

Deciżjoni mogħtija mill-Ispeaker Anġlu Farrugia fis-Seduta 326 tas-17 ta' Novembru 2015 dwar punti mqajma mill-Onorevoli Ryan Callus dwar il-mistoqsijiet parlamentari numri 6433 u 6693

Fis-Seduta 325 tas-16 Novembru 2015, l-Onor. Ryan Callus ġibed l-attenzjoni tas-Sedja għat-tweġibiet mogħtija għal żewġ mistoqsijiet parlamentari tiegħu dwar *encroachment permits* u nikkwota:

“Sur President, se nqajjem dan il-punt illum minhabba li fl-aħħar seduta, li kienet seduta speċjali, kellna ftehim li ma nqajmux punti bħal dawn. Għalhekk illum se nqajjem dan il-punt li jirrigwarda żewġ risposti li nġhatajt għall-mistoqsijiet parlamentari tiegħi.

Nagħmel referenza għall-mistoqsija parlamentari 6433, fejn staqsejt lill-Prim Ministru kemm inħarġu *encroachment permits* bejn l-1 ta' Jannar 2013 u d-9 ta' Marzu 2013. Ir-risposta kienet li nġhataw 100 *encroachment permits*. L-Awditur Ġenerali, fl-investigazzjoni li talab il-Gvern dwar il-ħruġ ta' *encroachment permits*, l-istess domanda jwiegħibha u jagħti ċifri differenti u jgħid li:

“... *the number of encroachment permits issued between 1 December 2012 and 8 March 2013 was 25.*”

Jerġa', dan huwa perjodu itwal minn kemm tlabt jien fil-mistoqsija parlamentari. Però n-numru li jagħti l-Awditur Ġenerali huwa kwart tan-numru li nġhatajt fir-risposta.

F'mistoqsija oħra, numru 6693, li wkoll saret lill-Prim Ministru dwar kemm minn dawn l-*encroachment permits* għall-istess perjodu kellhom il-firma tal-Ministru, ir-risposta li nġhatajt hija:

“Ninforma lill-Onor. Interpellant illi l-*encroachment permits* kollha li ħarġu bejn Jannar u Marzu 2013 għandhom il-firma tal-Ministru responsabbli mill-artijiet ...”

L-Awditur Ġenerali, fl-investigazzjoni tiegħu jgħid li mhux kollha kellhom il-firma tal-Ministru kkonċernat. Jien m'iniex qed inqajjem xi ksur ta' privileġġ, imma qed nitlob li s-Sedja tinvestiga u tagħti d-deciżjoni tagħha permezz ta' *ruling* dwar dawn ir-risposti li jidhru li mhumiex veritieri, meta wieħed jikkumparahom mar-rizultat tal-investigazzjoni li ta l-Awditur Ġenerali. Grazi.

Kien hawnhekk li l-Ministru Owen Bonnici għamel din l-ispjegazzjoni b'mod immedjat:

“Sur President, jekk tippermettili xtaqt nagħmel ftit punti bħala tweġiba. Donnu li l-Onor. Ryan Callus ir-rapport tal-Awditur Ġenerali ma rahx kollu, għaliex ir-rapport tal-Awditur Ġenerali – u hawnhekk qed nirreferi għar-rapport li ħareġ ftit tal-jiem ilu, “*An Investigaton into the Issuance of Encroachment Permits between December 2012 and March 2013*” – jgħid hekk:

“*The NAO established that the number of new encroachment permits issued between 1 December 2012 and 8 March 2013 was 25. In certain instances, an encroachment permit corresponded to multiple sites; however, for the purposes of*

this audit, these were considered as single cases as one permit was issued by the GPD covering the multiple sites.”

Jigifieri l-NAO, filwaqt li qal li bhala metodologija ddecieda li jqishom bhala 25 permess, qal ukoll li certi permessi – fil-plural qalha; mhux permess wiehed, imma certi permessi – kellhom *multiple encroachments*. Fil-fatt jekk taqra r-rapport issib li f'permess minnhom ghandu 60 *encroachment* f'daqqa! Wiehed minnhom, dak tan-*newspapers*, ghandu 60 *encroachment* f'daqqa. Allura b'dan il-mod ... (Interruzzjonijiet) F'dan ir-rapport tal-NAO, jekk wiehed jaqrah sewwa, isib spjega ghal dawn in-numri, ghaliex ghażel fl-*iscoping* ta' dan ix-xoghol, li certu permessi jqishom bhala wiehed, anke jekk uħud minnhom ... Kif ghedt, hemm każ minnhom li kellu anke 60 *encroachment* f'daqqa.”

Hawnhekk is-Sedja, wara li semgħet lill-partijiet, informat lill-Kamra li kienet se tagħti *ruling* fi stadju ulterjuri.

A skans ta' ripetizzjoni ta' diversi *rulings* li digà ngħataw, is-Sedja tagħmel referenza għall-aktar *ruling* riċenti mogħti fis-seduta tal-bieraħ dwar il-punt li hija m'għandha l-ebda mansjoni fuq it-twegibiet għal mistoqsijiet parlamentari. Però jidher li d-diffikultà tal-Onor. Ryan Callus hija dwar jekk hemmx verità fir-risposta li ta l-Prim Ministru għall-mistoqsijiet parlamentari 6433 u 6693.

Filwaqt li s-Sedja tinnota li din ma kenitx l-ewwel opportunità li kellu l-Onor. membru biex iqajjem każ ta' ksur ta' privileġġ dwar *misleading of the House* abbażi ta' informazzjoni mhux veritiera, tinnota wkoll li l-Onor. Callus speċifika li mhux qed iqajjem każ ta' ksur ta' privileġġ. Però s-Sedja xorta se tidhol fil-kwestjoni u tara l-fatti kif jirrizultaw mill-istess rapport tal-Awditur Generali li fuqu huwa bbażat l-ilment tal-Onor. Membru, u ċjoè r-rapport intitolat *An Investigation into the Issuance of Encroachment Permits between December 2012 and March 2013* maħruġ f'Novembru 2015.

Jidher li l-Onor. Ryan Callus qed jagħmel referenza għal paġna 9 tal-istess rapport, b'mod partikolari paragrafu 5, fejn jgħid hekk:

“The NAO established that the number of encroachment permits issued between 1 December 2012 and 8 March 2013 was 25.”

L-istess diskors huwa ripetut fil-paġna 58 tal-istess rapport, f'paragrafu 4.1.2.

Waqt il-konsiderazzjonijiet tagħha s-Sedja nnotat li l-Kapitlu 3 tal-istess rapport, li jitkellem fuq *cases reviewed*, in partikolari fil-paragrafu 3.1, “*Newspapers Dispensers*” u fil-paragrafu 3.1.4 li jitkellem dwar il-permessi maħruġa, jgħid hekk:

“The issuance of this permit can be traced to 13 November 2012, when a request for an encroachment permit with respect to 60 sites was made to the GPD. This request was supported by maps issued by MEPA indicating the sites where the dispensers were to be located. The sites corresponding to this encroachment permit were located in the following towns across Malta and Gozo:

- a. three sites in St Andrews;*
- b. five sites in Mellieħa;*

- c. one site in Balzan;
- d. sixteen sites in Birkirkara;
- e. two sites in Xemxija;
- f. one site in Tarxien;
- g. six sites in Mosta;
- h. three sites in Għajnsielem;
- i. four sites in Marsalforn;
- j. four sites in Qala;
- k. nine sites in Victoria;
- l. two sites in Xlendi; and
- m. four sites in Nadur.”

Fil-paragrafu sussegwenti 3.1.5 dan ir-rapport ikompli jgħid hekk:

“The encroachment permit was prepared by the GPD on 9 January 2013 and approved by the Minister MFCC on 15 January 2013. The encroachment permit was intentionally issued for eight months in order for its annual renewal to coincide with that of previous permits granted with respect to other lots. The standard rate applied by the GPD for encroachment permits of the sort was €5 per newspaper dispenser per annum. The annual fee for the 60 sites amounted to €300; however, given that the permit was issued for eight months, the GPD applied a pro rata charge of €200.”

Dan ifisser li dan il-permess waħdu kien ikopri l-encroachment ta’ aktar minn 60 sit. Fl-istess rapport l-Awditur Generali jsemmi li:

“In certain instances, an encroachment permit corresponded to multiple sites;”.

Hawnhekk is-Sedja se tagħmel referenza għal dak li ddecieda l-Ispeaker tal-House of Commons John Bercow fis-seduta parlamentari tat-28 ta’ Novembru 2001 (*House of Commons Debates Vol. 375, C971*) meta nqalgħet il-kwestjoni dwar risposti parlamentari għal domandi li jistgħu jinħassu li mhumiex preċiżi, jew li jistgħu jagħtu suspett li l-fatti mhumiex daqshekk ċari, jew addirittura ma jkunux veritieri. Dak inhar l-Ispeaker Bercow qal hekk:

“It would be unwise for me to express a view on the adequacy of a particular Ministerial answer. There are bound to be two views on that, and neither is a matter for me.”

Hawnhekk l-Ispeaker kien qed jgħid li meta tinqala’ kwestjoni bħal din, l-Ispeaker ikun ferm prużuntuz, jekk mhux avventuruz, li jipprova jasal waħdu għal liema huma l-fatti veri għaliex il-probabbiltà hija li jkun hemm żewġ veduti differenti. Għalhekk, l-istess Ispeaker jgħid hekk:

“While it is for the House at large, not the Chair alone, to hold Ministers to those obligations, I can best discharge my responsibilities by suggesting ways in which Members might help themselves.”

L-Erskine May (24 Edizzjoni) f’pagna 368 jgħid hekk:

“When factual mistakes are discovered in an answer to a question, ministers may submit written ministerial corrections for publication in the official report. Such corrections are required to be free standing and should not be used to provide new information, however closely related to the original proceeding. Nor should they be used to rehearse the arguments which may have given rise to the original erroneous answer. This procedure has replaced the previous mechanisms of correcting mistakes in an earlier answer by providing a ‘pursuant’ answer. When Ministers wish to make a correction in terms which would not comply with the criteria relating to written ministerial corrections, they may do so by means of a written ministerial statement. Such statements are published in the official report.”

Jidher li din hija l-linja li ttiehdet mill-Ministru Owen Bonnici dwar il-punt imqajjem mill-Onor. Ryan Callus. Fl-intervent tiegħu fis-seduta tal-bieraħ, il-Ministru Owen Bonnici ha l-opportunità biex jagħmel kjarifika fir-rigward tat-twegibiet mogħtija għall-mistoqsijiet parlamentari 6433 u 6693 tal-Onor. Ryan Callus billi qal li meta fir-risposta tiegħu l-Prim Ministru kien qed jirreferi għall-100 *encroachment permit*, dawn kienu jinkludu dawk il-każijiet fejn *encroachment permit* wiehed kien jikkorrespondi għal aktar minn sit wiehed.

Dan ifisser li ma kienx il-każ li l-Prim Ministru b’xi mod kien qed jagħti informazzjoni mhix veritiera jew addirittura mhix preċiża imma kien qed jagħti risposta abbażi ta’ dak li kien jaf fil-kapaċità tiegħu bħala l-ministru responsabbli mill-Government Property Division (GPD). Ta’ min jinnota wkoll li meta l-Prim Ministru rrisponda d-domanda 6433, ma kellux għad-dispożizzjoni tiegħu r-rapport tal-Awditur Ġenerali li hareg f’Novembru 2015. Fil-punt li l-Prim Ministru rrisponda, huwa ma kellux ir-rapport tal-investigazzjoni ġa konkluz, liema rapport ġie publikat hafna wara li ngħatataw ir-risposti għall-mistoqsijiet 6433 u 6693 u għaldaqstant mhux indikat li kien qiegħed b’xi mod jagħti informazzjoni li mhix veritiera.

Każ simili għal dan inqala’ fis-seduta parlamentari tas-26 ta’ Marzu 2013 tal-House of Representatives ta’ New Zealand (vol. 688, pagna 8,896) fejn insibu hekk:

“The point that I would like to make to you quite forcefully is that if a Minister has an official report, has read it, and says that he has read it, and if he then deliberately misuses figures from that report in a primary answer, it is my view that that would be a breach of privilege. Clearly, it is a high test, but to suggest that someone can breach privilege only when the information they have is personal – and if they have official information, they cannot breach privilege – appears to me to be wrong. I would ask you to consider that and to rule on it at some stage if you so wish.”

Hawnhekk qed nikkwota minn punt mqajjem mill-Onorevoli Trevor Mallard. B’risposta għal dan l-Ispeaker qal hekk:

“The advice I have received is that this is a longstanding practice, and it is based on House of Commons practice. But the member raises a point that is serious. I accept that. I am happy to have another look at the tone of that letter, and I will come back directly to the member.”

Hawnhekk jirrizulta li ladarba ministru, meta jkun qed jagħti informazzjoni, ma jgħidx li qed jikkwota minn dokument u allura ma jkunx qiegħed jinterpretat informazzjoni b’mod li jmur kontra dak li effettivament ikun miktub b’mod ċar fid-dokument uffiċjali, aktar u aktar ma jkunx każ ta’ għoti ta’ informazzjoni li tista’ tkun ikkunsidrata bħala *misleading the House*.

Meta wiehed japplika dan għall-każ li għandna quddiemna isib li fir-rapport tal-Awditur Ġenerali li ħareġ f'Novembru 2015 hemm spjegazzjoni ċara li n-numru mhuwiex 25 imma huwa ħafna viċin, jekk mhux aktar, in-numru li ta l-Prim Ministru fir-risposta tiegħu għal mistoqsija parlamentari 6433.

Fir-risposta li ta l-Prim Ministru għal mistoqsija parlamentari 6693, huwa qal hekk:

“Ninforma lill-Onor. Interpellant illi *l-encroachment permits* kollha li ħarġu bejn Jannar u Marzu 2013 għandhom il-firma tal-Ministru responsabbli mill-artijiet ...”

Fir-rapport tal-Awditur Ġenerali, proprju fil-kapitlu “*Conclusions and Recommendations*”, insibu hekk:

“The GPD issued eight permits in January 2013 and ten permits in February 2013. Furthermore, up to the aforementioned cut-off date, another seven permits were issued in March 2013. The approval of encroachments was contingent on the nature of the permit requested and in this context, the NAO noted that, out of the 25 permits issued, 13 were authorised by the Minister MFCC, while the remaining 12 were sanctioned by the GPD and other public sector entities, where necessary.”

Dan ifisser li mir-rapport tal-Awditur, li allura dak iż-żmien ma kienx għad-dispożizzjoni tal-Prim Ministru meta rrisponda d-domanda parlamentari 6693 peress li l-investigazzjonijiet saru wara, ma joffroġx ċar jekk *l-encroachment permit* li kien jikkorrispondi għal 60 sit kienx wiehed minn dawk iffirmati mill-Ministru jew le. Jidher ċar li l-Ministru ffirma diversi *encroachment permits*. Ladarba din issa giet spjegata fir-rapport uffiċjali, li tpoġġa fuq il-Kamra mis-Sedja wara li l-istess rapport gie mghoddi mill-Awditur Ġenerali lis-Sedja, dak li qal il-Prim Minsitru fit-twegiba għall-mistoqsija parlametari 6693 huwa issa korrett kif indikat fir-rapport tal-Awditur Ġenerali.

Għalhekk, is-Sedja, wara li rat dan kollu, ma thossx li għandha tagħmel xi rakkomandazzjonijiet fir-rigward tar-risposti li ta l-Prim Ministru għaž-żewġ mistoqsijiet parlamentari msemmija, ċjoè 6433 u 6693.

Dan ir-*ruling* huwa deċiż.