



## PRESS RELEASE

No: 70/2017

Date: 6th February 2017

---

### **Mr Feetham's Legislation Allowed Isaac Marrache's Parole**

HM Government of Gibraltar notes with utter incredulity the GSD's latest attempt to distort facts in their attempt to score political points with regards to the Marrache case.

As the Leader of the Opposition and former Minister for Justice knows, or, certainly should know, this question of parole is a legal issue and it is entirely inappropriate for the GSD to politicize this legal case by way of press releases. It is clear that the GSD is just trying to whip up public sentiment against the Government using any potential excuse.

For its part, the Government considers the independence of Gibraltar's excellent judicial system from politics is an absolutely guarantee of the rule of law and of utmost importance and it is to be expected and welcomed that a Supreme Court Judge should consider, and freely decide on, Ministers' powers under statutes.

As Mr Feetham well knows, parole matters in Gibraltar are regulated by the Prisons Act. In fact, it was Mr Feetham, in his former role as Minister for Justice, who introduced the Prisons Act and brought it into effect.

It is therefore Mr Feetham's law that provides that a prisoner is eligible for parole after serving one third of a sentence.

It is directly as a result of Mr's Feetham's law that Isaac Marrache was eligible for parole after serving two years and four months out of his seven year sentence.

It is accordingly the height of political hypocrisy for the architect of the law in question to lament a result that is a direct and natural consequence of his own actions and decisions whilst Justice Minister.

It is no secret that the Minister for Justice, the Hon. Neil F Costa MP, has proposed in two separate interviews the need to urgently consider reform of Gibraltar's sentencing laws and whether a prisoner should be required to serve a longer portion of a sentence before becoming eligible for parole. This is serious work, requiring mature and earnest consideration, by all relevant stakeholders, not least, the Executive, the Legislature, the Judiciary, the Bar Council, law-enforcement bodies and, naturally, the public.

Ministry of Health, Care and Justice

HM Government of Gibraltar • Zone 1, Level 7 St Bernard's Hospital, Harbour Views Road • Gibraltar GX11 1AA

t +350 20007011 (Centrex 2027) f +350 20059942 e [ministry@gha.gi](mailto:ministry@gha.gi) w [gibraltar.gov.gi](http://gibraltar.gov.gi)



As the community is aware, it was under the laws enacted by Mr. Feetham, that the Parole Board advised that Mr Marrache be granted parole. Minister Costa was in disagreement with this decision and referred the matter back to the Parole Board. When the Parole Board confirmed its advice to release Mr. Marrache, the Minister for Justice referred the matter to the Supreme Court. When further evidence emerged that dealt with the Minister's concerns, Minister Costa was advised by Government's Queen's Counsel and senior Crown Counsel, to withdraw his reference as the legal test in Mr. Feetham's law had been met. Counsel advised the Justice Minister that the overriding constitutional right to liberty overrode all other considerations. There is no question of any "lobbying" of the Minister or of the Minister allowing himself to be "lobbied" by anyone.

Minister Costa and the Supreme Court have a difference of views on whether the Justice Minister can withdraw his reference to the Supreme Court once this process is initiated. This procedural matter is being addressed through an appeal in Gibraltar's Courts, which is the only proper venue for legal differences to be settled.

If, as his comments seem to indicate, Mr Feetham fails to understand the concepts referred to, then the only person who should resign is him, as he would appear not to understand the effects of a law that he brought to Parliament himself!

It will not have escaped the GSD's notice that the Supreme Court has confirmed the Minister's decision to give effect to the Parole Board's advice to release Mr Marrache on parole. Further, the Supreme Court has allowed parole on exactly the same conditions contained in Mr. Marrache's license signed by the Minister, which were accepted by the Supreme Court as "perfectly satisfactory".

Minister for Justice, the Hon Neil F Costa MP, said: 'It is preposterous for Mr Feetham to insinuate that correct legal procedures have not been followed in this case. The procedures I followed were those contained in his law and if there is ambiguity arising from that law, it can only be because the law was poorly drafted by him. There is no other possible explanation. The outstanding issue is a technical, procedural one relating to a difference of opinion between the Government and its legal team and the Courts. I am not currently at liberty to make any further comments, as this technical point is being appealed, but I look forward to a timely conclusion and I will make a full statement at the end of the proceedings. Further, Mr. Feetham knows that I make every effort to provide the fullest possible answers in Parliament and he has even thanked me for this in the past. The fact of the matter is that Isaac Marrache has been released on parole because of a law that Mr. Feetham himself enacted and implemented. His hypocrisy in this case is astounding and unbecoming of a practising lawyer and Queen's Counsel. I have made no secret of my views that Mr Feetham's legislation should be reviewed to consider whether prisoners should serve more of their sentences before being eligible for parole and I am meeting with the Chief Justice on this issue to consider how best to proceed in this important and serious endeavour.

'Mr Feetham had his chance and failed. He should now allow others to correct his mistakes.'