



**THE COURT OF MAGISTRATES (MALTA)
AS A COURT OF CRIMINAL INQUIRY
(FOR THE PURPOSES OF THE EXTRADITION
ACT REFERRED TO AS
THE COURT OF COMMITTAL)**

MAGISTRATE: DR. AARON M. BUGEJA, M.A. Law, LL.D.

The Police

(Inspector Chris Galea Scannura)

vs

Szilvia Nadoban

(hereinafter referred to as the “person arrested”)

Today the 7th December 2016

The Court, having taken cognisance of : -

(a) the fact that the Police arraigned the person arrested; (for the purposes of this decree the reference to the person arrested in the masculine gender shall also be deemed to include persons arrested of the feminine gender).

(b) The European Arrest Warrant filed in the records of these proceedings, issued in the Greek and English language, by means of which the District Judge of Limassol requested the return of the person arrested on account of the fact that the person arrested is requested by the Competent Authorities of Cyprus in order to be prosecuted before the Competent Judicial Authorities of the same scheduled country as being the principal in the commission of the criminal offences of Kidnapping (which criminal offence is a scheduled offence in terms of Schedule 2 to the Legal Notice) and disobedience of lawful orders.

(c) The certificate filed in the records of these proceedings at fol 6

issued by the Attorney General in terms of regulations 6A and 7 of the Legal Notice in consequence of the issue of the Alert against the person arrested;

(d) the whole records of these proceedings and in particular the minutes of the proceedings recorded during the sitting of today the 7th December 2016;

Considereth the following :-

That as transpired from the minutes recorded during the initial hearing held during the sitting of the 3rd instant this Court as differently presided heard the report of the Prosecuting Officer on oath, performed the examination of the person arrested (without oath) in the presence of her legal counsel, and verified the identity of the person arrested on the basis of the documentation filed in the records of these proceedings and on the basis of which this Court ascertained the identity of the person arrested

brought before it after that there was no contestation on the part of the person arrested about the identity of the person to be extradited in terms of Regulation 10(2) of the Legal Notice.

That in terms of Regulation 11 of the Legal Notice, the Court informed the person arrested about the contents of the Alert and the European Arrest Warrant issued against her.

That during the extradition hearing held in terms of Regulation 12 of the Legal Notice during the sitting of today the Court decided that the offence specified in the European Arrest Warrant was an extraditable offence.

That the person arrested did not raise any bars to extradition in terms of Regulation 13 of the Legal Notice.

That during the same sitting the person arrested, in the presence of the

Legal Counsel [and the interpreter], granted her irrevocable consent in order for her to be extradited to the scheduled country and surrendered to the Competent Judicial Authorities of the scheduled country.

The Court explained to the person arrested that she had the right to grant this irrevocable consent in terms of Regulation 43(3) of the Legal Notice and proceeded to explain in clear and simple language to the person arrested the contents and consequences of this Regulation. Following this explanation, the person arrested declared the following :-

- i. that she is not renouncing and therefore the declaration was being made without prejudice to the rule of speciality (in terms of Regulation 43(3));
- ii. that she acknowledges that her irrevocable consent was granted in open Court;
- iii. that this consent was recorded in writing;
- iv. that this consent was irrevocable;

- v. that when this consent was granted the person arrested was duly assisted by legal counsel;
- vi. and that he was duly assisted by legal counsel throughout the whole proceedings carried out before this Court against her.

Furthermore, in terms of Regulation 44 of the Legal Notice (rendering applicable Articles 15(5) and 16 of the Extradition Act, Cap. 276 of the Laws of Malta) this Court solemnly informed the person arrested that :

- i. it was satisfied that the irrevocable consent given by the person arrested was given voluntarily;
- ii. that it was committing to custody the person arrested pending the implementation of her surrender to the scheduled country;
- iii. that all the provisions of the Extradition Act, Cap. 276 of the Laws of Malta and the Legal Notice relative to the extradition and surrender of the person arrested are deemed to have been fully satisfied.

- iv. that there shall lie no appeal from the decision of this Court committing the person arrested to custody in terms of this sub-Article;
- v. that the person arrest shall not be surrendered before the lapse of seven days from the date of this committal to custody;
- vi. that if the person arrested deems that any provision of Article 10(1)(2) of the Extradition Act, Cap. 276 of the Laws of Malta tal-Kap 276 has been, is being or is likely to be contravened or that any provision of the Constitution of Malta or the European Convention Act, Cap. 319 of the Laws of Malta has been, is being or is likely to be contravened in relation to her such that this contravention would justify the revocation, annulment or modification of this decree ordering the committal to custody of the person arrested, then the person arrested has the right of action to seek a remedy and redress in terms of Artilce 46 of the Constitution of Malta or the European Convention Act as the case may be;

vii. and this order is being made within ten days from the date on which the person arrested has granted her irrevocable consent to be extradited and surrendered to the scheduled country.

The order for committal

Consequently, for the abovementioned reasons this Court, after having seen Regulations 43 and 45(3)(a) of the Legal Notice orders that the person arrested, as identified and as mentioned in the European Arrest Warrant issued against her, be committed to custody to await her return to the scheduled country in which the warrant was issued.

This Order committing the person arrested to custody is being issued subject to the following :-

1. that as already stated above, the return of the requested person is being made subject to the rule of specialty;

2. that, in terms of Regulations 25 and 15(5) of the Legal Notice and Article 16 of the Extradition Act, Cap. 276 of the Laws of Malta, the person arrested has the right to seek redress in terms of Article 46 of the Constitution of Malta and the European Convention Act, Cap. 319 of the Laws of Malta should the person arrested deem that any of their provisions has been, is being or is likely to be contravened in relation to her.

3. Finally this Court recommends to both the Maltese and Cypriot Competent Authorities to take into serious account the best interest of the minor child while making and implementing all the necessary logistic and other arrangements.

Aaron M. Bugeja, Magistrate