



DEPOSITATO IN CANCELLERIA
 0001 29.01.2018



N. 54772/13 R.G.N.R. (Register of the Public Prosecution)

N. 4383/14 R.G.G.I.P. (Register of the Judge for the Preliminary Investigations)

COURT OF JUSTICE OF MILAN

Section of the Judge for the Preliminary Investigations

THE JUDGE

CONSIDERING

that the count of accusation n. 1) of the ruling which orders the trial pronounced at the hearing of 20.12.2017, are not reported the conducts with which are specifically charged the defendants BRINDED Malcom, COLLEGATE Guy Jonathan, COLPESTON DE CARTERET John and ROBINSON Peter in the pages 4 and 5 of the request of indictment lodged by the Public Prosecutors in date of 27.7.2017 in the proceeding n. 1136/17 RG NR and 10495/17 RG GIP, gathered to the present proceeding at the hearing of 31.10.2017;

that the above defendants in the preliminary hearing - which ended on 20.12.2017 - defended themselves specifically from the conducts with which are charged, accusations of which they had full knowledge, having received the notification of the ruling of the setting of the preliminary hearing and of the request of indictment, also in English;

that the preliminary hearing which ended with the request of indictment of all the defendants – including BRINDED Malcom, COLLEGATE Guy Jonathan, COLPESTON DE CARTERET John and ROBINSON Peter – for all the accusations contested by the Public Prosecutors in the requests of indictment presented in the two reunited proceedings, as was not pronounced versus them a non-suit ruling pursuant to the art. 425 c.p.p. for whatever of the conducts that are the subject of the accusation;

CONSIDERING

that the real formulation of the art. 424 subsection 1 c.p.p. – in ruling that the preliminary hearing ends either with a non-suit ruling or with ruling which orders the trial – does not legislate for the possibility that the judge does not rule (totally or partially) on the requests of indictment presented by the Public Prosecutor;

that, in this case, the judge has ruled on the request of indictment versus BRINDED Malcom, COLLEGATE Guy Jonathan, COLPESTON DE CARTERET John and ROBINSON Peter, indicting them for the offence with which they are charged by the Prosecution with a ruling read in the hearing of 20.12.2017 without giving a full reading of the counts of accusation, with a ruling lodged in this hearing;

the need to order the correction of the clerical error contained in the ruling which orders the trial of 20.12.2017, integrating the count 1) of the accusations in the following terms:

that this ruling which orders the trial was formulated though collation of the counts of accusation by the Public Prosecutors in the two requests of indictment (the one versus SCARONI Paolo + others and the one versus BRINDED Malcolm + others);

that, therefore, the omitted collation of one part of the count of accusation sub 1) – as reported in the second requests of indictment – constitutes a clerical error, which may be put right with the procedure provided for by the art. 130 c.p.p.p.;

Having regard to the art. 130 c.p.p.,

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the correction of the clerical error contained in the ruling which orders the trial pronounced at the preliminary hearing of 20.12.2017, integrating the count a) of the accusation in the following terms:

in page 5, among the conducts contested to Pagano, as managing director of NAE, and the the conducts contested to Obi, as as owner of the company Energy Venture Partners (EVP), must be included the following sentences:

• **Guy Colegate and John Coplestone de Carteret**, persons already employed at M16 and later engaged by Royal Dutch Shell Plc respectively as Senior Business Advisor and Strategic Investment Advisor;

• connecting with Gusau and other sponsors (ABC Orjiako; Emmanuel Ojei) to help Shell in the transaction;

• collecting information about the economic demands of Diezani Alison Madueke - ex manager of Shell and Minister of Petroleum at the time of the facts – and of the President Goodluck Jonathan to give the green light to the deal

• keeping operational contacts during all the negotiation with Ednan Agaev

• coordinating with Robinson and other Shell managers

Peter Robinson, as Vice President Commercial Sub Saharan Africa Royal Duch Shell Plc,

• keeping contacts with Colegate and Copleston during all the negotiation and receiving from them information about the economic demands of the representatives of the Nigerian government

• meeting many times Obi, in particular in the run up to the meeting of August 2010 between Scaroni and Jonathan

- keeping constant contacts with his counterpart Roberto Casula;
- participating in the meetings at the Attorney General from 18 to 25 November 2010, present the Attorney General Adoke and Alhaji Abubaker, in which were agreed upon the economic conditions of the deal (1,3 mld)
- reporting to Brinded

Brinded, as Head Upstream and Executive Director of Royal Dutch Shell Plc

- being constantly informed by Robinson, Colegate and Coplestone of the progress of the negotiation and of the economic demands of representatives of the Nigerian government and their sponsors
- agreeing with his counterpart Claudio Descalzi on the price of the deal, in the sum of 1,3 billion dollars, and, later, until the conclusion of the deal, coordinating with Descalzi the position of the two companies Eni and Shell and, finally, demanding the personal commitment of Descalzi and Scaroni for the positive outcome of the deal

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the annotation of this ruling in the original ruling and the transmission to the criminal Court of Justice, panel of judges, criminal section X for union to the ruling which orders the trial pronounced in date of 20.12.2017 versus CARONI Paolo + 14;

the translation of this ruling into English.

the notification to the absent parties of this ruling and, for non-native defendants, also the translation in English

SENDS

to the registry for the tasks pertaining to its competence.

Milan, January 26th, 2018

THE JUDGE FOR THE PRELIMINARY HEARING
Dott.ssa Giuseppina BARBARA

LODGED IN THE REGISTRY
today 12/01/2018

THE REGISTRAR
Dr.ssa Ivana PERRE