



**In the Court of Magistrates (Malta)
As a Court of Preliminary Inquiry**

(For purposes of the Extradition Act referred to as a Court of Committal)

Magistrate Dr. Donatella M. Frendo Dimech LL.D., Mag. Jur. (Int. Law)

**The Police
(Inspector Chris Galea Scannura)**

-vs-

Silver Maekallas (or Maeekallas)

Extradition (EAW) Proceedings No. 372/2018

Today the 4th day of July, 2018,

The Court,

Having seen that on the 14th June, 2018, the prosecution arraigned under arrest Silver Maekallas (or Maeekallas) of Estonian nationality, son of Kalle Maeekallas and Anneli Purv, born on the 13th January, 1995, in Talinn, holder of Estonian Identity Card number AA2021219 and Estonian Passport No. KE0122091, residing in Mill Close 54, Cambs, Wisbech, PE13 3BD, United Kingdom, hereinafter referred to as 'the person requested';

Having seen the European Arrest Warrant issued by the Harju County Court dated the 17th May, 2018,¹ and the Schengen Information System Alert number EE0000000346424000001 of the 23rd November, 2017;²

Having taken cognizance of the examination of the person requested as well as the documents exhibited by the prosecution;³

Having taken cognizance of the declaration by the person requested that he was served with a copy of the European Arrest Warrant upon his arrest;⁴

In terms of Article 11 of the Extradition (Designated Foreign Countries) Order, S.L. 276.05, hereinafter referred to as “the Order”, having informed the person requested of the contents of the Part II warrant and having given the person requested the required information about consent as provided in para (2) of the same article;

Having seen that Article 11(1A) of the Order has been complied with;

Having explained the provisions of Article 43 of the said Order;

Having heard submissions by the prosecution on the European Arrest Warrant and having seen the Certificate of the Attorney General in terms of Article 7 of the Extradition (Designated Foreign Countries) Order, S.L. 276.05;⁵

Having heard submissions by counsel for the person requested;

The Court,

Whereas the European Arrest Warrant issued by the Harju County Court indicates that the person requested is to serve a custodial sentence of four months and 17 days in the issuing country, namely Estonia;

Whereas the European Arrest Warrant relates to two offences being:

¹ **Doc. CGS10** a fol. 26

² **Doc. CGS3** a fol.16 et seq.

³ Fol 7, Vide also Fol.3

⁴ Fol.3

⁵ **Doc CGS6** a fol. 20-21

- (a) the temporary unauthorized use of movable property of another by a person who has previously committed larceny, embezzlement or unauthorized use of a thing by a group, and
- (b) the illegal entry into a building, premises vehicle or enclosed area against the will of the possessor thereof or unlawful failure to comply with the demand of the possessor to leave and by a group, both offences punishable by a maximum term of three years imprisonment;

Whereas Article 60(3) of the Order provides:

(3) The conduct also constitutes an extraditable offence in relation to the scheduled country if these conditions are satisfied:

(a) the conduct occurs in the scheduled country;

(b) the conduct would constitute an offence under the law of Malta if it occurred in Malta;

(c) a sentence of imprisonment or another form of detention for a term of four months or a greater punishment has been imposed in the scheduled country in respect of the conduct.

Whereas, in terms of the said Article 60(3) of the Order, the conduct of which the person requested has been convicted and for which his return is being sought, constitute offences under Maltese law had the conduct occurred in Malta, coupled to the second requirement that a custodial sentence for a term of four months or a greater punishment has been imposed by the Harju County Court on the 24th January, 2013, which became final on the 7th June, 2013,⁶ thereby rendering the said conduct extraditable offences;

Having heard defence counsel agree that the said conduct for which extradition is being sought constitutes extraditable offences;

Having heard defence counsel agree that the person's return to the scheduled country is not prohibited by any of the reasons mentioned in article 13(1) of the Order;

Having seen that the person requested was convicted in his presence;⁷

⁶ Fol.27

⁷ Fol.28

The Court,

Having seen articles 13(4), 23(2) and 24 of the Order,

Orders the return of **Silver Maekallas (or Maeekallas)** to Estonia, on the basis of the European Arrest Warrant and Schengen Information System Alert issued against him on the 17th May, 2018 and the 23rd November, 2017, respectively, and commits him to custody while awaiting his return to Estonia.

This Order of Committal is being made on condition that the present extradition of the person requested be subject to the law of speciality and thus in connection with those offences mentioned in the European Arrest Warrant issued against him deemed to be extraditable offences by this Court.

In terms of Article 25 of the Order as well as Article 16 of the Extradition Act, Chapter 276 of the Laws of Malta, this Court is informing the person requested that : -

(a) He will not be returned to Estonia until after the expiration of seven days from the date of this order of committal and that,

(b) he may appeal to the Court of Criminal Appeal, and

(c) if he thinks that any of the provisions of article 10(1) and (2) of the Extradition Act, Chapter 276 of the Laws of Malta has been contravened or that any provision of the Constitution of Malta or of the European Convention Act is, has been or is likely to be contravened in relation to his person as to justify a reversal, annulment or modification of the court's order of committal, he has the right to apply for redress in accordance with the provisions of article 46 of the said Constitution or of the European Convention Act, as the case may be.

Dr. Donatella M. Frendo Dimech LL.D., Mag. Jur. (Int. Law)
Magistrate