MALTA

QORTI TAL-MAGISTRATI (MALTA)
MAGISTRAT DR.
FRANCESCO DEPASQUALE

Seduta tas-17 ta' Marzu, 2014

Avviz Numru. 265/2007

Anthony **sive Ninu Zammit**

(ID 119352M)

vs

Dr Alfred Sant

(ID 267948M)

Il-Qorti

Rat ir-rikors ippresentat fl 24 ta' Awissu 2007 mir-rikorrent fejn, filwaqt illi ghamel referenza ghal diskors pubbliku illi sar mill-intimat u li gie imxandar fuq Super One Radio il-Hadd 19 ta' Awissu 2007, fejn l-intimat tkellem dwar il-kumpens illi thallas lir-rikorrent in konnessjoni mal-espropriazzjoni ta' bictejn art quddiem id-dar tieghu, huwa stqarr illi dana kien libelluz u malafamanti fil-konfront tar-rikorrent u ghalhekk talab lill-Qorti tikkundanna lill-intimat ghal tali kliem li offendew l-unur u l-fama tar-rikorrent u esponuh ghar-redikolu jew ghad-disprezz tal-pubbliku.

Rat ir-risposta ta' l-intimat ippresentat fit-28 ta' Settembru 2007 fejn stqarr illi d-diskors kien jikkonsisti f'espressjoni ta' l-opinjoni u apprezament, jew "value judgment" tal eccipjent, li huwa "fair comment" fuq materja ta' interess pubbliku, ammissibbli kemm taht il-Ligi ta' l-Istampa, kemm taht il-Kosituzzjoni ta' Malta u l-Konvenzjoni Ewropeja dwar id-Drittijiet u l-Libertajiet Findamentali tal-Bniedem.

Huwa sahaq ukoll illi tali diskors ma kienx libelluz fil-konfront tar-rikorrent peress illi hija kritika politika maghmulha fil-vesti tieghu ta' deputat tal-poplu, fuq materja ta' interess pubbliku, dwar l-amministrazzjoni pubblika.

Rat ix-xhieda tar-rikorrent **Ninu Zammit** moghtija fil 5 ta' Novembru 2007, fis 7 ta' Mejju 2008 u fl 14 ta' Ottubru 2008 flimkien ma' dokumentazzjoni minnu esebita.
Rat illi bejn is 6 ta' Ottubru 2009 u it-30 ta' Novembru 2010, il-kawza giet differita hames darbiet ghal probabbli transazzjonijet.

Rat illi fit 30 ta’ Novembru 2010 il-kawza giet differita ghal finali trattazzjoni, wara liema data, fuq talba ta’ l-intimat li gharraf lill-Qorti li xtaq iressaq il-provi, il kawza giet differita ghal 15 ta’ Marzu 2011 ghall-provi intimati.

Rat ix-xhieda u kontro ezami ta’ l-intimat **Dr Alfred Sant** moghtija fl 15 ta’ Marzu 2011.

Semghet il-kontro ezami tar-rikorrent **Ninu Zammit** moghtija fl 20 ta’ Frar 2012.

Semghet ix-xhieda ta’ **Ivor Robinich**, rappresentant tal-MEPA, moghtija fit 23 ta’ April 2012.

Rat in-nota tal-Kummissarju ta’ l-Artijiet ippresentata fit 8 ta’ Mejju 2012 li kienet tikkontejni serje ta’ dokumenti li taw lok ghal process ta’ espropriazzjoni li dwarha tkellem l-intimat fid-diskors meritu tal-kawza odjerna.

Rat ix-xhieda ta’ **Martin Saliba** moghtija f’kawza bejn l-istess partijiet (Rikors 251/07) u dwar meritu simili ghal dak li jirrigwarda l-espropriazzjoni ta’ l-art, ippresnetata quddiem dina l-Qorti miz-zewgt partijiet.

Rat ix-xhieda ta’ **Margaret Falzon** moghtija f’kawza bejn l-istess partijiet (Rikors 251/07) u dwar meritu simili ghal dak li jirrigwarda l-espropriazzjoni ta’ l-art, ippresnetata quddiem dina l-Qorti mill-intimat.

Rat ix-xhieda u kontro ezami ta’ l-intimat **Dr. Alfred Sant** moghtija f’kawza bejn l-istess partijiet (Rikors 251/07) u dwar meritu simili ghal dak li jirrigwarda l-espropriazzjoni ta’ l-art, ippresnetata quddiem dina l-Qorti mill-intimat.

Semghet ix-xhieda ta’ **Dr Alfred Sant** moghtija fit 2 ta’ Dicembru 2013.

Rat illi fit 2 ta’ Dicembru 2013 il-partjijiet iddikjaraw illi ma kellhomx aktar provi x’jippresentaw u l-kawza giet differita ghal finali trattazzjoni.

Semghet it-trattazzjoni ta’ l-abbli difensuri tal-partijiet moghtija fl 14 ta’ Frar 2014, wara liema data il-kawza giet differita ghas-sentenza.

Ikkunsidrat

Mill-provi prodotti, jirrizulta illi ir-rikorrent ilmenta minn kliem li qal l-intimat waqt attivita’ politika illi huwa kien qieghed jaghmel, f’liema attivita l-intimat qal illi lir-rikorrent giet espropriata bicca art hdejn id-dar tieghu w ir-rikorrent, ghax kien ministru, kien applika sabiex jiehu l-flus u kien hadhom a differenza ta’ mijiet ta’ nies ohra fejn dawna ghadhom qed jistennew il-flus ghall-partijiet taghhom illi gew espropriati.

Minn estratt illi ppresenta r-rikorrent waqt il-mori tal-kawza, l-intimat jidher li qal is-segwenti:-
“ Huwa Ministru u jirrizulta, bhala Ministru ... ma ghandhix dubju jien .. ghax Ministru grat din il-haga ..... hadulu bicca mit-triq beix jkunu jistghu jaghmlu triq wiesgha kif kellha tkun. F’hafna drabi ... f’kazijiet bhal dawn lanqas biss ikollok titolu illi tircievi flus bhala kumpens

..... Mhux talli hekk ... din l-art ittiehdet fl 1987 ghas 1989 ….. issa kieku taf kemm hemm mijiet ghadhom jistennew ... b'xi mod jew iehor ... irranga Zammit .... haga li grat fil 1987 giet impustat li saret wara s-sena 2002 u allura, Alla jbierek, f'daqqa wahda .... applika biex jkun jista dan jiehu kumpens ta' dik l-art u f'temp ta' sena u nofs ha mas-somma ta' Lm70,000"

Ikkunsisdrat

Mill-provi prodotti quddiem dina l-Qorti, kemm fil-kawzza odjerna, kif ukoll f'kawza ohra illi l-istess partijiet ghandhom bejniethom u li tinstab pendenti ghas-sentenza u li xhieda li inghata f'tali kawza giet inserita f'dina l-kawza ukoll bi ftehim bejn iz-zewgt partijiet, jirrizulta illi qabel is-sena 2003, kull meta kien hemm xi talba ta' espropriazzjoni da parte ta' xi dipartiment governattiv jew entita' pubblika, dana kien jinforma lid-Dipartiment ta' l-Artijiet li kienet imbghad thejji il-pjanti u tivvaluta l-propjeta u sussegwentement, dana id-Dipartiment ta' l-Artijiet kien jikteb lill min ried jespropriha dina l-art u jgharrfu bil-valur tieghu u, f'kaz illi l-espropriazzjoni xorta kienet mehtiega, id-Dipartiment tal-Artijiet kien jiehu hsieb illi tinhareg id-Dikjarazzjoni tal-president ta' Malta illi tesproprija l-art. IL-kwistjoni tal-hlas lill min kienet giet espropriata l-art ma kienetx tigi kkunsidrata dak iz-zmien.

Jirrizulta illi, sussegwentement, wara 2003, filwaqt illi l-process tat-tehid ta' l-art baqa' ezattament l-istess, inbidlet il-prassi adoperata mid-Dipartiment tal-Artijiet fis-sens illi, meta xi entita' tkun trid tesproprija xi bicca art, qabel ma jinbdew il-proceduri mal-President ta' Malta, tali entita' jew dipartiment kellha tiddeposita l-valur ta' l-art illi kienet ser tigi espropriata mad-Dipartiment ta' l-Artijiet. dina l-bidla fil-prassi u l-ligi kienet dovuta ghal fatt illi kien hemm hafna espropriazzjonijiet li kienu saru fis-snin ta' qabel illi ghalihom ma kienx hemm flus, u ghalhekk kien ikun difficili illi jsir il-hlas meta mitlub mis-sid. Bhala rizultat ta' tali policy, kull espropriazzjoni illi saret wara is-sena 2003 kellha il-flus allokati ghaliha minnufih b'mod illi meta wiehed japplika ghal kumpens, jinghata l-kumpens kalkolat mid-Dipartiment fi zmien qasir. Jirrizulta illi din il-prassi li kienet ilha adoperata ghal xi snin, iddahhlet fil-Kap 88 tal-Ligijiet ta' Malta fit-2003.

Jirrizulta wkoll illi, skond l-Artikolu 19 tal-Kap 88, meta propjeta tkun ittiehdet il-pussess taghha mill-Gvern u jkun ghadda periodu ta' ghaxar snin u l-hlas kien ghadu ma sarx, il-persuna lill min ittihdietlu l-art ghandu dritt illi jitlob lill-Bord sabiex jordna li jew l-art tinxtara mill-gvern jew tintradd lura lis-sid.

Ikkunsidrat

Jirrizulta, mill provi u dokumentazzjoni kollha ippresentata, illi, fil-kaz in ezami dwar il-propjeta espropriata lir-rikorrent Ninu Zammit li fil-21 ta' Frar 2006, l-Awtorita' Dwar it-Trasport ta' Malta baghtet ittra lid-Dipartiment tal-Artijiet fejn gharrafitha li riedet tesproprija bicctejn art gewwa z-Zurrieq illi hija kienet hadet fil-pussess taghha fis-sena 1989 - dawna kienu l-artijiet ta' Ninu Zammit. Meta d-Dipartiment ircieva tali talba, adopera l-process li kien hemm vigenti, jigifieri dak legislat fl-2003, u, filwaqt li vvaluta l-artijiet in kwistjoni permezz ta' perit fid 19 ta' Gunju 2006, liema valutazzjoni kienu ta' Lm23,808 u Lm20,272 rispettivament, jigifieri total ta'

Lm44,080, ghadda biex isir id-Dikjarazzjoni tal-President ta' Malta, liema dikjarazzjoni saret fit 30 ta' Jannar 2007. Il-flejjes kif stmati mill-Perit imqabbad mill-Gvern gew depositati u, eventwalment, wara prova da' parte ta' Ninu Zammit illi huwa kien is-sid, sar il-kuntratt finali.

Illi jidher mill-provi kollha prodotti illi l-process adoperat lir-rikorrent kien l-istess bhal dak adoperat lill-girien kollha li, bhalu, kellhom bicca art espropriata sabiex titkabbar it-triq. Apparti minn hekk, jirrizulta illi l-modalita’ tal-procedura adoperata kienet meqjusa bhala wahda normali mill-ufficjali tad-Dipartiment ta’ l-Artijiet, meta dawna xehdu quddiem il-Qorti.

Ikkunsidrat

Id-difiza imressqa mill-intimat fl-azzjoni odjerna hija illi dak li qal hu kien ‘value judgment’ li, minnu inniffsu, kellu jitqies bhala ‘fair comment’ peress illi bbazat fuq fatti sostanzjalment veri u ammissibbli kemm mill-Qrati nostrani kif ukoll dawk ta’ barra.

Ghalkemm tali difiza giet ezaminata fir-reqqa minn dina l-Qorti fil-kaz ‘**Dr Joseph Mifsud vs Robert Arrigo**’ deciza fl 24 ta’ Frar 2014, ikun opportun illi jigu indikat certi principji bazilari li taghhom ghandha tiehu konsiderazzjoni kull Qorti hekk kif tkun qed tikkunsidra tali difiza.

Kif intqal fil-Qorti Ewropea ghad-Drittijiet tal-Bniedem fil-kawza **Chauvy and Others vs France** deciza fid 29 ta’ Gunju 2004,

> *Freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and each individual’s self-fulfilment. Subject to paragraph 2 of Article 10, it is applicable not only to “information” or “ideas” that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no “democratic society”. As set forth in Article 10, this freedom is subject to exceptions, which must, however, be construed strictly, and the need for any restrictions must be established convincingly.*

Mill-banda l-ohra, dwar il-kritika li tista ssir lill politiku u il-livell ta’ kritika accettabbli,, il-Qorti Ewropeja ghad-Drittijiet tal-Bniedem fis-sentenza **Ligens vs Austria** deciza fit 8 ta’ Lulju 1986, u abbracjata mill-Qorti Maltin, stabbiliet principji ferm aktar liberali fil-konfront tal-politici mill individwu kwalsiasi u di fatti qalet:-

> *..... freedom of political debate is at the very core of the concept of a democratic society which prevails throughout the Convention.*
>
> *The limits of acceptable criticism are accordingly wider as regards a politician as such than as regards a private individual. Unlike the latter, the former inevitably and knowingly lays himself open to close scrutiny of his every word and deed by both journalists and the public at large, and he must consequently display a greater degree of tolerance. No doubt Article 10 para. 2 (art. 10-2) enables the*

reputation of others - that is to say, of all individuals - to be protected, and this protection extends to politicians too, even when they are not acting in their private capacity; but in such cases the requirements of such protection have to be weighed in relation to the interests of open discussion of political issues.

Bhalma gia kellha l-opportunita' tghid dina l-Qorti f'kawzi simli ghal dik li qed tigi kkunsidrata llum, wasal il-mument illi tali regola titwessa aktar fis-sens illi meta jkun hemm dibattitu politiku ghaddej bejn politici, tali livell ta' kritika ghadha interpretata f'livell aktar wiesgha minn dak ipprovdut hawn fuq, peress illi d-dibattitu politiku huwa l-pern ta' socjeta demokratika u, ghalhekk ghandha tigi protetta u stimulata minn dina l-Qorti u mhux imxekkla fl-operat taghha.

Fuq in-natura ta' "value judgment", kontrastata mal-kuncett ta' "statement of fact" u jekk din ghandhiex ikollha applikabbli r-regoli tal-"fair comment" jew le, il-Qorti Ewropeja ghad-Drittijiet tal-Bniedem fis-sentenza taghha **Sizma vs Hungary** deciza f'Ottubru 2012, starret is-segwenti:

.... in order to assess the justification of the statements in question, a distinction needs to be made between statements of fact and value judgments, in that, while the existence of facts can be demonstrated, the truth of value judgements is not susceptible of proof. The requirement to prove the truth of a value judgment is generally impossible to fulfil and infringes freedom of opinion itself, which is a fundamental part of the right secured by Article 10 (see, for example, Lingens v. Austria, 8 July 1986, § 46, Series A no. 103; Oberschlick v. Austria (no. 1), cited above, § 63). The classification of a statement as a fact or a value judgment is a matter which, in the first place, falls within the margin of appreciation of the national authorities, in particular the domestic courts (see Pedersen and Baadsgaard v. Denmark [GC], no. 49017/99, § 76, ECHR 2004-XI). However, even where a statement amounts to a value judgment, there must exist a sufficient factual basis to support it, failing which it may be excessive (see Jerusalem v. Austria, no. 26958/95, § 43, ECHR 2001–II)."

Dwar in-natura ta' 'fair comment', kif jinghad f'**Gatley on Libel and Slander,** huwa stabbilit illi biex tali difiza tirnexxi :

..... the defendant must show that the words are comment, and not a statement of fact. He must also show that there is a basis of fact for the comment, contained or referred to in the matter complained of. Finally, he must show that the comment is on a matter of public interest, one which has expressly or implicitly put before the public for judgment or is otherwise a matter with which the public has a legitimate concern. If, however, the plaintiff can show that the comment was not made honestly or was actuated by malice, he will defeat the plea.

Dina l-posizzjoni tidher anke riflessia fil-kawza **Spiller vs Joseph** deciza mill-Qorti tal-Appell Ingliza fl-1 ta' Dicembru 2010, fejn Lord Phillips ghamel is-segwenti konsiderazzjonijiet meta wiehed iqis id-difiza ta' 'fair comment':

A subsidiary but important issue was what it was that a defendant had to prove in order to establish the defence of fair comment. Counsel for the plaintiff submitted

> *that the defendant had to establish that: (i) the words complained of were comment; (ii) the comment was on facts; (iii) the facts commented on constituted a matter of public interest; (iv) the comment was objectively "fair"; that is the comment was one that was capable of being honestly founded on the facts to which it related, albeit by someone who was prejudiced and obstinate; (v) the comment represented the defendant's honest opinion. If he discharged all these burdens, the defence could none the less be defeated by proof of malice on the part of the defendant, but the onus of proving malice lay on the plaintiff. Both the Court of Appeal and the House of Lords held that there was no burden on the defendant to establish the fifth element. The defendant's honesty was assumed unless the plaintiff could disprove it by establishing malice.*

Ikkunsidrat

In vista tal-veduti kif enuncjati minn Qrati li fuqhom dawna il-Qrati regolarment jaghmlu referenza u bazi, il-Qorti thoss illi jkun opportun illi jigu ezaminati l-hames elementi imsemmija minn Lord Philips sabiex jigi stabbilit jekk, fil-kaz odjern, dak illi intqal kienx 'fair comment' jew le.

(i) "*the words complained of were comment*" - ma hemmx dubju illi l-kliem li intuzaw kienu kumment dwar dak li l-intimat, dak iz-zmien Kap ta' L-opposizzjoni, hass illi kellu jilmenta mal-poplu, ossija il-fatt li rrikrorent, bhala Ministru, kien inghata kumpens ghal propjeta li kienet ittihdietlu snin qabel filwaqt illi ohrajn, skond hu, ghandhom qed jistennew sabiex jiehdu l-flus.

(ii) "*the comment was on facts*" - jidher, mill-fatti kif fuq prodotti u ezaminati, illi ghalkemm huwa minnu li l-kumment illi sar kien ibbazat fuq fatti illi kienu sehhew, jidher illi l-fatti li l-intimat semma u li abbazi taghhom wasal ghal konkluzjoni kienu zbaljati. Dana qieghed jinghad peress illi hareg car mill-provi kollha prodotti illi, ghalkemm l-intimat sahaq illi Ninu Zammit inghata kumpens taht procedura li ma kienetx tapplika ghalih u ghax kien Ministru, dana di fatti ma kienx minnu peress illi rrizulta ben ippruvat li l-procedura ta' espropriazzjoni kienet inbdiet fis-sena 2006 u ghalhekk kien japplika ghaliha r-regim il-gdid stabbiliti fil-Ligi kif emendata fis-sena 2003, u bhala cittadin Malti kien intitolat ghalihom.

(iii)"*the facts commented on constituted a matter of public interest*" - ma jidher illi hemm ebda dubju illi l-fatt li jsir hlas ghal art illi giet espropriata minn Gvern ghal uzu pubbliku, minnha innifisha, tikkostitwixxi kwistjoni ta' interess pubbliku. Tali interess, naturalment, jizdied in vista tal fatt illi l-art li giet espropriata u li taghha kien qieghed isir il-hlas kien ta' Ministru li kien fil-Gvern meta sar il-hlas.

(iv) "*the comment was objectively* "*fair*"*; that is the comment was one that was capable of being honestly founded on the facts to which it related, albeit by someone who was prejudiced and obstinate*;" - il-Qorti, kif gia innutat fil-kummenti taghha ghar-rigward it-tieni kriterju, tikkontendi li peress illi l-bazi li fuqhom l-intimat wasal ghal konkluzjoni taghhom ma kienux korretti, allura ma jistaqx jitqies illi tali kummenti kienu gusti peress illi bbazati fuq fatti sostanzjalment veri. Huwa minnu li r-rikorrent inhadietlu bicca art fin 1989 u li saret l-espripriazzjoni taghha fit 2006, izda hija wkoll vera li r-rikorrent kellu dritt jitlob, wara ghaxar snin, illi jiehu lura l-art jew ihallsuh, u huwa vera wkoll illi l-ADT, li kienet hadet l-art, bdiet il-procedura ta' esprorpazzjoni fis-sena 2006, meta il-process tal-hlas kien ferm aktar efficnejti bhalma kien fil-passatt - dawna l-fatti l-intimat naqas li jsemmihom u ghalhekk, meta kien qieghed jaghmel il-veduti tieghu w il-kummenti politici dwar tali veduti, huwa naqas li jassikura li lic-cittadin li jkun qiehged jisimghu u jemmen il-kliem tieghu, jinghata l-istampa kollha ta' l-istorja u mhux dik il-parti ta' l-istorja illi politikament taqbel lill-intimat..

(v) "*the comment represented the defendant*'*s honest opinion*." - bhalma sahqu kemm il-Qorti tal-Appell Ingliza kif ukoll il-House of Lords, ma kienx obbligu tal-intimat illi jipprova li ma kellux malizia fil-kumment tieghu.

Kif stqarr Lord Nichols fil-kawza **Cheng** [2001] EMLR 777

> "*Proof of malice is the means whereby a plaintiff can defeat a defence of fair comment where a defendant is abusing the defence. Abuse consists of using the defence for a purpose other than that for which it exists. The purpose for which the defence of fair comment exists is to facilitate freedom of expression by commenting on matters of public interest. This accords with the constitutional guarantee of freedom of expression. And it is in the public interst that everyone should be free to express his own, honestly held views on such matters, subject always to the safeguards provided by the objective limits mentioned above. These safeguards ensure that defamatory comments can be seen for what they are, namely, comments as distinct from statements of fact. They also ensure that those reading the comments have the material enabling them to make up their own minds on whether they agree or disagree.*"

Issa, fil-kaz odjern, jidher car, kif gia indikat dina l-Qorti, illi lic-cittadin u partitarju illi kien qieghed jisma lill-intimat, dak iz-zmien Kap tal-Partit Laburista kif ukoll Kap ta l-Opposizzjoni, ma inghatalux l-istampa kollha tal-fatti sabiex jasal konkluzjoni onesta u indipendenti, u dana qieghed jinghax ghax hareg car mill-fatti kif proposti, illi ma kienx minnu li r-rikorrent inghata l-kumpens, li kien anqas minn dak attwalment indikat mill-intimat, ghax ra kif irranga u ghax kien Ministru, kif allega l-intimat, izda inghata tali kumpens ghax kellu kull dritt gahlih, bhalma kellhom il-

gara kollha tieghu, li bhalu, hadu kumpens ukoll. Illi ghalhekk, l-intimat ma kienx onest fil-kumment tieghu u ghalhekk, ghandu jkun responsabbli tal-konsegwenzi ta' tali nuqqas ta' onesta.

Del resto, il-Qorti ma tistax ma tinnutax illi, kif stqarr ben tajjeb Lord Phillips fil-kawza fuq kwotata

"*The defence of fair comment should be renamed* “*honest comment*”."

Fil-kaz odjern, jidher car illi tali kumment la kien onest u lanqas kien gust fil-konfront tar-rikorrent u ghalhekk ghandu jigi penalizzat minn dina l-Qorti

Ikkunsidrat

Illi, tenut kont ta' dak fuq stipulat, il-Qorti ghandha tikkunsidra id-danni li ghandha takkorda lir-rikorrent.

L-ewwel u qabel kollox, ghandu jigi osservat illi r-rikorrent kien Membru tal-Parliament, u, aktar u aktar, Ministru, u ghalhekk, il-livell ta' kritika lejh ghandha tkun ferm oghla. Madanakollu, ir-rikorrent huwa anke cittadin Malti, bid-drittijiet tieghu bhalma ghandu kull cittadin, inkluz dak li jigi kkumpensat ta’ l-art li tittihiedlu, u l-fatt li kien Membru tal-Parliament u Ministru tal-Gvern ma’ ghandha bl-ebda mod titqies illi ghandu anqas drittijiet minn kwalsiasi cittadin - del resto, politiku qieghed hemm biex iservi c-cittadin u ghalhekk huwa cittadin iservi lic-cittadini.

Il-Qorti ghalhekk thoss illi tali argumentazzjoni u konsiderazzjonijet ghandhom japplikaw wkoll meta wiehed jikkonsidra l-livell ta' kumpens dovut lejhom, peress illi, la darba il-livell tal-kritika ghandha tkun oghla, il-livell tad-danni subiti ghandha tkun anqas minn dik ta' persuna normali, peress illi, la darba dahlu fil-politika, huma jifhmu ukoll illi jkunu soggetti ghal tali attakki l-hin kollu.

Illi, apparti minn hekk, kif gia kellha l-opportunita tirrileva f’kawzi ohra, il-Qorti hija konvinta mill-fatt illi l-politiku jghozz ferm aktar id-decizjoni fuq il-punt tad-dritt milli dik fuq il-punt tad-danni, peress illi l-punt tad-dritt jeffettwa il-percezzjoni illi c-cittadin ikollu dwar ir-rikorrent fuq il-kwistjoni li giet deciza mill-Qorti filwaqt illi l-punt tad-danni jghaddi biex jrodd ammont ta' flus lir-rikorrent bhala flejjes minnha mitlufa rizultat tal-allegazzjonjiet foloz tal-intimat.

Illi mill-provi prodotti ma jidhirx illi r-rikorrent sofra xi telf ta' qliegh finanzjarji dovuti ghall-artikolu meritu tal-kawza odjerna, u ghalhekk il-Qorti ser ikollha tipprovdi dwarhom *animo boni viri*. Apparti minn hekk, il-Qorti tirrileva wkoll illi l-kliem intqalu waqt dibattitu politiku, li huwa l-pern ta’ socjeta demokratika u li, ghalhekk, ghandha tigi protetta u stimulata minn dina l-Qorti u mhux

imxekkla fl-operat taghha. Dawna l-fatturi kollha ghandhom certament jitqiesu minn dina l-Qorti fl-ghoti tad-danni mitluba.

Konkluzjoni

Il-Qorti,

Wara illi rat il-provi kollha prodotti

Tghaddi biex taqta u tiddeciedi billi

Tichad l-eccezzjonijiet kollha tal-konvenut u

Tilqa t-talba attrici u **Tiddikjara** illi d-diskors pubbliku li ghamel l-intimat u gie imxandar fuq Super One Radio fil Hadd, 19 ta’ Awissu 2007, kien jikkontjeni kliem u fatti li huma libelluzi u malafamanti fil-konfront tar-rikorrenti u ghalhekk

Tikkundanna lill-intimat ihallas lir-rikorrent in linea ta' danni a tenur tal-Artikolu 28 tal-Kap 248 is-somma ta' elf Euro (€1,000), bl-imghax dekoribbli mid-data tas-sentenza sad-data tal-pagament effettiv.

Spejjez ta' dawna l-proceduri jkunu kollha a kariku tal-intimat.

< Sentenza Finali >

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