



## Qorti tal-Magistrati (Malta) Bħala Qorti ta' Ġudikatura Kriminali

WARA R-RIKORS TA' KOUMARI SALIF, AMBEU YADI JEAN NOEL,  
TAPE SIRI CYRILLE U ANESID KAKOU IPPREŻENTAT FIS-26 TA'  
NOVEMBRU 2020 TAHT L-ART. 409A TAL-KAP. 9 TAL-LIĠIJET TA'  
MALTA

MAĠISTRAT: DR. VICTOR G. AXIAK

Illum

26 NOV 2020

### Digriet

#### Il-Qorti

Rat ir-rikors ippreżentat ai termini tal-Art. 409A tal-Kap. 9 tal-Liġijiet ta' Malta.

Rat id-digriet tagħha li permezz tiegħu ordnat in-notifika tar-rikors u tad-digriet lir-rikorrenti, lill-Avukat Ġenerali u lill-Kummissarju tal-Pulizija u appuntat ir-rikors għas-smiegh għas-26 ta' Novembru 2020 fl-4pm.

Semgħet fil-qosor lir-rikorrenti u lir-rappreżentant tal-Kummissarju tal-Pulizija kif ukoll ir-raġunijiet u ċ-ċirkostanzi li jmorru favur jew kontra l-legalità tad-detenzjoni kontinwata tar-rikorrenti.

Rat illi fis-seduta l-Ispettur Christian Abela iddikjara illi l-erbgha (4) rikorrenti għalkemm huma prezentament detenuti f'centru ta' detenzjoni, madanakollu dawn m'humiex qeghdin jigu detenuti b'ordni tal-Kummissarju tal-Pulizija.

Rat illi mill-informazzjoni li rrizulta lill-Qorti din id detenzjoni hija rizultat ta' policy mehuda minn xi dipartiment jew ministeru fis-sens illi meta ma jkunx hemm post fl-*Open Centres* għal persuni li jkunu fil-qagħda jew stat li qeghdin fih ir-rikorrenti, dawn jittiehdu kontra l-volonta' tagħhom fic-centri ta' detenzjoni u dan sempliciment għaliex m'għandhomx akkommodazzjoni alternattiva.

Fic cirkostanzi il-Qorti filwaqt li tikkundanna dan l-agir abbuziv u farsesk tal-awtoritajiet, mhux inkluz fosthom il-Kummissarju tal-Pulizija, illi b'mod arbitrarju jcahdu persuni mill-liberta` bla ebda gustifikazzjoni legali, qeghda tilqa` t-talba tar-rikorrenti u **tordna r-rilaxx immedjat tagħhom** stante li l-kontinwazzjoni tad-detenzjoni tagħhom m'hijiex imsejsa fuq xi dispożizzjoni ta' xi ligi.

Peress illi fil-prezent ma' hemmx akkomodazzjoni alternattiva ghar-rikorrenti, l-avukat tagħhom Dr. Neil Falzon offra ruhu disponibbli sabiex temporanjament jilqa` lill-istess rikorrenti f'propjeta` maghmula disponibbli għall-Fondazzjoni Aditus u dan sakemm tinstab akkomodazzjoni addattata lir-rikorrenti.

Il-Qorti tordna l-komunika ta' dan id-digriet lill-Avukat Ġenerali u lill-Ministeru għall-Intern, is-Sigurtà Nazzjonali u l-Infurzar tal-Ligi.



**V. Axiak**

Magistrat

0505/2024/38

## Court of Magistrates (Malta) as a Court of Criminal Judicature

AFTER THE APPLICATION OF KOUMARI SALIF, AMBEU YADI JEAN NOEL, TAPE SIRI CYRILLE AND ANESID KAKOU PRESENTED ON 26 NOVEMBER 2020 UNDER ART. 409A OF CAP. 9 OF THE LAWS OF MALTA

MAGISTRATE: DR. VICTOR G. AXIAK

Today: 26 November 2020

### **Decree**

#### **The Court**

Saw the application presented in terms of Art. 409A of Cap. 9 of the Laws of Malta.

Saw its decree whereby it ordered the notification of the application and of the decree to the applicants, the Attorney General and the Commissioner of Police and appointed a date for hearing the application being 26 November 2020 at 4pm.

Heard in brief the applicants and the representative of the Commissioner of Police as well as the reasons and circumstances in favour or against the legality of the applicants' on-going detention.

Saw that during the hearing Inspector Christian Abela declared that the four (4) applicants, although presently detained in detention centres, were not however being detained by an order of the Commissioner of Police.

Saw that from the information available to the Court this detention is the result of a policy adopted by a department or ministry to the effect that when there will not be place in the *Open Centres* for persons in the condition or state within which the applicants are, these are taken to the detention centres against their will and this simply because they have no alternative accommodation.

Under these circumstances the Court, whilst condemning this abuse and farcical behaviour on the part of the authorities, not including amongst them the Commissioner of Police, whereby they are depriving persons of their liberty in an arbitrary manner without any legal justification, accepts the applicants' request and **orders their immediate release** since their continued detention is not based on any disposition of any law.

Since, presently, there is no alternative accommodation for the applicants, their lawyer Dr. Neil Falzon has offered himself as being available to temporarily host the same applicants in property made available to aditus foundation, and this until adequate accommodation may be found for the applicants.

The Court orders the communication of this decree to the Attorney General and to the Ministry for Home Affairs, National Security and Law Enforcement.

V. Axiak

Magistrate

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