IT-TRIBUNAL TAL-BINI U L-KOSTRUZZJONI

Illum 5 ta' Marzu, 2026

Rikors numru: BCT/91/2025

Membri:

Avukat Philip M. Magri LL.D. M.A. (Fin. Serv.) M.Phil.

Perit Robert Sarsero BE&A(Hons), A&CE

Ing. Anthony Camilleri B.Mech.Eng (Hons), FVCM (Hons) L. (Mus.) V.C.M. (Hons.), A. (Mus.) L.S.M.

Ruth Attard

vs

Awtorita' tal-Bini u l-Kostruzzjoni

It-Tribunal,

Ra l-appell li sar permezz ta' ittra tal-Perit Daniel Muscat datata 7 ta' Novembru, 2025 fejn l-appellanti ikkontesta d-decizjoni tal-Awtorita` intimata datata 6 ta' Novembru, 2025 fejn permezz taghha l-Awtorita` imponiet penali amministrattiva fl-ammont ta' elf euro (€1000) u dana peress li "*fis-05 ta' Novembru, 2025 kif ukoll fil-granet / fix-xhur u fis-snin ta' qabel, saru xogholijiet ta' kostruzzjoni li mhux konformi mal-Legislazzjoni Sussidjarja 623.06, senjatament minhabba li bdejt xoghol ta' bini minghajr l-approvazzjoni bil-miktub mill-Awtorita` tal-Bini u l-Kostruzzjoni*"

Illi permezz tal-appell tieghu l-appellanti ikkontenda s-segwenti:

1. *Statement by BCA issued on 29 October that 'Failure to submit documentation requested' is incorect as this was uploaded on 26 October and an acknowledgment received as shown on page 3. While I believe that BCA genuinely may have missed/not received this documentation due to some e-apps portal malfunction or other oversight, this whole matter has now escalated into a stop notice and penalty against my client.*
2. *The email reply by Perit Annmarie Mifsud (BCA) on 30 October stating 'documentation requested by BCA must be uploaded on eApps and addressed to the BCA. The screenshot of your upload shows that the document you uploaded was address to the PA' is also incorrect since I uploaded the documentation on the E-apps BCA 'Avoidance of Damage' portal as er usual procedure. Even if I had mistakenly addressed the document to PA instead, it would still be visible on E-apps, which confirms that there was some sort of e-apps portal malfunction.*
3. *Having read the acknowledgment regarding my submission on the 26th October, I was surprised to receive the stop notice on the 29 October about my alleged failure to submit. I immediately (same day) re-sent the requested documentation and on the 30 October, contacted Perit Annmarie Mifsud (BCA) and the ICT support at BCA. To date I have not received a reply from ICT support about this matter.*
4. *After sending a reminder to Perit Mifsud, clearance was issued on 6th November, a week after my re-uploading of the requested documentation. While we appreciate that BCA have a workload, such a delay given the circumstances and the simple nature of the documentation requested is not expected.*
5. *We appeal against the penalty issued on 6 November, in light of the arguments being presented above.*
6. *While we understand that the appeal regarding the penalty may not be processed straightaway, we also appeal against the Stop Notice and request that clearance be reactivated straightaway. It is unreasonable to keep the Stop notice on an IT/administrative matter such as this.*
7. *We reserve the right to present further arguments during the course of this appeal.*"

Ra r-risposta tal-Awtorita' appellata li permezz tagħha wieġbet u eċċepiet is-segwenti:

1. *Illi l-Awtorita` appellata qeghda umilment tissottometti li kwalunkwe decizjoni mehuda kienet in konformita' ma' dak rikjest mil-liġi, u kwindi korretta f'kull aspett;*
2. *Illi l-Awtorita` qeghda tannetti mar-risposta Trail of Event immarkat bhala Dok BCA1, sett ta' ritratti immarkati bhala Dok BCA2, u zewg (2) filmati mmarkati Dok BCA3 u Dok BCA4.*
3. *Illi hekk kif indikat fir-rikors tal-appell, il-mertu tal-appell huwa jekk effettivament id-dokumenti rikjest mill-Awtorita` kienx gie mtella (uploaded) fis-sistema ta' eApps u jekk kienx effettivament indirizzat lil Awtorita` prezenti jew lil xi awtorita` ohra, kif indikat l-Awtorita` tal-Bini u l-Kostruzzjoni.*
4. *Mid-dokumenti (imejls) provduti mill-appellanti ma jidhirx fejn effettivament gie mtella' (uploaded) r-rapport stante li imejl tal-'acknowledgment' iggib l-imejl no-reply@pa.org.mt.*
5. *Ghaldaqstant fuq dak suindikat, l-Awtorita` appellata qieghda umilment titlob lil dan l-Onor. Tribunal sabiex jichad l-appell odjern.*
6. *Salv eccezzjonijiet ulterjuri.*

Ra l-atti u d-dokumenti kollha anness mal-appell.

Sema lill-Perit Daniel Muscat waqt is-seduti tat-13 ta' Jannar, 2026 u tat-3 ta' Frar, 2026.

Ra wkoll l-affidavit tal-Perit Annmarie Mifsud u d-dokumenti mieghu annessi.

Ra li waqt is-seduta tat-3 ta' Frar, 2026 il-partijiet iddikjaraw li m'ghandhomx aktar provi x'jipproducu u l-appell thalla ghas-sentenza ghall-lum.

Ikkunsidra

Illi mill-affidavit tal-Perit AnnMarie Mifsud jirrizulta li fid-data mertu tad-decizjoni appellata ossija fil-5 ta' Novembru, 2025 is-sit mertu tal-istess decizjoni kien kolpit minn Stop Works Notice mahrug fid-29 t'Ottubru, 2025. Mill-istess affidavit jidher li fit-23 t'Ottubru, 2025 l-Awtorita` kienet qed tezigi dokumentazjoni rigwardanti s-sahha u sigurta` ta' terzi b'rabta max-xogholijiet b'terminu ta' jumejn tax-xoghol ghas-sottomissjoni tal-istess. Meta l-appellanti

baqa' inadempjenti inharget l-ordni ghat-twaqqif tax-xoghol. Kien biss fis-6 ta' Novembru, 2025 li l-Awtorita` harget l-awtorizzazzjoni taghha ghat-tkomplija tax-xoghol.

Illi mit-test tal-appell ma jidhirx li din il-kronologija qed tigi b'xi mod kontestata mill-appellanti. Dak li qed jigi kkontestat huwa l-fatt li, skont l-appellanti, id-dokumentazzjoni mitluba kienet giet mibghuta imma l-Awtorita` ma haditx konjizzjoni taghha.

Illi madanakollu, ghat-Tribunal dan l-argument ma jservix sabiex jikkontradici dak li l-appellanti tinsab akkuzata bih bid-decizjoni appellata ossija li bdew xogholijiet minghajr l-approvazzjoni tal-Awtorita`. Jirrizulta li l-iStop Works inhareg fid-29 t'Ottubru, 2025 u baqa' hekk fis-sehh sas-6 ta' Novembru, 2025 b'tali mod illi, matul tali perijodu ta' zmien, l-ebda xoghol ma seta' jitkompla fuq is-sit, dana skont dak li jinsab testwalment provdut fil-ligi.

Mill-aspett prettament legali jinghad li r-Reg 7(12) u (13) tal-LS 623.06 jipprovdi testwalment:

> *(12) Il-bidu ta' kwalunkwe xogħol ta' skavar, demolizzjoni jew kostruzzjoni jistgħu jidħlu fis-seħħ biss wara li l-Awtorità tal-Bini u l-Kostruzzjoni tagħti approvazzjoni bil-miktub.*
> ***(13) Meta ordni ta' waqfien maħruġa mid-Direttur tiġi revokata, it-tkomplija ta' kwalunkwe xogħol ta' skavar, twaqqigħ jew kostruzzjoni deskritta f'dik l-ordni tista' tidħol fis-seħħ biss wara li l-Awtorità tal-Bini u l-Kostruzzjoni tipprovdi awtorizzazzjoni bil-miktub.***

Illi jinsab konfermat mill-istess Perit Daniel Muscat, permezz tal-istess appell tieghu datat 8 ta' Jannar, 2026, li fil-fatt sehhew xogholijiet matul dan il-perijodu ta' zmien ossija fil-5 ta'Novembru, 2025:

> "*The concrete works on the 5th November carried out after the Stop Notice was issued, were in fact simply limited to the final phase in the completion of a lateral beam at basement level to reinforce the party walls and thus strictly necessary to eliminate any danger and prevent damage within the site and to third party property.*"

Lanqas in-natura, allegatament urgenti, tax-xogholijiet ma tista' tkun skuzanti fin-nuqqas tad-debita notifika lill-Awtorita`.

Ic-cirkostanzi li wasslu ghall-hrug tal-penali u li jinsabu dettaljati fl-appell jistghu, pero`, ikunu relevanti ai fini tal-ammont tal-piena. Mid-dokumenti ezebiti jirrizulta car li l-acknowledgment ricevut mill-Perit Muscat ghad-dokumenti sottomessi minnu inharget mill-Awtorita` tal-Ippjanar u mhux mill-Awtorita` appellata. Ghalkemm il-Perit Muscat ezebixxa d-dokument sottomess indirizzat lill-Awtorita` appellata, ma ressaqx prova li turi li dan id-dokument ittella' minnu fuq il-portal korrett tal-istess Awtorita`. Il-minuti tal-istess jikkkonfermaw li d-dokument mitlub ma wasalx ghand l-Awtorita`. Jidher pero` li dan l-izball gie korrett minnufih mill-Perit Muscat billi finalment issottometta d-dokumentazzjoni mitluba korrettament. Skont il-Perit Muscat, ix-xogholijiet li lahqu saru fis-sit kienu strettament ta' natura urgenti ukoll relatati mas-sigurta` ta' terzi. Ghalkemm dan xorta wahda ma jiggustifikax il-fatt li xogholijiet thallew isiru fuq is-sit minghajr l-approvazzjoni rikjesta mil-ligi kif hawn fuq citata, it-Tribunal isib li, f'tali cirkostanzi, l-imposizzjoni ta'multo ta'elf euro (€1000) hija wahda certament eccessiva u ghandha tigi ridotta ghal dik ferm aktar idoneja ta' tlett mitt euro (€300).

Decide

Għaldaqstant it-Tribunal, in vista tar-raġunijiet imsemmija hawn fuq qiegħed jilqa' l-appell sakemm kompatibbli mas-surreferit u konsegwentement qed jirriduci l-penali imposta ghas-somma ta' tlett mitt euro (€300).

Dr Philip M. Magri	**Perit Robert Sarsero**	**Ing. Anthony Camilleri**
Chairperson	Membru	Membru