MALTA

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

MAGISTRAT DR.
SAVIOUR DEMICOLI

Seduta tat-28 ta' April, 2010

Numru 698/2009

Il-Pulizija
(Spettur Joseph Hersey)

Vs.

-OMISSIS-
YOUSEF BARRE ADAM
-OMISSIS-
ABDUL RAHMAN MOHAMED AHMED
-OMISSIS-
-OMISSIS-
MOAMMAN MOHAMMED
MUHAMOUD AHMED YOUSEF
AHMED ALI DALMAR
ABDINUR SHUCAJB MOHAMMED
XERIF MAHMUD ADU
ABDI AHMED OSMAN
AHMED MOHAMMAD ABDALLAH
ABDI ABDULLAH MALI
MOHAMMED UZMAN OMAR

HASAN OMAR RAGI
JALLALI HUSSEIN
-OMISSIS-
-OMISSIS-

Il-Qorti,

Rat l-imputazzjonijiet li permezz taghhom:

–Omissis-;
Yousef Barre Adam ta’ 21 sena, iban Barre Adam u Habiba Hasan Qilmi, imwieled go Mogadishu, Somalia fl-1989, residenti Ta’ Kandja Numru moghti mill-Pulizija 09D-046;

-Omissis-;

Abdul Rahman Mohamed Ahmed ta’ 22 sena, bin Mohamed Ahmed u Hawa Magi, imwieled go Mogadishu, Somalia fl-1987, residenti Ta’ Kandja Numru moghti mill-Pulizija 09D-107;

-Omissis-;

-Omissis-;

Moamman Mohammed ta’ 28 sena, iben Mohammed Mahmoud u Faduma, imwieled go Mogadishu, Somalia fl-1981, residenti Ta’ Kandja Numru moghti mill-Pulizija 09C-066;

Muhamoud Ahmed Yousef ta’ 25 sena, iben Ahmed u Aisha, imwieled go Mogadishu, Somalia, fl-1990, residenti Ta’ Kandja Numru moghti mill-Pulizija 09C-067;

Ahmed Ali Dalmar ta’ 23 sena, iben Dalmar u Fatuma, imwieled go Mogadishu, Somalia, fl-1986, residenti Ta’ Kandja Numru moghti mill-Pulizija 09D-212;

Abdinur Shucajb Mohammed ta’ 22 sena, iben Shucayb Nur u Sam Sam, imwieled go Mogadishu, Somalia fl-1987, residenti Ta’ Kandja Numru moghti mill-Pulizija 09D-055;

Xerif Mahmud Adu ta’ 27 sena, iben Mahmud Adu u Hakim Mohasa, imwieled g’ Mogadishu, Somalia fl-1982, residenti Ta’ Kandja Numru moghti mill-Pulizija 09C-055;

Abdi Ahmed Osman ta’ 21 sena, iben Ahmed Osman u Fatima Osman, imwieled go Mogadishu, Somalia fl-1988, residenti Ta’ Kandja Numru moghti mill-Pulizija 09D-116;

Ahmed Mohammad Abdallah ta’ 18 –il sena, iben Mahmoud u Amina, imwieled go Mogadishu Somalia fl-1991, residenti Ta’ Kandja Numru moghti mill-Pulizija 09D-092;

Abdi Abdullah Mali ta’ 32 sena, iben Mali u Ibedu, imwieled go Mogadishu Somalia fl-1975, residenti Ta’ Kandja Numru moghti mill-Pulizija 09D-192;

Mohammed Uzman Omar bin Uzman u Khador, imwieled Mogadishu fl-1979;

Hasan Omar Ragi ta’ 26 sena, iben Omar Ragi u Katuma, imwieled go Mogadishu, Somalia fl-1983, residenti Ta’ Kandja Numru moghti mill-Pulizija 09D-221;

Jallali Hussein ta’ 22 sena, iben Hussein u Ullawo Sharif, imwieled go Mogadishu, Somalia fl-1987, residenti Ta’ Kandja Numru moghti mill-Pulizija 09D-157;

-Omissis-;

-Omissis-;

Billi huma akkuzati talli fit-8 ta’ Lulju 2009 fil-kumpless ta’ detenzjoni gewwa Ta’ Kandja, hadu parti attiva f’gemgha ta’ ghaxar minn nies jew aktar, migburin bil-hsieb li tghamlu reat ghalkemm din il-gemgha ta’ nies ma kienetx

giet imxewxa minn xi hadd partikolari u aktar talli dak illi din il-gemgha ta' nies kellha il-hsieb li tghamel fil-fatt sar.

Kif ukoll talli fl-istess hin, lok u cirkostanzi volontarjament hassru, ghamlu hsara u gharrqa hwejjeg haddiehor mobbli u imobbli fuq propjeta liema hsara tammonta ghall-aktar minn 1 164.50 Euro ghad-dannu tal-Gvern ta' Malta.

Kif ukoll talli fl-istess hin, lok u cirkostanzi, kissru l-paci pubblika u l-bon ordni.

Kif ukoll talli fl-istess hin, lok u cirkustanzi, ma obdewx l-ordnijiet legittimi ta' persuni inkarigati minn servizz pubbliku jew ma hallewx jew fixklu persuni inkarigati waqt li kienu qed jghamlu id-dmirijiet taghhom jew b'xi mod iehor bla jedd indahlu fi dmirijiethom illi ma hallewx lil haddiehor jaghmel dak id-dmir skond il-ligi.

Kif ukoll talli fl-istess data, lok u cirkostanzi ingurjaw jew heddew, jew ghamlu offiza hafifa skond certifikat ta' Dr. Susanne Pirotta ta' l-isptar Mater Dei u Dr. Maria Borg tac-centru Hal Qormi, fuq il-persuna ta' PC830 Christopher Debono, li hu persuna inkarigata skond il-ligi minn servizz pubbliku, waqt li kien qed jghamel dan is-servizz, bil-hsieb li jbezzghu jew jinfluwixxu fuqu kontra l-ligi fl-ezekuzzjoni ta' dak is-servizz.

Kif ukoll talli fl-istess data, lok u cirkostanzi attakkaw, hebbew jew ghamlu rezistenza bi vjolenza kontra persuni inkarigati skond il-Ligi minn servizz pubbliku, fil-waqt li kienu qed jagixxu ghall-ezekuzzjoni tal-lihi jew ordni moghtoija skond il-ligi minn awtorita' kompetenti.

Semghet provi.

Rat l-atti u d-dokumenti esebiti.

Rat it-talba tal-Ufficjal Prosekutur maghmula fis-Seduta tallum ghas-separazzjoni tal-gudizzju fil-konfront ta' l-imputati Yousef Barre Adam, Adbul Rahman Mohamed Ahmed, Moamman Mohammed, Muhamoud Ahmed Yousef, Ahmed Ali Dalmar, Abdinur Shucajb Mohammed,

Xerif Mahmud Adu, Abdi Ahmed Osman, Ahmed Mohammad Abdallah, Abdi Abdullah Mali, Mohammed Uzman Omar, Hasan Omar Ragi u Jallali Hussein, liema talba giet milqugha minn din il-Qorti fl-istess Seduta.

Rat l-artikoli mibghuta mill-Avukat Generali fin-Nota tieghu datata 24 ta' Dicembru, 2009 u nnutat li l-imputati Yousef Barre Adam, Adbul Rahman Mohamed Ahmed, Moamman Mohammed, Muhamoud Ahmed Yousef, Ahmed Ali Dalmar, Abdinur Shucajb Mohammed, Xerif Mahmud Adu, Abdi Ahmed Osman, Ahmed Mohammad Abdallah, Abdi Abdullah Mali, Mohammed Uzman Omar, Hasan Omar Ragi u Jallali Hussein m'ghandhomx oggezzjoni li l-kaz taghhom jigi trattat bi procedura sommarja.

Innutat li fis-Seduta tallum l-imputati Yousef Barre Adam, Adbul Rahman Mohamed Ahmed, Moamman Mohammed, Muhamoud Ahmed Yousef, Ahmed Ali Dalmar, Abdinur Shucajb Mohammed, Xerif Mahmud Adu, Abdi Ahmed Osman, Ahmed Mohammad Abdallah, Abdi Abdullah Mali, Mohammed Uzman Omar, Hasan Omar Ragi u Jallali Hussein tramite l-interpreti mahtura mill-Qorti iddikjaraw li huma hatja tal-akkuzi kollha migjuba kontra taghhom.

Il-Qorti wissiet lill-imputati Yousef Barre Adam, Adbul Rahman Mohamed Ahmed, Moamman Mohammed, Muhamoud Ahmed Yousef, Ahmed Ali Dalmar, Abdinur Shucajb Mohammed, Xerif Mahmud Adu, Abdi Ahmed Osman, Ahmed Mohammad Abdallah, Abdi Abdullah Mali, Mohammed Uzman Omar, Hasan Omar Ragi u Jallali Hussein tramite l-interpreti mahtura mill-Qorti bl-aktar mod solenni rigward il-konsegwenzi tal-ammissjoni taghhom u taghthom ftit taz-zmien sabiex jiddeciedu jekk jikkonfermawz l-ammissjoni taghhom jew le, u wara li gew mistoqsija tramite l-interpreti mahtura mill-Qorti jekk jikkonfermawx l-ammissjoni taghhom jew le, l-imputati Yousef Barre Adam, Adbul Rahman Mohamed Ahmed, Moamman Mohammed, Muhamoud Ahmed Yousef, Ahmed Ali Dalmar, Abdinur Shucajb Mohammed, Xerif Mahmud Adu, Abdi Ahmed Osman, Ahmed Mohammad

Abdallah, Abdi Abdullah Mali, Mohammed Uzman Omar, Hasan Omar Ragi u Jallali Hussein tramite l-interpreti mahtura mill-Qorti wiegbu li huma hatja tal-akkuzi kollha migjuba kontra taghhom.

Innutat li fil-Verbal tas-Seduta tallum l-Ufficjal Prosekutur, b'referenza ghat-talba maghmula a tenur tal-artikolu 533 tal-Kap. 9 tal-Ligijiet ta' Malta, liema artiklu gie moghti mill-Avukat Generali fin-Nota tar-Rinviju datata 24 ta' Dicembru, 2009, iddikjara li f'din il-kawza ma gewx inkorsi spejjez a tenur tal-imsemmi artikolu 533 tal-Kap. 9 tal-Ligijiet ta' Malta u konsegwentement talab lill-Qorti tastjeni milli tiehu konjizzjoni ulterjuri tal-imsemmija talba maghmula a tenur tal-artikolu 533 tal-Kap. 9 tal-Ligijiet ta' Malta.

Semghet trattazzjoni dwar il-piena.

Rat fil-konfront tal-imputati Yousef Barre Adam, Adbul Rahman Mohamed Ahmed, Moamman Mohammed, Muhamoud Ahmed Yousef, Ahmed Ali Dalmar, Abdinur Shucajb Mohammed, Xerif Mahmud Adu, Abdi Ahmed Osman, Ahmed Mohammad Abdallah, Abdi Abdullah Mali, Mohammed Uzman Omar, Hasan Omar Ragi u Jallali Hussein l-artikoli 17, 31, 42, 68(2), 68(3), 95, 96, 109, 214, 215, 216, 222, 338(dd), 338(ee) u 325 tal-Kapitolu 9 tal-Ligijiet ta' Malta.

Issib lill-imputati Yousef Barre Adam, Adbul Rahman Mohamed Ahmed, Moamman Mohammed, Muhamoud Ahmed Yousef, Ahmed Ali Dalmar, Abdinur Shucajb Mohammed, Xerif Mahmud Adu, Abdi Ahmed Osman, Ahmed Mohammad Abdallah, Abdi Abdullah Mali, Mohammed Uzman Omar, Hasan Omar Ragi u Jallali Hussein fuq ammissjoni, hatja tal-akkuzi kollha migjuba kontra taghhom u tenut kont ic-cirkostanzi kollha tal-kaz inkluzi l-fedina penali netta tal-imsemmija imputati u wara li rat l-artikoli 28A u 28B tal-Kap. 9 tal-Ligijiet ta' Malta tikkundanna lill-imputati Yousef Barre Adam, Adbul Rahman Mohamed Ahmed, Moamman Mohammed, Muhamoud Ahmed Yousef, Ahmed Ali Dalmar, Abdinur Shucajb Mohammed, Xerif Mahmud Adu, Abdi Ahmed

Osman, Ahmed Mohammad Abdallah, Abdi Abdullah Mali, Mohammed Uzman Omar, Hasan Omar Ragi u Jallali Hussein ghall-piena komplessiva ta' sentejn (2) prigunerija kull wiehed u tordna li din is-Sentenza nkwantu ghall-piena ta' prigunerija m'ghandhiex tibda ssehh hlief jekk matul il-perjodu ta' erba' (4) snin millum l-imputati Yousef Barre Adam, Adbul Rahman Mohamed Ahmed, Moamman Mohammed, Muhamoud Ahmed Yousef, Ahmed Ali Dalmar, Abdinur Shucajb Mohammed, Xerif Mahmud Adu, Abdi Ahmed Osman, Ahmed Mohammad Abdallah, Abdi Abdullah Mali, Mohammed Uzman Omar, Hasan Omar Ragi u Jallali Hussein jikkommettu reat iehor punibbli bi prigunerija.

Inkwantu ghat-talba maghmula a tenur tal-artikolu 533 tal-Kap. 9 tal-Ligijiet ta' Malta, liema artikolu gie moghti mill-Avukat Generali fin-Nota tar-Rinviju datata 24 ta' Dicembru, 2009, fid-dawl ta' dak dikjarat u mitlub mill-Ufficjal Prosekutur fil-Verbal tas-Seduta tallum kif riportat aktar qabel f'din is-Sentenza, l-Qorti tastjeni milli tiehu konjizzjoni ulterjuri ta' din l-imsemmija talba maghmula a tenur tal-artikolu 533 tal-Kap. 9 tal-Ligijiet ta' Malta.

Finalment il-Qorti qed taghti lill-imputati Yousef Barre Adam, Adbul Rahman Mohamed Ahmed, Moamman Mohammed, Muhamoud Ahmed Yousef, Ahmed Ali Dalmar, Abdinur Shucajb Mohammed, Xerif Mahmud Adu, Abdi Ahmed Osman, Ahmed Mohammad Abdallah, Abdi Abdullah Mali, Mohammed Uzman Omar, Hasan Omar Ragi u Jallali Hussein tramite l-interpreti mahtura mill-Qorti l-ispjegazzjoni preskritta fl-artikolu 28A(4) tal-Kap. 9 tal-Ligijiet ta' Malta.

< Sentenza In Parte >

--------------------------------TMIEM--------------------------------