



# THE CRIMINAL COURT

Hon. Mr. Justice Dr. Aaron M. Bugeja M.A. (Law), LL.D. (melit)

Today the 9th May 2023

**The Republic of Malta  
vs.  
Ryan Rahiel Irfaan NAIPAL**

**Case Number 2/2022/2**

## **The Court:**

1. Having seen the charges brought against the accused Ryan Rahiel Irfaan NAIPAL, 24 years, son of Jerry and Rabija nee' Garbil, born in Shihsice in The Netherlands on the 12<sup>th</sup> January 1999, residing at 143 Carini Apt FI 4, Carini Street, Santa Venera holder of Dutch Identity Card number: IRJ4RC4R6 in front of the Court of Magistrates (Malta) as a Court of Criminal Inquiry wherein he was charged with having:

On the 23rd November 2022 and in the previous weeks and/or months in the Maltese Islands:

- i) Imported or caused to be imported or took any steps preparatory to import any dangerous drugs (Cannabis Grass) into Malta against the provisions of The Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta;
- ii) Together with another one or more persons in Malta or outside of Malta, conspired, promoted, constituted, organised or financed the conspiracy with other person/s to import, sell or deal in drugs (Cannabis Grass), in these Islands, against the provisions of The

Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta or promoted, constituted, organised or financed the conspiracy.

2. Having seen the minutes of the proceedings held in front of the Court of Magistrates as a Court of Criminal Inquiry of the 24th November 2022 whereby the accused as assisted by defence counsel, declared that he was pleading guilty to the charges brought against him. The accused confirmed his guilty plea even after being allowed sufficient time to consult with his lawyer and after the Court duly warned him of the consequences of such plea and explained to him the nature of the charges and that the punishment might include life imprisonment.
3. Having seen the note of the Attorney General in terms of Article 392B of the Criminal Code, Chapter 9 of the Laws of Malta of the 22nd December 2022, whereby it was declared:
  - i) That she received the Acts of the Inquiry in the names **The Republic of Malta vs. Ryan Rahiel Irfaan NAIPAL** on the 28<sup>th</sup> November 2022, and this after the Court of Magistrates (Malta) as a Court of Criminal Inquiry ordered that the acts of the Inquiry be sent to the Attorney General in terms of Article 392B(1)(a) of Chapter 9 of the Laws of Malta given that the accused Ryan Rahiel Irfaan NAIPAL in the sitting dated 24<sup>th</sup> November 2022 declared that he is guilty of the charges proffered against him, which charges are subject to a punishment which is more than twelve (12) years imprisonment.
  - ii) Whereas the applicant Attorney General declares as well that in terms of Article 392B(2) of Chapter 9 of the Laws of Malta, the charges proffered against the accused in front of the Court of Magistrates (Malta) as a Court of Criminal Inquiry and for which the accused has admitted guilty as aforesaid, shall be considered as a Bill of Indictment for all intents and purposes at law.
4. The Attorney General hence sent this Court, together with the said note, all the acts of the inquiry in the names **The Republic of Malta vs. Ryan Rahiel Irfaan NAIPAL** so that this Court can proceed against the accused NAIPAL in terms of law.
5. Having seen that at the sitting before this Court dated 28<sup>th</sup> March 2023, the parties made oral submissions and the case was adjourned for judgment:

**Considers as follows:**

6. That in view of the declaration of guilt filed by the accused before the Court of Magistrates (Malta) as a Court of Criminal Inquiry, which admission of guilt was reaffirmed by the said accused even after being given time to consider his position and to consult with his lawyer and after the Court duly warned him of the consequences of such plea, and explained to him the nature of the charges and that the punishment might include lifetime imprisonment;

**Declares the accused NAIPAL guilty of having:**

**On the 23rd November 2022 and in the previous weeks and/or months in the Maltese Islands:**

- i) Imported or caused to be imported or took any steps preparatory to import any dangerous drugs (Cannabis Grass) into Malta against the provisions of The Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta;**
  - ii) Together with another one or more persons in Malta or outside of Malta, conspired, promoted, constituted, organised or financed the conspiracy with other person/s to import, sell or deal in drugs (Cannabis Grass), in these Islands, against the provisions of The Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta or promoted, constituted, organised or financed the conspiracy.**
7. Having seen the acts of these proceedings both in front of the Court of Magistrates and those in front of this Court;
8. Having seen the conduct sheet of the accused as found at folio 6 of the acts of the proceedings which record does not exhibit the registration of any offence or contravention;

**Considers further:**

9. That preliminarily reference is being made to the provisions of Article 492 sub-article (1) of the Criminal Code, introduced by means of Act III of 2002 which reads as follows:

Where at any time before the constitution of the jury the accused declares himself guilty and for the fact admitted by the accused there is established the punishment of imprisonment for life, the court may, instead of the said punishment, impose the punishment of imprisonment for a term from eighteen to thirty years.

10. Here the law contemplates a legal scenario where the accused registers a guilty plea at an early stage of the proceedings with the consequence that the Criminal Court is conferred discretion to impose a mitigation in punishment from that of imprisonment for life to a term of imprisonment that ranges from eighteen to thirty years. This applies especially to offences against the drug laws where the nature and type of offence in relation to which the accused is involved is one which carries a term of imprisonment that exceeds the imprisonment threshold for the jurisdiction of the Court of Magistrates as a Court of Criminal Judicature, as is the scenario in the case under examination.
11. Upon a closer examination of Maltese jurisprudence in similar cases, among others **The Republic of Malta vs. Ahmed Ben Taher**,<sup>1</sup> **The Republic of Malta vs. Eddy Favour Imeh**,<sup>2</sup> **Ir-Repubblika ta' Malta vs. Ahmed Esawi Mohamed Fakri**,<sup>3</sup> **The Republic of Malta vs. Rijpma Jelle**,<sup>4</sup> **Ir-Repubblika ta' Malta vs. Nicholas Azzopardi**,<sup>5</sup> and **Il-Pulizija vs. Emmanuel Testa**,<sup>6</sup> a mitigation in punishment may be allowed by the Court where there is an early admission of guilt and even before the jury is empanelled. In this regard, reference is also being made to the judgment of the Superior Court of Criminal Appeal in the names **The Republic of Malta vs. Carine Rose-Marijke Donckers and Johnny Jos Haest** decided on the 9<sup>th</sup> April 2018 where the Court quoted in full an excerpt from Blackstone's Criminal Practice, 2004 as was also referred to in the **Testa** case above:

“Although this principle [that the length of a prison sentence is normally reduced in the light of a plea of guilty] is very well established, the extent of the appropriate ‘discount’ has never been fixed. In *Buffery* (1992) 14 Cr App R (S) 511 Lord Taylor CJ indicated that ‘something in the order of one-third would very often be an appropriate discount’, but much depends on the facts of the case and the timeliness of the plea. In determining the extent of

---

<sup>1</sup> Decided by the Criminal Court on the 16<sup>th</sup> January 2001.

<sup>2</sup> Decided by the Criminal Court on the 26<sup>th</sup> September 2016.

<sup>3</sup> Decided by the Court of Criminal Appeal (Superior Jurisdiction) on the 11<sup>th</sup> November 2004.

<sup>4</sup> Decided by the Criminal Court on the 2<sup>nd</sup> December 2020.

<sup>5</sup> Decided by the Criminal Court on the 24<sup>th</sup> February 1997.

<sup>6</sup> Decided by the Court of Criminal Appeal (Inferior Jurisdiction) on the 17<sup>th</sup> July 2002.

the discount, the court may have regard to the strength of the case against the offender. An offender who voluntarily surrenders to the police and admits a crime which could not otherwise be proved may be entitled to more than the usual discount (Hoult (1990) 12 Cr App R (S) 180; Claydon (1993) 15 Cr App R (S) 526) and so may an offender who, as well as pleading guilty himself, has given evidence against a co-accused (Wood[1997] 1 Cr App R (S) 347) and/or given significant help to the authorities (Guy [1999] 2 Cr App R (S) 24). Where an offender has been caught red-handed and a guilty plea is inevitable, any discount may be reduced or lost (Morris (1988) 10 Cr App R (S) 216; Landy (1995) 16 Cr App R (S) 908)). Occasionally the discount may be refused or reduced for other reasons, such as where the accused has delayed his plea in an attempt to secure a tactical advantage (Hollington (1985) 82 Cr App R (S) 281; Okee [1998] 2 Cr App R (S) 199)). Similarly, some or all of the discount may be lost where the offender pleads guilty but adduces a version of facts at odds with that put forward by the prosecution, requiring the court to conduct an enquiry into the facts (Williams (1990) 12 Cr App R (S) 415). The leading case in this area is Costen (1989) 11 Cr App R (S) 182, where the Court of Appeal confirmed that the discount might be lost in any of the following circumstances: (i) where the protection of the public made it necessary that a long sentence, possibly the maximum sentence, be passed; (ii) cases of 'tactical plea', where the offender delayed his plea until the final moment in a case where he could not hope to put up much of a defence, and (iii) where the offender had been caught red-handed and a plea of guilty was practically certain. It was also established in Costen that the discount may be reduced where the accused pleads guilty to specimen counts." 22 48. Today in the United Kingdom, guidelines have been issued by the Sentencing Guidelines Council.

12. Now, in this case, the accused registered a guilty plea in respect of the offences contemplated in the provisions of Article 8(d)(e) 10(1), 12, 14(1), 15A, 20, 22(1)(a)(f)(1A)(1B)(2)(a)(i)(3A)(a)(b)(c)(d)(7), 22A, 24A and 26 of Chapter 101 of the Laws of Malta and of regulations 2, 4, 9 and 16 of Legal Notice 292 of 1939 as offences which fall within the competence of the Criminal Court and carry a term of imprisonment for life. So however that under sub-section (aa) of Article 22(2) of Chapter 101, the Court may mitigate the punishment of life imprisonment by imposing a term of imprisonment that falls within the parameters of not less than four years and not more than thirty years together with a fine (multa) of not less than Euro 2,329.37 and not exceeding Euro 116,468.67 and this provided that the Court is satisfied that the accused merits a mitigation in punishment after examining the following criteria:

- i) The age of the offender;
- ii) The previous conduct of the offender;

- iii) The quantity of the drug and;
- iv) The nature and quantity of the equipment or materials if any, involved in the offence and
- v) All the other circumstances of the offence.

13. In this regard, the Court makes reference to the teachings of the Court of Criminal Appeal (Superior Jurisdiction) in the above-quoted judgment **Mohamed Fakri** where regard was had to the relationship at law between the discretion conferred to the Criminal Court where there is an early admission of guilt in terms of Article 492(1) of the Criminal Code and the discretion conferred to the Criminal Court in drug related cases where, irrespective of whether or not there has been the registration of an early guilty plea, in terms of Article 22(2)(i)(aa), the punishment of life imprisonment can be mitigated by taking into account the aforementioned criteria. It was held as follows:

Jigifieri filwaqt li s-subartikolu (1) ta' l-artikolu 492 tal-Kap. 9 jikkontempla biss il-kaz fejn tigi registrata ammissjoni qabel ma jigi fformat il-guri, id-disposizzjoni appena citata tal-Kap. 101 tikkontempla cirkostanzi ohra li ma jinkludux il-fatt ta' l-ammissjoni ta' l-akkuzat. Ghalhekk tista' tinholoq sitwazzjoni fejn persuna tinsab akkuzata bi ksur ta' xi disposizzjoni kif indikat fis-subparagrafu (i) tal-paragrafu (a) tas-subartikolu (2) tal-imsemmi artikolu u li tammetti qabel ma jigi fformat il-guri izda ma jkunux jezistu c-cirkostanzi msemmin jil-paragrafu (aa) hawn fuq citat. Kieku kellha tigi accettata s-sottomissjoni ta' l-appellant li minhabba l-principju li lex specialis derogat legi generali, is-subartikolu (1) ta' l-artikolu 492 mhuwiex applikabbli, dik il-persuna ma tkun tista' tibbenefika minn ebda tnaqqis fil-piena minhabba biss l-ammissjoni taghha. Fejn, imbaghad, tigi registrata ammissjoni kif ukoll ikunu jezistu xi cirkostanzi a tenur tal-paragrafu (aa) imsemmi, huma applikabbli kemm is-subartikolu (1) ta' l-artikolu 492 tal-Kopja Informali ta' Sentenza kif ukoll il-paragrafu (aa) tal-proviso tal-paragrafu (a)(i) tas-subartikolu (2) ta' l-artikolu 22 tal-Kap. 101: ta' l-ewwel li tippermetti lill-Qorti tinzel sa minimu ta' tmintax-il sena prigunerija minflok il-piena ghall-ghomor u tat-tieni li tippermetti lill-Qorti tinzel sa minimu ta' erba' snin (il-massimu fiz-zewg kazijiet huwa l-istess, dak ta' tletin sena). Il-Qorti ovvjament imbaghad, galadarba tiddeciedi li l-kaz mhuwiex wiehed li jimmerita l-prigunerija ghall-ghomor, tuza d-diskrezzjoni taghha biex tinfliggi dik il-piena li jidhrilha li tkun xierqa skond ic-cirkostanzi tal-kaz u fil-parametri hawn imsemmija.

Huwa veru li l-ewwel Qorti, fis-sentenza taghha, kemm fil-parti deliberattiva kif ukoll fil-parti decizjonali, ghamlet biss referenza ghall-artikolu 492(1) tal-Kap. 9 u m'ghamlitx referenza ghall-paragrafu (aa) aktar 'il fuq imsemmi; izda dan jista' jfisser biss li dik il-Qorti, filwaqt li kienet qed tara li kien applikabbli l-artikolu 492(1) minhabba ammissjoni, ma kinitx qed tara li kien

hemm xi cirkostanza skond l-imsemmi paragrafu (aa) li setghet tkun ta' mitigazzjoni ghall-piena fit-terminu tal-proviso relattiv.

14. For the purpose of determining the appropriate punishment in this case, the Court took into consideration the following factors:
- A. From the testimony of the Inspector Mercieca and from the statement released by the accused, it transpires that the drug imported and dealt with by the accused was Cannabis grass that had an overall weight of around five hundred grams (500g).
  - B. The amount of cannabis drug found in this case was considerable. Therefore, the potential damage that this drug could do to people who consume it was just as considerable.
  - C. The offender showed remorse for the crime committed before this trial was held. He admitted his involvement in this case and registered a guilty plea at the earliest stages of the proceedings.
  - D. The offender co-operated with the Police in their investigations in connection with this case. So much so that it was declared by the Police Inspector himself that the accused was to benefit from the provisions of article 29 of Chapter 101 of the Laws of Malta.
  - E. No objective proof was brought that the offender was himself a victim of drug abuse, though the accused claimed to have agreed to the importation of 20grams of cannabis for his personal use.
  - F. There was no evidence to show that the offender was under any particular pressure to commit these crimes, though he did mention that he did not have a job.
  - G. The offender was not alone in the commission of these crimes but was part of a group consisting of at least another person. Both the accused and this other person worked together so that this drug could be imported in Malta.
  - H. When the accused committed these crimes it does not appear that he was a particularly vulnerable person, albeit of a relatively young age. Nor is there evidence that the accused had any mental disorders or any intellectual impairment.
  - I. That the crime of conspiracy mentioned in the second charge served as a means to commit the crime contemplated in the first

charge that is the importation of this cannabis grass in Malta. Therefore according to article 17(h) of the Criminal Code, punishment must be given only for the crime under the first charge.

- J. It has not been proven to this Court that the offender was a recidivist in Malta or that he had any other precedents related to drug abuse in Malta.
- K. It does not appear from the evidence produced that the offender had the main role in this association.
- L. The means used by the accused in the commission of this offence was not particularly sophisticated.
- M. No form of violence was exercised in the commission of the crimes or related to them both before and after the arrest of the accused.
- N. Although the drug cannabis is still considered by the Law as a dangerous drug, on the other hand it is considered that the abuse of this quality of drug is not one of those that most harms human health.
- O. Although the quantity of the drug found is considerable, this Court does not have enough evidence in relation to the percentage of the active ingredient in this case. In line with the principle that in dubio pro reo, this Court is taking the lowest percentage possible in case of cannabis grass.
- P. During the last few years there has been a development in the way Maltese society and the Maltese Legislator look at the use of this drug in the sense that with laws introduced in 2021 the Maltese Legislator took a more tolerant position towards those who use cannabis drug for their personal use. But at the same time, the same Legislator kept an iron fist with anyone who in any way deals in this drug or is caught in possession of such a drug in circumstances that show that it was not for the exclusive use of the possessor: so much so that it did not change the severe punishment for those who traffic in this drug or who possess this drug not for their exclusive use.
- Q. This Court referred to both recent and past jurisprudence in relation to crimes with which the accused was charged and found guilty. This Court looked at cases wherein the same quality and



quantity of drug was involved; however it has also consulted other cases, taking into consideration both cases where the accuseds pled guilty as in this case as well as cases where the accuseds did not plead guilty. From this assessment it clearly follows that in those cases where the accuseds registered an early plea of guilt, the Courts were prone to hand out more lenient sentences than those handed out after the accuseds were found guilty by a jury. This Court took into account the fact that the punishment inflicted in those cases, also took into account the particular circumstances of each case. Some such judgments include: **The Republic of Malta vs.**

**Noaman Emhemmed Ramadan El-Arnauti**, decided on 22 April 2004 (Superior Appeal);

**Ali Ibrahim Algaoud**, decided on 20 May 2004 (Superior Appeal);

**Anthony Camilleri**, decided on 5 May 2005 (Superior Appeal);

**Walter John Cassar**, decided on 4 October 2007 (Superior Appeal);

**Roberto Conte**, decided on 10 January 2008;

**Alex Mallia**, decided on 19 June 2008 (Superior Appeal);

**Rida Shoaib**, decided on 15 January 2009 (Superior Appeal);

**Anthony Seychell**, decided on 12 March 2009;

**Paul Muscat**, decided on 28 December 2009 (Superior Appeal);

**Joseph Mifsud**, decided on 2 September 2010 (Superior Appeal);

**Joseph Zerafa**, decided on 15 December 2015 (Superior Appeal);

**Andrea Zammit**, decided on 12 January 2016 (Superior Appeal);

**Christian Grech**, decided on 28 January 2016 (Superior Appeal);

**Mamadi Keita**, decided on 6 April 2016;

**Silvio Apap et**, decided on 30 November 2017 (Superior Appeal);

**Shaibu Mohamed**, decided on 1 March 2022;

**Ahmed El Fadali Enan**, decided on 22 April 2022;

**Gaetano Campailla**, decided on 27 February 2023.

15. In particular, this Court has also taken into consideration the following cases: **Ir-Repubblika ta' Malta vs. Mohamed Mohamed**

**Abusetta,<sup>7</sup> Il-Pulizija vs. Jonathan Cassar,<sup>8</sup> Ir-Repubblika ta' Malta vs. Owen Bonnici,<sup>9</sup> Ir-Repubblika ta' Malta vs. Anthony Calleja,<sup>10</sup> Ir-Repubblika ta' Malta vs. Brian Godfrey Bartolo,<sup>11</sup> The Republic of Malta vs. Albert Tanti,<sup>12</sup> The Republic of Malta vs. Mamadi Keita,<sup>13</sup> and Ir-Repubblika ta' Malta vs. Nazarene Muscat.<sup>14</sup>**

16. This Court believes that in this case too, although a form of proportionality must be maintained with other judgments that have been given by these Courts in the past, it cannot fail to take into account the peculiarities of the case. In this sense the Court has taken into account the considerations made in the appeal proceedings decided by this Court as collegially composed named **Ir-Repubblika ta' Malta vs. Justin Zahra** decided on the 23rd March 2023 wherein by reference to the scale of punishments it was held that:

Illi applikat dan l-imsemmi *proviso*, il-Qorti tista' tikkundanna l-ħati għall-piena ta' prigunerija għal żmien ta' mhux inqas minn erba' snin iżda mhux iżjed minn tletin sena u multa ta' mhux inqas minn €2,329.37 iżda mhux iżjed minn €116,468.67. Issa fis-sentenza tagħha l-Ewwel Qorti qalet li kienet qed tapplika l-artikolu 29 tal-Kap. 101 u tnaqqas il-piena b'żewġ gradi. Dan ifisser illi l-parametri tal-piena niżlu għal perijodu ta' prigunerija minn sentejn sa tnax-il sena, u dik pekunjarja tnaqqset bin-nofs u għalhekk għal multa ta' mhux anqas minn €1164.68 iżda mhux iżjed minn €58,234.33. Illi fir-rigward tal-appellat Justin Zahra, billi dan kien misjub ħati bl-addebitu tar-reċediva, allura l-piena kellha terġa' tiżdied bi grad sabieħ allura l-parametri applikabbli fil-każ ta' Zahra huma ta' perijodu ta' prigunerija bejn tlett snin u għoxrin sena.

17. Reference is also being made to the principles enunciated in the judgment **Ir-Repubblika ta' Malta vs. Basam Mohamed Gaballa Ben Khial** decided by the Court of Criminal Appeal (Superior Jurisdiction) decided on the 19th February 2004:

Fejn si tratta ta' traffikar tad-droga (inkluża importazzjoni) l-element tad-deterrent generali fil-piena hija konsiderazzjoni ewlenija li kull Qorti ta' Ġustizzja Kriminali għandha żżomm f'moħha fil-għoti tal-piena, basta, s'intendi, li jkun hemm element ta' proporzjonalita` bejn il-fattispeċi

<sup>7</sup> Decided by the Criminal Court on the 11<sup>th</sup> December 2001.

<sup>8</sup> Decided by the Court of Criminal Appeal (Inferior Jurisdiction) on the 2<sup>nd</sup> October 2014.

<sup>9</sup> Decided by the Court of Criminal Appeal (Superior Jurisdiction) on the 19<sup>th</sup> May 2011.

<sup>10</sup> Decided by the Criminal Court on the 18<sup>th</sup> May 2011.

<sup>11</sup> Decided by the Criminal Court on the 1<sup>st</sup> February 2021.

<sup>12</sup> Decided by the Criminal Court on the 23<sup>rd</sup> November 2016.

<sup>13</sup> Decided by the Criminal Court on the 6<sup>th</sup> April 2016.

<sup>14</sup> Decided by the Court of Criminal Appeal (Superior Jurisdiction) on the 12<sup>th</sup> February 2009.

partikolari tal-każ u l-piena erogata (ara f'dan is-sens is-sentenza ta' din il-Qorti tas-16 ta' Ottubru, 2003 fl-ismijiet Ir-Repubblika ta' Malta v. Thafer Idris Gaballah Salem).

18. Also, in the judgment **Ir-Repubblika ta' Malta vs. Thafer Idris Gaballah Salem**,<sup>15</sup> it was said:

Ma hemmx dubbju li l-element ta' deterrent, speċjalment fil-każ ta' reati premeditati (a differenza ta' dawk li jiġu kommissi "on the spur of the moment") hi konsiderazzjoni legittima li Qorti tista', u ħafna drabi għandha, iżżomm quddiem għajnejha fil-għoti tal-piena.... S'intendi, hemm dejjem l-element tal-proporzjonalita` : qorti ma tistax, bl-iskuża tad-"deterrent", tagħti piena li ma tkunx ġustifikata fuq il-fatti li jirriżultaw mill-provi.

19. **That, in view of the above considerations, after having seen the provisions of Articles 2, 8(d)(e), 10(1), 12, 13, 14, 15, 15A, 16, 17, 18, 22(1)(a)(f)(1A)(1B), 22(2)(a)(i) and the proviso (aa), (3A)(a)(b)(c)(d)(7), 22A, 24A, 26 and 29 of Chapter 101 of the Laws of Malta, as well as Regulations 2, 4(a), 9 and 16 of Subsidiary Legislation 101.02 Internal Control of Dangerous Drugs Rules and Articles 17, 23, 23A, 23B, 23C and 392B of the Criminal Code, condemns the accused NAIPAL to a term of imprisonment of two (2) years and to a fine (multa) of four thousand euro (€4000) which in default of payment will be converted to a further term of imprisonment according to the law in terms of Article 11 of the Criminal Code.**

**Also, it orders the forfeiture of all objects exhibited in Court, used in connection with the offence. The Court orders the confiscation in favour of the Government of Malta of all the monies and other property, movable or immovable of the accused.**

**Finally, the Court orders that the drug seized and exhibited in relation to this case be destroyed unless the Attorney General declares by means of a note within 15 days from the date of this judgment that this drug seized is no longer required in relation to other proceedings against third parties.**

**Aaron M. Bugeja,  
Judge**

---

<sup>15</sup> Referred to in the case **The Republic of Malta vs. Mubarak Bawa** decided by the Court of Criminal Appeal on the 26<sup>th</sup> January 2017.