



QORTI TA' L-APPELL

**ONOR. IMHALLEF
MARK CHETCUTI**

Seduta tat-22 ta' Jannar, 2014

Appell Civili Numru. 182/2012

Peter Montebello

vs

L-Awtorita ta' Malta dwar l-Ambjent u l-Ippjanar

Il-Qorti,

Rat ir-rikors tal-appell ta' Peter Montebello tas-27 ta' Novembru 2012 mid-decizjoni tat-Tribunal ta' Revizjoni tal-Ambjent u l-Ippjanar tat-8 ta' Novembru 2012 li cahad it-talba 'to sanction parking for heavy goods vehicles, the construction of boundary wall and the installation of gate';

Rat ir-risposta tal-Awtorita li sottomettiet li l-appell ghandu jigi michud u d-decizjoni tat-Tribunal konfermata;

Rat l-atti kollha u semghet lid-difensuri tal-partijiet;

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Rat id-decizjoni tat-Tribunal li tghid hekk:
Ikkunsidra:

B'applikazzjoni – Full Development Permission – PA/04448/08 fejn l-appellant, fil-11 ta' Settembru, 2008, fis-sit, Peter Plant, Triq id-Dahla ta' San Tumas, Zejtun, talab: "To sanction parking for heavy goods vehicles, the construction of boundary wall and the installation of gate."

Permezz ta' rifjut taz-17 ta' Awwissu, 2011, l-Awtorita' cahdet it-talba tal-applikant ghar-ragunijiet segwenti:

"1. The proposed development does not conform with Policy SMSE 07 Large Rural Settlements (Category 2 Settlements) of the South Malta Local Plan, which seeks to reach a balance by allowing the consolidation of these settlements through sustainable rural development and protecting their rural character by preventing development, which may adversely affect those intrinsic features of the settlement and their setting. Industrial uses within Category 2 Settlements are not amongst the acceptable uses.

2. The proposed use is also considered as running counter to Structure Plan Policy BEN 1 stating that 'Development will not normally be permitted if the proposal is likely to have a deleterious impact on existing or planned adjacent uses because of visual intrusion, noise, vibration, atmospheric pollution, unusually high traffic generation, unusual operating times, or any other characteristics which in the opinion of the planning Authority would constitute bad neighbourliness'.

3. The proposed development/use is also considered to be creating a negative visual impact and thus counters Structure Plan Policy RCO 4, which prohibits developments in rural areas, which will adversely affect the scenic value of an area."

Il-Perit Scicluna ressaq l-aggravji tal-appellant kif gej:

“It is important to point out that the applicant only seeks to park (considered a non urban use) his two heavy goods vehicles in his own property, which is an infill site which can be freely developed. The site is not large enough to allow any other activity outside the parking of the said vehicles and it is our opinion that this is a legitimate use of land which does not bring about any negative impacts and more importantly is not prohibited by any policy.

The refusal notice does not take into account Structure Plan policy BEN 5, which although is not one of the mainstream policies that are usually quoted, it is very relevant to the particular circumstances of this application. In the preamble of this policy, BEN 5, parking areas are considered a form of non urban development. Indeed, Structure Plan policy SET 11, refers to ‘permitted forms of non urban development’ making reference to the preamble to policy BEN 5.

Although admittedly, the interpretation given above may be considered ‘wide’, the term ‘urbanisation’ means the creation of new built-up areas such as houses (which can be developed in this area), shops, offices, factories, and other built structures. In this case the proposal is considered a non urban form of development (vide car parks in BEN 5 preamble) within an infill site in a largely built up area.

The Category 2 Rural Settlement, has all the typical features of an urban area, owing to the fact that it is located along one of the busiest road in the area (Triq id-Dahla ta' San Tumas) which serves as an alternative route to the Marsascala By-Pass. The area has no important architectural, historic, scenic or natural features that merit particular consideration, as these, if any have been compromised through the years by progressive building.

The Development Control Policy and Design Guidance 2007 (PDG 2007) addresses the issue of parking for heavy goods vehicles (HGV) in residential areas (excludes UCAs) through Policy 6.15 which allows for the

parking of HGV in garages in residential areas. The proposal does not involve a structure, hence a non urban form of development, while policy 6.5, of PDG 2007, even allows a higher than normal garage, which tends to be visually more dominating than a conventional one. The policy acknowledges the demand for parking space for heavy vehicles off-street (vide supporting policy text), since parking these vehicles off-street (vide supporting policy text), since parking these vehicles on the street is both undesirable and unsightly.

As indicated earlier the road is wide enough and the proposal, in line with policy 6.15, shall only be used for the parking of vehicles. The site will only cater for a small number of vehicles (up to 2).

The site is an infill site, will not take up any good quality agricultural land, is not within a protected or scheduled area and would not pose an adverse visual impact. The proposal site, which can be freely developed in a variety of ways according to the SMLP, is ideally located along an established road network which already caters for the said type of vehicles. During the deliberation of the application, traffic counts were submitted for the weekday morning and evening peaks which showed that the proposal (2 HGVs which are already on the network) does not coincide with the road network peak. It is our opinion that in view of both the scale and nature of such traffic, there will be no noticeable adverse impact on the surrounding road network.

We strongly believe that Refusla 1 is not valid as the use is that of parking and does not include any industrial processes. As mentioned the proposal is in line with Policy 6.15 of PDG 2007. Policy SMSE 07 does not prohibit the parking of vehicles on a vacant site.

Contrary to Reason for Refusal 2, the proposal involves the parking of two HGV's and as such will have no deleterious impacts on existing or planned adjacent uses. It does not constitute a visual impact (vacant plots are obliged to be bound by a 8 course high blank ashlar wall

which would be far more deleterious), noise, vibration, pollution or traffic impact.

Given that erroneously, in our opinion, the Directorate did not understand that this is not an urban development, we believe that even Reason for Refusal 3 is misguided. As seen in the photos the proposal does not alter the appearance of the site as it constitutes no structures and as such does not result in a visual impact. The area as can be seen in the photos submitted has no scenic value and the adjacent buildings have no vernacular features which are being negatively affected.

In view of the above we humbly request the Environment and Planning Review Tribunal to uphold the appeal and consider that the reasons for the refusal in respect of this application are invalid and thus overturn the decision.”

Illi permezz tar-risposta taghha l-Awtorita' ressqet il-kummenti taghha inter alia kif gej:

"5.2.1 Introduction

The Authority wishes to begin its discussion of the proposed development by highlighting the fact that the appellant had applied for the same proposal as an outline development in early 2007, and carried out with the works on site in spite of the fact that his application PA 862/07 was withdrawn by the Planning Directorate in breach of Section 32(6) of DPA after failure to comply with consultation. An Enforcement Notice was subsequently issued in ECF 137/10 along with already pending ECF 447/06.

5.2.2 Principle of Planning Assessment

The applicant is requesting to sanction the change of use of a vacant infill plot situated within a Category 2 Rural Settlement to an open storage for parking of heavy goods vehicles, the construction of boundary wall and installation of gate. In comments submitted, the appellant is arguing that the Authority did not make use of the proper policy documents when assessing this development since no reference was made to policy 6.15 of the Policy and

Design Guidance (2007) or Structure Plan policy BEN 5. In addition, the appellant is justifying that the development will not have any deleterious impacts on existing or proposed adjacent uses since the site is an infill between residential development within a Category Settlement; and hence there will be no loss of good quality agricultural land or impacts to the natural environment.

Notwithstanding this, the appellant is failing to note that albeit a Category Settlement, the policies applicable to residential areas under the Local Plan do not necessarily overlap since the development is still situated in an area schemed as ODZ. Likewise, the policies for Residential Areas under the Local Plan are not the same as those for Category 2 Settlements (policy SMSE 07). Furthermore, policy 6.15 of DC 2007 quoted by the appellant is not applicable to this application since it only refers to 'garages' for HGVs.

With regards to other comments made, the appellant is also requesting that the proposal should be assessed in accordance with Structure Plan BEN 5 for non urban areas. Having said so, the proposal is fulfilling the requirements of the policies which states that applications for development permits outside urban areas will be judged against the policies and design guidance of the Local Plans for Rural Conservation Areas. In light of the proposal, the applicable Local Plan (SMSE 07), Structure Plan (BEN & RCO), and Policy/Design Guidance (Open Storage) policies were considered by both the Planning Directorate and the EPC Board in their assessment of the proposal.

5.2.3 Principle of Development vis-à-vis Policy Framework
Policy SMSE 07 of the Local Plan seeks to reach a balance within Category 2 Rural Settlements by allowing the consolidation of these settlements through sustainable rural development whilst protecting their rural character. This method is carried out by preventing development which may adversely affect those intrinsic features of the settlement and their surrounding setting. In this case, the proposed development is not considered related to any of

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the land-uses identified in policy SMSE 07; and therefore infringes the relevant policies which aim to protect the rural environment from inappropriate development.

With regards to the above argument, the proposal is also considered as counter to the rural framework within the Structure Plan which seeks to prevent the areas outside the development zone from inappropriate development whilst prohibiting all forms of unnecessary urban development in the countryside. Therefore, since the proposal is considered to be creating a negative visual impact to the rural settlement, the proposal also counters Structure Plan policy RCO 4 which prohibits developments which will affect the scenic value of an area.

When the proposed development is considered with regards to the Open Storage Policy Guidance; para. 2.18 clarifies that open storage and hard standing facilities are not legitimate uses ODZ. The policy guidance lists acceptable locations in para. 6.1 (e) of the guidance, where it is identified that such development may only be considered outside the development if the land is contiguous to development for industry in the Temporary Provision Schemes. Finally, the policy guidance lists in para. 7 that the site should be at least 2000m² in size whilst para. 8 states that 20% of the site is to be landscaped. The development clearly does not reach the requirements of the Open Storage Policy Guidance and therefore cannot be acceptable."

Ikkunsidra ulterjorment:

Wara li kkonsidra il-premess u minn ezami tad-dokumenti li hemm fil-files PAB 700/11 u PA 4448/08, it-Tribunal jikkumenta kif gej:

Il-mertu ta' dan l-appell jirrigwarda talba tat-tip full development application biex jigi sanzjonat parking ghal heavy goods vehicles (VGA's), il-kostruzzjoni ta' recint u gate.

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Is-sit jinsab ODZ fil-limiti taz-Zejtun u huwa imdawwar bi grupp ta' bini.

Skond l-Awtorita', is-sit jaqa gewwa Category 2 Rural Settlement (South Malta Local Plan, policy SMSE 07) u Aquifer Protection Zone (SMSE 08), jikkupa area ta' 440 metru kwadru u fuq in-naha ta' wara tieghu ghandu bini zghir ta' qabel is-sena 1967.

Skond l-Awtorita' jezistu numru ta' site constraints fuq is-sit.

Fis-sit in ezami kienet saret applikazzjoni ghal uzu simili ghal dak tal-applikazzjoni in ezami (PA 862/07) li kien withdrawn mill-Awtorita' wara li l-applikant ma' segwiex l-applikazzjoni izda l-izvilupp xorta sar u ECF 137/10 kien inhareg kontra l-istess appellant biex ikopri dak l-izvilupp illegali.

Fil-prezent is-sit huwa wkoll milqut minn enforcement notice (ECF 447/06) peress li s-sit qed jintuza bhala scrap yard li gie riferut ghal Direct Action.

It-talba giet michuda peress li:

- Skond is-South Malta Local Plan, policy SMSE 07, dan l-uzu mhux wiehed mill-uzi li jistghu jsiru f' Category 2 Rural Settlement; u
- Il-proposta tikser il-policies BEN 1 u RCO 4 tal-Pjan ta' Struttura.

L-argumenti li tqajmu fil-kors tas-smieh ta' dan l-appell jistghu jingabru fil-qosor kif gej.

Skond l-appellant:

- Il-proposta hija semplicement biex l-appellant gewwa sit li huwa zviluppabbli, jipparkja zewg heavy goods vehicles li ma' thalliex impatti negattivi u li mhix projbita minn ebda policy;
- Kontra ghal dak li intqal fir-rifjut, il-policy BEN 5 hija applikabbli peress li din tqis parking bhala forma ta' non urban development u in fatti il-policy SET 11 tirreferi ukoll ghal dan il-fatt;

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- Il-Category 2 Rural Settlement in ezami hija simili hafna u ghandha il-karatteristici kollha ta' urban area peress li jinsab fuq triq traffikuza hafna;
- Skond il-policy 6.15 tad-DC 2007 il-parkegg ta' HGV's huwa permess gewwa areas residenzjali u din il-policy ukoll tippermetti garages kbar u gholjin waqt li l-proposta in ezami mhix qed tpproponi li jinbena garage imma biss li jsir il-parkegg ta' zewg HGV's; u
- Is-sit huwa infill site u mhix ser tiehu art agrikola tajba u ma' tohloqx adverse visual impact.

Fl-ewwel punt taghha l-Awtorita' tispjega li fuq dan is-sit kienet saret applikazzjoni ghal zvilupp simili ghal dak li qed jintalab illum u li kienet giet withdrawn. Minkejja dan l-appellant kompla bl-izvilupp u ghalhekk kien hareg enforcement notice fuq dan is-sit li ghadu fis-sehh. Xi zmien wara hareg ukoll enforcement notice iehor kontra l-uzu tas-sit in ezami bhala scrap yard.

L-Awtorita' tkompli billi tispjega li

- Il-policies li japplikaw ghal Category Settlements mhux necessarjament jaqblu ma' dawk li japplikaw gewwa residential areas;
- Policy 6.15 tad-DC2007 ma' tapplikax f' dan il-kas peress li din il-policy tirreferi specifikament ghal garages li jintuzaw ghall-ipparkjar ta' HGV's li mhux rilevanti ghal kas in ezami;
- Il-policy BEN 5 qieghda tigi applikata sew ghal dan il-kas peress li din tghid li applikazzjonijiet outside urban areas ghandhom jigu assessjati skond skond il-Local Plans; CHECK BEN 5 HERE
- Dan l-uzu ma' jaqbilx ma' ebda wiehed mill-uzi specifikati bhala li huma accettabbli f' din l-area skond il-policy SMSE 07;
- Din il-proposta tmur ukoll kontra il-policy RCO 04 peress li dan l-uzu imur kontra dak li normalment isir f' ambjent rurali; u
- Il-proposta ma' tissodisfax ir-rekwiziti stipulati fil-planning guidance, Open Storage Policy Guidance.

Wara li ezamina l-files tal-kazi imsemmija, dan it-Tribunal jinnota li zvilupp simili ghal dak li qed jintalab f' din l-

applikazzjoni fuq is-sit in ezami diga kien gie mitlub izda l-applikazzjoni kienet giet withdrawn mill-Awtorita' wara li l-appellant ma' komplix isegwi l-applikazzjoni. Jidher, in oltre, li l-appellant xorta ipproceda bl-izvilupp u ghaldaqstant kien inhariglu enforcement notice. Jirrizulta wkoll li xi zmien wara kien hareg enforcement notice iehor fuq l-appellant peress li jidher li kien qed juza s-sit bhala scarpard. Skond l-Awtorita' dan issa qieghed ghad-direct action.

Bil-provedimenti tal-pjan lokali iz-zona fejn jinsab is-sit in ezami giet iddikjarata bhala Category 2 Rural Settlement u ghalhekk il-restrizzjonijiet fuq l-uzu li jista jsir fuq din l-art huma konsiderevoli.

Huwa inkwetanti hafna ghal dan it-Tribunal li l-appellant wara li ma' segwiex l-ewwel applikazzjoni, ipproceda biex jaghmel l-izvilupp li qed jittenta jissanzjona bl-applikazzjoni in ezami minghajr ma' kellu permess u liema uzu jidher li ghandu ghaddej anke issa. Imma izjed serju minn hekk huwa l-fatt li l-appellant lanqas biss indenja ruhu jnehhi l-izvilupp l-iehor illegali li kellu fuq is-sit u li ghalieh hareg l-enforcement notice ECF 447/06 qabel ma' issottometta l-applikazzjoni in ezami. Dan l-agir tal-appellant jaghti wiehed x' jifhem li l-appellant mhux qed jagixxi in good faith u ghalhekk dan l-appell jidher li huwa vessatorju.

Dwar l-aggravji li jqajjem l-appellant it-Tribunal huwa tal-fehma li:

- Il-policy 6.15 tad-DC2007 ma' tapplikax ghal dan il-kas fil-principju ghaliex apparti minn issues ohra is-sit in ezami huwa sit miftuh u mhux mibni;
- L-ispirtu veru tal-policy BEN 5 huwa kif tinterseta din il-policy l-Awtorita' fir-rapport taghha u l-interpretazzjoni tal-appellant f' dan il-kas hija difettuza.
- Jekk l-appellant ma' jaqbilx li l-area li jinsab fiha s-sit in ezami mhux idoneu ma' Category 2 Rural Settlement, f' termini ta' ippjanar, allura huwa ghandu jaghmel talba formali biex issir Local Plan Review li huwa process differenti mill-process tal-appell;

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- Waqt li veru li s-sit huwa wiehed li jista jigi zviluppat u huwa propjeta tal-appellant dan ma' jfissirx li jista jigi utilizzat ghal kull haga li jiddeciedi li jrid l-appellant u dan ghas-semplici raguni li uzu jikkostitwixxi zvilupp fih innifsu u ghalhekk huwa suggett ghal-policies tal-ippjanar.

Waqt li jidher car li l-appellant ghandu bzonn genwin li jirrisolvi l-problema tal-iparkeggjar tal-ingenji tieghu huwa ghandu jifhem li ghalkemm is-sit in ezami huwa propjeta' tieghu, m' huwiex accettabbli fid-dinja tal-llum li jaghmel dak li jrid fih bi ksur sfaccat tal-policies tal-ippjaner li qieghdin hemm biex jiprotegu l-interess pubbliku. Idejalment sitwazzjoni bhal din kien imissa giet rizolta permezz ta' negozjati biex jinstab xi tip ta' komromess qabel ma' waslet f' dan l-istadju.

Ghalhekk, kif johrog mill-premess, jirrizulta li l-aggravji tal-appellant gew indirizzati kolla f' termini ta' ippjanar mill-Awtorita' u ghalhekk ma' tezisti ebda raguni ta' ippjanar ghaliex din it-talba ghandha tigi milquha. Il-pozizzjoni tal-Awtorita' f' dan il-kas hija wahda soda u pjenement sostnuta mill-plans u policies tal-ippjanar vigenti.

In konkluzjoni, kif jidher mill-fatti li hargu fil-kors tas-smigh ta' dan l-appell, billi jirrizulta li l-proposta in ezami tikser numru ta' policies tal-Pjan Strutturali, il-policy SMSE 07 tas-South Malta Local Plan, dan l-appell ma jirrizultax fondat u ghalhekk ma jimmeritax kunsiderazzjoni favorevoli.

It-Tribunal, ghalhekk, qieghed jichad dan l-appell u jikkonferma ir-rifjut mahrug mill-Awtorita', tal-applikazzjoni applikazzjoni PA/04448/08, "To sanction parking for heavy goods vehicles, the construction of boundary wall and the installation of gate.", b' decizjoni taz-17 ta' Awwissu, 2011.

Ikkunsidrat

L-aggravji tal-appellant huma s-segwenti:

1. It-Tribunal ma tax smigh xieraq ghax kien hemm seduti fejn intalab differiment ghax kien difficli ghad-difensur tal-

appellant li jattendi minhabba impenji tal-Qorti u dan ma inghatax;

2. It-Tribunal applika policies hziena ghal kaz.

L-ewwel aggravju

Dan l-aggravju ma jisthoqqlux jigi milqugh. L-iter kien is-segwenti. Fis-16 ta' Novembru 2011 dehru il-Perit Marvin Ellul ghall-appellant li inghata xahrejn biex jipprezenta risposta ghar-rapport tal-Awtorita bil-fakolta li din tirrispondi. L-appell gie differit ghat-22 ta' Marzu 2012. Jidher li fil-frattemp dahlet talba tad-difensur legali tal-appellant b'ittra ricevuta fis-17 ta' Novembru 2011 mill-MEPA ghal differiment minhabba impenji tal-Qorti. Ghalkemm jidher li l-appellant qed jallacja din it-talba mad-differiment tat-22 ta' Marzu 2012 kif jidher li ghamel it-Tribunal fil-verbal tas-seduta tat- 22 ta' Marzu 2012, pero l-Qorti tqis li dan mhux minnu ghax l-ittra tad-difensur ma fihix data hliet indikazzjoni tax-xahar ta' Novembru 2011 u fl-ittra jirreferi ghall-ewwel appuntament tas-16 ta' Novembru 2011. Il-fatt li l-ittra waslet ghand l-Awtorita fis-17 ta' Novembru 2011 hi indikazzjoni li d-difensur tal-appellant kien qed jitlob differiment ghall-ewwel seduta mhux ghal dik tat-22 ta' Marzu 2012, u kif inghad fl-ewwel seduta l-appellant kien assistit mill-avukat tieghu.

Di piu, fis-seduta tat-22 ta' Marzu 2012 ma jidhirx li deher l-appellant jew xi hadd jassistih u t-Tribunal laqa' t-talba tal-Awtorita li l-appell imur ghad-decizjoni ghat-8 ta' Novembru 2012 in difett ta' ostakolu.

L-appellant li kellu aktar minn seba' xhur bejn id-differiment u d-decizjoni biex jirregola ruhu baqa' ma ghamel xejn. Zgur li l-allegazzjoni ta' nuqqas ta' smigh xieraq mhux gustifikata f'dawn ic-cirkostanzi fejn l-appellant kellu kull opportunita jressaq is-sottomissjonijiet tieghu u jitlob rimedju mit-Tribunal jekk hass li kellu aggravju kontra l-andament tal-proceduri pero ma ghamel xejn.

Din il-Qorti ma tqis xejn censurabbli l-pozizzjoni tat-Tribunal u tichad dan l-aggravju.

It-tieni aggravju

Dan l-aggravju hu biss ripetizzjoni ta' dak li gie sottomess fil-kors tal-appell quddiem it-Tribunal u li dwaru saru argumentazzjonijiet mill-appellant u l-Awtorita. It-Tribunal ha konjizzjoni tal-argumenti tal-partijiet u kkonkluda kif gej cioe li s-sit jinsab f'ODZ f'Category 2 Rural Settlement fejn ir-restrizzjonijiet ta' uzu huma konsiderevoli in linea mad-deskrizzjoni tas-sit u qabel mal-Awtorita illi l-uzu mitlub mill-applikant mhux wiehed minn dawk accettabbli skond is-South Malta Local Plan SMSE 07 cioe parkeggjar ta' heavy goods vehicles. L-appellant donnu qed jinsisti li dan mhux zvilupp u kwindi mhux kolpit mill-policies msemija mit-Tribunal pero din il-Qorti ma taqbilx peress illi sit li qed jigi mitlub li jigi utilizzat ghal skop partikolari jindika zvilupp tas-sit u ghandu bzonn permess aktar u aktar meta dan hu sit miftuh.

In oltre t-Tribunal iggustifika n-nuqqas ta' applikazzjoni tal-policy 6.15 tad-DCC 2007 peress illi kuntrarjament ghal dak allegat din il-policy tirreferi ghal garages u mhux sit miftuh u mhux mibni. In kwantu ghal policies BEN 5 u RCO 4 din hi kwistjoni ta' interpretazzjoni ta' policies fejn it-Tribunal qabel mal-interpretazzjoni moghtija mill-Awtorita u dan tenut in konsiderazzjoni l-klassifikazzjoni tas-sit in kwistjoni.

Jirrizulta ghalhekk illi dak li jittenta jaghmel l-appellant hu li jerga' jiftah il-kaz u jitlob lil Qorti terga' tezamina l-fatti u taghti hi interpretazzjoni tal-policies rilevanti msemija mill-partijiet. Sakemm ma jirrizultax applikazzjoni hazina ta' policy ghax mhix idonea ghal fatti ppruvati din il-Qorti ma tissindakax l-interpretazzjoni tal-policies moghtija mit-Tribunal la darba hi tkun indirzzat dawn il-fatti u applikat il-policies rilevanti wara li tkun kunsidrat is-sottomissjonijiet ta' ippanar mressqa mill-partijiet. F'dan il-kaz dak kien li gara u din il-Qorti ma ssib xejn x'ticcensura fid-decizjoni tat-Tribunal. Hu tajjeb li jigi ribadit dak li qalet il-Qorti tal-Appell fil-kawza **Angela Farrugia vs Chairman tal-Awtorita tal-Ippjanar** (24/04/1996) li kienet tirrigwarda

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wkoll interpretazzjoni ta' policies rilevanti ghal kaz partikolari:

“Tali interpretazzjoni ... hija esklussivament fil-mansjoni tal-ezercizzju tal-poteri tal-organi tal-Awtorita' tal-Ippjanar u lahhar arbitru dwarhom hu finalment il-Bord tal-Appell u mhux din il-Qorti. Altrimenti, din il-Qorti tkun qiegħda tissostitwixxi l-gudizzju tagħha f'materja teknika li tispetta biss skont il-ligi lit-Tribunal Specjali mwaqqaf b'ligi biex jiddetermina materji ta' din ix-xorta”.

Decide

Għal dawn ir-ragunijiet il-Qorti qed tichad l-appell ta' Peter Montebello u tikkonferma d-decizjoni tat-Tribunal ta' Revizjoni tal-Ambjent u l-Ippjanar tat-8 ta' Novembru 2012. Bl-ispejjez kontra l-appellant.

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