



**QORTI CIVILI  
(SEZZJONI TAL-KUMMERC)**

**ONOR. IMHALLEF  
JOSEPH ZAMMIT McKEON**

**Illum l-Erbgha 20 ta` Frar 2019**

**Kawza Nru. 6  
Rik. Nru. 1/18 JZM**

**Global Sun Limited  
(C-43693)**

***kontra***

**X**

**Il-Qorti :**

**I. Preliminari**

Rat ir-rikors li kien prezentat fl-1 ta` Awissu 2018 u li jaqra hekk :-

*Illu l-kumpanija esponenti kienet attiva u topera fl-industrija fotovoltajka. Illi is-suq fejn topera din il-kumpanija ha daqqa ta` harta*

*lura fis-sena 2011 fejn anke kumpanniji ohra li kien jaghmlu negozju mal-kumpannija kellhom jaghzlu t-triq tal-likwidazzjoni. Dan kellu effett negattiv fuq il-kumpannija esponenti li spiccat ma setghetx tigbor krediti sostanzjali dovuti lilha.*

*Illi min-naha l-ohra, il-kumpannija, li kawza ta` hekk giet l-impossibilita` li taqdi l-obbligi kontrattwali taghha, giet rinfaccjata bi procedure legali fl-Istati Uniti ta` l-Amerika minn kumpannija partikolari Hemlock Semiconductor Corporation li giet kanonizzata kreditrici tal-kumpannija esponenti fis-somma ta` €240.653.961 in linea ta` danni kontrattwali.*

*Illi l-kumpannija agixxiet bhala garanti ghal sister companies ohra fil-konfront ta` sindakat ta` banek Spanjoli mmexxija mill-bank La Caixa ghal somom ta` €53.471.868 u €22.038.929, fejn illum il-kumpannija giet imsejha biex taghmel tajjeb ghad-dejn tad-debituri principali li wkoll marru f` likwidazzjoni ghax ma setghux ihallsu d-debiti taghhom.*

*Illi dawn ic-cirkostanzi gabu lill-kumpannija fi stat ta` llikwidita` u konsegwentement waqfet ukoll minn l-operat taghha. Illi b` risoluzzjoni tal-Bord tad-Diretturi (Dok A + hames dokumenti annessi) datata 31 ta` Awissu 2017 gie deciz illi l-kumpannija tigi xjolta u straclata mill-Qorti.*

*Illi flimkien mal-prezenti rikors qed jigu annessi :-*

*Dok B*

*Kopja tal-Memorandum and Articles of Association tal-kumpannija ;*

*Dok C*

*Preliminary accounts minn 01/01/2017 sa 31/07/2017*

*Dok D*

*Audited Accounts 2016*

*Dok E*

*Audited Accounts 2015*

*Ghaldaqstant fic-cirkostanzi l-esponenti umilment jitolbu lil din l-*

*Onorabbli Qorti sabiex taghti ordni ghal xoljiment u konsegwenti stralc tal-kumpannija Global Sun Limited u taghti dawk l-ordnijiet necessarji u opportuni ancillari u konsegwenti ghal din il-procedura.*

Rat id-dokumenti li kienu prezentati mar-rikors.

Semghet ix-xiehda ta` Raymond Camilleri fl-udjenza tal-21 ta` Novembru 2018.

Rat id-digriet li tat fl-istess udjenza fejn, wara li kien dikjarat l-gheluq tal-istadju tal-provi, il-kawza thalliet ghal-lum sabiex jinghata provvediment finali.

Rat id-digriet *in camera* li tat fl-24 ta` Dicembru 2018 li jghid :-

*Illi wara li ntemm il-gbir tal-provi fl-udjenza tal-21 ta` Novembru 2018, il-kawza thalliet ghal provvediment finali dwar it-talbiet tar-rikorrenti ghall-udjenza tal-20 ta` Frar 2019.*

*Illi waqt li kienet qeghda taghrbel l-atti sabiex thejji l-provvediment, sabet, in partikolari fir-risoluzzjoni Dok A a fol 3 u 4 tal-process, illi ghal dak li jirrigwarda l-membri ta` Global Sun Limited, ir-risoluzzjoni kienet iffirmata minn rappresentant ta` Pillar Group B.V. u minn rappresentant ta` BSB Cooperatieve U.A., liema socjetajiet ma jirrizultawx li huma membri tal-kumpannija Global Sun Limited.*

*Illi skont il-memorandum u l-articles of association ta` Global Sun Limited (Dok B a fol 11 et seq) il-membri taghha huma tnejn : BSB Group Limited (1,299 shares) u TCV Management & Trust Services Limited (1 share).*

*Illi ma tistax taghti provvediment qabel ma tkun iccarata din l-inkonsistenza li tirrizulta prima facie.*

*Ghalhekk qeghda tissospendi l-prolazzjoni tal-provvediment.*

*u*

*Qeghda taghti lir-rikorrenti zmien sal-15 ta` Jannar 2019 sabiex, bil-presentata tal-ahjar prova jew provi skont il-ligi, taghti l-kjarimenti kollha li hemm bzonn sabiex tkun indirizzata u possibilment risolta bis-shih id-diffikulta` li sabet ruhha fiha.*

Rat in-nota b`dokument li pprezentat ir-rikorrenti fit-8 ta` Jannar 2019 in línea mad-digriet tal-24 ta` Dicembru 2018.

Rat id-digriet li tat fl-14 ta` Jannar 2019 fejn il-kawza thalliet ghal-lum ghall-provvediment finali dwar it-talbiet tar-rikorrenti.

Rat l-atti l-ohra tal-kawza.

## **II. Provi**

### **1. L-M&A ta` Global Sun Limited**

Is-socjeta` rikorrenti hija registrata Malta skont il-Kap 386.

Ir-registrazzjoni tal-*memorandum* u tal-*articles of association* tar-rikorrenti saret skont l-Art 79(2) tal-Kap 386.

Ir-rikorrenti nghatat in-numru ta` registrazzjoni C43693.

Jirrizulta li kien hemm bdil fl-azzjonisti tal-bidu ghal dawk li kienu

attwalment meta ttiehdet ir-risoluzzjoni odjerna sabiex ikun hemm xoljiment u stralc tal-kumpanija.

Jirrizulta, abbazi tal-provi li tressqu, illi fil-mument li saret ir-risoluzzjoni li skattat il-procedura odjerna, l-azzjonisti kienu :-

**Pillar Group B.V.**

1,235 Class A Ordinary Shares of €1 each fully paid up share ;

**BSB Cooperatieve U.A.**

64 Class A Ordinary Shares of €1 each fully paid up ;

**BSB Cooperatieve U.A.**

One Class B Ordinary Shares of €1 each fully paid up.

**2. Xiehda**

**Raymond Camilleri** xehed illi huwa kien kontrollur finanzjarju fil-bidu u Chief Accountant wara tal-kumpanija rikorrenti.

Stqarr illi matul is-snin in-negozju ta` Global Sun Limited ha daqqa sew `l isfel minhabba l-qaghda negattiva tas-suq internazzjonali. Kienet taghmel parti minn grupp ta` kumpaniji li kienu jipproducu *photovoltaic wafers*. Hija kienet tiehu hsieb ix-xiri u l-bejgh. Bhala parti mill-operat taghha, dahlet bhala garanti ta` self ta` madwar €300 miljun li kien koncess minn banek Spanjoli lil kumpanija assocjata fi Spanja li kienet tipproduci *photovoltaic wafers*. Gara li s-suq beda sejjer lura tant li l-fabbrika fi Spanja kellha taghlaq u kellha tkun xjolta. Meta raw dan kollu, il-banek Spanjoli ghamlu kuntatt ma` Global Sun Limited<sup>1</sup> kif ukoll ma` bank Malti<sup>2</sup> ghall-fini ta` verifika dwar kemm flus kellha l-bank billi kienet garanti tas-self. Kif appena rcieva din ir-rikjesta mill-banek Spanjola, HSBC fil-pront iffriza l-kont tar-rikorrenti. Il-bank Malti ha dik id-decizjoni

<sup>1</sup> Ara l-ittra mibghuta mid-ditta ta` Avukati Clifford Chance – fol. 7 tal-process.

<sup>2</sup> Ara l-korrispondenza relattiva – fol. 9 tal-process.

b` mod unilaterali billi la kienu prezentati kawzi u lanqas mandati kontra Global Sun Limited.

Kompla jixhed illi meta ghalqet il-fabbrika ta` Spanja, kien ghad fadal jithallas lura bilanc tas-self bankarju fl-ammont ta` €53,471,868 u €22,038,929. Dawn kien tradotti fi *contingent liability* ghar-rikorrenti. Intant ir-rikorrenti kienet rinfaccjata b`*contingent liability* ohra. Fil-fatt kellha kuntratt ma` Hemlock Semiconductor Corporation, kumpannija Amerikana li kienet tforni l-*polysilicon* li huwa l-materja prima tal-*photovoltaic wafers*. Ir-rikorrenti kienet garanti fuq dan il-kuntratt ukoll. Billi s-suq kien sejjer hazin, u r-rikorrenti ma kelliex mnejn taghmel tajjeb ghall-obbligazzjonijiet taghha, il-kumpannija Amerikana bdiet proceduri gudizzjarji fl-Istati Uniti u kienet kanonizzata kreditrici fl-ammont ta` €240,653,961 b`decizjoni ta` qorti fl-Istat ta` Michigan. Ghalkemm ma kienx hemm ezekuzzjoni tas-sentenza kontra Global Sun Limited, dak il-kreditu kienu nkluz fil-kotba taghha bhala *contingent liability* billi kienet taf bil-kawza li saret Michigan.

Sahaq illi s-socjeta` rikorrenti illum mhijiex f`qaghda li thallas id-djun taghha wara li l-qaghda finanzjarja taghha marret ghall-aghar u kienet precipitata minn serje ta` grajjiet. Fisser illi n-negozju beda jonqos drastikament. Is-suq litteralment kien saturat b` mod u manjiera li diversi produttori raw il-falliment u kellhom jaghlqu l-bibien taghhom. Fis-suq tal-Ewropa kien fadal biss ir-rikorrenti.

Fisser illi minn harsa (anke fuq fuq) tal-accounts jirrizulta li Global Sun Limited ghandha biss *contingent liabilities*.

Ma` dawn ghandu jizdied dejn favur tieghu personalment ta` €14,000 ghal xoghol li ppresta li baqa` ma thallasx kif ukoll €2,340 ghal *notice money* u *leave* li baqghu lanqas ma thallsu.

Hu tat l-avviz tat-tmiem tal-impieg tieghu fit-28 ta' Lulju 2017.

Stqarr li mal-HSBC Bank Malta plc kien hemm flus depozitati fl-ammont ta` madwar €45,000. Kien hemm ukoll ammont iehor ta`

€1,200 depozitat ma` Satabank.

Global Sun Limited m` ghandhiex assi ohra hlief id-depoziti bankarji li semma.

Stqarr illi ghalkemm li d-depoziti ma jistghu qatt ikunu bizzejjed sabiex jithallsu l-*contingent liabilities*.

Apparti dawn, qal li hemm xi flus dovuti lid-Dipartiment tat-Taxxi Interni *qua* FSS tieghu u ta` direttur li kien impjegat tal-kumpannija. Dan tal-ahhar kien kreditur taghha fl-ammont ta` madwar €18,000.

### **3. Dokumenti**

#### **a) Ir-risoluzzjoni straordinaria tal-31 ta` Awissu 2017**

Din taqra hekk :

**RESOLUTION IN WRITING SIGNED BY ALL THE DIRECTORS OF THE COMPANY PURSUANT TO ARTICLE 73 OF THE ARTICLES OF ASSOCIATION AND A RESOLUTION IN WRITING SIGNED BY ALL THE MEMBERS OF THE COMPANY ENTITLED TO RECEIVE NOTICE OF AND TO VOTE AT THE GENERAL MEETING OF THE COMPANY IN TERMS OF ARTICLE 210 OF THE COMPANIES ACT**

WHEREAS :

1. *The Company is a Trading Company active in the photovoltaic industry. The market, in which it is active, collapsed in 2011 and the Company's most important counterparties underwent liquidation (third-party: Q.Cells AG, Isofoton S.A., Cel Celis S. A.,*

*Siliken S. A., Solland Solar B.V. and within the group: Silico Solar SAU);*

- 2. These insolvencies left the Company with pending receivables that will most likely not be recovered anymore, a summary of external receivables is attached hereto like **document 1**;*
- 3. The Company had entered into long-term supply agreements with Hemlock Semiconductor Corporation who, upon failure of the Company to perform its take-or-pay obligations under the agreements, filed a claim to the Eastern District Court of Michigan requesting payment of €240,653,961 from the Company as evidenced by **document 2**, attached hereto and*
- 4. The Company acts like guarantor versus a syndicate of banks headed by Spanish bank La Caixa like agent and represented by the law firm Clifford Chance, for a €53,471,868 loan and €22,038,929 executed letters of credit. The numerous attempts of the Company to negotiate a release from the guarantee failed, as evidenced i. a. by (i) the letter from Clifforn Chance to the Company dated January 7, 2016 (attached hereto like **document 3**), (ii) a letter from La Caixa to the Company dated March 16, 2017 claiming payment under the guarantee (attached hereto like **document 4**) and (iii) a letter signed by all seven banks forming the syndicate, dated April 18, 2017 informing about the enforcement of an account pledge (attached herto like **document 5**).*

*Based on the above*

**IT IS HEREBY RESOLVED BY ALL THE DIRECTORS AND MEMBERS OF THE COMPANY AS FOLLOWS :**

- 1. Given the impossibility to recover any meaningful amount of the receivables outstanding from customers, to respond to its guarantee obligations or payables resulting from the Hemlock case and based on the fact that market prices remian at levels of*



*less than 20% of prices achievable in 2011, the Company is unable to pay its debts;*

- 2. It shall therefore be dissolved and consequently wound up by the court;*
- 3. The corresponding Application shall be prepared and filed at the registry of the First Hall of the Civil Court;*
- 4. Audited accounts of the last two years, 2015 and 2016 as well as preliminary accounts dated 31st July 2017 shall be attached to the application.*

**b) Sentenza tal-Eastern District of Michigan datata 3 ta` Ottubru 2014 fl-ismijiet : Hemlock Semiconductor Corporation vs Global Sun Limited and Isofoton S.A.**

Bis-sahha ta` din id-decizjoni, l-attrici kienet kanonizzata kreditrici tal-konvenuti fl-ammont ta` \$300,344,721.88 bhala danni kontrattwali.

**c) Report and Financial Statements ghas-sena li ghalget 31 ta` Dicembru 2015**

Fil-parti tar-rapport intestata *Future Developments* jinghad hekk :-

*"The director intends to continue to operate in line with his current business plan but draws attention to the contingent liabilities outlined in point 17 of the notes to the financial statements, the continued decrease of market prices, the difficulty of raising sufficient liquidity and the continued unresolved bankruptcy proceedings of Silico Solar."*

Mill-financial statements jirrizulta illi kien hemm *total liabilities* ta` €34,233,215 waqt li t-total assets kienu valutati fl-ammont ta` €779,093.

Ghalhekk sa mill-2015, il-qagħda finanzjarja ta` Global Sun Limited kienet karatterizzata minn zbilanc qawwi ta` djun fil-konfront tal-assi.

Mir-rapport ikompli jirrizulta hekk :-

12. *Trade and other receivables*

*Trade receivables*

....

*Debtors are stated after a specific provision for doubtful debts amounting to €9,222,794 (2014 - €9,119,427).*

*This provision is in respect of two customer balances who are in insolvency proceedings with very low probability for the company to recover funds. Liquidation of one of the debtors has started in June 2014 while the second one is already in the final stage of the liquidation process.*

d) **Report and Financial Statements**  
**ghas-sena li ghalget fil-31 ta` Dicembru 2016**

Jinghad illi d-djun baqghu dawk li kienu fis-sena precedenti.

Fit-taqsima 13 taht it-titolu **Going Concern**, jinghad hekk :-

*"The balance sheet suggests that the going concern assumption used in the preparation of these financial statements is dependent on further sources of funds. The Company incurred a net loss of Euro 741,606 during the year ended 31 December 2016 and, as of that date, the Company's current liabilities exceeded its current assets by €33,270,081. On the same date the company's accumulated losses exceeded the paid up share capital by Euro*

34,202,478 (31 December 2015 – Euro 33,515,300). Related parties of the company have not given explicit assurances that they will continue to financially support the operations of the company."

e) **Unaudited financial statements**  
**ghas-sena li ghalget fil-31 ta` Dicembru 2017**

Jidher li l-kumpanija kellha dejn qawwi (€33,361,252) li kien jaqbez bil-wisq l-assi (€67,109).

**III. Locus standi**

**Fil-kaz tal-lum, ix-xoljiment u l-istralc ta` Global Sun Limited intalab abbazi tal-Art. 214(1)(a) tal-Kap 386.**

Qabel ma tqis it-talba kif dedotta, il-Qorti sejra tirreferi ghall-**Art 218(1) tal-Kap 386** stante illi hija din id-disposizzjoni li tistabilixxi **kif u minn min** ghandha titressaq talba ghax-xoljiment u l-istralc ta` kumpanija.

Id-disposizzjoni taqra hekk :-

*Talba lill-qorti (aktar `il quddiem imsejha "rikors ghal stralc") ghal -*

*(a) stralc ta` kumpanija mill-qorti skont l-artikolu 214(1)(a) ;*

*(b) xoljiment u stralc ta` kumpanija mill-qorti skont l-artikolu 214(2)(a) ; jew*

*(c) xoljiment u stralc ta` kumpanija skont l-artikolu 214(2)(b),*

*ghandha ssir b`rikors li jista` jsir jew mill-*

*kumpanija wara decizjoni tal-laqgħa generali jew mill-bord tad-diretturi tagħha jew minn xi detentur ta` obbligazzjoni, kreditur jew kredituri, jew minn xi kontributorju jew kontributorji:*

*Izda rikors skont il-paragrafi (b) jew (c) jista` wkoll isir minn xi azzjonist jew direttur tal-kumpanija.*

**L-Art.214(1)(a) tal-Kap.386** ighid hekk :-

*Kumpanija xxolji u konsegwentement tigi stralcjata fil-kazijiet li gejjin ...*

*(a) il-kumpanija tirisolvi b`rizoluzzjoni straordinarja li l-kumpanija għandha xxolji u tkun stralcjata mill-qorti.*

**Fil-kaz odjern, il-procediment kien inizjat mill-kumpanija wara risoluzzjoni unanima tal-membri tagħha li ttiehdet fil-31 ta' Awissu 2017.**

**Jirrizulta li l-membri kollha, li kienu l-azzjonisti fil-mument illi ttiehdet ir-risoluzzjoni, kienu dawk li accettaw u qablu li tittiehed ir-risoluzzjoni għax-xoljiment u stralc tal-kumpanija.**

**Għalhekk il-procediment jinkwadra ruhu fl-ambitu ta` l-Art.218(1)(a) tal-Kap.386.**

#### **IV. L-Art 214 tal-Kap 386**

L-**Art 214 tal-Kap.386** jirregola r-ragunijiet biex ikun jista` jkun hemm xoljiment u stralc ta` kumpanija.

Issa hemm kazi specifika fil-ligi stess fejn xoljiment u stralc

***ghandhom* (*shall*)** jigu ordnati, u oħrajn fejn xoljiment u stralc ***jistghu*** (***may***) jigu ordnati.

**Fil-kaz tac-cirkostanzi previsti fil-paragrafi (a) u (b) tas-subinciz (1) tal-Art 214 topera s-shall.**

**Fil-kaz tal-lum, si tratta ta` xoljiment u stralc mill-qorti għad-differenza ta` xoljiment u stralc volontarju li huwa regolat bil-paragrafu (b).**

**Il-kazi fejn topera il-may huma dawk indikati fis-subparagrafi (i) u (ii) tal-paragrafu (a) tas-subinciz (2) tal-Art.214. Ir-rikorrenti mhijiex tressaq it-talba skond dawn id-disposizzjonijiet.**

**Għalkemm mhuwiex il-kaz tal-lum, is-*shall* topera wkoll (din il-Qorti tghid b`riserva) fil-kazi indikati fil-paragrafi (i) sa (iv) tal-paragrafu (b) tas-subinciz (2) tal-istess Art.214. Tagħmel riserva għar-raguni li l-Art.214(2)(b) jittellem biss dwar xoljiment mhux ukoll dwar l-stralc fl-erba` kazi hemm specificati. Dan huwa hekk għax b`effett tal-Art.214(3) l-istralc huwa diskrezzjoni tal-qorti f`dawk l-erba` kazi.**

## **V. Konsiderazzjonijiet**

Ir-risoluzzjoni li tat lok għall-procediment odjern kienet approvata mill-membri kollha tal-kumpannija fil-31 ta' Awissu 2017.

Hekk għamlu d-diretturi wkoll.

**Biex ikunu sodisfatti r-rekwiziti tal-Art 214(1)(a) tal-Kap 386, ir-risoluzzjoni trid tkun straordinarja, u tkun ittiehdet mill-membri.**

**Jekk ikun hemm disposizzjoni fl-M&A tal-kumpanija li tirregola l-materja allura tapplika dik ; fin-nuqqas tapplika l-ligi.**

**Ghalkemm ir-risoluzzjoni (*supra*) tirreferi għall-klawsola 73 tal-*articles* din il-Qorti ma tqisx li dik hija l-klawsola rilevanti sabiex tkun tista` tigi nizzjata procedura bhal dik tal-lum.**

**Fil-fatt, il-klawsola tal-*articles* rilevanti hija l-klawsola 47 għaliex dik hija d-disposizzjoni li tirregola risoluzzjonijiet straordinarji.**

**Tajjeb jinghad illi għall-fini ta` procediment bhal dak tal-lum, ir-risoluzzjoni rilevanti mhijiex dik tad-diretturi izda tal-membri.**

**Huma l-membri li jikkostitwixxu u jaghmlu kumpanija mhux id-diretturi.**

**U allura jekk hemm rieda li kumpanija tigi xjolta u stralcjata, dik hija decizjoni li għandha tispetta u tittiehed mill-membri kif previst fl-M&A.**

**Dan premess jirrizulta li fil-kaz tal-lum il-membri qagħdu ma` dak previst fil-klawsola 47.**

**Anke d-diretturi kienu favur ix-xoljiment u l-istralc.**

Premess dan kollu, il-Qorti tifhem il-motivazzjoni wara t-tehid tar-risoluzzjoni.

Ix-xieħda ta` Raymond Camilleri tagħti stampa cara u mingħajr

ekwivoci tal-fatti illi wasslu lir-rikorreni fi stat ta' insolvenza.

*Il-financial statements* ma jhallu ebda dubju illi d-djun tal-kumpannija jissuperaw bil-bosta l-assi.

Ghalkemm jirrizulta illi l-kumpannija ghandha flejjes depozitati lokalment, dawn xorta wahda mhux bizzzejjed biex ir-rikorreni thallas id-djun taghha.

Hemm ukoll id-diffikulta` illi r-rikorreni tirkupra lura l-krediti taghha u dan ghaliex id-debituri tar-rikorreni fallelw b'uhud minnhom gew xolti jew fi stadju ta` proceduri ghax-xoljiment u stralc. Dan jaghmilha ferm diffiqli illi r-rikorreni tithallas lura.

Jirrizulta wkoll illi r-rikorreni waqfet topera f'Lulju tas-sena 2017 billi kif deskritt, kienet thaddem negozju f'suq feroci illi honoqha u qatilha b'pass mghaggel.

Il-kwadru li johrog tar-rikorreni mhuwiex felici.

Ladarba rrizulta li waqfet ghal kollox milli topera n-negozju taghha certament ghal zmien ininterrott ta` aktar minn sena u nofs, il-kumpannija mhijex tiggenera dhul, u ladarba huwa bid-dhul li jkun jista` jithallas id-dejn u jsir investiment, il-prospettivi tar-rikorreni jibqghu hzienu. Lanqas ma jirrizulta illi hemm il-hsieb li jsir *an injection of fresh capital* fil-kumpannija, u dan kagun ta` kif evolva s-settur tal-energija.

Il-konsegwenza ta` dan kollu tissarraf f'sitwazzjoni fejn ir-rikorreni sejra tkompli tiggenera t-telf.

Ghalhekk, wara li qieset il-qagħda kurrenti tas-socjeta` intimata, il-Qorti hija tal-fehma illi ghandha tghaddi ghax-xoljiment u stralc taghha.

Il-Qorti taghmel referenza ghall-ktieb **Company Law** (Lexis Nexis - Butterworths 2003), fejn l-awtrici **Brenda Hannigan** tghid hekk :

*“winding up or liquidation ... is the process by which the assets of the company are collected in and realised, its liabilities discharged and the net surplus, if there is one, distributed to the persons entitled to it. Only when this has been done is the company`s existence finally terminated by a process known as dissolution ... Insolvent winding up occurs essentially when companies are unable to pay their debts in full. When a company cannot pay its debts in full, difficult problems arise as to how the assets that are available should be distributed. In theory, as we shall see, the law tries to maintain an equality between creditors so that assets are pooled and distributed pari passu ie rateably according to the size of each creditor`s claim.”*

**Brenda Hannigan** taghmel referenza ghall-Cork Committee Report (Cmnd 8558, Ch 4) dwar l-ghanijiet ta` *good modern insolvency law*.

Fost ohrajn, inghad li l-ghanijiet huma :

*“... to recognise that the world in which we live and the creation of wealth depend upon a system founded on credit and that such a system requires, as a correlative, an insolvency procedure to cope with its casualties; ... to relieve and protect where necessary the insolvent, and in particular the individual insolvent, from any harassment and undue demands by his creditors .... at the same time, to have regard to the rights of creditors whose own position may be at risk because of the insolvency; ... to realise the assets of the insolvent which should properly be taken to satisfy his debts, with the minimum of delay and expense; to*



*distribute the proceeds of the realisations among the creditors in a fair and equitable manner, returning any surplus to the debtor; to ensure that the processes of realisation and distribution are administered in an honest and competent manner, ... To recognise that the effects of insolvency are not limited to the private interests of the insolvent and his creditors, but that other interests of society or other groups in society are vitally affected by the insolvency and its outcome and to ensure that these public interests are recognised and safeguarded, ... to provide the means for the preservation of viable commercial enterprises capable of making a useful contribution to the economic life of the country."*

### **Provvediment**

**Ghar-ragunijiet kollha premessi, il-Qorti qeghda tipprovdi dwar it-talbiet tar-rikorrenti billi :-**

**Bl-applikazzjoni tal-Art. 218(1)(a), tal-Art. 214(1)(a) u tatti-tieni proviso tal-Art 223(1) tal-Kap. 386 tal-Ligijiet ta` Malta, tordna x-xoljiment u l-istralc tal-kumpannija Global Sun Limited (C-43693) b`effett mill-31 ta` Awissu 2017.**

**Tahtar lir-Ricevitur Ufficjali bhala stralcjarju tal-kumpannija Global Sun Limited (C-43693) bis-setghat u bid-dmirijiet kollha kif huma definiti fil-Kap. 386 tal-Ligijiet ta` Malta.**

**Tordna lill-istralcjarju sabiex jipprezenta rapport tal-hidma tieghu sa nhar il-Hamis 28 ta` Marzu 2019.**

**Tordna lir-rikorrenti sabiex ihallsu l-ispejjez kollha ta` dan il-procediment, kif ukoll l-ispejjez kollha tal-istralc, inkluzi d-**

**drittijiet u l-ispejjez tal-istralcjarju.**

**Thalli l-istralc għall-udjenza ta` nhar l-Erbgħa 15 ta` Mejju  
2019 fid-9.00 a.m.**

**Onor. Joseph Zammit McKeon  
Imhalled**

**Amanda Cassar  
Deputat Registratur**