MALTA

QORTI CIVILI
PRIM' AWLA

ONOR. IMHALLEF
GEOFFREY VALENZIA

Seduta tas-27 ta' Frar, 2006

Citazzjoni Numru. 411/1999/1

L-Avukat Dottor Jotham Scerri Diacono bhala mandatarju specjali ghan-nom u in rapprezentanza tas-socjetajiet Eridan Shipping Ltd., Kama II Shipping Co. Ltd., Antarus Shipping Co. Ltd., Ferrum Shipping Co. Ltd., u, ghal kull interess illi jista' jkollha, tas-socjeta' estera Kama River Shipping Company Ltd. - perm, Russia, u b'nota tat-8 ta' Frar, 2001 TODOR HRISTOV VASSILEV assuma l-atti tal-kawza ghan-nom u fl-interess tas-socjetajiet attrici kollha minflok l-avukat Dottor Jotham Scerri Diacono, u b'nota tas-27 ta' Novembru 2001 Ms. Galina Oganesian assumiet l-atti tal-kawza flok Todor Hristov Vassilev.

VS

L-Avukat Dottor Joseph Azzopardi u Prokuratrici Legali Joanna Dingli illi b'digriet tal-Qorti tat-tmienja (8) ta' Frar 1999 gew appuntati kuraturi deputati sabiex jirraprezentaw lill-assenti Stanislav Filatov, u

martu Irina Filatova; u CAMCO (Nominee) Limited ghan-nom u in rapprezentanza tas-socjetajiet Maltin River-Sea Shipmanagement Limited u E.I. Holdings Limited u Dr. Joseph Azzopardi u PL. Joanna Dingli b'digriet tas-26 ta' Frar, 1999 gew nominati Kuraturi deputati sabiex jirraprezentaw lill-assenti Evgeuni Filatov, Anna Filatova, Vadim Veronine, is-socjeta' estera Capes Shipping Services Inc u b'digriet tal-5 ta' Marzu 2003 is-socjeta' Camco (Nominee) Ltd giet tidher bhala stralecjarja f'isem u ghan-nom ta' River Sea Shipment Ltd u E.I Holdings Ltd u b'digriet tas-27 ta' Mejju 2003 Dr. Joseph Azzopardi gie sostitwit b'Dr. Renzo Porsella Flores.

Il-Qorti

Preliminari

Rat **l-att tac-citazzjoni** li permezz taghha s-socjeta' attrici ppremettiet illi:

Peress illi matul il-perijodu minn Jannar 1993 sa Frar 1998 il-konvenut Stanislav Filatov kien jew assuma b'mod irregolari il-kariga ta' direttur tas-socjeta *Eridan Shipping Ltd;*

U peress illi matul il-perijodu minn Marzu 1995 sa Frar 1998 il-konvenut Stanislav Filatov kien jew assuma b'mod irregolari l-kariga ta' direttur tas-socjeta' *Kama II Shipping Co. Ltd;*

U peress illi matul il-perijodu minn Mejju 1995 sa Frar 1998 il-konvenut Stanislav Filatov kien jew assuma b'mod irregolari l-kariga ta' direttur tas-socjeta' *Antarus Shipping Co. Ltd;*

U peress illi matul il-perijodu minn Mejju 1995 sa Frar 1998 il-konvenut Stanislav Filatov kien jew assuma b'mod

irregolari l-kariga ta’ direttur tas-socjeta’ *Ferrum Shipping Co. Ltd;*

U peress illi matul dina l-kariga tieghu bhala direttur tas-socjeta’ *Eridan Shipping Ltd, Kama II Shipping Co. Ltd, Antarus Shipping Co. Ltd,* u *Ferrum Shipping Co. Ltd;* il-konvenut Stanislav Filatov approprija ruhu minn flus, assi u hwejjeg ohra propjeta’ ta’ l-imsemmija socjetajiet a beneficju tieghu u/jew tal-konvenuti l-ohra jew min minnhom minghajr ma kien awtorizzat u/jew b’mod frawdolenti u/jew b’mod illecitu u illegali, kif sejjer jigi ampjament pruvat fil-mori tal-kawza;

U peress illi ghallkemm il-konvenut Stanislav Filatov kien verbalment interpellat sabiex jirrifondi l-flus u jirritorna l-flus u jirritorna l-assi u l-hwejjeg l-ohra approprijati minnu, dan naqas li jaghmel dak mitlub minnu u sahansitra ittanta jahbi dan l-agir illegali tieghu billi iddestrugga xi provi li setghu ntuzaw kontrih;

U peress illi ghalhekk il-konvenut Stanislav Filatov huwa tenut li jirritorna u jirrestitwixxi dawk il-flus, assi u hwejjeg ohra li jappartjenu lis-socjetajiet attrici, illegalment approprijati minnu, u filwaqt li l-konvenuti l-ohra li benefikaw mill-agir illegali tal-konvenut Stanislav Filatov huma ugwalment tenuti li jirrestitwixxu u/jew jirrifondu kwalunkwa flus, assi u hwejjeg ohra li rcevew u li jappartjenu lis-socjetajiet attrici;

Jghidu ghalhekk il-konvenuti ghaliex dina l-Qorti m’ghandiex prevja kull dikjarazzjoni opportuna:

1. Tiddeciedi u tiddikjara illi l-konvenut Stanislav Filatov, matul il-perjodu 1993 - 1998 approprija ruhu minn flus, assi u hwejjeg ohra propjeta’ tas-socjeta’ *Eridan Shipping Ltd.* a beneficcju tieghu u/jew tal-konvenuti l-ohra minghajr ma kien awtorizzat u/jew b’mod frawdolenti u/jew b’mod illecitu u llegali.

2. Tillikwida l-ammont ta’ flus u tiddentifika l-assi u l-hwejjeg l-ohra tas-socjeta’ *Eridan Shipping Ltd*. illi gew

illegalment approprijati mill-konvenut Stanislav Filatov kif intqal.

3. Tordna lill-konvenuti jew min minnhom jirristutwixxu lis-socjeta' attrici *Eridan Shipping Ltd.* l-istess l-flus, assi u hwejjeg ohra approprijati mill-konvenut Stanislav Filatov, hekk likwidati u/jew iddentifikati sabiex is-socjeta' *Eridan Shipping Ltd.* tigi restitwita *in integrum*.

4. Tiddeciedi u tiddikjara illi l-konvenut Stanislav Filatov, matul il-perijodu 1995-1998 approprija ruhu minn flus, assi u hwejjeg ohra propjeta' tas-socjeta' Kama II Shipping Co. Ltd. a beneficju tieghu u/jew tal-konvenuti l-ohra minghajr ma kien awtorizzat u/jew b'mod frawdolenti u/jew b'mod illecitu u llegali.

5. Tillikwida l-ammont ta' flus u tiddentifika l-assi u l-hwejjeg l-ohra tas-socjeta' *Kama II Shipping Co. Ltd*. illi gew illegalment approprijati mill-konvenut Stanislav Filatov kif intqal.

6. Tordna lill-konvenuti jew min minnhom jirristitwixxu lis-socjeta' attrici *Kama II Shipping Co. Ltd.* l-istess flus, assi u hwejjeg ohra approprijati mill-konvenut Stanislav Filatov, hekk likwidati u/jew identifikati sabiex is-socjeta' *Kama II Shipping Co. Ltd* tigi restitwita *in integrum*.

7. Tiddeciedi u tiddikjara illi l-konvenut Stanislav Filatov, matul il-perjodu 1995-1998 approprija ruhu minn flus, assi u hwejjeg ohra propjeta' tas-socjeta' *Antarus Shipping Co. Ltd*. a beneficju tieghu u/jew tal-konvenuti l-ohra minghajr ma kien awtorizzat u/jew b'mod frawdolenti u/jew b'mod illecitu u illegali.

8. Tillikwida l-ammont ta' flus u tidentifika l-assi u l-hwejjeg l-ohra tas-socjeta' *Antarus Shipping Co. Ltd.* illi gew illegalment approprijati mill-konvenut Stanislav Filatov kif intqal.

9. Tordna lill-konvenuti jew min minnhom jirristitwixxu lis-socjeta' attrici *Antarus Shipping Co. Ltd.* l-istess l-flus assi u hwejjeg ohra approprijati mill-konvenut Stanislav Filatov,

hekk likwidati u/jew iddentifikati sabiex is-socjeta' *Antarus Shipping Co. Ltd.* tigi restitwita *in integrum*.

10. Tiddeciedi u tiddeciedi illi l-konvenut Stanislav Filatov, matul il-perjodu 1996-98 approprija ruhu minn flus, assi u hwejjeg ohra propjeta' tas-socjeta' *Ferrum Shipping Co. Ltd.* a beneficju tieghu u/jew b'mod frawdolenti u/jew b'mod illecitu u illegali.

11. Tillikwida l-ammont ta' flus u tiddentifika l-assi u l-hwejjeg l-ohra tas-socjeta' *Ferrum Shipping Co. Ltd.* illi gew illegalment approprijati mill-konvenut Stanislav Filatov kif intqal.

12. Tordna lill-konvenuti jew minn minnhom jirristitwixxu lis-socjeta' attrici *Ferrum Shipping Co. Ltd.* l-istess l-flus, assi u hwejjeg ohra approprijati mill konvenut Stanislav Filatov, hekk likwidati u/jew iddentifikati sabiex is-socjeta' *Ferrum Shipping Co. Ltd.* tigi restitwita *in integrum*

Bl-ispejjez inkluzi dawk tal-mandat ta' inibizzjoni numru 3743/98 fl-ismijiet premessi, tar-rikors ghall-hatra tal-kuraturi deputati prezentat kontestwalment ma' l-istess mandat ta' inibizzjoni, u bl-imghax legali kontra l-konvenuti jew minn minnhom, u b'rizerva illi s-socjetajiet jipprocedu ulterjorment kemm f'Malta u anke' barra minn Malta kontra l-konvenuti jew min minnhom.

Rat id-dikjarazzjoni tas-socjeta' attrici a fol.3 tal-process:

Rat **in-nota ta' l-eccezzjonijiet tas-socjeta' konvenuta Camco (Nominee) Limited a fol.18 tal-process fejn eccepiet:**

1) Illi t-talbiet ta' l-atturi fil-konfront tal-esponenti huma nfondati fil-fatt u fid-dritt u ghandhom jigu michuda bl-ispejjes kontra l-atturi.

2) illi s-socjeta' esponenti, ai termini tal-Kapitolu 330 tal-Ligijiet ta' Malta ma titqiesx bhala residenti f'dawn il-gzejjer u bhala tali ma jistghux jigu ntavolati proceduri kontra taghha quddiem din l-Qnorabbli Qorti, stante illi din

l-Onorabbli Qorti, bir-rispett kollu, ma ghandhiex gurisdizzjoni fuq l-istess.

3) Illi bla pregudizzju ghas-suespost is-socjeta' esponenti tissottometti illi hija ma ghandha ebda relazzjoni guridika ma' l-atturi fil-konfront tal-allegazzjonijiet kontenuti fic-citazzjoni u ghalhekk ghandha tigi liberata mill-osservanza tal-gudizzju bl-ispejjez kontra l-atturi.

(4) Illi l-allegazzjonijiet kontenuti fil-premessi tac-citazzjoni, in kwantu referibbli ghas-socjeta' esponenti, huma ghal kollox vagi u bla ebda fondament guridiku u wiehed jista' jekwiparahom biss ma' dak li l-Inglizi isejhu *''fishing expedition''* u ghalhekk huwa legalment insostenibbli.

(5) Salvi eccezzjonijiet ohra.

Rat **in-nota ta' l-eccezzjonijiet tal-konvenuti kuraturi l-Avukat Dottor Joseph Azzopardi u l-Prokuratur Legali Joanna Dingli nomine** a fol. 23 tal-process fejn eccepew:

Illi huma m'humiex edotti bil-fatti u kwindi jirriservaw id-dritt illi jipprezentaw l-eccezzjonijiet taghhom fi stadju ulterjuri

Rat **in-nota ta' l-eccezzjonijiet tal-konvenuti kuraturi L-Avukat Dott. Renzo Porsella-Flores u l-P.L. Joanna Dingli nomine** a fol. 435 tal-process fejn eccepew:

Illi qabel xejn jehtieg li l-attrici tal-lum – Galina Oganesian – trid taghmel il-prova tal-mandat taghha;

Illi f'kull kaz huma ma jafu xejn dwar il-fatti tal-kawza u ghalhekk jirriservaw id-dritt li jressqu l-eccezzjonijiet taghhom aktar il-quddiem.

Rat id-decizjoni preliminari a fol 46 li biha l-Qorti cahdet it-tieni eccezzjoni tal-konvenuti Camco (Nominee) Ltd.

Rat id-digriet a fol 128;

Rat in-nota a fol 132;

Rat l-atti kollha tal-kawza u d-dokumenti ezibiti;

Semghet ix-xhieda bil-gurament;

Rat in-noti tal-partijiet.

FATTI

Il-konvenut Stanislav Filatov, ghal xi zmien kien id-direttur ezekuttiv tas-socjetajiet attrici, hlief ghall Kama River Shipping Co Ltd li kienet il-‘*parent company’* ta’ dawn is-socjetajiet Maltin u li hi bbazata f’Perm, ir-Russja. Il-konvenut Filatov kien effettivament imexxi s-socjetajiet attrici Maltin izda fl-ahhar zmien tat-tmexxija tieghu, skond l-atturi, l-konvenut kien qieghed jagixxi ta’ direttur minghajr l-approvazzjoni ta’ l-azzjonisti ta’ l-istess socjetajiet attrici Maltin. Fiz-zmien li l-Filatov kien direttur ezekuttiv, huwa kellu kontroll shih fuq il-flejjes (bank accounts etc) u l-assi ta’ dawn is-socjetajiet attrici Maltin. Imbaghad il-‘*parent company’* iddecidiet li tibda nvestigazzjoni fuq l-agir tal-konvenut u skond hi rrizultalha li l-konvenut mizapproprija flus u assi tas-socjetajiet attrici b’mod li dawn il-flejjes marru a benefficcju mhux biss tal-konvenut izda wkoll ta’ martu, bintu, huh u tas-socjetajiet konvenuti li taghhom il-konvenut kien il-beneficcjarju.

Talbiet

Ghalhekk l-atturi talbu dikjarazzjoni li l-konvenut Stanislav Filatov approprija ruhu minn flus, assi u hwejjeg ohra proprjeta’ tas-socjetajiet attrici a beneficcju tieghu jew tal-konvenuti l-ohra minghajr ma kien awtorizzat, u li tidentifika u tillikkwida l-ammont dovut lill atturi u tordna lill-konvenuti jew min minnhom jirristitwixxu lis-socjetajiet attrici l-istess flus, assi u hwejjeg ohra approprijati.

Eccezzjonijiet

Il-konvenuti wiegbu li huma m’ghandhom ebda relazzjoni guridika ma’ l-atturi fil-konfront tal-allegazzjonijiet

kontenuti fic-citazzjoni u li dawn l-allegazzjonijiet huma ghal kollox vagi u bla ebda fondament guridiku u ghalhekk legalment insostenibbli. Il-konvenuti kuraturi eccepew li huma m'humiex edotti bil-fatti u li m'ghandhomx jehlu l-ispejjez tal-kawza.

KONSIDERAZZJONIJIET

Kumpaniji offshore

Illi originarjament, is-socjetajiet konvenuti River Sea Shipmanagement Co Ltd u E. I. Holdings kellhom status ta' offshore companies li mbaghad gie mnehhi fil-mori tal-kawza kif jirrizulta mid-dokumenti esibiti a fol 84 u 85. Joseph Psaila xehed li l-kumpaniji konvenuti m'ghadhomx kumpaniji offshore u llum huma mejta (ara fol 424). Fil-ligi Maltija llum kumpaniji offshore m'ghadhomx jezistu u ghalhekk il-Qorti qed tittratta dawn il-kumpaniji bhal kumpaniji Maltin ohrajn. Jirrizulta mid-dokumenti ta' l-MFSA fuq riferiti li dawn is-socjetajiet marru *in liquidation* ghax naqsu milli jottemporaw ruhhom ma' l-Art. 25(2) ta' dak li kien l-Kap. 330.

Rimessi bankarji illeciti – misapproprjazzjoni

Il-kumpaniji konvenuti qed isostnu li jekk verament saru rimessi bankarji ma ngabux provi kif titlob il-ligi biex jigi pruvat fejn spiccaw dawn il-flus. Il-fatt li setghu saru rimessi ma jfissirx illi dawn saru b'mod illecitu u minghajr il-kunsens ta' l-azzjonisti u d-diretturi precedenti. L-azzjonisti u d-diretturi precedenti ma ngabux biex jixhdu u l-provi li ngabu huma bbazati biss fuq supposizzjonijiet u mhux fuq fatti konkreti. Anke jekk il-Qorti ssib li Filatov misapproprja ruhhu minn xi flus ta' l-atturi, huwa Filatov biss li ghandu jirrifondi dak li ha.

Fuq dana l-punt, xehed dettaljatament Todor Vassilev quddiem il-Qorti u fiz-zewg affidavits li huwa pprezenta liema xhieda ma gietx kontestata.

Fuq il-posizzjoni tal-konvenut Stanislav Filatov fil-kumpaniji, Vassilev qal li Filatov - *directed, managed and ran the Kama Group of Companies. He had full control over the operations of the Group and what he would say would be implemented without question.* (Dan hu konfermat mis-segretarja ta' Filatov, Audrey Cefai). *He had full control over the funds and monies of the Group. Up to 1997 he was the sole signatory of all known bank accounts and sole holder of the test key facility of Hambros Bank used for telex transfers orders. By means of the key facility Filatov could order by telex message transfers from the bank accounts of the Kama Group of Companies to anybody he decided. He was also one of the directors of the four Kama Companies. In 1996 Filatov and his family moved out of Malta to the US to run the companies.*

Vassilev spjega x'kien wassal biex il-*parent company* Kama River Shipping Company tibda l-investigazzjoni kontra Filatov (Ara wkoll xhieda ta' Antonov li tikkonferma dana). Vassilev qal: *The Group decided to start investigating Filatov because the Maltese companies were making only losses although the ships of the group were regularly engaged in trade. All investigatory work was carried out on the basis of documents that were left in the archive of the Karma Group of Companies and on the basis of the statement of accounts issued by the servicing banks where the accounts of the Group were held. Filatov destroyed part of the archive because he started suspecting that he was being investigated. Witness traced transactions which evinced money passing out of the companies of the Group to recipients which had nothing to do with the business of the company. He asked the banks, through an English law firm, to produce statements of the accounts and examined cheque book stubs. Witness was responsible for chartering and operating the ships, so he knew what costs and expenses were involved. He found that no proper accounts were being held. They instituted the case against all the defendants because they all benefited directly from the funds that Filatov misappropriated from the Kama Group.*

Imbaghad ix-xhud ghadda biex spjega dettaljatament kif waslu biex stabbillew li kien hemm misapproprjazzjoni almenu f'zewg kazijiet partikolari, cjoe fil-kaz tat-*transfer* ta' flus lill Capes Shipping u *transfer* tal-flus rikavati mill-*insurance* fuq it-telf tal-vapur Volgodon 5064 ghal kontijiet ta' Filatov jew il-kumpaniji tieghu (ara fol 147 tax-xhieda tieghu).

Vassilev semma l-kaz tat-*transfer* ta' fondi minn Filatov fl-ammont ta' $11,000 mill-kumpanija Antarus Shipping Co. Ltd ghall Capes Shipping Co. Inc. ta' l-Istati Uniti (ara Dok. Evidence 2). Dan it-*transfer* ma setghax kien awtorizzat minn Antarus billi dina ma kienitx tinnegozja ma' Capes Shipping.

Dwar il-kaz tal-Volgodon 5064 Vassillev xehed hekk:

Following the grounding of m/v Volgodon 5064 in November 1995, the insurance company paid Kama Malta Shipping Co Ltd one million dollars in her account held with Hambros Bank in London. Filatov misappropriated this amount by effecting a number of transfers out of the bank account to his companies, River Sea Shipmanagement Ltd, to E.I.Holdings Ltd and to his bank accounts (ara dokumenti Evidence 3). Bhala prova ta' l-allegazzjoni tieghu, Vassilev tah is-segwenti dettalji, u ezebixxa d-dokumenti relattivi biex jikkorrobora dak li qal.

Fil- 15.1.1996 Filatov ghamel *transfer* ghal gol BOV Int. Ltd account tar-River Sea Shipmanagement Ltd US $62,265 – Invoice 8.1.96 (evidence 3.2.2.)

Fil 16.4.1996 *transfer* ta' US $166,620 lill E.I. Holding Ltd BOV Int Ltd. (evidence 3.2.3). Vassilev jghid li Kama Group of companies *had no dealings with E.I.Holdings Ltd.*

Fit-23.4.1966 Filatov ghamel *transfer* ta' US $48,000 fl-*account* tieghu mal BOV Int.Ltd ghal 'Management fees' (evidence 3.2.4).

Fid-9.5.1996 Filatov ghamel *transfer* lill E.I.Holdings ta' US $48,131 ghal Kama Shipping expenses' (evidence 3.2.5.).

Fis-17.5.1996 Filatov ghamel *transfer* lill *bank account* ta' J & M Parnis England fl-ammont ta' US $32,000 *settlement* ta' *consultancy fees* (evidence 3.2.6). Vassillev jghid li ma kien hemm ebda *agreement* simili ma J & M Parnis England ghal *consultancy services*. Dawn il-flus mhux qed jintalbu.

Fl-20.5.1996 Filatov ghamel *transfer* lill E.I.Holdings Ltd US $290,000 ghal '*settl. of agreement* 190496 (evidence 3.2.7) Vassilev jghid: *no such agreement existed and no services were rendered by* E I Holdings Ltd to Kama Malta Shipping.

Fl-20.5.1996 Filatov ghamel *transfer* lill River Sea Shipmanagement Ltd US $310, 000 for '*settl. Of agreement* 190496'. (Evidence 3.2.8).

Fil-18.8.1996 Filatov ghamel *transfer* ta' $25,000 lill E I Holdings Ltd *in settlement of Kama Shipping expenses* (evidence 3.2.9).

Fil-30.7.1996 Filatov ghamel transfer ta' US $ 62,000 lill E I Holdings Ltd *in settlement of Kama Shipping expenses* (evidence 3.2.10).

Vassillev xehed li *all these transactions were done without the knowledge, authorization and approval of the Board or shareholders of Kama Malta Shipping Co.Ltd…. In just 8 months Filatov managed to misappropriate US $ 1,043,656 from the account held with Hambros Bank Ltd.*

Il-flus li l-atturi qed jitolbu huma dawk indikati a fol. 150 tal-process fl-ammont ta' US $1,043,656. Ma dawn irid jizdied l-ammont ta' US $ 11,000 li kif gja nghad gie *transferred* lill Capes Shipping bla awtorizzazzjoni. B'kollox US $1,054,656.

Vassilev jkompli jghid li *there are other transactions which were not authorized, but plaintiffs are limiting their claim for this amount to avoid further expenses. For instance Filatov used to pay the expenses which should have been paid by River Sea Shipmanagement Ltd, Filatov's company, for bare-boat charters, with money from Kama Malta Shipping Co.Ltd.*

Fit-tieni affidavit tieghu Todor Vassilev pero' jiddikjara li *plaintiffs are now restricting their claim to USA $1,000.000 against Filatov and are waving the claims against his family members and relatives.*

Filatov u l-kumpaniji tieghu

Il-konvenuti ssottomettew ukoll li It-talbiet attrici ghandhom jigu rigettati ghax ma giex ippruvat in-ness dirett mas-socjetajiet konvenuti River Sea Shipmanagement u E.I.Holdings u lanqas gie pruvat li l-beneficcju finali mar a favur taghhom.

F'dan ir-rigward Vassilev xehed dwar ir-relazzjoni li kien hemm bejn Filatov u l-kumpaniji li ghal ghandhom gew trasferiti l-fondi li ttiehdu mill-kumpaniji attrici. Hu qal li Filatov kien *the beneficial shareholder of River Sea Shipmanagement Ltd, E. I Holdings Ltd and River Sea Ltd. These three companies shared the premises of the plaintiffs companies at South Street, Valletta. Filatov was the only person signing documents on behalf of these three companies.* Dan gie konfermat mis-segretarja ta' Filatov, Audrey Cefai u minn Joseph Psaila a fol 424.

Fil-kaz tar-relazzjoni bejn Filatov u Capes Shipping Inc. tal-U.S.A. Vassilev qal li - *when Filatov settled in the US we were able to contact him at the telephone/faxes of Capes Shipping Inc.* Stephen Parnis England ikkonferma li Filatov kien mar jahdem ma Capes (ara fol 457).

Tikkunsidra

Illi mill-ezami ta' dawn il-provi prodotti l-Qorti ghandha quddiemha stampa ta' kif il-konvenut Stanislav Filatov kien jittrasferixxi flus minn kont bankarju li s-socjetajiet attrici kellhom f'Hambros Bank, Londra a beneficcju tieghu u tal-kumpaniji tieghu, cjoe tal-konvenuti l-ohra. Dan jirrizulta dettaljatament mill-provi prodotti mill-atturi. Dawn it-trasferimenti kienu jsiru fuq struzzjonijiet tal-konvenut Filatov li kien il-persuna li kien jidderigi u jmexxi s-socjetajiet Maltin wahdu. Dan il-konvenut setgha jaghmlu ghax kellu l-kontroll assolut tal-finanzi tas-socjetajiet attrici. Gie pruvat li Filatov ma kienx awtorizzat mill-board tad-diretturi u mill-azzjonisti biex jaghmel dawn it-trasferimenti kontra l-interess tas-socjetajiet Maltin u fl-interess ta' Filatov personali jew tal-kumpaniji tieghu (Ara xhieda ta' Antonov u minuti tal-laqghat li gew ezibiti).

Ingab bhala ezempju ta' dan, it-*transfer* ta' fondi minn Filatov fl-ammont ta' $11,000 mill-kumpanija Antarus Shipping Co. Ltd ghall Capes Shipping Co. Inc. ta' l-Istati Uniti. Dan ma setghax kien awtorizzat minn Antarus billi dina ma kienitx tinnegozja ma' Capes Shipping.

Inoltre ngabet prova li f'perjodu ta' tmien xhur Filatov hareg l-ammont ta' US $ 1,043,656 mill-akkont tas-socjetajiet attrici maltin li kellhom mal Hambros Bank Londra ghal gol *bank account* personali tieghu u tal-kumpaniji tieghu River Sea Shipmanagement Ltd, E.I.Holdings Ltd u dana meta ma kienx awtorizzat jaghmel hekk u meta ma kienux dovuti dawk il-flus kollha f'dak il-perjodu ta' tmien xhur. Todor Vassilev ipprezenta l-provi dokumentarji dwar kemm ammonti gew trasmessi u f'liema *bank accounts* spiccaw il-flus. Vassilev spjega li Kama Group ma kienx jinnegozja ma' E. I. Holdings Ltd. ghalhekk it-*transfers* li saru lilha ma setghux kienu awtorizzati jew approvati mill Board jew shareholders tal-Kama Malta Shipping Co. Ltd. Gie pruvat li Filatov kien il-beneficial *shareholder* ta' River Sea Shipmanagement Ltd, E. I Holdings Ltd and River Sea Ltd u kien l-persuna li kien jiffirma u jidher ghan nom ta' dawn il-kumpaniji u kien jitfa l-flus li kien jiehu f'dawn il-kumpaniji. Fir-rigward ta' Capes Shipping Inc. tal U.S.A. gie pruvat (ara xhieda ta' Stephen Parnis England u Vassilev) li Filatov kien

jahdem ma Capes u kien jigi kkuntattat fuq it-telephone/faxes ta’ dina l-kumpanija, u l-atturi ma kellhomx negozju ma dina l-kumpanija Amerikana.

Minn naha l-ohra l-konvenuti (l-kuraturi apparti) ma gabu ebda prova biex jiggustifikaw it-trasferimenti li dwarhom l-atturi pprezentaw il-provi dokumentarji u li huma jghidu li saru minghajr awtorizzazzjoni u li kienu fittizji.

Solidarjeta’ tal-kumpaniji konvenuti

Gie pruvat li l-kumpaniji konvenuti, li tramite taghhom Filatov kien jopera, rcevew il-flus li Filatov kien jimmisapproprja, u ghalhekk huma obbligati, flimkien ma Filatov, (ara wkoll l-artikolu 1094 tal-Kap 16) li jirrifondu lill-atturi dawk il-flus. Il-kumpaniji konvenuti kienu ippartecipaw fil-misapproprjazzjoni tal-flus fis-sens li d-direttur taghhom, Filatov, kien ikkommetta dan l-att delittwali u dawn il-kumpaniji, li originarjament kienu offshore, servew bhala s-siparju li warajh Filatov inheba. (ara Appell Imhallef A. Magri et vs Aeroflot Russian Int. Airlines et 1/7/2005; PA GCD E. Leone Enriequez et vs Dr. A. Farrugia et 12/12/1995; Appell Supermarkets (1960) Ltd vs Le Cram Developments Co Ltd 22/10/2002 u App Dr. J. Herrera noe et vs T. Tabone et noe 15/31996 fost ohrajn).

Flus mitluba

Il-flus li qed jitolbu lura l-atturi huma US $1,043,656 u US $11,000, **b’kollox US $1,054,656**. Fit-tieni affidavit tieghu Vassillev isemmi tlett figuri bhala t-talba tieghu US $1,054,656; US $1,054,767 u US $1,000,000. Dina l-ahhar figura Vassillev isemmija meta jghid li ser huma ser jillimitaw ruhhom ghal dik is-somma minhabba li kienu gholew l-ispejjez (ara fol 348). Izda fin-nota ta’ sottomissjonijiet taghhom l-attur jerga jinsisti li l-ammont mitlub huwa ta’ $1,054,656. Skond l-atturi l-ammont ta’ US $1,054,656. kellu jigi maqsum hekk:

i. Il-konvenut Filatov irid jirrifondi l-ammont ta' USA$80,000 (USA$48,000 u USA$32,000) lis-socjeta attrici Eridan Shipping Ltd;
ii. Il-konvenut in solidum ma River-Sea Shipmanagement Ltd irid jirrifondi l-ammont ta' USA$372,265 (USA$62,265 u USA$310,000) lis-socjeta' attrici Eridan Shipping Co Ltd;
iii. Il-konvenut in solidum ma E.I. Holdings Ltd irid jirrifondi l-ammont ta' USA$301,391 (USA$166,260 u USA$48,131, u USA$25,000, u USA$62,000) lis-socjeta' attrici Eridan Shipping Co Ltd;
iv. Il-konvenut in solidum ma' Capes Shipping Services Inc irid jirrifondi l-ammont US$11,000 lill Antarus Shipping Co Ltd (originarjament imsejha Kama Malta 1011 Shipping Co Ltd).

DECIZJONI

Ghal dawn il-motivi
Il-Qorti tiddeciedi
Prevja li tichad l-eccezzjonijiet tal-konvenuti;
Tilqa' t-talbiet attrici
tiddikkjara li l-konvenut Stanislav Filatov approprija ruhu minn flus, assi u hwejjeg ohra proprjeta' tas-socjetajiet attrici a beneficcju tieghu u/jew tal-konvenuti l-ohra minghajr ma kien awtorizzat u/jew b'mod frawdolenti u/jew b'mod illecitu u illegali;
tillikkwida l-ammont ta' ta' US $1,054,656 bhal l-ammont li gie illegalment approprijati minn Stanislav Filatov;
tordna l-konvenuti jirristitwixxu lis-socjetajiet attrici l-istess l-flus hekk likwidati;
bl-ispejjez u bl-imghax kontra l-konvenuti
b'dan li provizorjament id-drittijiet tal-kuraturi ghandhom jithallsu mill-atturi.
Irina Filatova, Evgeuni Filatov, Anna Filatova, u Vadim Veronine qed jigu liberati mill-osservanza tal-gudizzju spejjez ghall-konvenuti.

< Sentenza Finali >

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