FIL-QORTI TAL-MAGISTRATI TA' MALTA

MAGISTRAT Dr Francesco Depasquale

Seduta ta' nhar it-Hamis tnejn (2) ta' Frar 2017

Rikors Numru 7/09 FDP

Dr Joseph Mifsud
(ID 690650M)

vs

Norman Darmanin Demajo
(ID 387852M)

Il-Qorti:-

Rat ir-rikors promotur ippresentat fid-29 ta' Dicembru 2008 fejn ir-rikorrent talab lill-Qorti tikkundanna lill-intimat ihallas lill-attur dik is-somma li dina il-Qorti, ai termini ta' l-artikolu 28 ta' 1-Att dwar 1- Istampa, tiddetermina bhala danni u riparazzjoni tal-malafama li huwa sofra meta permezz ta' ittra datata 10 ta' Dicembru 2008 mibghuta u pubblikata skond il-ligi lil terzi, ghamilt allegazzjonijiet foloz u malafamanti fil-konfront tal-istess attur bil-ghan li tellfu jew tnaqqaslu ir-reputazzjoni tieghu, meta, fost ohrajn ghidt li huwa kien responsabbli ta' "*ksur ta' l-statut, abbuz ta' poter u atti ta' korruzzjoni*", li "*ammonti kbar ta' flus dovuti lill-MFA ... ma gewx depozitati fil-kontijiet bankarji tal-MFA*", "*abbuz ta' poter u mizapproprjazzjoni ta' fondi*" u li "*abbuza minn flus li originaw minn programmi ta' assistenza tal-UEFA*" u "*bi ksur sfaccat tar-regolamenti*" fil-kariga tieghu ta' President tal-MFA, oltre allegazzjonijiet ohra, liema allegazzjonijiet huma ghal kollox inveritjieri, malizjuzi u intizi biss biex jaghmlu hsara lill-attur.

Rat l-ittra meritu tal-kawza odjerna, indirizzata lill Joe Gauci, Segretarju Generali tal-Malta Football Association, datata **10 ta' Dicembru 2008**, esebita mir-rikorrent illi kienet tghid is-segwenti:

> *Akkuza ta' ksur ta' Statut, abbuz ta' poter, mizapproprjazzjoni ta' fondi u atti ta korruzzjoni ta' Dr Joseph Mifsud, President tal-Malta Football Association.*
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> *Ghaziz Sur Gauci,*
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> *Nixtieq naghmel riferenza ghad-diskors ricenti tal-President tai-MFA. Dr. Joseph Mifsud fejn dan pubblikament ghamel appell lil kull min ghandu xi informazzjoni dwar*

atti ta' korruzzjoni fil-football Malti, biex jaghmel kuragg u jressaqhom quddiem l-assocjazzjoni. Biex inkun ezatt se nikkwota d-diskors tal-President, hekk kif kien irrapurtat f'wahda mill pagni, fuq is-sit eletroniku - www.maltarightnow.com ta' nhar is-26 ta Lulju 2008, liema diskors ma saret l-ebda korrezzjoni ghalih.

Id-diskors huwa parti minn artiklu bl-isem ta' 'Diskors iebes minn Joe Mifsud. President tal MFA' u b'titlu sekondarju li jghid 'Dr. Joe Mifsud "M'hemmx hniena ma' kazi ta korruzzjoni"

"Pero ma jiswa xejn jekk inhallu d-dell tal-korruzzjoni fuq il-football Malti. Hawn wisq diskors u ghalkemm forsi mhux kollox ikun vera, il-qasba ma ccaqcaqx ta' xein. Iridu noqghodu attenti u niridu nahdmu halli d-dell tal-korruzzjoni innehhuh." Dr. Mifsud kompla b'appell dirett "Fejn hemm il-hazin irrapurtawh. Huwa d-dover taghkom. Importanti li l-football Malti jkun nadif minn kulhadd. M'hemmx hniena ma' kazi ta' korruzzjoni u kull min jizbalja jrid thallas. ll-korruzzjoni hija l-mewt tal-football Malti u ma nistghux inhallu ftit nies ikissru l-football. Ahna m'ahna se nibzghu minn hadd u intom fid-dover li tirrapurtaw kull tracca li ssiru tafu."

"Nitlob irgulija u serjeta minn kulhadd. Thallux lil min jgharraq il-loghba u lill-klabbs. Xein ma jiswa jekk ikollna il-marda tal-korruzzjoni fil-football." Dr. Mifsud tenna li dan id-diskors sar ukoll f'laqghat ohra f'setturi ohra fil-football, inkluz fil-qasam tar-referring. "se niehdu passi bkar. Min jikxef intuh immunita u ma jkunx fil-perikolu. Ahna rridu naqbdu l-brimba u a nridux niex mhux serji fil-loghba tal-football. Se ninvestigaw kull kaz, pero nikkundannaw fuq il-provi. Il-football huwa industrija f'pajjizna u mhu se nhallu lil hadd jeqirdu" temm b'lehen sod il-Presidcnt tal-MFA."

Fl-ispirtu ta' dan id-diskors imqanqal tal-President, Dr. Joseph Mifsud, fil-qadi tad-doveri tieghi li nirraporta kull tracca li naf biha, nixtieq nirraporta u ngharrfek b'dan li gej:

a. *Naghmel riferenza ghal-ittra tieghi li ggib id-data tat-22 ta Novembru, 2000 u li jien kont baghat lic- Chairman tal-Permanent Board of Inquiry tal-MFA, f'liema ittra jien kont ghamilt allegazzjonijiet serji fil-konfront tal-President tal-MFA, Dr. Joseph Mifsud, liema allegazzjonijiet kienu, fost ohrajn jinkludu, ksur tal-Istatut, abbuz ta' poter u atti ta' korruzzjoni. Nikkonferma li kont ircevejt twegiba minghand l-istess bord li biha kont gejt avzat li 1-kaz tieghi kien se jigi mghoddi liil-Kumitat Ezekuttiv ghall-kunsiderazzjoni tieghu, u dan ghaliex, hekk kif spjegat fl-ittra li ntbaghtet b'referenza ghall-ittra tieghi, kellu jkun biss il~Kumitat Ezekuttiv li seta jirreferi l-kaz tieghi quddiem ll-Permanent Board of Inquiry. Minhabba li ghadda hafna zmien u ghadni ma smajt xejn f'dan ir-rigward, nitolbok tgharrafni jekk 1-ittra kienetx fil-fatt tressqet quddiem il-Kumitat Ezekuttiv tal-MFA, u jekk fil-pozittiv, nixtieqek tgharratni bid-decizjoni finali tal-Kumitat Ezekuttiv fir-rigward tal-allegazzjonijiet imressqa minni.*

b. *Minbarra l-allegazzjonijiet imsemmija fl-ittra tieghi li ggib id-data tat 22 ta Novembru, 2000, issa irrizultatli allegazzjoni gdida dwar fatti godda ta' evidenza fir-rigward ta' ammonti kbar ta' flus dovuti lill-MFA, liema flus ma gewx depozitati fil kontijiet bankarji tal-MFA, u ghaldaqstant inkun lest li naghti d-dettalji kollha, meta nispera li din id-darba nigi mitlub sabiex nidher quddiem il-bord.*

c. *Nixtieq ukoll inressaq kaz iehor ta' abbuz ta' poter u mizapproprijazzjoni ta' fondi mill-President tal-MFA, Dr. Joseph Mifsud. Matul dawn 1-ahhar hames snin. Il-President Mifsud, abbuza minn flus li originaw minn programmi ta' assistenza tal-UEFA (ez. Hat-Trick Program) u li kellhom ikunu vvzati u applikati biss biex jghinu lill-klabbs Maltin itejbu l-istrutturi taghhom. Dan biex l-istess klabbs jigu konformi mar-regoli l-godda tal-UEFA dwar il-licenzjar tal-klabbs. Izda il-President, Dr. Joseph Mifsud, uza dawn il-fondi ghal skopijiet totalment differenti minn dawk stipulat miil-UEFA u dan ghad-detriment tal-klabbs Maltin. Dan l-agir abbuza kontra l-klabbs fi hdan 1-MFA sar bi ksur sfaccat tar-regolamenti u it-termini hekk kif indikati mill-UEFA stess f'cirkular numru 53 li ntbaghtet ghall-attenzjoni tal-President tal MFA, fit-28 ta' Lulju, 2006, fejn hemm stipulat li l-ammont pagabbli mill-UEFA ghal kull stagun kalcistiku (approssimazzjoni ta' 300 000 CHF kull stagun) jista jintuza biss biex jghin lill-klabbs igibu l-licenzja jew biex l-istess klabbs jiffrankaw parti mill-ispejjez taghhom.*

Kopja ta' din 1-ittra qieghda tintbghat direttament lic-Chairman tal-Bord ta' l-Inkjesta sabiex jinvestiga dan kollu, hekk kif stipulat skond l-Istatut tal-MFA u kif ukoll lic-Chairman tal-Bord tal-Awdituri Interni tal-MFA.

Filwaqt li nirrijngrazzjak bil-quddiem, nistenna li nisma minn ghandhekk fi zmien qasir.

Norman Darmanin Demajo

Rat l-eccezzjonijiet ta' l-intimat Norman Darmanin Demajo ippresentati fit-12 ta' Frar 2009 fejn sahaq illi t-talbiet attrici kienu infondati fil-fatt u fid-dritt peress illi l-ittra tikkontjeni allegazzjonijiet ta' fatti li huwa kien lest jipprova l-veracita' taghhom, liema kummenti ghalhekk kellhom jitqiesu bhala "*fair comment*".

Rat illi fis-16 ta' Frar 2009 il-Qorti ordnat l-inverzjoni tal-provi.

Rat illi, flimkien mal-kawza odjerna, kien hemm ukoll il-kawza fl-ismijiet '**Dr Joseph Mifsud vs Norman Darmanin Demajo et**', Avviz Nru 8/2009, w iz-zewgt kawzi kienu kkunsidrati mexjin konguntivament b'dan illi l-provi migbura f'wahda kienu japplikaw ghall-ohra ukoll, sa fejn applikabbli.

Rat ix-xhieda ta' **Norman Darmanin Demajo** moghtija fil 25 ta' Mejju 2009.

Rat illi d-dokumentazzjoni illi ghamel referenza ghaliha x-xhud kienu gew eventwalment mizmuma gewwa s-sigrieta tal-Magistrat illi kien qieghed jippresjedi l-kawza dak iz-zmien, liema dokumenti evenwalment intilfu u gew ippresentati mill-gdid fl-20 ta' Gunju 2012 fl-atti tal-kawza 8/2009 fl-istess ismijiet illi qed tinstema kontestwalment mal-kawza odjerna (a fol 59)

Rat ix-xhieda ta' Norman Darmanin Demajo moghtija fil-15 ta' Gunju 2009 kif ukoll id-dokumentazzjoni esebita minnu illi gew ri-esebiti kif fuq indikata a fol 59 tal-process 8/2009.

Semghet ix-xhieda ta' Norman Darmanin Demajo moghtija fit 23 ta' Jannar 2012.

Semghet ix-xhieda ta' Norman Darmanin Demajo moghtija fit-12 ta' Novembru 2012 u rat id-dokumentazzjoni illi tinstab esebita fil-process 8/2009 a fol 63.

Semghet ix-xhieda ta' **Ivan Mizzi**, accountant tal-Malta Football Association ghall aktar minn tnejnu ghoxrin sena, u moghtija fit 22 ta' Frar 2013.

Semghet ix-xhieda ta' **Silvio Galea**, membru tal-Kunsill tal-Malta Football Association u Chairman tal-Board of Internal Audit ta' l-istess Malta Football Association, moghtija fit 30 ta' Settembru 2013 u rat id-dokumentazzjoni minnu esebita u li tinstab inserita fil-process 8/2009 a fol 347, ossija rapport intitolat '***UEFA Solidarity Payments to Leagues***' datat 8 ta' Jannar 2013 u rapport addizzjonali datat 12 ta' Marzu 2013.

Semghet ix-xhieda tal-**Perit Ludovico Micallef**, Vici President tal-Malta Football Association, moghtija fit 22 ta' Novembru 2013, li tinsab a fol 361 tal-kawza fl-istess ismijiet Rik Nru 8/09, flimkien ma' dokumenti minnu esebit u datat 13 ta' Jannar 2013..

Semghet ix-xhieda ta' **Alex Manfre'**, gia Tezorier u issa Vici President tal-Malta Football Association, moghtija fit 22 ta' Novembru 2013, li tinsab a fol 367 tal-kawza fl-istess ismijiet Rik Nru 8/09

Semghet ix-xhieda ta' **Joe Gauci**, Segretarju tal-Malta Football Association, moghtija fit 22 ta' Novembru 2013, li tinsab a fol 370 tal-kawza fl-istess ismijiet Rik Nru 8/09, u rat id-dokumentazzjoni minnu esebita, ossija estratt tal-Minuti tal-laqgha tal-Kumitat Ezekuttiv mizmuma fil 15 ta' Dicembru 2008 u fil-Laqgha tal-Kunsill tal-MFA mizmuma fit 18 ta' Dicembru 2008.

Semghet ix-xhieda in kontro ezami ta' l-intimat Norman Darmanin Demajo, moghtija fl-24 ta' Novembru 2014.

Rat illi fl-24 ta' Novembru 2014 il-Qorti iddikjarat l-istadju tal-gbir tal-provi ta' l-intimat bhala maghluq u ordnat lir-rikorrent jibda jipproduci x-xhieda tieghu.

Semghet ix-xhieda tar-rikorrent **Dr Joseph Mifsud** moghtija fid 29 ta' Jannar 2015 u fil 5 ta' Marzu 2015.

Semghet ix-xhieda tar-rikorrenti Dr Joseph Mifsud moghtija fit 18 ta' Mejju 2015 u rat id-dokument minnu esebit.

Semghet il-kontro ezami ta' Dr Joseph Mifsud illi saret fid 9 ta' Novembru 2015, fit 30 ta' Novembru 2015 u fil 15 ta' Frar 2016.

Rat illi fil 25 ta' April 2016 il-partijiet lkoll qabblu illi ma kienx hemm aktar provi x'jippresentaw u ghalhekk il-kawza setghet tithalla ghas-sottomissjonijet finali.

Rat is-sottomissjonijiet ta' l-intimat Norman Darmanin Demajo illi gew ippresentati fit-13 ta' Gunju 2016.

Rat illi fl-24 ta' Novembru 2016 il-kawza giet differita ghat 2 ta' Frar 2017 ghas-sentenza bil-fakolta lir-rikorrent sabiex jippresenta s-sottomissjonijet tieghu sal-15 ta' Dicembru 2016.

Rat is-sottomissjonijiet tar-rikorrent Dr Joseph Mifsud ippresentati fil-kawza 8/2009 illi qed tinstema kontestwalment mal-kawza odjerna, liema sottomissjonijet gew ippresentati fit 13 ta' Jannar 2017.

Ikkunsidrat

Jirrizulta, mill-provi prodotti, illi r-rikorrent, Dr Joe Mifsud, kien il-President tal-Malta Football Association mis-sena 1992 sas-sena 2011, u dana wara illi kien ilu mis-sena 1982 jokkupa l-kariga ta' Vici President ta' l-istess Malta Football Association. Ir-rikorrent kien ukoll Membru tal-Ezekuttiv tal-UEFA, ossija l-Ghaqda ta' Assocjazzjonijiet tal-Football ta' l-Ewropa kollha, mis-sena 1994 sas-sena 2011 kif ukoll Membru tal-Ezekuttiv tal-FIFA, ossija l-Ghaqda ta' Assocjazzjonijiet tal-Football Dinjija, mis-sena 1998 sas-sena 2000.

Jirrizulta, mill-provi prodotti, illi l-intimat, Norman Darmanin Demajo, kien Tezorier tal-Malta Football Association mis-sena 1992 sas-sena 2000, meta huwa rrizenja minn tali kariga. Sussegwentement, fis-sena 2010 huwa gie elett bhala President tal-Malta Football Association, kariga illi huwa ghad ghandu sal-gurnata ta' llum.

Jirrizulta illi fit-13 ta' Novembru 2008, l-intimat kien kiteb lir-rikorrent, wara kummenti illi kienu saru fil-konfront tieghu fil-pubbliku mir-rikorrent, fejn l-intimat qal is-segwenti (Dok NDD1 – Fol 60):

> *Dr Mifsud,*
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> *Naghmel riferenza ghall-laqgha tal-Kunsill tal-MFA ta' nhar il-Hamis, 2 t'Ottubru, 2008 u ghall-intervista tieghek fuq il-program televiziv REPLAY li xxandar fuq NET TV nhar id-19 ta' Ottubru 2008, fejn fiz-zewgt okkazzjonijet inti ghogbok tattakka lili personali b'mnumri ta' allegazzjonijiet infondati. Permezz ta' dawn l-allegazzjonijiet, ippruvajt taghti l-impressjoni (hekk kif ghamilt kemm il-darba matul dawn l-ahhar tmien snin) li jiena bniedem hati li fil-passat ghamilt hsara lill-MFA u li ghandi xi agenda personal li tmur kontra 1-interessi tal-futbol Malti.*
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> *"Dan (b'referenza ghal Norman Darmanin Demajo) ghamel hsara lill-MFA u ma jixraqlu qatt li jkun President tal-MFA", silta mehuda minn diskors tieghek waqt intervista mxandra mill-program REPLAY fuq NET TV tad-19 t'Ottubru, 2008.*
>
> *Kif inti taf sew, minn meta spiccajt mill-kariga li kont nokkupa bhala Tezorier tal-MFA jien dejjem imxejt bl-attenzjoni kif nitkellem fir-rigward tieghek bhala President tal-MFA u dan ghaliex jiena kont u ghadni tal-fehma li ma jkunx ghall-gid tal-futbol Malti kieku kellna noqghodu nifthu 1-kotba tal-passat. Tant hu hekk li waqt il-kampanja tieghi ghall-elezzjoni ghall-Presidenza tal-MFA ta' ftit xhur ilu, jien insistejt ma dawk kollha li kienu jifformaw parti mit-tim tieghi biex niffokaw biss fuq il-futur tal-assocjazzjoni u dak li ahna xtaqna nwettqu skond il-program taghna. Din id-decizjoni min-naha taghna giet irrispettata sa 1-ahhar minkejja 1-fatt li ftit jiem biss qabel 1-elezzjoni int ghogbok tmur fuq il-program MFA Magazine, program televiziv propjeta tal-MFA u attakkajt lili u 1-program elettorali li jien kont qieghed nipprezenta ghall-elezzjoni. Int kont sibt bizzejjed hin biex tipprova titfa' dell ikrah fuqi personali u fuq il-karattru tieghi u dan b'insinwazzjonijiet infondati u gideb sfaccat. Infakkrek ukoll li jien qatt ma nghatajt 1-opportunita' sabiex fuq 1-istess program televiziv (MFA Magazine) inkun nista' nirrispondi ghad-dikjarazzjonijiet li gew imlissna mirmek u ghall-allegazzjonijiet bla bazi li ghamilt fuqi.*
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> *Intant ftit tal-gimghat ilu cempilli s-Sur Mark Attard, gurnalist sportiv lokali u qalli li xtaq jintervistani u jien accettajt din 1-istedina tieghu. Jidher li 1-intervista nizlet tajjeb mall- pubbliku sportiv u dan ghaliex wasluli hafna messaggi minn nies genwini li xtaqu jifirhuli ghall-kummenti tieghi. Izda milli jidher, dan 1-istess artiklu ma nizielx tajjeb mieghek u int hassejt li ghandek taghmel riferenza ghalih fil-laqgha tal-Kunsill tal-MFA*

ta' nhar il-Hamis, 2 t'Ottubru u ghaldaqstant hadt 1-opportunita' biex terga tattakkani personali u ghal darb'ohra tipprova titfa' dell ikrah fuqi. Dan 1-agir abbuziv min-naha tieghek kompla fuq il-program REPLAY fejn int komplejt tigdeb fuq il-passat u tiwinta dwar skopijiet ulterjuri min-naha tieghi u dan biex tipprova tghatti dak kollu li huwa fatti u li kien sehh f dak minnek 1-MFA. il-konfoffi, tat-tixhim, tal-gideb, tal-ksur sfaccat tal-istatut tal-MFA, tal-iffirmar wahdek ta' kuntratti sigrieti u t-trasferiment ta' flus f kont bankarju mhux f'isem l-MFA.

Qieghed nissuspetta li s-silenzju tieghi f dawn 1-ahhar snin seta' gie nterpretat minnhekk bhala sinjal ta' djufija jew bhala forma ta' ammissjoni min-naha tieghi fir-rigward ta' 1-allegazzjonijiet li int jghogbok taghmel fir-rigward tieghi. Dan generalment jigri, jew fil- Kunsill tal-MFA fejn jien ma nkunx prezenti biex niddefendi ruhi, jew waqt il-program televiziv tal-MFA fejn kollox huwa kkontrollat minnhekk u aktar minnhekk fejn jien qatt gejt mistieden nattendi biex ninghata 1-opportunita' nirrispondik. Jekk dan is-suspett tieghi huwa minnhu, nixtieq inserrahlek rasek li dan mhux il-kaz u li jien dejjem lest, meta trid u fejn trid, li nikkonfrontak fil-pubbliku biex niddiskutu dwar dawk 1-allegazzjonijiet li int, sal gurnata ta' llum ghadek taghmel fuqi minn wara dahri.

Fil-fatt, ir-raguni principali ta' dina 1-ittra hija sabiex ninfurmak li mhiniex bi hsiebni noqghod sieket aktar ghall-ebda allegazzjoni ohra min-naha tieghek fil-konfront tieghi.

Dwar 1-allegazzjonijiet tieghek li jien ghamilt hsara lill-MFA, qieghed ngharrfek sabiex jew tirtirhom (permezz ta' stqarrija ufficjali u pubblika), jew tissostanzjhom, jew se jkolli niehu dawk il-passi kollha li jidhirli huma neccessarji biex nissalvagwardja 1-verita.

Ngharrfek, biex mil-lum 'il quddiem toqghod attent hafna x'tghid u thares kif timxi fil-konfront tieghi. fl-messagg tieghi huwa car hafna u 1-pozizzjoni tieghi mill-llum 'il quddiem ma thallilek 1-ebda lok ghal misinterpretazzjoni. Mhiniex lest li noqghod aktar sieket u nhalli bniedem bhalek jipprova jitfa' xi dell ta' dubju fuq il-karattru u 1-integrita tieghi. II- hmieg tieghek zommu ghalik!

Fil-program REPLAY tad-19 t'Ottubru, 2008, meta gejt mistoqsi ghaliex m'ghamiltx libell lil dawk in-nies kollha li hamgulek ismek u ghamlulek malafama fil-pubblikazzjonijiet miktubha minnhom, int irrispondejt li minhabba 1-fatt li ssiefer hafna tibza' li jaghti 1-kaz li meta jkollok il-kawza ta' libell, il-kaz jista jaqa' jekk tkun imsiefer u ghalhekk ma jkollokx 1- opportunita' tiddefendi ruhhek. Jien kont nahseb li tiddefendi 1-unur u 1-integrita tieghek huwa hafna aktar importanti minn xi safra.

Ghalhekk fl-interess tal-Fair Play nixtieq inserrahlek rasek li f'kaz li joghgbok tghamill libell, jien lest li naghmel arrangament mieghek li jizgura li jkollok ic-cans kollu mehtiej sabiex tiddefendi ruhhek u dan minghajr il-biza' li jaqa' 1-kaz, f'kaz li tinzerta barra 1-pajjiz.

Norman Darmanin Demajo

Jirrizulta illi sussegwentement, fl-10 ta' Dicembru 2008, l-intimat baghat l-Ittra lis-Segretarju Generali tal-MFA, fuq gia riprodott, liema Ittra giet diskussa fil-laqgha tal-Ezekuttiv tal-MFA tal-15 ta' Dicembru 2008, fejn gie rrappurta hekk fil-minuti ta' l-istess laqgha (fol 374 – Avv 8/2009):

Inqrat ittra mibghuta mis-sur Norman Darmanin Demajo, ex Tezorier tal-MFA, fejn jissemmew diversi allegazzjonijiet fosthom li l-President huwa responsabbli ghal mizappropriazzjoni ta' fondi tal-MFA.

Il-President qara wkoll ittra li s-sur Darmanin Demajo kien baghatlu d-dar xi gimghat ilu.

Inqara wkoll artiklu li deher fil-harga tal-gurnal "Ilum" tal-Hadd 14 ta' Dicembru 2008. (meritu tal-kawza 8/2009)

Il-President qal li s-sur Darmanin Demajo kien qed jiwinta u jigdeb. Huwa kien iddecieda li jaghmel libell lis-sur Darmanin Demajo, lis-sur Mark Attard, il-gurnalist li kiteb l-artiklu msemmi kif ukoll kontra I-editur ta' "Ilum".

Il-President tenna li l-finanzi tal-MFA huwa awditjati minn awditur protessjonali li qatt ma rrimarka kien hemm xi nuqqas bhal dak li gie allegat.

Il-President sostna li l-MFA ghandha tiddeciedi kit tonfoq il-flus li l-UEFA taghti lill-MFA biex thaddem is- sistema tal-licenzji tal-Clubs. F'dan ir-rigward l-MFA thallas l-ispejjez kollha inkluzi dawk biex membri taghha jattendu ghal-laqghat kollha li jsiru mill-UEFA dwar is-sistema ta' l-ghoti tal-licenzji lill-Clubs.

Il-President tenna li s-sur Norman Darmanin Demajo gideb fl - ittra tieghu filwaqt illi fakkar illi dan huwa biss Vici-President ta' Club u ma jirrapprezenta lil hadd hlief lilu nnifsu.

Il-President semma' diversi fatti li sehhew fl-istaguni 1999/2000 u 2000/2001 meta s-sur Darmanin Demajo kien it-Tezorier tal-MFA u huwa, il-President, kellu jsejjah Laqgha Generali Straordinarja u jitlob vot ta' fiducja. Minhabba dak li kien inqala' l-MFA sofriet hatna hsara u l-football ghamel xi zmien minghajr sponsorships.

Il-President semma' l-progetti kbar li saru jew bdew isiru fdan iz-zmien bhal ma kienu l-bini tas- Centenary Stadium u tal-Millennium Stand filwaqt li sostna li l-MFA dejjem hadmet bil-ghaqal.

Il-President qal li s-sur Darmanin Demajo talab biex kopja ta' l-ittra tieghu tinghata lic-Chairman tal-Board on Internal Auditors u lic-Chairman tal-Bord ta' l-lnkjesta. Il-President qal illi mhuwiex kompitu tal-Board of Internal Auditors jara kif l-MFA tiddeciedi li tonfoq il-flus taghha.

Dr Peter Fenech, Vici-President, qal li kellu talba minn gurnalist ghall-kummenti tieghu dwar din l-ittra filwaqt illi sahaq illi jehtieg li l-MFA taghti spjegazzjoni lill-pubbliku dwar din il-kwistioni.

Il-Kumitat Ezekuttiv qabel li l-ittra tas-sur Darmanin Demajo ma ghandhiex tigi riferita lill-Board of Internal Auditors u lanqas lill-Bord ta' l-lnkjesta izda ghandha tigi riferita lill-Kunsill.

Jirrizulta illi eventwalment, fit-18 ta' Dicembru 2008, fil-laqgha tal-Kunsill tal-MFA, l-Ittra giet diskussa u gie rrappurtat hekk fil-minuti ta' l-istess laqgha (Fol 376 – Avv 8/2009):

Il-Kumitat Ezekuttiv irrefera lill-Kunsill ittra mis-sur Norman Darmanin Demajo, ex Tezorier tal-MFA u ex kandidat ghall-kariga ta' President tal-MFA, fejn ghamel diversi allegazzjonijiet kontra I- President tal-MFA.

Il-President qal li s-sur Darmanin Demajo kien bghaflu ittra d-dar ghax kien hassu urtat bil-kliem li l-President qal li s-sur Darmanin Demajo ma kienx jixraqlu jkun President tal-MFA minhabba I- hsara li kien ghamel lill-MFA.

Il-President zied jghid illi nhar il-Hadd 14 ta' Dicembru 2008 deher artiklu fil-gurnal Ilium" miktub mill-gurnalist is-sur Mark Attard filwaqt illi matul il-gimgha ta' qabel is-sur Norman Darmanin Demajo gie personalment fl-ufficcji tal-MFA biex idahhal ittra ghas-Segretarju Generali. Inqrat l-ittra msemmija fejn jissemmew diversi allegazzjonijiet fosthom li l-President huwa responsabbli ta' abbuz ta' poter u ghal mizapproprjazzjoni ta' fondi tal-MFA.

II- President qal illi l-artiklu li deher fil-gurnal "Illum" fih gideb fuqu u minhabba f'hekk huwa se jaghmel libell lis-sur Darmanin Demajo, lis-sur Mark Attard kif ukoll lill-editur tal-gurnal imsemmi. Id-danni li jirbah minn dan il-libell jinghataw lid-Dar tal-Prowidenza, is-Siggiewi.

Il-President semma' dak kollu li taghmel l-MFA biex thaddem u zzomm is-sistema tal-licenzji tal- Clubs.

Il-President qal li b'kumbinazzjoni wahda mill-affarijiet li ssemmew fl-ittra tas-sur Darmanin Demajo kienet l-istess haga li s-sur Antoine Portelli, Chairman tal-Board of Internal Auditors, talab taghrif dwarha fid-Dipartiment tal-Finanzi tal-MFA. Il-President stqarr li wara l-artiklu li deher fil- gurnal "Illum", is-sur Portelli deher li ghandu xi dubji fih (il-President).

Il-President sostna li l-allegazzjonijiet li saru fl-artiklu u fl-ittra msemmija jridu jigu sostanzjati fil-Qorti u mhux quddiem il-Bord ta' l-lnkjesta jew il-Board of Internal Auditors.

Il-President sahaq ukoll li kull min jahdem mal-MFA ghandu jaqta' kull kuntatt li jista' jkollu mal- gurnalist is-sur Mark Attard.

Il-President semma' xi progetti li ghamlet l-MFA fl-ahhar snin u li bihom l-MFA ma fallietx filwaqt illi dejjem hallset fil-hin dak dovut lill-Bank.

Il-President qal li kellu jiehu dawn il-passi biex ihares u jzomm ir-reputazzjoni tieghu mal-pubbliku in generali.

Il-President temm jghid illi l-Kumitat Ezekuttiv kien qabel illi l-ittra tas-sur Norman Darmanin Demajo ma ghandhiex tigi riferita lill-Bord ta' l-lnkjesta jew il-Board of Internal Auditors.

Is-sur Bjorn Vassallo qal li huwa ma kienx jaqbel ma' dan.

Il-President wiegeb illi fil-Kumitat Ezekuttiv hadd ma kien irrimarka xejn fdan ir-rigward.

Il-Kunsill bl-eccezzjoni tas-sur Bjorn Vassallo, qabel ma' dak li kien qal il-President.

Jirrizulta illi sussegwentement, fid-29 ta' Dicembru 2008, il-kawza odjerna giet intavolata.

Ikkunsidrat

Jirrizulta illi l-ittra illi minnha jilmenta r-rikorrent, u li intbghatet mill-istess intimat wara sejha pubblika tar-rikorrent sabiex kull min jaf dwar korruzzjoni fil-qasam tal-football jigi l-quddiem u jirrappurtah, kienet attwalment ittra indirizzata lis-Segretarju Generali tal-Malta Football Association, Joe Gauci, illi fiha rrappurta tlett affarjiet:

- Illi huwa kien ghamel ittra fit 22 ta' Novembru 2000 indirizzata lic-Chairman tal-Permanent Board of Inquiry tal-MFA, illi fiha huwa kien ghamel allegazzjonijiet fil-konfront tar-rikorrent ta' ksur tal-istatut, ta' abbuz ta' poter u ta' atti ta' korruzzjoni, liema Ittra madanakollu ntbghatet lill-Kunsill Ezekuttiv tal-MFA sabiex tikkunsidraha hi, u minn dakinhar l-intimat qatt ma sema xejn dwar l-ezitu ta' dina l-ittra u jekk intbghatitx lill-istess Permanent Board of Inquiry.

- Illi huwa kien jaf b'fatti godda ta' evidenza fir-rigward ta' ammonti kbar ta' flus dovuti lill-MFA, liema flus ma gewx depositati fil-kontijiet bankarji tal-MFA, u talab sabiex jinghata l-possibilita' illi jippresenta tali dettalji.

- Illi kien hemm kaz ta' abbuz ta' poter u mizappropriazzjoni ta' fondi da' parte tal-President Dr Mifsud ghal dak li jirrigwarda flejjes li originaw minn programmi ta' assistenza tal-UEFA, liema flejjes ma kienux qed jintuzaw kif indikat mill-UEFA, u dana bi ksur tar-regolamenti u termini stabbiliti mill-UEFA stess.

Jirrizulta illi r-rikorrent, illi kien il-President tal-MFA u kien, finalment, jiehu d-decizjonijet dwar it-tmexxija tal-MFA, flok ma' indirizza dawna l-ilmenti serji u gravi dwar l-amministrazzjoni tat-tmexxija tal-Malta Football Association lill-Bord illi huwa kkostituwit appositament sabiex jinvestiga tali allegazzjonijiet, ghazel illi jniedi l-proceduri odjerni quddiem dina l-Qorti.

Il-Qorti, minghajr tlaqlieq, taghmilha cara illi dina kienet decizjoni hazina u skorretta da parte tal-MFA u tar-rikorrent, peress illi, la darba assocjazzjoni ta' importanza nazzjonali bhalma hija l-Malta Football Association ghandha strutturi interni intizi apposittivament sabiex jinvestigaw kwalsiasi allegazzjoni ta' korruzzjoni fl-isport tal-football, dawna l-allegazzjonijet kellhom jigu kkunsidrati u decizi minn tali Bordijiet u mhux mill-Qrati.

Apparti minn hekk, il-Qorti ma tistax ma' tesprimix it-thassib serju lejn il-fatt, kif deskritt fil-minuti tal-Kunsill tal-MFA, li r-reazzjoni tar-rikorrent ghal dak illi kien qieghed jigi allegat ma kienx illi jassikura illi l-Assocjazzjoni tigi protetta w kull dubju fiha u fl-ufficjali taghha jigi mnaddaf, izda kien li javza lill-klabbs kollha illi kellhom jaqtghu kull kuntatt mal-gurnalist Mark Attard illi kien irrapporta tali allegazzjonijet fuq il-mezzi tax-xandi, kif ukoll jitfa dell ikrah fuq is-sur Antoine Portelli, Chairman tal-Board of Internal Auditors, illi kien talab taghrif dwar dak allegat minn Darmanin Demajo fid-Dipartiment tal-Finanzi tal-MFA.

Madanakollu, il-Qorti ser tghaddi biex tikkunsidra t-tlett allegazzjonijet illi ghamel l-intimat fil-konfront tar-rikorrent u li wasslet lir-rikorrent illi jaqbez l-istrutturi kollha interni intizi sabiex jinvestigaw tali kazijiet u jnedi l-proceduri odjerni.

Ikkunsidrat

L-ewwel allegazzjoni illi ghamel l-intimat fl-ittra meritu tal-kawza odjerna hija allegazzjoni illi saret fil-konfront tal-Kumitat Ezekuttiv tal-Malta Football Association, u mhux tar-rikorrent per se, fejn l-intimat sahaq illi ittra illi huwa kien baghat fit-22 ta’ Novembru 2000, illi fiha kien irrapporta allegazzjonijiet fil-konfront tar-rikorrent li talab li jigu investigati mill-Permanent Board of Inquiry, baqgh qatt ma ntbghatu lill-Permanent Board of Inquiry mill-Kunsill Ezekuttiv, kif huwa kien talab illi jsir.

Jirrizulta, mill-provi prodotti, illi l-allegazzjoni illi ghamel l-intimat illi l-ilment tieghu qatt ma tressaq lill-Permanent Board of Inquiry kienet wahda korretta, stante illi imkien ma rrizulta ppruvat illi attwalment l-ilmenti tieghu kienu qatt gew kkunsidrati minn xi Bord jew mill-MFA b’xi mod jew iehor – jidher, anzi, illi l-ilmenti ta’ l-intimat gew totalment injorati.

Ikkunsidrat

It-tieni allegazzjoni kienu tirrigwarda l-fatt illi kien hemm ammonti kbar ta’ flus dovuti lill-MFA liema flus ma gewx ddepositati fil-kontijiet bankarji tal-MFA.

Jirrizulta illi l-kwistjoni principali qamet rizultat tal-ftehim milhuq mir-rikorrent sabiex tintlaghab Malta loghba football bejn it-team tal-football Germaniz, Bayern Munich, w it-team Nazzjonali Malti.

Jirrizulta, di fatti, illi fl-1 ta’ Gunju 2000, ir-rikorrent, wahdu u ghan-nom tal-Malta Football Association, minghajr il-firma ta’ ebda ufficjal iehor tal-MFA, ghalkemm dana huwa impost mill-istatut ta’ l-istess MFA, kien dahal fi ftehim mas-socjeta CWL Telesport und Marketing AG biex jigu jilghabu Malta, a spejjez tal-MFA, it-team tal-football Bayern Munich, u ghal dan il-kuntratt, is-socjeta CWL kienet ser thallas somma flus lill-MFA fi zmien hmistax mid-data ta’ l-iffirmaw – Dok NDD 12.

Jirrizulta illi ghalkemm il-kuntratt huwa kollu dattilografat, il-parti tal-ftehim li kien jirrigwarda il-hlas, filwaqt li jindika l-modalitajiet tal-pagament, fejn kien hemm indikat is-somma illi kellha tithallas din il-parti kienet mhollija vojta fil-kuntratt u, sussegwentement, jidher illi xi hadd harbex bil-miktub is-somma ta’ USD 250,000. Kopja originali ta’ dana il-kuntratt qatt ma instab fl-ufficji tal-Malta Football Association w qatt ma gie ppresentat quddiem dina l-Qorti, w fil-Qorti, ‘vera kopja’, kif mahruga mir-rikorrent, kienet accesibbli kemm lill-Qorti kif ukoll lill MFA.

Jirrizulta illi l-kuntratt kien jistipula illi dawna l-flejjes kellhom jithallsu fi zmien gimghatejn mid-data ta’ l-iffirmar tal-kuntratt, liema kuntratt gie iffirmat fir-residenza privata tar-rikorrent fil-presenza ta’ Franz Beckenbauer fl-1 ta’ Gunju 2000.

Jirrizulta illi fis-6 ta’ Lulju 2000, l-Ezekuttiv tal-FIFA, li fih dak iz-zmien ir-rikorrent, fuq bazi personali, kien Membru, kien ivvota sabiex il-Tazza Dinjija tas-sena 2006 tintlaghab gewwa l-Germanja, ghal liema pajjiz il-kampanja ghall-vot kienet qed titmexxa minn Franz Beckenbauer.

Jirrizulta illi, ghalkemm il-flejjes kellhom jghaddu lill-MFA gimghatejn wara l-iffirmar tal-kuntratt, kien biss wara li r-rikorrent inkariga lill Ivan Mizzi, li kien il-Finance Officer tal-MFA, fit-2 ta’ Ottubru 2000 sabiex jibghat ittra ghall-hlas tas-somma illi eventwalment, tlett ijiem wara, gew trasferiti l-flus f’kont tal-MFA – vide fol 339 u 340 tal- Avviz Nru 8/2009.

Jirrizulta illi l-fatt illi sar dana il-ftehim mir-rikorent minghajr ebda konsultazzjoni mal-Kunsill Ezekuttiv u Ufficjali ohra, u minghajr ma jidhlu flejjes meta suppost eventwalment wasslu, eventwalment wasslu lill-intimat, illi fiz-zmien kien Tezorier tal-MFA, sabiex jieqaf mill-kariga tieghu ta' Tezorier.

Jirrizulta illi, tlett snin wara l-iffirmat tal-kuntratt fuq imsemmi, fil-harga ta' Manager Magazin ta' l-1 ta' Mejju 2003, kienet giet ippubblikata storja intitolata '***Football World Cup: Consultancy contarcts and TV deals with FIFA officials raise suspicions that a helping hand was usedwhen the WC 2006 was awarded to Germany***'.

Dina l-istorja, fost affarjiet ohra, kienet tghid is-segwenti:

> *During the weeks and months before the decision in July 2000, there was great hectic in the German camp. The delegation around Beckenbauer and his second-in command Fedor Radmann was trying to commit the shaky candidates in the FIFA executive committee to Germany as the venue. Even the Fenderal Chancellor Gerhard Schroder was solicting votes for Germany amongst foreign statesmen.*
>
> *Ins pite of all efforts, a majority for Germany was not in sight. Four weeks before the vote in Zurich, eight to nine votes for German at the most were considered as sure. The main competitor, South Africa, could hope for twelve supporters in the hightest FIFA body.*
>
> *It appears that in this desperate situation for Germany the duo Radmann/Netzer became active at the beginning of June 2000. At that time the former football professional Gunter Netzer was director of the Zurich agency CWL, which sold broadcasting rights for football matches to TV stations. The company formed part of the empire of Leo Kirch. And the latter owned the TV rights for the football World Cup 2006.*
>
> *On 6 June Kirch law firm inMunich wrote a letter to Dieter Hahn ("personal/confidential), the executive manager of the big Leo Kirch.*
>
> *In the letter a lawyer of the firm summarized the content of a conversation which he had in the morning with Fedor Radmann, the assistant of World Cup canvasser Beckenbaur.*
>
> *The background of the conversation documented in the letter were obviously contracts of the Netzer-company CWL with football associations or their officials in Malta, Thailand, Trinidad and with a club in Tunis.*
>
> *The national teams of these countries and the Tunisian club were to play friendly games with FC Bayern Munich; CWL acquired the TV rights for these matches from the foreign partners and paid accordingly. As a rule about 300 000 dollars per match. The conversation also concerned the further procedure in the case of Elias Zaccour. The Lebanese was given a consultancy contract of one million dollars shortly before the WC decision.*
>
> *The lawyer meticulously explained for his client Hahn what was according to Radmann the state of negotiations with the corresponding contact persons.*
>
> *For "Dr. Mifsud/Malta" the contract was already signed, "payment has to be effected on a trust account.*

For "Mr. Chiboub (Tunisia)" the contract still had to be signed by Netzer. "The amount of US $ 300 000 is then payable within 14 days aft Gunter Netzer's signature."

The summary is similarly concise in connection with the other two cases. "Mr. Makudi (Thailand)" is to be paid as quickly as possible. "The match has already taken place." And for "Mr. Jack Warner (Trinidad) "payment" was also to be effected on "a trust account". "I shall discuss the details with Gunter Netzer."

This sounds cryptic, but when one looks at it closer there is a bomb hidden in the letter of the Kirch attorney. Three of the four contact persons mentioned in the lawyer's letter are members of the FIFA executive committee of 24 people, the very body which was to vote four weeks later about the venue of the WC 2006.

What is even more striking: With the associations of the FIFA heads Joseph Mifsud (Malta) and Worawi (Thailand) two organizations which are considered as shaky candidates are given Kirch TV rights payments.

Worawi Makudi was considered as the king-maker before the vote, because he had not committed himself to any candidate before the vote. The Brazilians wooed him strongly. Nelson Mandela, South Africa's national hero, tried shortly before the vote by telephone to draw the King of Thailand into the camp of the South Africans, but in vain. Makudi most probably voted for Germany in the secret ballot.

Joseph Mifsud was not considered exactly as a friend of the Germans; he was to vacate his FIFA post for the DFB vice president Ger Mayer-Vorfelder. Here amends probably had to be made. It seems with success.

The names of the other gentlemen on the list are not less illustrious:

Slim Chiboub is not only the president of the Tunisian record champion L'Esperance Tunis, but also the son-in-law of President Ben one expect him to influence the Tunisian FIFA elector Slim Aloulouo, who was considered a supporter of South Africa's candidature?

Jirrizulta illi dawna l-allegazzjonijiet gew ripetuti fil-programm investigattiv ta' l-istazzjoni televiziv nazzjonali Ingliz BBC ONE, **Panorana**, f'zewgt programmi imtellghin, wiehed fil 11 ta' Gunju 2006 intitolat '**The Beautiful Bung**', u wiehed tat 22 ta' Ottubru 2006 intitolat '**FIFA and Coe**'. Dawna z-zewgt programmi kienu jirrigwardaw allegazzjonijiet ta' hlasijiet illi saru lill-ufficjali tal-FIFA, fosthom ir-rikorrenti, u il-fatt illi l-Ingilterra kienet tilfet il-kandidatura taghha sabiex torganizza t-Tazza Dinjija tas-sena 2006 minhabba hlasijiet illeciti illi kienu saru lill ufficjali tal-FIFA.

Jirrizulta illi dawna l-artikoli lkoll jghidu illi r-rikorrent kien inghata pagament ta' tlett mitt elf Dollaru Amerikan, liema pagament, jinghad illi ddahhal gewwa 'Trust Fund'.

Jirrizulta illi r-rikorrent qatt ma ghamel ebda azzjoni sabiex jikkontesta l-veracita' o meno ta' tali allegazzjonijiet illi saru barra minn Malta, precizament gewwa il-Germanja u l-Ingilterra, varji drabi, fuq medda ta' diversi snin.

Ikkunsidrat

Jirrizulta illi, apparti il-ftehim relatat mal-loghba tal-Bayern Munich fuq imsemmi, kien hemm ukoll ftehim iehor illi dwaru l-intimat, ghalkemm Tezorier dak iz-zmien, ma kienx mgharraf la hu w lanqas il-Kunsill dwaru, u dana kien jirrigwarda il-loghba amikevoli illi saret bejn Malta u l-Ingilterra gewwa Malta fit-3 ta' Gunju 2000.

Jirrizulta, di fatti, illi f'Marzu tas-sena 2000, ir-rikorrent, ghal darba ohra wahdu, dahal fi ftehim mas-socjeta Ingliza Skyville Partnership ghall-bejgh tal-'Advertising Rights' kollha, liema kuntratt sar gha-somma ta' hamsin elf Dollaru Amerikan – Dok NDD 13.

Jirrizulta illi l-istess kien gara ghar-rigward tal-'*Overseas Television Rights*' tal-loghba kontra l-Ingilterra illi kellha tintlaghab fit 3 ta' Gunju 2000 u kontra s-South Africa illi kellha t-tintlaghab fit 28 ta' Mejju 2000, id-drittijiet televizivi ta' dawna z-zewgt loghbiet inbieghu ghas-somma ta' mitt elf Dollaru Amerikan, u dana kif jidher minn fax mibghuha mid-ditta Ingliza Octagon csi fl-20 ta' April 2000 fejn gie kkonfermat tali ftehim – Dok NDD 14.

Jirrizulta, ghal darba ohra, illi, ghalkemm il-pagamenti ta' dawna z-zewgt ftehim dahhlu kif stabbilit, tali ftehim sar ad insaputa tal-Kunsill Ezekuttiv tal-MFA u gie iffirmat u konkluz mir-rikorrent wahdu, bi ksur tad-disposizzjonijiet kollha illi jirrigwardaw r-rappresentanza legali u kontrattwali ta' l-istess MFA skond l-istatut taghha vide Dok NDD 8.

Apparti l-ftehim fuq imsemmi, jirrizulta ukoll illi r-rikorrent, dejjem wahdu, dahal fi ftehim iehor mas-socjeta CWL Telesport & Marketing AG fil-25 ta' Lulju 2000 fejn biegh id-drittijiet televizivi kollha ta' l-iskwadra nazzjonali Maltija ghas-snin 2000 sa 2007, ghal-valur ta' madwar bejn tlett miljun u hames miljun Franki Svizzeri pagabbli fuq medda ta' sebgha snin – Dok NDD11

Ikkunsidrat

Jirrizulta illi t-tielet u l-ahhar allegazzjoni illi kien ghamel l-intimat fil-konfront tar-rikorrenti fl-ittra meritu tal-kawza odjerna kienet tirrigwarda flejjes illi kienu jintbghatu mill-UEFA lill MFA fl-iskema hekk imsejjha '***UEFA Solidarity Payments***', liema pagamenti kellhom jitqassmu lill clubs tal-football u n-nurseries taghhom izda li, skond kif kien qieghed jallega l-intimat, tali flejjes ma kienux qed jitqassmu kollha izda kien hemm parti li tinzamm mill-MFA stess.

Jirrizulta illi, a differenza tal-allegazzjonijiet l-ohra illi kienu saru fil-konfront tar-rikorrent, fil-kaz odjern, il-Kunsill Ezekuttiv tal-MFA fl-4 ta' Settembru 2012, fil-Presidenza ta' l-intimat, kienet qabbdet lill-Board of Internal Auditors sabiex jigu investigat il-mod kif kienu qed jitqassmu dawna l-flejjes bejn is-sena 2002 sa 2008.

Jirrizulta illi fit-8 ta' Jannar 2013, il-Board of Internal Auditors ppresenta r-rapport taghhom fejn ghamlu s-segwenti konsiderazzjonijiet u konkluzjonijet:

> ***Interviews***
>
> *On Thursday, 18 October* (2012) *I* (Silvio Galea, Chairman tal-Board), *had a short discussion with the MFA's General Secretary Mr. Joe Gauci. The reason for this interview was the fact that the letters sent to UEFA declaring that all funds were distributed to clubs and nurseries were signed by him. Mr. Gauci admitted that he signed the letter stating that all the funds were distributed. However, he said that he never saw or signed Enclosures 4 in which the funds received by the clubs and nurseries were inflated. Enclosures 4 were sent with the letter signed by Mr. Gauci but as such Enclosure 4 was never signed by him.*

On Thursday 4 January, the IA interviewed Mr. Micallef and Dr. Mifsud and once again interviewed the MFA's deputy treasurer Mr. Ivan Mizzi.

Mr. Micallef stated that Dr. Mifsud as President used to announce the sum received under this scheme to the Executive Committee. He did not recall any queries by Executive Committee members regarding the sum distributed. He was involved in the workings of the coefficients and thus the sums distributed to the clubs and nurseries. However, he stated that he was not involved in the correspondence sent bv MFA to UEFA in which the former declared that all funds were distributed to the clubs. This correspondence included Enclosure 4.

Dr. Mifsud acknowledged that part of the funds were not distributed to the clubs and were retained by the MFA. He stated that these funds "indirectly" went to the MFA youth teams. He said that its true that technically the MFA was not eligible to receive funds from this scheme the same applied to the Youth FA and Gozo Youth FA.

Dr. Mifsud acknowledged that the feedback sent to the UEFA including Enclosure 4 on the distribution of funds did not show the correct figures received by the clubs. He emphasized that this was done not only to conceal the funds retained by MFA but also those received by the Youth FA and Gozo Youth FA. Furthermore, he stated that he had informed informally some UEFA officials of the fact that the MFA was retaining part of these funds.

Dr. Mifsud also explained that the Finance Department, including the Treasurer Mr. Manfre, knew of the sums distributed among clubs and nurseries and also issued the cheques for the nurseries1. However, the Finance Department was not involved in the compilation of Enclosure 4. This was compiled by Mr. Gauci and Mr. Micallef.

After these two interviews the IA talked to Mr. Ivan Mizzi who confirmed that the Finance Department was not involved in the feedback provided by the MFA to UEFA. According to him Enclosure 4 was compiled by Mr. Gauci and Mr. Micallef under the instructions of Dr. Mifsud.

On Saturday 6 January, I interviewed Mr. Manfre. He acknowledged that he knew the sums that each club and nursery received as these were give to the Finance Department to issue the necessary cheques for the nurseries. However, he stressed that he was not aware of the feedback given to UEFA by MFA including Enclosure 4.

Conclusions

From the documentation analyzed it is clear that not all the funds received from the UEFA in relation to the UEFA Solidarity Payments to Leagues were fully distributed to the eligible clubs and nurseries (almost EUR 68,000). Every year the MFA kept part of these funds for itself. This was in breach of the scheme's rules. Furthermore, the letters sent by MFA to UEFA stated that all funds were distributed when this was not the case. In the returns send by MFA to UEFA funds received by clubs and nurseries were inflated in order to show that all funds were distributed. However, it should be recalled that they were inflated not only by the funds kept by MFA but also by those distributed to the Youth FA and Gozo Youth FA. There is one important difference between the funds retained by MFA and those distributed to the two youth associations. The former

was known only to a very restricted group of high level MFA officials while the latter was known by the Executive Committee members. Thus, from the evidence analyzed the MFA reallocated these funds in the sense that it kept money it was not entitled to at the expense of its clubs and nurseries. Furthermore, the documentation sent by the MFA to UEFA was done in such a way as to conceal the funds retained by MFA, Youth FA and Gozo Youth FA. According to Dr. Mifsud, Mr. Ludovico Micallef and Mr. Joe Gauci were responsible for assisting him in the compilation of Enclosure 4 (that inflated the figures received by the clubs). This was strongly denied by Mr. Micallef who stated that at no time he was involved in the compilation of Enclosure 4.

This report is being presented to the MFA Bureau to take any remedial action it may deem fit.

Silvio Galea	*Claudio Martinelli*	*Mauro Miceli*
Chairman	*Member*	*Member*

Jirrizulta mill-investigazzjoni tal-Internal Audit Board, illi l-allegazzjonijiet illi kien ghamel l-intimat illi mhux il-flejjes kollha illi l-UEFA kienet tibghat lill MFA sabiex jitqassmu lill-klabbs lokali tal-football izda parti minnhom kien jinzamm mill-MFA bi ksur tar-regolamenti tal-UEFA kienu attwalment korretti.

Ikkunsidrat

Jirrizulta illi d-difiza principali ta' l-intimat kienet dik tal-fair comment.

Fl-ktieb **Gatley on Libel and Slander** (Sweet & Maxwell (London), 1981 jinghad hekk dwar in-natura ta' kumment:

A comment is a statement of opinion on facts. It is comment to say that a certain act which a man has done is disgraceful or dishonourable; it is an allegation of fact to say that he did the act so criticised. "A libellous statement of fact is not a comment or criticism on any thing". But while a comment is usually a statement of opinion as to the merits or demerits of conduct, an inference of fact may also be a comment. There are, in the cases, no clear definitions of what is comment. If a statement appears to be one of opinion or conclusion, it is capable of being comment. (para. 697, pagna 294).

L-istess **Gatley on Libel and Slander** dwar id-difiza ta' 'fair comment', imbghad, jghid dan li gej:

To succeed in a defence of fair comment 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.

Fil-kawza **Brent Walker Group plc v Time Out Ltd** [1991] 2 QB 33 deciza mill-Qorti tal-Appell Ingliza, il-bazi tal 'fair comment' giet kunsidrata minn Bingham LJ li dwarha qal is-segwenti:-

"*The civil law of libel is primarily concerned to provide redress for those who are the subject of false and defamatory factual publications. Thus in the simplest case A will be*

entitled to relief against B if B publishes a defamatory factual statement concerning A which B cannot show to be true. The law is not primarily concerned to provide redress for those who are the subject of disparaging expressions of opinion, and freedom of opinion is (subject to necessary restrictions) a basic democratic right. It is, however, plain that certain statements which might on their face appear to be expressions of opinion (as where, for example, a person is described as untrustworthy, unprincipled, lascivious or cruel) contain within themselves defamatory suggestions of a factual nature. Thus the law has developed the rule already mentioned that comment may only be defended as fair if it is comment on facts (meaning true facts) stated or sufficiently indicated. Failing that, the comment itself must be justified."

Fil-kawza **Dr Louis Galea vs Etienne St John u Felix Agius** deciza mill-Prim Awla tal-Qorti Civili fit 30 ta' April 2015, intqal is-segwenti :

... dwar l-aspett tad-difiża tal-kumment ġust ilu żmien jingħad mill-Qrati tagħna li, biex id-difiża tal-kumment ġust tkun tgħodd, jeħtieġ li min jistrieħ fuqha jseħħlu juri li (a) l-kumment kien imsejjes fuq fatt li jkun issemma fil-pubblikazzjoni li minnha jitressaq l-ilment; (b) il-fatt imsemmi jrid ikun sostanzjalment minnu; (ċ) il-kumment irid jintwera li jkun ġustifikabbli jew mistħoqq; (d) il-kumment irid ikun tali li jikkwalifika bħala kritika u mhux żebliħ, tgħajjir jew insolenza; u (e) irid jagħti l-fehma onesta tal-kummentatur u li l-pubblikazzjoni ta' dik il-fehma ma saritx b'ħażen jew bil-ħsieb preċiż li jweġġa' lil dak li jkun.

Tali taghlim huwa anke rifless f'gurisprudenza estera u, di fatti, fil-kawza **Spiller vs Joseph** deciza mill-Qorti tal-Appell Ingliza fl 1 ta' Dicembru 2010, 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.

Il-Qorti thoss illi ghandha wkoll taghmel referenza ukoll ghad-decizjoni tal-European Court of Human Rights fis-sentenza **Delfi AS** deciza fl-10 ta' Ottubru 2013, fejn qalet illi

"(i) Freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and for 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 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 ...

Dana huwa rifless anke mit-taghlim tal-Qrati Inglizi fejn, Lord Justice Scott, fil- kawza **Lyon v. Daily Telegraph**, qal:

> *The right of fair comment is one of the fundamental rights of free speech and writing which are so dear to the British nation, and it is of vital importance to the rule of law on which we depend for our personal freedom.*

Ikkunsidrat

Jirrizulta illi r-rikorrent nieda l-proceduri odjerni peress illi huwa jhossu malafamat ghal tlett allegazzjonijet illi ghamel l-intimat f'ittra illi l-istess intimat kien kiteb lill-Malta Football Association, illi taghha r-rikorrent kien il-President dak iz-zmien, fejn l-intimat kien qieghed jikteb wara sejha illi l-istess rikorrent kien ghamel lill-pubbliku in generali sabiex, f'kaz illi jafu b'xi kaz ta' korruzzjoni fil-qasam tal-football, huma ghandhom isemmghu lehinhom u jitkellmu u l-MFA taghtihom dik il-protezzjoni kollha illi jimmeritahom.

Jirrizulta wkoll illi, qabel li l-intimat kien baghat l-ittra meritu tal-kawza odjerna, ir-rikorrenti, f'zewgt okkazzjonijiet f'Ottubru 2008 kien ghamel insinwazzjoni u attakki diretti lejn l-intimat fuq l-operat tieghu meta huwa kien Tezorier tal-MFA, liema insinwazzjoni u attakki saru hekk kif l-intimat kien gharraf lill kullhadd illi huwa kien ser jikkandida ruhu ghall-Presidenza tal-Malta Football Association ghall-elezzjoni tas-sena 2010, ghal liema post r-rikorrent kien qieghed jerrggha jikkandida ruhu wkoll – eventwalment, l-intimat rebah l-elezzjoni u sar il-President tal-MFA, kariga illi huwa ghadu jokkupa sal-gurnata ta' llum.

Jirrizulta illi fl-ittra, meritu tal-kawza odjerna, li l-intimat kien baghat lis-Segretarju tal-Malta Football Association, l-intimat kien talab illi l-allegazzjonijiet illi huwa kien ghamel fil-konfront tar-rikorrenti tmien snin qabel, kif ukoll allegazzjonijet ohra illi huwa kellu dwar it-tmexxija tar-rikorrent, kellhom jigu investigati mill-Board of Inquiry u il-Board of Internal Auditors tal-MFA.

Jirrizulta, madanakollu, illi fuq insistenza tar-rikorrent, kif jidher fil-minuti tal-laqghat kemm tal-Ezekuttiv kif ukoll tal-Kunsill tal-MFA fuq riprodotti, dina l-ittra baqghet ma ntbaghtitx lill Bordijiet kif rikjest, izda minflok ir-rikorrent gharraf lill kullhadd illi huwa kien bi hsiebu jniedi proceduri ta' libell fil-konfront ta' l-intimat.

Il-Qorti ma tistax ma tosservax illi, il-Malta Football Association, bhala l-oghla istituzzjoni sportiva ta' Malta fil-qasam tal-football Malti, ghandha mhux biss id-dmir izda l-obbligu illi tassikura illi kull decizjoni illi taghmel u tiehu ghandu dejjem ikun fl-ahjar interess tal-football u ghalhekk, mhux trid isir bl-aktar mod trasparenti u leali lejn il-principji ta' l-isport izda ghandha tidher illi qieghda ssir hekk ukoll, u ghalhekk ghandha tassikura illi kwalsiasi allegazzjoni li jista, b'xi mod, jitfa dell ikrah fuq l-Assocjazzjoni innifisha jew, aktar u aktar, fuq l-ufficjali taghha, ghandu jigi investigat bir-reqqa mill-istituzzjonjiet illi ghandha l-istess Assocjazzjoni intizi sabiex jaghmlu tsali investigazzjonijiet, bhalma huma il-Board of Inquiry u il-Board of Internal Auditors.

Ghalhekk il-Qorti ma tista ma tosservax illi l-fatt li r-rikorrent ghazel illi tali allegazzjonijiet ma jigux investigati bir-reqqa minn min huwa imqabbad sabiex jaghmel tali investigazzjoni kien wiehed skorrett u, possibilment, indikazzjoni ta' nuqqas ta' fiducja da' parte tar-rikorrent fl-ghodda illi l-Assocjazzjoni innifisha ghandha biex tikkumbatti l-korruzzjoni.

Il-Qorti ma tistax ma tosservax illi jekk il-President tal-MFA ma kellux fiducja fil-Bordijiet ta' Investigazzjoni tal-MFA, allura kif jista qatt c-cittadin ikollu fiducja illi l-MFA kienet qieghda attwalment tiggieled il-korruzzjoni, kif dejjem insista r-rikorrent meta huwa kien President tal-MFA.

Ikkunsidrat

Jirrizulta illi l-intimat kien ilmenta dwar tlett affarjiet differenti: li talba ghall-investigazzjoni li saret minn f'Novembru 2000 giet injorata; li flejjes ma kienux qed jidhlu fil-kontijiet tal-MFA; u li flejjes mibghuta mill-UEFA sabiex jitqasmmu mal-klabbs kollha ma kienux qed jitqassmu kollha.

Jirrizulta illi, dwar l-ewwel u tielet allegazzjoni fuq indikati, ma jista jkun hemm ebda dubju illi dak minnu allegat kien attwalment korrett peress illi, fl-ewwel kaz, gie kkonfermat illi l-ittra ta' Novembru 2000 giet injorata mill-Kunsill Ezekuttiv filwaqt illi dwar it-tielet allegazzjoni il-Board of Internal Auditors ikkonferma fir-rapport tieghu li mhux il-flejjes kollha kienu tqassmu.

Dwar it-tieni allegazzjoni, jirrizulta ben ippruvat illi, bi ksur ta' l-istatut tal-Malta Football Association, ir-rikorrent kien, ripetutament, jidhol wahdu fi ftehim ma' terzi ghal Television Rights u Advertising Rights, illi kienu jwasslu ghall hlasijiet ta' ghexieren jekk mhux mijiet ta' Dollari Amerikani u kien jaghmel id-diskussjonijiet kollha wahdu ma' persuni illi huwa kien ilu jafhom ghal hafna snin u kien iqishom parti mill-familja tieghu.

Jirrizulta kkonfermat mir-rikorrent stess illi huwa kien regolarment jadopera tali metodu u eventwalment il-ftehim tieghu kienu jigu ratifikati mill-Kunsill. Madanakollu, il-Qorti ma tistax ma taghmilx is-segwenti osservazzjoni – kif setghu qatt il-Kunsill joggezzjonaw ghar-ratifika ta' kuntratt miftiehem u iffirmat unilateralment mir-rikorrent bhala President meta tali ftehim kienu jwasslu ghad-dhul ta' somom ingenti ta' flejjes fil-kontijiet tal-MFA f'mumenti meta hija kienet finanzjarjament prekarja u kellha bzonn kull sold illi wiehed seta jottjeni?

Il-Qorti ma tistax ma tosservax illi kien jispetta lir-rikorrent, bhala President tal-Malta Football Association illi, f'gieh it-trasparenza, jiehu hsieb li, f'kaz ta' kuntratti li kienu jinvolvu l-eluf kbar ta' flejjes, bhalma kien il-kuntratt tal-Bayern Munich, fejn l-MFA thallset mitejn u hamsin elf Dollaru Amerikan (250,000 USD) talli gew jilghabu Malta it-team tal-Bayern Munich f'loghba amikevoli, jassikura illi kull decizjoni illi kien ser jiehu tigi diskussa u approvata mill-Kunsill **qabel** ma jsir il-ftehim u mhux wara, bhalma attwalment gara fil-kaz fuq imsemmi kif ukoll kuntratti ohra. Apparti minn hekk, il-Qorti ma tistax ma tosservax illi huwa kemmxejn stramb u inverosimili illi kuntratt jigi kollu redatt b'mod dattiolografat u c-cifra dwar kemm kellu jithallas jithalla totalment barra u eventwalment tigi inkluza f'kopja ta' kuntratt bl-iskitt minghajr ma jkun hemm ebda tip ta' firma ta' konferma tal-partijiet illi kienu ffimaw il-ftehim hdejn tali somma hekk imharrbxa – dina hija indikazjoni cara illi tali somma tnizzlet wara illi gie finaizzat u ffirmat il-kuntratt u ghalhekk mhux necessarjament hija riflessjoni tas-somma flus illi originalment setghet kienet miftiehma mir-rikorrent wahdu, minghajr ebda awtorizazzjoni tal-MFA u minghajr ma qatt iddiskutiha ma hadd.

Il-Qorti tifhem illi r-rikorrent kellu l-ahjar interess tal-futball Malti u tal-Malta Football Association meta huwa kien jinnegozja u jiffinalizza ftehim ma' varji partijiet wahdu, u tifhem illi ghamel hafna gid lill football Malti, izda l-fatt illi huwa kien jonqos illi jonora l-obbligu li kull ftehim jigi ffirmat flimkien ma' ufficjal iehor kif ukoll kien jonqos milli jikkonsulta u jottjeni l-approvazzjoni tal-Kunsill qabel ma jiffinalizza l-ftehim ma jistax ma jwassalx lill min kien involut u, aktar u aktar,

lic-cittadin komuni sabiex jikkonkludi li dana seta sehh minhabba f'ragunijiet mistura illi r-rikorrent ma kienx irid li wiehed ikun jaf.

Tali metodologija, inevitabbilment iwasslu sabiex azzjonijiet u decizjoni jibdew jigu dubitati u kkunsidrat b'mod suspettuz, aktar u aktar meta, fil-media internazzjonali, tidba tigi rappurtata b'mod regolari illi kien hemm istanzi ta' korruzzjoni fl-ghotja tal-venue tat-Tazza tad-Dinja tas-sena 2006 lill-Germanja, liema decizjoni ittiehdet meta ir-rikorrent, fil-kapacita' personali tieghu, kien involut direttament fil-Kumitat Ezekuttiv tal-FIFA, fejn qieghed jigi allegat illi somma ta' tlett mitt elf Dollaru (300,000 USD) inghaddew lill-varji ufficjali tal-Kumitat Ezekuttiv permezz ta' ftehim ta' Advertising ma' l-istess ditta illi attwalment kienet dahhlet fi ftehim mar-rikorrent wahdu, ftit gimghat qabel il-vot tat-Tazza tad-Dinja, liema ftehim kien sar fid-dar privata tar-rikorrent, fil-presenza tal-Kap li kien qieghed imexxi l-applikazzjoni tal-Germanja ghat-Tazza tad-Dinja tas-sena 2006, u fejn is-somma li kellha tithallas sabiex jigu jilghabu Malta il-Bayern Munich thalliet barra u eventwalment giet imharrbxa bil-biro fis-somma ta' mitejn u hamsin elf Dollaru, l-original ta' liema ftehim qatt ma gie depositat gewwa l-Malta Football Association u tieghu biss inghaddiet kopja xhur wara, hekk kif intalbet il-pagament tal-flus li kellhom attwalment jithallsu xhur qabel, skond il-ftehim illi kien ghamel ir-rikorrent.

Il-Qorti ma tistax ma tosservax illi l-intimat, bhala Tezorier tal-MFA meta sar tali ftehim kif ukoll ftehim ohrajn illi ghamilhom wahdu ir-rikorrent, kellu l-obbligu u dover illi jirrapporta kull kaz li huwa deherlu suspettuz u jitlob li jigu investigati u, in vista tas-serjeta' ta' dak irrappurtat, il-Kunsill Ezekuttiv kellu l-obbligu illi jara li tali allegazzjonijiet jigu investigati fid-dettall. Kien ghalhekk skorrett ghall-Kunsill Ezekuttiv illi jinjoraw l-allegazzjoni kollha maghmulha u eventwalment, meta terggha titqajjem tmien snin wara, thalli lill-President taghha, li ma ghandu jkun hemm ebda dubju li ghandu jitqies bhala persuna pubblika, illi jmexxi, fuq bazi personali, il-proceduri ta' libel odjerni fil-konfront ta' l-intimat.

Wara kollox, kif qal r-rikorrent stess lill-komunita' Maltija tal-football meta huwa kien qed jindirizza laqgha bhala President tal-MFA, liema diskors, fuq irrappurtat, wassal ghal-ittra mibghuta mill-intimat u li wasslet ghall-kawza odjerna

> *"... ma jiswa xejn jekk inhallu d-dell tal-korruzzjoni fuq il-football Malti. Hawn wisq diskors u ghalkemm forsi mhux kollox ikun vera, il-qasba ma' ccaqcaqx ta' xejn. Iridu noqghodu attenti u niridu nahdmu halli d-dell tal-korruzzjoni innehhuh."*

Ghalhekk, il-Qorti ma tistax ma tasalx ghall-konkluzjoni illi l-kummenti illi ghamel l-intimat fil-konfront tar-rikorrent ghandhom jitqiesu bhala kummenti gusti dettatti mill-fatt illi r-rikorrent, bhala persuna pubblika, kien unilateralment dahal fi ftehim ghan-nom tal-MFA f'diversi okkazzjonijiet ghal somom ingenti ta' flus minghajr ma' qabel jottjeni ebda approvazzjoni, liema rikorrent kien eventwalment wassal lill-Kunsill Ezekuttiv sabiex jinjora tali allegazzjonijiet, anke meta dawna kienu qed isiru mill-intimat fil-vesti tieghu ta' Tezorier tal-MFA u minflok beda jattakka lill-intimat ghal varji snin, liema attakki intensifikaw hekk kif l-intimat habbar illi kien ser jikkandida ruhu ghall-Presidenza tal-MFA fl-elezzjoni tas-sena 2010.

Konkluzjoni

Wara illi rat u semghet il-provi estensivi tal-partijiet u gharrblet id-dokumentazzjoni kollha esebita,

Wara illi rat is-sottomissjonijiet bil-miktub ta' l-abbli difensuri tal-partijiet

Tghaddi biex taqta u tiddeciedi l-kaz billi

Tilqa l-eccezzjonijiet kollha ta’ l-intimat Norman Darmanin Demajo, u ghalhekk

Tichad it-talbiet attrici.

Spejjez tal-proceduri odjerni ghandhom ikunu a kariku tar-rikorrent.

Magistrat Francesco Depasquale

Marisa Bugeja
Deputat Registratur