



CRIMINAL COURT

**HON. MR. JUSTICE
DAVID SCICLUNA**

Sitting of the 22 nd December, 2006

Number 57515/2006

The Police

vs.

Krisztina Illes et

The Court:

On the 21st December 2006 the Attorney General filed an application wherein he requested the revocation of the decree whereby a number of the persons charged in the abovementioned procedures were given the right to leave these Islands. In view of the fact that the Attorney General was unable to provide details regarding the persons involved, this Court decreed on the same day that a hearing be held on the 22nd December 2006 at 10.00 a.m.

During the hearing Doctor Donatello Frendo Dimech on behalf of the Attorney General stated that, after she had

viewed the records of the proceedings this same morning, the Attorney General's application was to be considered with reference to the applications filed on the 15th December 2006 by Radka Jurackova (fol. 401 - 404), Kinga Maria Bachlaj (fol. 405 - 408), Riina Kaal (fol. 409 – 413), Anett Scherer (fol. 414 – 416), Monika Eva Palinkas (fol. 417 – 420), Jana Hradilova (fol. 421 – 423) and Jana Mrozkova (fol. 424 – 426), and that the Attorney General's contestation lay in the fact that the decisions given by the Court of Magistrates on the 18th December 2006 in respect of each individual application were not notified to the Attorney General's office in terms of subsection (4A) of section 575 of the Criminal Code.

Now, subsection 4A of section 575 of the Criminal Code provides as follows:

“Where the Court of Magistrates, whether as a court of criminal judicature or as a court of criminal inquiry, grants bail to the person in custody or subsequently amends the bail conditions, the decision of the court to that effect shall be served on the Attorney General by not later than the next working day and the Attorney General may apply to the Criminal Court to obtain the rearrest and continued detention of the person so released or to amend the conditions, including the amount of bail, that may have been determined by the Court of Magistrates” (underlining by this Court).

The word “shall” in the above quoted subsection therefore clearly imposes an obligation on the Court of Magistrates to serve any decision as indicated in the said subsection to the Attorney General. In these same proceedings, the procedure therein outlined was in fact followed to the letter in respect of the application filed by another one of the persons charged, namely Linda Sarok, on the 6th December 2006. Her application was notified to the Attorney General who replied on the 11th December 2006 and the decree of the 12th December 2006 was once again notified to the Attorney General as evidenced by the date stamp marked the 14th December 2006 and the

certification of its having been seen by Doctor Mark Said on the 19th December 2006 (vide fol. 427).

In respect of the applications filed on the 15th December 2006 and their respective decrees of the 18th December 2006 however, as evidenced by an examination of fol. 401 to 426, and as also confirmed by Deputy Registrar Paul Miruzzi, no notification to the Attorney General was made or, for that matter, even ordered.

This Court cannot but point out that in this matter, where the applicants were all foreign nationals who do not appear to have any permanent ties with Malta and therefore where the integrity of the proceedings is at stake, the Court of Magistrates should have taken the necessary care to observe the provisions of the abovequoted provision of law and order that its decisions be duly notified. Its failure to do so can only lead this Court to nullify the several decrees given by the Court of Magistrates on the 18th December 2006 in respect of the applications filed by Radka Jurackova, Kinga Maria Bachlaj, Riina Kaal, Anett Scherer, Monika Eva Palinkas, Jana Hradilova and Jana Mrozkova.

As it would appear that a number of said persons may have already left the country, no proceedings are to be taken against them on their return to Malta for having left without authorization as they obviously left in good faith on the strength of the aforementioned decrees of the 18th December 2006 which have now been annulled. However, on their return to Malta they are to once again present their passport, identity card and/or travel document once again to the Court of Magistrates.

For these reasons:

The Court accedes to the request of the Attorney General, declares the several decrees granted by the Court of Magistrates as a Court of Criminal Jurisdiction on the 18th December 2006 on the applications of Radka Jurackova, Kinga Maria Bachlaj, Riina Kaal, Anett Scherer, Monika Eva Palinkas, Jana Hradilova and Jana Mrozkova to be

Informal Copy of Judgement

null and void and orders that this decree be notified to the Attorney General and to the said Radka Jurackova, Kinga Maria Bachlaj, Riina Kaal, Anett Scherer, Monika Eva Palinkas, Jana Hradilova and Jana Mrozkova.

< Final Judgement >

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