



Criminal Court

Hon. Madame Justice Dr. Consuelo-Pilar Scerri Herrera LL.D.

Admission Nr. 5/2017

The Republic of Malta

Vs

Xenofon Florakos

Today the, 19th February, 2019,

The Court,

Having seen the charges brought against the accused Xenofon Florakos, holder of Greek Passport bearing Nr. AN4656455 in front of the Court of Magistrates (Malta), as a Court of Criminal Inquiry wherein he is charged with having on the 18th May, 2017, and during the previous weeks before this date, on these islands and/or outside these islands;

1. Together with another one or more persons in Malta or outside Malta conspired, promoted constituted organized or financed the conspiracy with other person/s to import, sell or deal in the drug (*cocaine*), in these Islands against the provisions of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta, or promoted, constituted, organized or financed the conspiracy.
2. Imported, or caused to be imported, or took any steps preparatory to import any dangerous drugs (*cocaine*) into Malta in breach of section 15A of Chapter 101 of the Laws of Malta;

3. Had in his possession the drugs (*cocaine*) specified in the First Schedule of the Dangerous Drug Ordinance, Chapter 101 of the Laws of Malta, when they were not in possession of an import or an export authorization issued by the Chief Government Medical Officer in pursuance of the provisions of paragraphs 4 and 6 of the Ordinance and when they were not licensed or otherwise authorized to manufacture or supply the mentioned drugs, and failed to prove that the mentioned drugs were supplied to them for their personal use, according to a medical prescription as provided in the said regulations, and this in breach of the 1939 Regulations, of the Internal Control of Dangerous Drugs (G.N. 292/1939) as subsequently amended by the Dangerous Drugs Ordinance Chapter 101 of the Laws of Malta which drug was found under circumstances denoting that it was not intended for his personal use.

The Court is requested to apply section 533(1) of Chapter 9 of the Laws of Malta, as regards to the expenses incurred by the Court appointed experts.

Having seen the minutes of the proceedings held in front of the Court of Magistrates of the 20th June, 2017, whereby the accused admitted all charges brought against them and confirmed such guilty plea even after that Court solemnly warned them of the legal consequences of the said admission and allowed them a period of time for them to consider their decision.

Having seen the note of the Attorney General of the 16th June, 2017, whereby it was declared that:

1. Whereas he has received the acts of the Inquiry in the names the Police vs Xenofon Florakas on the nineteenth (19) day of the month of May of the year two thousand and seventeen (2017), and this after that the Court of Magistrates (Malta) as a Court of Criminal Inquiry ordered that the Acts of the said Inquiry be sent to the Attorney General in terms of Article 392B(1)(a) of Chapter IX of the Laws of Malta, and this in view of the fact that the person charged, Xenofon Florakas, in the sitting held on the nineteenth (19) day of the month of May of the year two thousand and seventeen (2017) confirmed his guilty plea with

regards to the offences with which he stands charged, which offences are liable to a punishment exceeding twelve (12) years imprisonment;

2. Whereas, in terms of the proviso to Article 392B(2) of Chapter 9 of the Laws of Malta, the charges proffered against the said Xenofon Florakas before the Court of Magistrates (Malta) as a Court of Criminal Inquiry, to which the accused has registered the aforementioned guilty plea, should be considered as a Bill of Indictment for all the purposes and effects of law.
3. And whereas, in terms of article 392B(4) of Chapter 9 of the Laws of Malta, the Attorney General requests that he brings forward evidence relevant for the purposes of punishment, amongst which the proces verbal, the appointed expert to testify with regards to the quantity and quality of the drugs and the prosecuting inspector Gabriel Micallef.

Having seen the decree of this Court of the 19th June, 2017.

Considers,

That in view of the declaration of guilt filed by the accused before the Court of Magistrates on the 19th May, 2017, which admission of guilt was reaffirmed by him after having been given due time according to law to re-consider the same.

Declares the accused Xenofon Florakos guilty of having:

On the 18th May, 2017, and during the previous weeks before this date, on these islands and/or outside these islands;

1. Together with another one or more persons in Malta or outside Malta conspired, promoted constituted organized or financed the conspiracy with other person/s to import, sell or deal in the drug (*cocaine*), in these Islands against the provisions of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta, or promoted, constituted, organized or financed the conspiracy.
2. Imported, or caused to be imported, or took any steps preparatory to import any dangerous drugs (*cocaine*) into Malta in breach of section 15A of Chapter 101 of the Laws of Malta;

3. Had in his possession the drugs (*cocaine*) specified in the First Schedule of the Dangerous Drug Ordinance, Chapter 101 of the Laws of Malta, when they were not in possession of an import or an export authorization issued by the Chief Government Medical Officer in pursuance of the provisions of paragraphs 4 and 6 of the Ordinance and when they were not licensed or otherwise authorized to manufacture or supply the mentioned drugs, and failed to prove that the mentioned drugs were supplied to them for their personal use, according to a medical prescription as provided in the said regulations, and this in breach of the 1939 Regulations, of the Internal Control of Dangerous Drugs (G.N. 292/1939) as subsequently amended by the Dangerous Drugs Ordinance Chapter 101 of the Laws of Malta which drug was found under circumstances denoting that it was not intended for his personal use.

Having seen the acts of the proceedings both in front of the Court of Magistrates and those in front of this Court.

Having heard the evidence with regards to punishment;

Having seen the updated conduct sheet of the accused, which is pristine without the registration of any offence.

Having seen the joint application of the Attoreny General and the accused Xenofon Florakos presented during the sitting of the 16th January, 2019, wherein the parties declared that the punishment that should be inflicted by this Court upon the accused Xenofon Florakos, should be that of thirteen (13) years and six (6) months imprisonment and a fine (*multa*) of thirty thousand Euros (€30,000), and this together with the other consequences and sanctions that are mandatorily prescribed by law upon conviction in terms of the provisions of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta), as well as the Criminal Code, (Chapter 9 of the Laws of Malta), including the confiscation of any monies and other moveable and immoveable property belonging or woned to the accused in accordance to law.

Considers,

That the defence and the prosecution have agreed with regards to the punishment that is to be inflicted on the accused Xenofon Florakos as indicated in the joint application presented in the acts of these proceedings on the 16th January, 2019.

Consideres,

Having seen the case-law of this Court, specifically in connection with charges of association and trafficking in the drug cocaine.

Having heard the testimony of Professor Emmanuel Singara who exhibited his report marked ES in the acts of these proceedings (Dok ES) in front of this Court, wherein he concluded that the alleged substance is cocaine, with a total weight of 3.2 kgs and a purity of around 55%.

Having seen the case-law regarding punishment inflicted when the accused registers an early admission of guilt, particularly: **“Ir-Repubblika ta’Malta vs. Nicholas Azzopardi”**; **“Ir-Repubblika ta’ Malta vs. Mario Camilleri”** **“Il-Pulizija vs. Emmanuel Testa”** (kif ukoll il BLACKSTONE’S CRIMINAL PRACTICE (Blackstone Press Limited 2001 edit);

The Court, in this particular case, adheres to the request of the Attoreny General and the accused Xenofon Florakos in their joint application of the 16th January, 2019 and subsequently, after having seen articles 2, 9, 10(1), 12, 13, 14, 15, 15A, 16, 17, 18, 22(1)(a)(d)(f)(1A)(1B)(2)(a)(i)(ii) (3A)(a)(b)(c)(d)(7), 22(A), 24A, 26 and 29 of Chapter 101 of the Laws of Malta and Regulations 2 and 9 of the Subsidiary legislation 101.2 and articles 17, 23, 23A, 23B, 23C and 533 of the Criminal Code, condemns Xenofon Florakos to thirteen (13) years and six (6) months imprisonment and a fine (multa) of thirty thousand Euros (€30,000) which in default of payment will be converted to a further term of one year imprisonment in terms of article 11 of the Criminal Code.

Moreover, in terms of article 533 of the Criminal Code condemns Xenofon Florakos to pay the sum of three hundred and fifty-six Euros and ninety five cents (€356.95), sum representing the expenses incurred for the Court nominated experts.

¹ Deciza mill-Qorti ta’ l-Appell Kriminali nhr l-24 ta’ Frar 1997

² Deciza mill-Qorti ta’ l-Appell Kriminali nhar il-5 ta’ Lulju 2002

³ Deciz mill-Qorti ta’ l-Appell Kriminali nhar is-17 ta’ Lulju 2002

If the expenses are not paid within a year, they will be converted to a term of imprisonment according to law.

Moreover, orders the forfeiture in favor of the Government of Malta of all the property involved in the said crimes of which they have been found guilty and other moveable and immovable property belonging to the said Xenofon Florakos.

Finally, orders the destruction of all the objects exhibited in Court, consisting of the dangerous drugs or objects related to the abuse of drugs, which destruction shall be carried out by the Assistant Registrar of the Criminal Court, under the direct supervision of the Deputy Registrar of this Court who shall be bound to report in writing to this Court when such destruction has been completed, unless the Attorney General files a note within fifteen days declaring that said drugs are required in evidence against third parties.

Consuelo Scerri Herrera

Judge