjoni tal-appellanti li kien hemm ohrajn li ppartecipaw fil-protesti li saru li s' issa ma gewx processati. Dan jista' jkun dovut ghall-diversi fatturi, e.g. li ma gewx identifikati mill-Pulizija, li l-agir taghhom ma kienx jammonta ghar-reati ammessi mill-appellanti, etc. Dawn huma kollha fatturi injoti w estraneji ghal dan il-process u zgur li din il-Qorti ma tistax tohodhom in konsiderazzjoni. Kieku kellha taghmel dan, tkun qed taghti lok ghall-argument assurd li ghax mhux l-omicidji kollha jigu solvuti w processati, hadd m'ghandu jigi processat ta' omicidju.

Ghar-rigward ta' paraguni ma sentenzi ohra li nghataw lil min kien ha sehem fl-istess protesti - ghalkemm f' kuntesti ghal kollox differenti - l-appellant Borg fin-Nota tieghu ghamel riferenza ghall-sentenza ohra li jidher li s'issa ghaddiet in gudikat.

Issa mis-sentenzi li kopji taghhom gew esebiti mill-appellant Borg jirrizulta li fil-**kawza "Il-Pulizija vs. Johan**

Cauchi u Martin Cauchi" [25.7.2008], dawn kienu gew akkuzati biss b' attakk u rezistenza kontra l-Assistant Kummissarju u membri ohra tal-Korp tal-Pulizija u bir-reati kontravvenzjonali li ma obdewx l-ordnijiet legittimi tal-Pulizija w, fil-kaz ta' Johan Cauchi biss li hebb ghal xufier iehor biex idejjqu. Huma ma gewx akkuzati b' rewwixta taht l-artikolu 79 li jgib piena sa tnax l-xahar prigunerija w lanqas bir-reat t' attruppament skond l-artikolu 68 tal-Kodici Kriminali li jgib piena sa tlitt xhur prigunerija. Lanqas ma gew akkuzati bir-reat ta' min ma jobdix l-ordni biex kullhadd jixxerred taht l-artikolu 80, reat li jgib piena sa tlitt snin prigunerija. Bhall-appellanti pero' kienu gew akkuzati tar-reat kontravvenzjonali taht l-art. 338 (ee). Dawn l-akkuzi kontra Cauchi kienu inoltre jirreferu ghall-incident li gara <u>f' post u hin ghal kollox differenti</u> minn dak li gew akkuzati dwaru z-zewg appellanti odjerni. Ghalhekk din is-sentenza zgur li ma tistax isservi ta' paragun ghall-fini ta' dan l-aggravju.

Inqas u inqas jistghu isiru paraguni ma l-kawzi l-ohra indikati fl-imsemmija nota fejn il-kaz ghadu pendenti.

Jekk umbaghad dan l-aggravju jista' jigi mgebbed biex ikun jikkomprendi anki d-differenza zghira li hemm bejn is-sentenza ta' 20 xahar prigunerija sospiza moghtija lill-appellant Pace u dik ta' 18 l-xahar prigunerija sospiza moghtija lill-appellant Borg, din id-differenza hija ghal kollox gustifikata meta wiehed jipparaguna l-fedina penali taz-zewg appellanti odjerni.

Di fatti fil-waqt li l-appellant Borg kien incensurat, fil-kaz tal-appellant Pace, dan mill-1978 'l hawn kien instab hati mill-Qrati ta' diversi reati mhux inqas minn tmintax il-darba. Ghalkemm il-maggor parti ta' dawn ir-reati huma ta' natura kontravenzjonali u/jew konnessi max-xoghol tieghu ta' taxi-driver, pero' kien instab hati ukoll ta' serq aggravat bil-valur u l-persuna, ta' ksur tal-buon ordni bi glied u theddid u insulti fil-konfront ta' membru tal-Korp tal-Pulizija, persuna inkarikata minn servizz pubbliku, ta’ pussess ta' apparat *tal-wireless telegraphy* bla licenzja, darbtejn hati li ha parti f' loghob tal-azzard, hati li kkaguna feriti hfief fuq persuna, w hati ta' ksur tal-mistrieh tan-nies

bil-lejl bi glied. Dejjem gie kundannat ghall-piena pekunjarja jew ghall-ammonizzjoni w reprensjoni ghal dawn ir-reati pero'.

Ghalhekk, taht kull aspett, dan l-aggravju hu manifestament infondat u qed jigi respint.

Illi fil-fehma ta' din il-Qorti kull azzjoni li hadet jew tista' tiehu l-Awtorita Dwar it-Trasport fil-konfront tal-appellanti bhala rizultat tas-sejbien tal-htija minnhom ammessa w s-sentenza li nghatat fil-konfront tal-appellanti hija irrilevanti ghall-konsiderazzjoni ta' dan l-appell. Din il-Qorti ma tarax li ghandha b' xi mod tidhol fil-kompetenza ta' entita' ohra mwaqqfa b' ligi li ghandha s-setghha bil-ligi li tamministra w tirregola, skond regolamenti appoziti, xi settur tal-attivita' ekonomika jew socjali tal-pajjiz. Hu risaput li hemm certi okkupazzjonijiet u professjonijiet li biex wiehed ikun jista' jippratikhom irid ikollu kondotta tajba w li jekk dan ma jkunx il-kaz, jista' ma jithalliex jippratikhom jew, jekk ikun qed diga' jippratikhom, jista' fl-interess tas-socjeta' ma jithalliex ikompli jippratikhom billi jew titnehhilu l-warrant bhal fil-kaz ta' professjonisti bhal avukati, tobba, spizjara, eccetera, jew okkupazzjonijiet ohra bhal dawk tal-appellanti. B' daqshekk dak li jkun ma jkunx qed jigi punit darbtejn. Ghalhekk kull lanjanza bazata fuq xi ksur ta' xi dritt fondamentali li ghamel accenn ghaliha l-appellant Pace fir-rikors tal-appell tieghu qed tigi respinta bhala frivola w vessatorja.

Ghalhekk li wiehed irid jara hawn hu jekk l-appell odjern huwx fondat ghax is-sentenza appellata ma kienetx gusta fiha nnifisha w, jekk kienet, pero’ nkisritx ir-relativita’ bejn il-htija tal-appellanti odjerni w dik ta' persuni ohra misjuba hatja tal-istess reati fi proceduri ohra kif ukoll tqiesux bizzejjed il-fatturi ohra bhall-kondotta, eta’, eccetera bejn l-appellanti u dawn il-fatturi l-ohra.

Fil-fehma ta’ din il-Qorti, s-sentenza appellata nghatat fl-istraxxiku ta' serje ta' azzjonijiet ta' protesta li saru minn sewwieqa w proprjetarji tal-mezzi tat-trasport pubbliku. Dawn l-azzjonijiet, uhud minnhom vjolenti, holqu ghal numru ta' granet kaos shih fil-pajjiz. Gabu *"disruption"*

kompleta f' certi servizzi w ma kienux limitati ghall-astensjoni legittima mix-xoghol - li hu dritt sagrosant ta' kull persuna, imma ddegeneraw f' incidenti sporadici ma Malta kollha bil-hsieb li jfixklu ukoll lil minn ghazel - kif kellu kull dritt - li jaghti servizz. Intlaqtu servizzi essenzjali ghall-industrija ewlenija tat-turizmu li minghajra l-pajjiz ma jistax jghix, b' mod li dan ghamel reklam mill-aktar hazin ghall-Malta li tipprojjetta ruha bhala post ta' vaganza *"safe"* u bla inkwiet zejjed. L-affarijiet eskalaw sa certu livell li nholoq allarm socjali qawwi f' kull settur tas-socjeta' w gie generat certu biza' ta' kollass totali ta' *"law and order*". L-incident li fih hadu parti l-appellanti kien jikkonsisti f' dimostrazzjoni quddiem l-oghola sede tal-Gvern fejn uhud mill-partecipanti ukoll ghamlu tenattiv biex jinvadu l-istess Berga ta' Kastilja, tentattiv li kellu jigi rezistit mill-ftit Pulizija prezenti. Incidenti bhal dawn huma gravi w min jiehu parti fihom ma jistax jistenna li l-ligi tkun eccessivament hanina mieghu.

L-Ewwel Qorti, meta applikat il-provvediment tas-sentenza sospiza, kienet diga' qed testendi l-id tal-avvertiment minnflok l-id tal-kastig preskritt mill-ligi fil-konfront tal-appellanti w meta ghamlet dan qalet li qed tqis l-ammissjoni bikrija, l-kondotta tal-appellanti w c-cirkostanzi l-ohra kollha attenwanti. Kieku ma ghamlitx dan, zgur li fic-cirkostanzi ma kienetx tkun gustifikata li teroga sentenza ta' prigunerija sospiza, tenut kont tal-gravita' tal-kaz. Din il-Qorti ma tarax li hemm cirkostanzi ohra attenwanti li jistghu iwasslu biex dak il-provvediment, li hu gja wiehed miti fic-cirkostanzi, jimbidel.

Ghal dawn il-motivi tichad l-appelli taz-zewg appellanti Pace u Borg u tikkonferma s-sentenza appellata fl-intier taghha.

< Sentenza Finali >

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