

L-Atti tal-Inkjesta datata 19 ta' Novembru 2019, rigward skont it-Termini ta' Referenza ta' l-Inkjesta Pubblika dwar l-Assassinju ta' Daphne Caruana Galizia.

Seduta miżmuma llum it-Tnejn 3 ta' Frar 2020, fis-2:20 p.m. fit-Tieni Sular, Awla 20, il-Qorti.

Xhud **Alfred Zammit** iben il-mejjet Alfred u Monica nee` Becker imwielel Haz-Zebbug residenti l-Mellieha bil-lingwa Ingliza u bil-gurament tieghu jghid:

Chairman Judge M Mallia :

Nafu ahna li inti tahdem l-FIAU.

The Witness :

Ehe; may I just point out something small very quickly? I just heard that you've submitted a report, just now. I just want to clarify that - that report is not a report; we always refer to it as an internal working document.

Dr Therese Comodini Cachia :

Will arrive to that. Because we are going to ask you to identify it.

The Witness :

Sure.

Chairman Judge M Mallia :

Kemm ilek tahdem l-FIAU u x' kariga ghandek?

The Witness :

Minn Novembru ta' l-2010; kariga ta' deputy director bhal issa ovvjament, ma tant

Chairman Judge M Mallia :

X' ghandek? X' inhija?

Judge A Lofaro :

Deputy Director .

Chairman Judge M Mallia :

Deputy Director. Ghamilt xi zmien acting director ukoll?

The Witness :

Iva.

Chairman Judge M Mallia :

F' liema zmien kien dan?

The Witness :

Bejn nofs Lulju 2016 sa meta dahal id-direttur t' issa jigifieri fil-bidu tat-2017; qisu sitt xhur.

Chairman Judge M Mallia :

Dan kien iz-zmien meta kien irrozenja s-Sur Galdes mill-....?

The Witness :

Ezatt. Dr Galdes irrozenja in July 2016; id-data ma niftakarx ezatti, ghandu jkun 15th July, so I was immediately appointed as acting head; is my role as a deputy director to servers the acting directing of the FIAU in the absence of the director, so I took over that role with immediate effect until the director of today joint the FIAU.

Chairman Judge M Mallia :

Ok.

Dr Therese Comodini Cachia :

Ser nurik dokumenti li gew ippublikati fil-media illi l-media tghid illi huma dokumenti ta' l-FIAU; biex tiddiskrivi x' dokumenti huma u jekk inti kontx involut fid-drafting tagghom jew fil-process li sar ghal dawk biex isiru jithejjew dawk id-dokumenti.

The Witness :

Yes, but if I may at this point I am very willing to reply as many questions as possible, but if we are going to get on case specific I would rather have those discussions behind closed doors; so if we can steer the discussion so as to respond to any questions of other matters.

Chairman Judge M Mallia :

..

The Witness :

Such as on you mentioned in ..cases..

Dr Therese Comodini Cachia :

Nahseb izjed case specific mill-pubblikazzjoni tar-rapport ma jistax ikun hemm. U allura la dan diga` qieghed fil-pubbliku ma narax ghalfejn ..

Chairman Judge M Mallia :

Ir-rapport huwa public knowledge.

Dr Therese Comodini Cachia :

Jiena iddawnlowdjajtu minn fuq il-media, jigifieri ..

Judge A Lofaro :

Hekk hu.

Dr Therese Comodini Cachia :

Ara dan ir-rapport l-ewwel u ara jekk huwiex rapport ta' l-FIAU u ghidilna x' tip ta' rapport hu li tkun hejjiet l-FIAU.

The Witness :

It's very familiar. Looks as it's one of our internal documents which as I mentioned is not a finalize report, and we always refer to it as in internal working document.

Judge J Said Pullicino :

As far as you know jigifieri dak ir-rapport qatt ma intbaghat il-Pulizija allura. Baqa' dejjem intern.

The Witness :

Pardon?

Judge J Said Pullicino :

If it is an internal document il-kwistjoni li intom qatt ma ikkokludejtuh u qatt ma bghattuh lill-Kummissarju.

The Witness :

No no. Mela, this is an internal working document.

Dr Jason Azzopardi :

Li ntbaghat lill-Pulizija.

Dr Therese Comodini Cachia :

Was it sent to the police?

The Witness :

No. This document itself was not sent to the police....

Dr Therese Comodini Cachia :

So what was sent ...?

The Witness :

... because this document was an internal working document. Therefore at that stage when unfortunately someone broke the law and leaked it, ok?, this document was working progress. So this document as is was not sent to the police.

Dr Therese Comodini Cachia :

Ok. The subject of that investigation of that working document can you identify it so in your testimony we can identify the report?

The Witness :

The report speaks for itself; you can look at page number 1 of the report and the report says ...

Dr Therese Comodini Cachia :

Yes the report speaks for itself but when we come to read your transcript we will not be able to identify if you are referring to report A, B, C or D. So you can identify it... identifying the subject.

The Witness :

Ok. The subject of the report is Konrad Mizzi, the Rotorua Trust and Hearnville Inc. And this is not a report. So even I, I shouldn't using that word.

Dr Therese Comodini Cachia :

Following that internal working document was a report prepared by FIAU?

Judge J Said Pullicino :

On that.

Dr Therese Comodini Cachia :

On that same subject matter

The Witness :

Yes; but I would much rather have these discussions behind closed doors because a document was leaked and it is now in the public domain it doesn't exonerate me from following the law.

Dr Therese Comodini Cachia :

I am asking you questions that have already been replied under already in the public domain.

The Witness :

It doesn't matter; it doesn't matter. If things are in the public domain it doesn't mean that I have the right to break the law, ok?

Dr Therese Comodini Cachia :

Then I asked the Board to give to order the witness to give evidence.

Chairman Judge M Mallia :

Please, calm down all of you. I would like to make it clear Mr Zammit, that people do not raise their voices over her.

The Witness :

I apologise.

Chairman Judge M Mallia :

Ok? Neither you more the lawyers. Question and answer – yes, no or whatever. You have every right to refuse the question, ok, and will see why. And will ask you to proceed or not to proceed. But now raising your voices please.

Dr Therese Comodini Cachia :

May I ask the Board to give an order for the witness to be able to testify ..

Chairman Judge M Mallia :

If he wants to testify behind closed doors then he can testify behind closed doors.

Dr Therese Comodini Cachia :

What is in the public domain I think should remain in the public domain.

Chairman Judge M Mallia :

Yes I agree with you ..

Dr Therese Comodini Cachia :

This is a hundred page document, everyone can read it.

Judge A Lofaro :

It is in the public domain.

Dr Therese Comodini Cachia :

So whatever he is going to say is literally already in that document.

Chairman Judge M Mallia :

Well, I' m afraid if that document is in the public domain as it is, because it was leaked as you yourself said, then I am afraid you have to ask questions - you have to answer questions relating to that document.

Dr Therese Comodini Cachia :

I understood that the internal working document you have in hand was not forwarded to the police, right?

The Witness :

As is, right.

Dr Therese Comodini Cachia :

Was it forwarded to the police in any other manner?

The Witness :

Well we continued working, and eventually we concluded the ..our work, and as you may also refer to the Egrant inquiry eventually we submitted a report to the police for further investigation. You can refer to the Egrant Inquiry; I have here with me, I can even provide it to you it's an extract, this is public. It is an extract from the Egrant Magisterial Inquiry report dated 20th of July 2018, and I have here printed from pages 1351 to 1634. And in this very extract you can see as well that the Magistrate Aaron Bugeja explains that ..(ha naqra bil-Malti) : fil-fatt permezz ta' nota datata 26th March 2018 l-FIAU informaw lill-Magistrat inkwirenti li l-analizi f' dan il-kaz kienet giet konkluza u l-FIAU kien dak inhar stess issottometta rapport analitiku lill-Kummissarju tal-Pulizija ghal aktar investigazzjonijiet.

Dr Therese Comodini Cachia :

L-internal working document x' konklużjonijiet ghandu? Li ghandek f' idejk.

Chairman Judge M Mallia :

Ipprezentat minn Alfred Zammit all right?

The Witness :

F' liema sens konkluzjonijiet ghandu? Irrid noqghod naqrbhom kollha?

Dr Therese Comodini Cachia :

Ghandu xi konkluzjonijiet fir-rigward tas-suggetti? U jekk dawk il-konkluzjonijiet humiex l-istess konkluzjonijiet li l-FIAU baghtet lill-Pulizija.

The Witness :

Mela bl-amment ma nistax nghidlek, ma nafx onestament bl-amment. Pero` huwa importanti li nifhmu x' inhu dan id-dokument. Dan id-dokument huwa an internal working document. Issa x' jigifieri? Li skont il-komplessita` u l-kobor tal-kaz anha u nahdmu fuq kaz jista' jaghti l-kas li nibdew nibnu r-rapport minn l-ewwel, inkluz per ezempju konkluzjonijiet. Ma ffissirx li jkun gew formalment endorsed by the FIAU. Ghax imbaghad ngħaddu minn process illi once li the internal working document ikun lest induruh internament u niddeciedu li naqblux jew le, u niddiskutu r-rapport u nistghu inbidlu. Jigifieri as such jiena ma naqbilx li ssir a comparison bejn dan ir-rapport illi kien internal working document and at a point in time, because this was a living document and this continue to change overtime until we final ..

Chairman Judge M Mallia :

Yes. But what we would like to know is that with hindsight, now that all that the report has been finalized, is there any difference between the final report and what's there is there in those documents?

The Witness :

Yes of course, of course there are many differences.

Chairman Judge M Mallia :

Totalment f' liema sens?

The Witness :

For example some of the.. this is where maybe I shouldn't going to detail, but some of the most important information at the time that this report was leaked was not available to the FIAU, and the I-FIAU continued to work, continued to liaise, continued to seek information from national and from international sources including from out counterpart in other jurisdictions; and we obtained more information, and then we included that information in this report. And the information that we received after this working document ...

Chairman Judge M Mallia :

After that.

The Witness :

...was leaked, was had a significant bearing on our conclusions. A major bearing ..

Judge J Said Pullicino :

You are telling us that what you should go by is the report that sent to the police and not that basically.

The Witness :

Absolutely. This is just a document that was leaked in.. you know?

Chairman Judge M Mallia :

And the document that you gave to the police is reflected in the Egrant report.

Judge A Lofaro :

Egrant Inquiry

The Witness :

Yes, because in the Egrant Inquiry we were liaising very frequently with Magistrate Bugeja and we were keeping him informed as to development that were taken place in the FIAU. It is important to say that the I-FIAU had the legal bases to exchange information with Magistrate Bugeja and although very often we come across as extremely secretive I can assure you that with those entities with whom we have the power to exchange the information we are not secretive at all. And we exchange information on a daily basis; continuously.

Dr Therese Comodini Cachia :

So, am I correct in saying in understanding you therefore that the report on the subject matter which FIAU forwarded to the police concluded that there was a reasonable suspicion of money loudening that the police should investigate?

The Witness :

I am sorry, can you repeat the question? Sorry.

Dr Therese Comodini Cachia :

Am I correct in saying in understanding that the report which FIAU forwarded to the police on the subject matter in question asked the police or indicated to them that there was reasonable suspicion on charges of money loudening and that the police should continue to investigate.

The Witness :

Yes yes.

Dr Therese Comodini Cachia :

Yes.

The Witness :

Yes.

Dr Therese Comodini Cachia :

That it what we are asking. So, can I show you another report?

The Witness :

Sure.

Dr Therese Comodini Cachia :

And this time the subject matter is Keith Schembri and Adrian Hillman.

The Witness :

And I apologize for raising my voice before but you have to understand that I am incredibly frustrated and disappointed that internal secret confidential documents relief from the FIAU; or rather were leaked not necessarily from the FIAU

Dr Therese Comodini Cachia :

We all showed out our disappointments including about work being done or not done, so can we get along ..

Judge J Said Pullicino :

The problem is this inquires after searching the truth whatever the cause, and we have to do that.

The Witness :

Yes yes.

Judge J Said Pullicino :

..... responsible for transactions imma imbaghad we have to go out after the truth ..

The Witness :

But unfortunately no one has been convicted or found guilty for breaking the law ..

Judge J Said Pullicino :

No no, I am not referring to FIAU; generally, ok?

The Witness :

Yes.

Dr Therese Comodini Cachia :

Dak perzentat diga`. Imma naf li ma ttellax il-file

The Witness :

Ok.

Dr Therese Comodini Cachia :

Is it an FIAU report an internal working document? What is it?

The Witness :

Offhand I can say it, but it looks like a report that we had sent to the police.

Dr Therese Comodini Cachia :

Were you involved in preparing that report or in handing it over to the police?

The Witness :

Yes yes.

Dr Therese Comodini Cachia :

And following your handing over of the report to the police was any further action taken by yourselves or by the police?

The Witness :

Well, by ourselves I can say that as matter of procedure the FIAU continues to update the police with any relevant additional information that we receive in connection to reports that we submitted to the police, this is also in the prevention of the money loudening acts, and in fact in these case we submitted a number of additional reports to the police over time

Judge A Lofaro :

But regarding which report please?

Dr Therese Comodini Cachia :

It's the report on the subject matter Keith Schembri and Adrian Hillman.

Judge A Lofaro :

But I don't know if he.. ; only in regard to that case or the other cases as well?

Dr Therese Comodini Cachia :

Mr Zammit..

The Witness :

No no, even in this case and even in other cases ...

Judge A Lofaro :

So it's not just in this case.

Judge J Said Pullicino :

We are asking what updates you gave for the police after filed those reports.

Dr Therese Comodini Cachia :

On this particular case ..

Judge J Said Pullicino :

And the people... as well. You made submissions to police to updated to what developments you had.

The Witness :

Yes.

Judge A Lofaro :

In all the cases.

The Witness :

Yes yes in all...

Judge A Lofaro :

Yes.

Judge J Said Pullicino :

And your updates did they materially change conclusions?

The Witness :

Not really changed the conclusion.. .

Judge J Said Pullicino :

.... reports.

The Witness :

Sorry?

Judge J Said Pullicino :

In the ...of these 2 reports. Your updates did they materially change your conclusions?

The Witness :

I can't recall by hearth because obviously you do understand that information to the police, but normally the additional report than we sent to the police don't really change our conclusions; in the sense that the FIAU's role is very simple. FIAU's role is to determine whether if there is a reasonable suspicion of money loudening or not. So if you say that this really change your conclusion in the end no. We have.. you know, once we determine that there is a reasonable suspicion in money loudening then that's the case. And if anything our additional reports would contain information that we .. relevant to the police

Judge J Said Pullicino :

...conclusive ..

Judge A Lofaro :

Given further information.

The Witness :

Exactly.

Chairman Judge M Mallia :

This has been made clear quite well as far as the FIAU is concerned, when you have a reasonable suspicion of money loudening that is a decision. You then pass it on to the police for further investigations; and you did arrive to that conclusion; that there was a reasonable suspicion of money loudening.

The Witness :

In the second one?

Chairman Judge M Mallia :

In the second one.

The Witness :

Yes.

Dr Therese Comodini Cachia :

I am now showing you another report which is Keith Schembri and sale of passports. Could you identify this and indicate what type of report or document it is, and if it was issued or if it is a document of FIAU?

The Witness :

So this document looks like it is made up from a report of the FIAU; as it is not the exact report and this applies was also to the other previous report. This is in a way copy paste or very similar from a copy from the FIAU. It is not our actual format; so it's in a bit of a different format but otherwise the wording ..

Judge J Said Pullicino :

Were the conclusions are the same? But the conclusions weren't the same?

The Witness :

...

Judge J Said Pullicino :

No?

The Witness :

It's very hard for me to remember the conclusions of all the reports we sent to the police.

Judge J Said Pullicino :

No, are you questioning the format or the substance?

The Witness :

No no, the format. The format.

Judge J Said Pullicino :

The format.

The Witness :

Yes.

Dr Therese Comodini Cachia :

Ok. And was this report forwarded to the police and if any action was taken in regard to that report?

The Witness :

Yes yes it was it was. I mean when it comes to .. again that we take, we continuously update the police with relevant ...information. When it comes to what the police have done I think that is a question that the police have to reply.

Dr Therese Comodini Cachia :

So the police had no meetings after the submission of this report with FIAU or did not give you an update of their investigation?

The Witness :

No we have meetings, and we have many meetings. Again, and sometimes we are informed of updates as well, but it is very difficult to remember exactly when and which meeting; but in fact I want to for example make reference to a testimony of last week that refers so called very famous secret meeting with myself and with the police.

Dr Therese Comodini Cachia :

Can I? I will come to that; I am being to come to that.

Judge J Said Pullicino :

You understand that what we are after are only meetings involving these persons.

The Witness :

Yes.

Dr Therese Comodini Cachia :

So you said you had a number of meetings with the police. Did you have any follow up meetings with the police on the reports you've seen so far?

The Witness :

I am sure we have had discussions with the police.

Dr Therese Comodini Cachia :

Are you informed whether the police have taken any action? Have interrogated these people? Or have investigated these cases?

The Witness :

Well, as far as I know the police have taken action but I am not sure whether I am .. allowed whether to say this in this court room.

Dr Therese Comodini Cachia :

What action are you informed that they have taken?

The Witness :

Yes. As far as I know the Magistrate Inquiry has been launched.

Dr Therese Comodini Cachia :

Was that Magistrate Inquiry launched because the police asked for it or because third parties asked for it?

The Witness :

As far as I know ..., well I don't know. I think this is another question that the police have to reply to. But as far as I know there is a Magisterial Inquiry ..

Dr Therese Comodini Cachia :

I show you the court report..

The Witness :

But I might be wrong, but as far as I know ..

Dr Therese Comodini Cachia :

... which is report published on Pilatus Bank. Could you confirm what that type of report that is?

The Witness :

So this is again an extract, or it looks like it is an extract from an internal ..from a compliance report, and just to be clear this has nothing to do now with the analyses work of the FIAU. It is very important to make a distinction between these 2 functions of the unit.

Judge J Said Pullicino :

This is compliance.

The Witness : -

This is compliance. So this is what we refer to as an initial findings letter; so this is the letter that the FIAU would send out to a subject person such as banks, financial institutions, so on and so forth, detailing the findings of ... examinations. But this is the first step in the compliance process after the supervisory.. after the... examination. And at that time the process was that after this letter was submitted to the bank the bank could have a period of around one month to submit these representations. And in fact after we submitted this letter to Pilatus Bank we received representations from Pilatus

Bank. I think this is, well, you know, as I think is very important to talk about because I know that even I read the articles and I know that the questions were raised in this court as to how the FIAU went from issuing this initial findings report, to issuing the so called clean bill of health as is often referred to. My opinion is not a clean bill of health, but anyway. So the examination carried out by the FIAU in 2016 was carried out in March, and after that March examination we issued this report, that again unfortunately ended up in the public domain which is called the initial findings report. This was issued in May 2016.

The bank had round about one month to provide these representations. On the 8th of June we received those representations, and on the 22nd of June a meeting was held between FIAU, was myself and the former director of the FIAU Manfred Galdes, with representatives on the bank namely the owner of the bank Mr Al Sader, and representatives from KPMG Ms Juanita Bencini. The bank in that meeting insisted and stressed that the independent reports that it had carried out by KPMG and Camilleri Preziosi just after it received our initial findings letter, identified that the findings in the FIAU's letter did not subsist. And at an actual fact the bank had all the documentation that it was supposed to have inline with the law; and in this meeting the bank especially Mr Sader asked the FIAU to carry out a follow up visit. Not a second compliance examination, a follow up visit to establish whether in fact those documents were there or not and to determine therefore whether KPMG and Camilleri Preziosi's reports were right or not. And in the same meeting they therefore asked the FIAU to carry out a follow up visit.

In the vary meeting the director of the FIAU Dr Manfred Galdes accepted that the FIAU will go again onsite. In fact we decided and when I say 'we', Dr Galdes had decided that he will carry out a follow up examination and that took place. Indeed we sent the same team of people and looked at the same files that we had looks in the initial visit. This happened, and actually then it was the end of June we held an internal committee meeting where the director informed the committee of this decision. On the 12th of July we informed the bank in writing that we will carry out ..., so we on the 12th of July we informed the bank that we will carry out follow-up visit as how that we've been agreed. On the 15th of July Dr Manfred Galdes resigned; and in August we carried out the follow up examination. In the follow-up examination our officers were presented with a lot more information they had noted during the first visit; and after that examination took place the follow-up examination the FIAU held its internal committee meeting known as the compliant managing committee.

In the committee it was decided that the FIAU did not have sufficient information to conclude at the time that Pilatus Bank had breached its obligations. We have to follow due process. So it's true that there was quite difference between our first letter and the closure letter issued in September. But when we carried out the follow up examination there was a lot more information that then we had noted in our first visit; and it was next to impossible for us to proof or the determine whether that information was produced in the interim or whether it was actually there always from the beginning.

This is important to understand that when we carry out our compliance work we are not investigators. It is ultimately up on the subject persons to demonstrate compliance. The onus demonstrate compliance is on them, not on us. So we go and we asked questions. And we asked them to show us information. If they don't show us the information then we cannot conclude that they are inline with their obligations. If they show us information and they forthcoming with the information then they can proof that they are compliant with their obligations. And this is what happen; and in the end the committee determine that we did not have a strong legal bases to take action. If we take action against an entity our decisions maybe appealed. And we have cases that are under appeal. And it is incredibly important for us to have a strong backing with documentary information, with evidence, that if we conclude that there is breach of the law that we are able to proof it; that we are able to demonstrate. And we did not have such procedures in place at that time in 2016; our procedures were not strong enough. In fact as everyone knows the European Banking Authority lounge an investigation on us and it concluded that we breached union law. And in doing so you can even see the recommendations, everything it online. You can see from the recommendations that the problem with the FIAU at the time was its governance, its resources on the procedures that it adopted in the way we carry out compliance examination. Today we do things very differently; we are much stronger. We have learned a lot of lessons and we implemented these lessons.

Dr Therese Comodini Cachia :

Can I ask you to go back to Pilatus report that you have in hand, so, when was your first visit to Pilatus Bank? Because you mentioned a number of ..

The Witness :

Yes yes; our first visit was in March 2016.

Dr Therese Comodini Cachia :

And following March 2016 you said that the document that I showed you contains extract from the compliance report. The indications or the failures of the bank indicated in those reports when were they remedied by the bank?

The Witness :

Well, I didn't use the word 'remedied'. As I explained before, when we went again to Pilatus Bank in August of 2016 we noted a lot more information than we had noted in the first instance in March 2016. Now whether the bank produced that information to remedy or whether that information was actually there, and as the bank itself said and they in a way apologize they say we sorry but our officers – the bank officers did not provide us the information that we needed, so in a way they took it up upon themselves, it is – was at that time it was not possible for us to say whether the information was always there or not; or whether they actually produce it, you know? But what they told us that the information was there. So ..

Judge J Said Pullicino :

But this is strange. I mean they sent inspectors there.

The Witness :

Yes.

The Witness :

Yes.

Judge J Said Pullicino :

They are not... , inspectors. That supposed to respect and to check whether the information given, there is and what there is; and I mean do you mean to say that they all that information was just not given to them or not available? I try to understand why I mean the time fact here is the utmost important... before and after the.. as well, no?

The Witness :

Yes.

Judge J Said Pullicino :

And I would like to know why this happened. And involved the departure of your chairman. Again, I mean it very strange. Asking had given a report to the police; these are all.. they must be explained.

The Witness :

Yes yes. One question at a time, I mean as I said. When we carried out a .. examination the owners of demonstrating compliance is on the subject person. We cannot compare, we cannot force them to provide us with information. We can ask and if ..we can volunteer, even if don't ask the questions. Now, it's very often happens; but when we are caring out an ... examination they do have information in their possession subject persons. And they don't mention it to us for whatever reason. And in fact then they informed us afterwards. And they can proof it, so there are instances that they can proof it that the information was there in the first-hand. There are lots of obligations when you talk about customer due diligence and know your customer obligations. And sometimes the information is scattered across the files, or in the systems of the subject person, and it can actually quite difficult for them to produce the information during on onsite examination, and sometimes they realize after receiving our report that they actually had the information and they forgot that it was stored in one file or another. So, I mean there can be different reasons. But as far as I know the departure of Dr Galdes has as far as I know nothing to do with the Pilatus compliance report. And it is also important to know that it was Dr Galdes himself who agreed to carry out a follow-up examination.

Judge J Said Pullicino :

But what we understand that it is not an ordinary bank. This was a bank that has been born under a cloud. I mean it was under the public eye as from day one basically. Rightly or wrongly. Now in that situation you would imagine that MFSA would have been very very clear on what it requires, on the information it expected to be given to it; and that doesn't seem to be the case here.

The Witness :

Ok; so well, as far as I know the bank was not really in a public eye from day one. And we actually acted because the MFSA had carried out a prudential, not a anti money loudening visit, a prudential visit and they noted to concern. And they inform us ..

Judge J Said Pullicino :

... and even this had to be cleared. It was the MFSA that first started to go rolling with you, not the vice versa

The Witness :

Yes yes .

Judge J Said Pullicino :

..that was not very clear as well.

The Witness :

Yes, because the MFSA is the prudential regulator and supervisor, and we are the anti money laundering supervisors. So when it comes to the rules on anti money laundering it is us – the FIAU who is responsible to carry out the monitoring of subject persons and to see if they are online with their obligations. Obviously we liaising, we were very close with the MFSA. And in this case what happened is the MFSA had carried out a prudential examination way back in September - October 2015, and they had noted a high concentration of politically exposed persons in the bank and they had suggested that we carry out a compliance examination which is obviously

Judge J Said Pullicino :

But at that time you were aware that PEPs were involved.. ..

The Witness :

Sorry?

Judge J Said Pullicino :

At that time you were aware that PEPs were involved.

The Witness :

Yes yes of course ..

Judge J Said Pullicino :

Obviously the main concern of MFSA probably was this that was a high exposure of PEPs

The Witness :

Yes because it precise the risks, you know, and therefore this is something that we take on Board in deciding what type of examination to carry out and to go to; and you have to use your resources very gently. There are many banks and many finance institutions in Malta which deserve our attention and that they are not in the public domain.

Dr Therese Comodini Cachia :

Mr Zammit, you said that the compliance examination at Pilatus Bank took place in March. Was this a compliance visit of one day? How long was it?

The Witness :

No. The visit lasted between 15th March and 22nd of March.

Dr Therese Comodini Cachia :

When you are carrying out these compliance investigations or these compliance meetings what prior information do you give to the bank about the information you need? Do you give the bank any indication as to which files you are going to look at, as to which information you are going to seek?

The Witness :

So normally we don't, ...have procedure. We don't tell subject persons which files are going to look at before the examination. Normally before the examination we would ask for information from subject persons such as their policies, their procedures, there is client list and so on, for us to prepare for the onsite examination. In the case of Pilatus Bank we actually looked at all the relationships in connections with PEPs - with political exposed persons.

Chairman Judge M Mallia :

According to the Egrant reports I believe it resulted that Pilatus had a dual system of filing, were you aware of that then?

The Witness :

No, we were not aware of that. But it is not uncommon.

Chairman Judge M Mallia :

..and still..

The Witness :

It is not uncommon because.. I mean this is.. you know, I am speaking generally here .

Dr Therese Comodini Cachia :

It is not uncommon in our jurisdiction or all over the world?

The Witness :

No, well I can speak for our jurisdiction. I worked in the private sector as well. What I .., allow me to explain, I mean this is not.. I am not in anyway here defending Pilatus Bank, but I want to explain what a dual filing system can mean. For example it is very typical to find files as contained customer due diligence information; which are kept separate from other files that a company service provider in relation to the service that a company service provider may provide to its clients. Very often in customer due diligence files

you have information that is more sensitive and that a service provider may wish to keep restricted and make it only accessible to the complaints team for example. So this is again, I am not here to ... with Pilatus Bank, I am speaking in generally, and it happens, is very often that when we are onsite we note that there maybe sort of a dual filing system, but in the end and was to coming back to your question, subject persons no was information they are supposed to collect, and this also lease me back to your question Your Honour. It is next to impossible for us to know what documentation you have to be inline with your obligations because if your obligations is for example to identify someone you can identify a person by liaison documents, you can identify a person by using his passport or his ID card. So I cannot come to an tell me give me the copy of the passport of your client. Because maybe you have a copy of his ID card. And if the obligation is to collect sufficient information on one source of wealth and one source of funds, again, you can do that by using several different documents. There is not one specific document. So we cannot carry out on .. examination and ask for specific documents. In the end as I said before the owners of demonstrating compliance is on the subject person. They know that their obligation is they have to identify the clients; that they have to build their profile, that they have to obtain sufficient information on their source of wealth; but then it is up to them what information to collect to be inline with their obligations. So .

Judge J Said Pullicino :

But then it's up to you to carry out money loudening, not up to them. The problem is that it's up to you to carry out money loudening to identify. Unless you had the material in your hand you can't identify whether money loudening is taking place or not.

The Witness :

No no this .., apologise, this work, and this is why I said this important to make a distinction. This work the Pilatus compliance examination is not to check whether the bank is laundering proceeds of crime or not. This is work to identify whether Pilatus Bank is actually adhering to its obligations. Its administrative..

Judge J Said Pullicino :

Including that. Including not evading obviously; if a bank is money loudening it is not complaint with his obligations I suppose ...

The Witness :

That, if there is a suspicion that someone is laundering process of crime that work would be handled by our intelligence team; and it would be illegal for us

to inform that person that we are actually carrying out analysis to determine whether that person is laundering in process of crime or not. That will be tipping off.

Dr Therese Comodini Cachia :

I am going to take you to my previous question and to which you replied that it is not your working practice, or it is your work in practice not to inform the bank of what information you will be seeking or the files you will be asking for. But in a letter dated 21st July 2016 signed by yourself addressed I assumed to Pilatus Bank, you wrote the following : *the follow up on site examination is scheduled to commence on the 8th August 2016. In this respect please find attached appendix 1 the list of customer files that will be reviewed.* Can you explain why the change in working practice?

The Witness :

Yes yes. No no no it's not a change in working practice. I've already explained. The visit that we carried out in August was not a new visit. It was a follow up of the visit that had commenced in March, and therefore..

Dr Therese Comodini Cachia :

So a new visit you do not inform the bank what which client's files you will be asking, but for a follow-up visit you inform the bank which client files you will be asking.

The Witness :

Because it was a continuation of the first visit, so we simply had noted a number of deficiencies in those files and therefore in the second in the follow up visit we looked at those same files. Can I clarify something? Who am I supposed to answer? To her or ..

Chairman Judge M Mallia :

No. To us.

Dr Therese Comodini Cachia :

You have to reply to them; But the questions I am allowed to place questions, but you look at the Board please. Why was it important for you in that letter to inform Pilatus Bank that Dr Manfred Galdes had resigned?

The Witness :

I can't recall but Dr Galdes was having a number of interactions with Pilatus Bank including the meetings that took place; and I can't remember, but I presume that at that stage we would have the ... appropriate to inform the

bank that Dr Galdes had resigned because they would had no longer be receiving any communications from him.

Dr Therese Comodini Cachia :

Who were the member of the compliance monitoring committee when the report you have in hand was prepared and what changes were there in that compliance minoring committee for when the follow-up visit took place?

The Witness :

Let me took some point something before I reply to you. I think I should clarify that the EBA.., and I will reply to your questions, the EBA looked into detail in what we did with Pilatus Bank. They asked a hundred more questions then that you have asked; we gave them all the information. We gave them all our internal working documents, ok? And it is important, and useful to look at what the EBA conclusions are.

Dr Therese Comodini Cachia :

I am going to arrive at the EBA, because the EBA have given their own conclusions. But I would like you to answer my specific question.

The Witness :

Yes, as far as I know when we come to issue – when we came to issue the initial findings letter in May 2016 there was no compliance monitoring committee meeting, because the compliance monitoring committee meeting does not enter into the scene prior to the issuing of the initial findings letter. The compliance monitoring meeting comes into scene after that; in fact the letter had been written by our officers the initial filings the report had been issued had been drafted by our officers who carried out the onsite examination. It had been significant ...reviewed internally by Dr Galdes who made a huger amount of changes to that initial findings report, and then it was sent to the bank. So the compliance monitoring committee came into scene after that. So I cannot answer your question.

Dr Therese Comodini Cachia :

And when the compliance monitoring committee came on the scene, was Dr Galdes a member?

The Witness :

Yes. That was on the 27th of June where he informed the committee that he met Pilatus Bank and that he informed Pilatus Bank that we are going to carry out a follow up visit.

Dr Therese Comodini Cachia :

But once Dr Galdes resigned, did he still remain a member of that committee?

The Witness :

No, no of course not. He left the FIAU.

Dr Therese Comodini Cachia :

So who took his place on that committee?

The Witness :

I was acting head; together with... together with other members of the committee. I can't remember the names of all those who were on the committee. But we had if I remember well those who carried out the visit including the officials from the MFSA and those officers from the FIAU, some of whom now are no longer at the FIAU, myself, someone from our legal team; well, I can't remember everyone by hearth.

Judge A Lofaro :

But this is the second time round. Am I correct?

Dr Therese Comodini Cachia :

Yes.

The Witness :

Yes.

Judge A Lofaro :

What about when the first visit took place? Were they the same people? Were some of them the same?

The Witness :

You are talking about the committee or about the visit itself ?

Judge A Lofaro :

The visit itself.

The Witness :

The visit itself we kept the same people. The same people that carried out the first visit carried out the second visit.

Judge A Lofaro :

Exactly the same people.

The Witness :

If I recall well yes, exactly the same people. I mean it make sense to continuity, I mean otherwise if you bring someone new onboard you have to..you know ..

Judge A Lofaro :

Except for Dr Galdes of course.

The Witness :

But Dr Galdes does not carry out the visit himself. He doesn't go onsite; he did not carry out on site examinations.

Judge A Lofaro :

So they were the same people then.

Dr Therese Comodini Cachia :

You indicated that the FIAU had a meeting with Mr Ali Sag, who was present for that meeting?

The Witness :

So there was a meeting on the 2nd of June, and for that meeting Dr Galdes was present, myself, Al Sader and Juanita Bencini. And then there was another meeting on the 12th of July between Dr Galdes and Al Sader; there were no other representatives from that FIAU at that meeting.

Judge J Said Pullicino :

Let me ask a stupid question. During this period, Pilatus Bank issue emerge a concern in the FIAU? Was it? I mean because you got the impression that Dr Galdes might have other reasons for reassigning; but this thing walk pretty strongly on his decision. Can you give us just a straight impression, I mean ... facts, impression.

The Witness :

Well, we were very concerned about Pilatus Bank. Obviously we could not tell the future and we could not see how things would involve over the time. But we were very concern and ..

Judge J Said Pullicino :

But future events actually confirmed your occupation basically.

The Witness :

Yes. But something that the FIAU had decided and unfortunately our record keeping procedures were not as strong as they are today, is that at the time we did not have enough information to proceed against Pilatus Bank. In fact when we issued our letter in September of 2016 we told Pilatus Bank that we remain concerned. We actually wrote it in writing; we remain concerned that the bank during our first visit of March 2016 did not give us all the documentation that we expected to see. And that when we went again in August it was there. We were not happy with the situation. So internally we had decided to close the case and to let some time pass and then we would carry out another visit. Being more prepared, amend our procedures, ensure that our procedures are strengthened and in fact that is what we have done over the past years; where our procedures now have no resemblance to what we had in place in 2016. We have completely changed the way we carry out compliance examinations

Dr Therese Comodini Cachia :

May I show you an article published on 'ILLUM' on the 12th November 2017, and I would like you to have a look at the last 7 pages attached to this article and confirm what type of document it is and if you have seen those documents before.

(I do have a copy with me but my copy is actually highlighted so jew ha nipprezenta highlighted jew inkella ingibilkom kopja.)

Judge J Said Pullicino :

U anke dik l-ittra li semma l-ewwel; li semmejt inti.

Dr Therese Comodini Cachia :

Qieghda hemmhekk. Jien nista' nipprezenta l-highlighted u ngibilkom ohra clean. Form here onwards, can you identify each page page if you recognize it and what do you think it is? Or whether you 've seen the document actually.

The Witness :

Well, most of them they look yes I recognize them, but some of them I can't recall seeing them. May I have come across them but ..

Dr Therese Comodini Cachia :

Do you identify your own signature on those documents and are they letters that you wrote?

The Witness :

Yes I identify my signature and they are letter that would have been drafted, discussed internal, and then in the end signed by myself?

Dr Therese Comodini Cachia :

Ok. So just to conclude the issue on the Pilatus Bank report. In the letter dated 26th September 2016 you write as follows : *during the liberations the committee was informed that during the follow up visit a significant amount of information and documentation which had not been made available during the March examination was provided to the FIAU and MFSA officers. Upon review of the information documentation provided the committee had determined that the short comings that had been identified and communicated in our letter of 17th May no longer subsist. While the FIAU acknowledges that the bank is now in possession of the required documents the unit remains concerned that this documentation which had been requested during the onsite compliance examination held in March was not provided to the FIAU and MFSA officials at that time.* Considering the conclusions listed in your own letter can you explain why the clean bill of health was issued?

The Witness :

I think I have just explained it, by anyway I can repeat. So, as I said we have to follow the process when we carry out the ... work..

Dr Therese Comodini Cachia :

I can be more specific so that you don't have to repeat yourself. Is it normal for FIAU to issue a clean bill of health after the subject person has been informed which customers file FIAU would like to check and after the subject person has been given time to bring the documentation for those files?

The Witness :

I think its important to realize that as far as we know Pilatus Bank appointed KPMG and Camilleri Preziosi on the very next say that we submitted our report in May 2016. Now carries.. that says something and that carries some weight. Now if we are.. I am not saying we relied on Camilleri Preziosi and KPMG; but hopefully they will have done their work diligently and professionally, and we are informed they were appointed the very next day that we sent our letter in May 2016. It is true that if you ignore everything else you can say that they have had time. But in the end we have to see what information they have and that they were compliant with their obligations or not; and the main point for us was that we were not able to tell with that information was there in the first place or not. It is ..

Chairman Judge M Mallia :

But what I find ..

The Witness :

Sorry for interrupting you, but it happens very frequently that when we follow-up process and subject persons provider representations sometimes yes we do drop findings. Otherwise what's the point of given them a period of 1 month to submit their representations?

Judge A Lofaro :

But it's not what she asked you.

Chairman Judge M Mallia :

What I find odd is that I can understand that sometimes a document may go missing. I can understand that sometimes some information may be misplaced; but in that same letter you are saying that a significant number of documents and information. You mentioned the word 'significant'. Now that is going beyond what should be expected normally when you go and investigate a bank and sometimes there is a misplacing of a document. But when you mentioned significant, well, here we are going more than that. That seems to be something deliberately here, something deliberately that hidden away from you.

Judge A Lofaro :

And you had given them a fare warning and yet they did not give you ..

Chairman Judge M Mallia :

Was that the case in fact?

The Witness :

I have to say 2 points here. It was the case that first of all the main issue was with source of funds. Pilatus Bank did not have any problems with identifying its customers. It ... exactly whose customers were. The main issue for us was that we expected to see more information on the source of wealth and on the source of funds of its customers. Now the bank constantly said in their representations and in the meetings they held FIAU that unfortunately the officers of the bank did not provide us with the information that we expected to see. Now, if I am an officer of the bank and there is for example a dual filing system and maybe I am not aware of where I have to look for the information, then it make sense that not only one piece but a whole set of documents were not provided to the FIAU. But that for us we didn't entered into those merits. For us what mattered is the information if is there or not and whether we could establish it whether it was there beforehand or not, and which we could not.

Chairman Judge M Mallia :

And till this day you still don't ..you still couldn't .

The Witness :

No today the story now is entirely different. Well, it's in the public domain as well to a certain extend. We did .. we are carrying out work on Pilatus Bank. And when we lounded our work on Pilatus Bank as a completely new visit we adopted an entirely different process. In the process that we adopted now we asked the bank to provide us with a copy of all the data, everything. So the way we are carrying out this visit is very different. And this work is ongoing.

Judge J Said Pullicino :

But clearly this system which you now introduce, I mean you had heard the Court comes to you institutions and Moneval, you had hearing, they identified your short comings, they suggested means how to your short comings, and this appreciated. But my problem remains; we are speaking about a minister, a top government official, other PEPs that I mean it wasn't... come to interest to identify as quickly as possible whether these people were in somewhere or another involved in these ..; I mean, well, might may not been involved, but it was in your interest to have the country ... the best that these things were not happening by these people. I mean this is something which remains a question mark. I mean normal way of doing things, I understand it could have a client or can given information, asking for information, sanctioning, that I understand. But when things happen at certain level of the administration I would expect a different approach because it is something that having repercussions and you know, I mean history has told us; it has great repercussions. And the issue of these inquiries is just that, to see whether anything could have been done to prevent what happened. I am not saying that what happened - happened because of you. I am saying that every single bit of evidence is important for us to know what happened exactly. ok?

The Witness :

Yes yes. And as I said before once maybe we get to a situation or I can talk more freely then perhaps I can give you some more information

Judge J Said Pullicino :

.....of them at this stage; you want to speak freely, clear; finish your evidence and then will ..

Dr Therese Comodini Cachia :

Exactly. You referred 2 meetings and you said that you received submissions on behalf of Pilatus Bank from Camilleri Preziosi and KPMG.

The Witness :

... the banks submissions actually yes.

Dr Therese Comodini Cachia :

Yes. Were you aware that Pilatus Bank was a client of KPMG when the bank was setting up and seeking its licence?

The Witness :

I can't recall, but at that time for example where I do work now with MFSA we work much much closely, even in the licensing phase at the time the FIAU would be only very minimally involved in the licensing and I can recall being aware that KPMG was involved in the licensing of Pilatus Bank. I Mean I am speaking offhand and I am trying to.. you know, to remember.

Dr Therese Comodini Cachia :

But when you received the submissions from Camilleri Preziosi and from KPMG were you aware that those submissions were made on behalf of their client and not on behalf of FIAU or on behalf of any independent authority?

The Witness :

Yes the submissions were made by... they were part of the bank's presentation. So the bank apart from giving us its own representations it wanted to strength in its representations by using to external firms, KPMG and Camilleri Preziosi. And it appointed them as far as I understand they carried out the wrong work and they concluded their reports and the bank used those reports as part of it submissions to the FIAU.

Chairman Judge M Mallia :

But it so happened that KPMG was involved in the initial stages when the bank was set up.

The Witness :

Apparently.

Judge A Lofaro :

Yes.

Dr Therese Comodini Cachia :

Ok, let me just move on to another issue, can I just have that document please bank? Thank you.

Chairman Judge M Mallia :

And the KPMG did not flag this interest. Did not flag this situation. Never did.

The Witness :

Not that I am aware of.

Chairman Judge M Mallia :

It never did. We know it now, but then.

The Witness :

Yes. Not that I am aware.

Dr Therese Comodini Cachia :

So throughout your deputy director or acting director who was the police representative on the Board of the FIAU and who was the police liaison officer if they were different?

The Witness :

Throughout my entire since I am doing the FIAU?

Dr Therese Comodini Cachia :

Yes; well, since you've been acting as deputy director and acting director.

The Witness :

Well ok. Definitely Silvio Valletta. I am trying to recall if.. I mean I recall there was someone else before him; but I don't think that, so since I became deputy director Silvio Valletta, and now there is someone else.

Dr Therese Comodini Cachia :

Silvio Valletta was police representative on the committee or on the council or was he the liaison officer?

The Witness :

No no, none of those. Silvio Valletta was simply on the Board of the FIAU. He was not in the committee and he was not our police liaison officer.

Dr Therese Comodini Cachia :

So he was on the Board of the FIAU.

The Witness :

Exactly.

Dr Therese Comodini Cachia :

Who else instead of Silvio Valletta is now or was appointed on the Board of the FIAU? On behalf of the police.

The Witness :

Martin, my God I apologize ..

Dr Therese Comodini Cachia :

It's ok if you don't remember the surname.

The Witness :

I think is Martin Bajada; but I stand to be corrected about the surname, sorry.

Dr Therese Comodini Cachia :

Could it be Martin Sammut?

The Witness :

Martin Sammut yes. Martin Sammut.

Judge A Lofaro :

Martin Sammut.

The Witness :

Martin Sammut, yes yes

Dr Therese Comodini Cachia :

Martin Sammut. And who was the liaison officer for the police?

The Witness :

Ian Abdilla.

The Witness :

And did you meet with Ian Abdilla to discuss these 4 reports that you saw earlier?

The Witness :

I believe, I am sure they must have meetings; we meet with Ian Abdilla on a very very regular bases and about a lot of different things. We ..

Dr Therese Comodini Cachia :

Ok. I am interested only on the things that you've seen so far in your testimony, those 4 reports. Did you meet with Ian Abdilla to discuss those reports?

The Witness :

I believe so but I can't recall the details.

Dr Therese Comodini Cachia :

And who was present for those meetings?

The Witness :

Normally it would be myself, the director, and our senior manager in the intelligence section.

Judge J Said Pullicino :

And what would be the purpose of these follow ups meetings? What would be the purpose of these meetings after you?

The Witness :

So, it could be different reasons, but it could be that we have follow up meetings to see perhaps if there is anything else that we can do. If there is more information, or if there is anything that needs to be clarified. So ..

Dr Therese Comodini Cachia :

That could be the purpose. What was the purpose of your meetings with Ian Abdilla on these 4 reports?

The Witness :

I can't recall the details of any meetings; and please appreciate that we had lots and lots of meetings. I have easily up to 5 meetings every single day.

Judge A Lofaro :

But this is a very sensitive case, wasn't it?

The Witness :

In the public domain it is very sensitive, and it is, I agree that is very sensitive; but you have to understand that when you are working for an authority with the functions that we have we dealing with lots of case; unfortunately many of them are not in the public domain, ok? And they all require our attention. It is humanly impossible to remember all the meetings especially meetings in

passing. Where we meet for example to discuss one particular issue, and on decide we end up discussing something else.

Dr Therese Comodini Cachia :

Did you have meetings with Ian Abdilla outside office hours about this report?

The Witness :

We work very often well behind office hours.

Dr Therese Comodini Cachia :

Good.

The Witness :

And would say on a daily basis. So working till 7 o'clock or till half seven or eight o'clock is a very common occurrence. And yes sometimes meetings are held even after office hours. Sometimes even interviews are held after office hours, at six o'clock, seven o'clock in the evening, just to recruit someone.

Dr Therese Comodini Cachia :

Formerly you referred us to the Egrant inquiry and you said you collaborated very much with that court. Were you involved in a meeting with Ian Abdilla at FIAU offices during which you discussed the testimony of FIAU representatives before that Magistrate on particular parts of a report on Pilatus? And did this meeting take place on the eve of when the Magistrate was meant to interview your employee?

The Witness :

So, we had meetings with the magistrate. We had meetings with Ian Abdilla. On that day in question to be honest I can't remember what we spoke about with Ian; but there is a famous now CCTV screenshot, again was taken illegally from the systems of the FIAU and is ended up in the public domain, and in that meeting – in that screenshot you can see me holding a red file. What I know is that the red file in question was not Mizzi's reports as was reported in the media.

Dr Therese Comodini Cachia :

But that meeting took place.

The Witness :

It was one of the many meetings that we had with.. that we have with Mr Abdilla.

Dr Therese Comodini Cachia :

So can I move on to my last question for now. Was the work of Daphne Caruana Galizia used as an open source for FIAU? Did you consider what the media published about corruption allegations or not?

The Witness :

Yes, all the time.

Dr Therese Comodini Cachia :

Was action taken on those reports? For example on the Panama Papers?

The Witness :

Yes yes, action was taken and I think this is now a very important point that you mentioned. The FIAU's role first and foremost is to consider the STRs the suspicious transaction report that we received. Because no one else receives them. Only the FIAU receives them. And therefore our focus should first and foremost beyond those reports to analyse and to carry out in the analysis where it is appropriate to do so, and to determine whether there is a reasonable suspicion of money laundering or not, and in those cases whether is to forward the report to the police for further investigation. The FIAU is however free legally as well to open its own cases on the bases of other information. In fact the FIAU opens a lot of case every year on the bases of information that does not originate from suspicious transaction reports. Including open source information.

Judge A Lofaro :

As was the blog of Daphne Caruana Galizia.

The Witness :

Exactly.

Dr Therese Comodini Cachia :

Because of conclusions of your letter sent to FIAU which we are referring to as the letter providing a clean bill of health, aren't penalties imposed upon someone who conceals information or documentation or alternatively upon a subject person who does not have information readily available to the investigating officers or to yourselves?

The Witness :

No no. I mean well yes, but to impose ..

Dr Therese Comodini Cachia :

Yes or no?

The Witness :

Yes yes; I will explain. But to impose a penalty you don't impose a penalty there and then! You need to impose... you impose a penalty after having given the opportunity to the subject person to represent itself. So this is what we are talking about here, and we imposed penalties on serious matters and only where we are sure that we are able to substantiate our findings. The FIAU's mission is not to impose penalties. Our mission is to drive complaints. So in deciding what action to take, and here we are not talking about Pilatus Bank, but I am speaking you know, in generally, we have to decide whether it is the right cause of action to impose a penalty or not. And in many cases before imposing a penalty we would require an entity to remediate to improve their policies, improve their procedures to become more effective in applying their obligations. Then if they continue to fail and if they don't take our directions seriously then we can impose a penalty. So it's a very complex and difficult process when it comes to imposing a penalty. And we don't take previously, and we want to make sure that our penalties are effective proportionate and dissuasive. But also that therefore they are not disproportionate.

The Witness :

I promised my last questions; when was it that the FIAU realized that Yorgen Fenech was involved in 17 Black?

The Witness :

That's a question I am not going to answer at this stage at least in the open hearing.

Dr Therese Comodini Cachia :

Are you going to answer it behind closed doors?

The Witness :

..

Chairman Judge M Mallia :

Yes.

Judge A Lofaro :

Yes, he said yes.

The Witness :

Well I didn't say anything, but ..

Judge A Lofaro :

But you nodded, you nodded. So I took it as a yes.

Dr Therese Comodini Cachia :

So is a yes or a no?

The Witness :

Ok. Let's have this conversation behind close doors.

Dr Therese Comodini Cachia :

So we can go behind closed doors.

Judge J Said Pullicino :

One moment before we go behind ...; Mr Zammit, another occupation I have, one moment ..

The Witness :

There was something that I wanted to add

Judge J Said Pullicino :

Yes yes.

The Witness :

..before we close ..

Judge J Said Pullicino :

Yes. I want to ask you another question. This Panama Papers...; this has had worldwide repercussions. Ok? I mean as soon as they were issued we had prime ministers being to ..., presidents under investigation, a whole worldwide a little .. an earthquake. What preoccupies me is that in Malta with all the due diligence conducted within the framework at that time, I mean with the MFSA and all the authorities, nothing really happened. Work has been done but nothing really happened. Now to what do ..attribute at this favour, I understand that improvements had been done according also to what had been the instructions of European authorities but to what ... failure, because something had must had gone wrong somewhere. And again the question is very simple, whether things were replace as they should have been, and in that case perhaps something would have had happened, or else the events are such that even a lots of question marks.

The Witness :

To be honest I am a little bit confused about your question. Pilatus Bank and Panama Papers they may be a nexus by they are totally different. So and as I explained Pilatus Bank work is ongoing. When it comes to ..

Chairman Judge M Mallia :

So even at this stage, even now work is still ongoing.

The Witness :

Yes.

Chairman Judge M Mallia :

You are not done with Pilatus Bank.

The Witness :

No.

Judge J Said Pullicino :

That was my question.

The Witness :

No.

Judge J Said Pullicino :

...still ongoing but we don't have results as yet.

The Witness :

Pilatus Bank is not Panama Papers.

Judge J Said Pullicino :

Yes I agree. Pilatus Bank is one thing and the Panama Papers is another. They are internal link because of the

The Witness :

Yes yes; but your question is that.. well, I don't .. if you are asking for my opinion, but it mentioned that in our countries things happened, people resigned. If we are talking about Panama Papers, obviously here I am representing the FIAU, and I can assure you that the FIAU has done everything it can do. We are not perfect; we make mistakes; we accept them; we seek to improve. And I have thing the FIAU is nowhere comparable to what it was some years ago; we opened cases on our own motion. In a way we are not obliged to do so. FIAU as international standards should have the

discretion to use its resources in the best way possible and to feel decide which cases to carry out in the .. analyses on and which are not worth the time of its resources. And I think the FIAU has done everything it can. It opened cases. It forward cases to the police. We sent lots of containers reports on counterparts international. Just last week I was abroad at the Egmont group of FIAU which brings together over a hundred and sixty countries from the word and three countries I never expected them to come up to me because they are not from the EU. They are from very distant countries, and they came to me say - thank you very much for your report, thank you very much for the quality information that you are submitting. So when it comes to resignations and do on I don't think that it is for me to speak. As an FIAU when our supervisory work we working hard, we are improving and we are doing the best we can, and when it comes to the an analytical work as well. In fact if you look at the Moneyval report, Moneyval accessors spent 2 weeks here and we met them every single day. The only authority in Malta to have .assistive every single day.

Even commented, that from what they actually saw they concluded that the FIAU operated freely autonomously, independently and without any interference, objectively. So it is a very positive comment to come from someone who was completely impartial and who spent 2 weeks everyday meeting us, and we were exhibited case studies sanitized, ok? And where they concluded that in a way the FIAU from an intelligence point of view is doing a very good job. From a supervisory point of view taking into consideration that the Moneyval evaluation had to look at what happened up to November 2018 we did not perform very well. Because there was a lot of improvements for us to do, we had to strength in our policies, we had to bring in more resources, we had to strength in our procedures, we had to improve governance in the FIAU; and this is what has been done. And mostly it has done before Moneyval concluded its examination but too recently enough for them to take in consideration.

Something that I would like to add; I just wanted to mention that I read Mr Ferris's testimony of last week and there were some points that I did not agree with. I am going to be careful because Mr Ferris opened a case against the FIAU in the Industrial Tribunal, it's in camera. This case has been going on more then 2 years now ..

Judge J Said Pullicino :

That's because of the termination of his employment?

Judge A Lofaro :

Yes

The Witness :

Yes. I was a bit surprise to read; I am not sure that this is correct but this is what the papers reported; that Mr Ferris said that he has to date is not aware of the reasons why we dismissed Mr Ferris. I have to say that on the 2nd of July 2018 the FIAU submitted to the Tribunal a note with an annex a 3-page document with over 25 bullet points detailing a list of reasons why we dismissed Mr Ferris. So .

Judge J Said Pullicino :

You have a copy of that? Would like to have it ..

The Witness :

No I don't have a copy of that with me here but I presume you can ask the registry of Court for that document; it appertains to another court sitting which is in camera chiusa. I don't have a copy with me.

Judge J Said Pullicino :

.. I mean you have to ..

Judge A Lofaro :

Yes we need this.

The Witness :

So I can't understand why said that; there were lots or reasons. We employed Mr Ferris as a manager of the intelligence team and we made a mistake because he did not perform well as a manager. He was a terrible manager. And this is not me speaking; well I am here speaking, but it actually was something that was brought to our attention by the whole team. And in the end we had to take action. Ok? Because the product the output of our intelligence team was deteriorating; and as an FIAU its not the first time that we recruited persons who did not make it through the probation period.

Judge J Said Pullicino :

.. that matter

Chairman Judge M Mallia :

Ok. We can stop here now. Il-Bord jordna li f' dan l-istadju tigi zgumbrata l-Awla halli titkomplu x-xhieda ta' Alfred Zammit bil-maghluq.

Din hija s-sustanza tax-xhieda ta' **Alfred Zammit** dettata minnu stess fil-prezenza ta' l-istess xhud.

Niddikjara li traskrivejt bl-ahjar hila tieghi x-xhieda ta' l-istess xhud.

Saviour Scicluna
Traskrittur