



COURT OF MAGISTRATES (MALTA)  
AS A COURT OF CRIMINAL JUDICATURE  
Magistrate Dr Astrid May Grima B.A. LL.D. Adv. Trib. Eccles. Melit.

Today 24<sup>th</sup> September 2020

Police  
(Superintendent Louise Calleja)

vs

Lin Han  
(31973A)

**The Court,**

Having seen the charges brought against Lin Han wife of Alan Camilleri, daughter of Lin Guo You and Han Li Chun, born in China on the 23rd July 1981, residing at El Shaddai, Flat 7, Triq Mile End, Hamrun, holder of Maltese Identity Card number 31973A and Chinese Passport number G20435992;

Charging her with having on the 3<sup>rd</sup> February 2013 and in the preceding months, on these Islands, by several acts committed by her, even if at different times, which constitute violations of the same provision of the law, committed in pursuance of the same design:

- 1) By means of violence or threats, including abduction, deceit or fraud, misuse of authority, influence or pressure or by giving or receiving payments or benefits to achieve the consent of persons having control over, trafficked persons of age namely Liu Renhua, Yu Yali and Qin Wihong for the purpose of exploiting that purpose in the production of goods and provision of services

and also for prostitution, in breach of articles 248A, 248B and 248D of Chapter 9 of the Laws of Malta;

- 2) Kept or managed or shared with others in the management of a brothel or of any house, shop or other premises or any part thereof which is or are, or is or are reputed to be resorted to for the purpose of prostitution or other immoral purposes in breach of article 8(1) of Chapter 63 of the Laws of Malta;
- 3) Knowingly lived, wholly or in part, on the earnings of the prostitution of other persons, of foreign nationality in breach of article 7(1) of Chapter 63 of the Laws of Malta;
- 4) As a person responsible for a shop, lodging-house or hotel or any private apartment suffered or permitted such shop, lodging house, hotel or apartment or any part thereof to be used as a place of assignation for the purpose of prostitution or any other immoral purpose in breach of article 9 of Chapter 63 of the Laws of Malta;
- 5) Made use of premises '*Honey Girl*' at Valley Road, Balzan, for a purpose other than those purposes licensed for in breach of article 7 and 18(d) of subsidiary legislation 409.08 thus breaching conditions of licence as per article 23 (1) of same legislation hence breaching article 43 (1)(b) of Chapter 409 of the laws of Malta.

The Court is requested to cancel or revoke any licence that the accused can have with regards to the above mentioned premises and its operation;

The Court is also being requested, on reasonable grounds, to provide for the safety of any vulnerable witnesses including Liu Renhua, Yu Yali and Qin Wiehong and their families and other persons, and forthwith apply the provisions of Section 412C of the Criminal Code and thus issue a protection order against the accused with all the necessary restrictions or prohibitions;

The Court is humbly requested, on conviction for an offence under the White Slave Traffic (Suppression) Ordinance, to cancel any licence held by the offender in respect of any hotel, lodging-house, shop or other premises wherein or within the precincts whereof the offence was committed in line with Article 14 of Chapter 63 of the Laws of Malta;

The Court is humbly requested, in pronouncing judgement or in any subsequent order, sentence the person convicted to pay the costs incurred in connection with any experts or referee and this in accordance to Article 533 of the Criminal Code.

Having seen that this case had been assigned to this Court as currently presided by means of a decree of the Chief Justice Dr. Joseph Azzopardi on the 16th July 2018.

Having seen that in the sitting of 17th June 2019 the parties exempted the Court as currently presided from re-hearing once again all the witnesses who have already been heard by this Court as otherwise presided before this case was assigned to this Court as currently presided.

Having seen that the Attorney General on the 30<sup>th</sup> March 2016 presented the formal accusatory document<sup>1</sup> wherein the accused was charged with the following articles of law:

- (a) Articles 248A(1)(2)(3), 248B, 248E(1) & 18 of Chapter 9 of the Laws of Malta;
- (b) Article 7(1)(3), 8(1)(2)(3), 9 and 10 and Article 14 of Chapter 63 of the Laws of Malta and article 18 of Chapter 9 of the Laws of Malta;
- (c) Articles 382A, 383, 384, 386 & 412C of Chapter 9 of the Laws of Malta;
- (d) Articles 17, 18, 23, 31, and 533 of Chapter 9 of the Laws of Malta.

Having seen that, during the sitting of 1<sup>st</sup> April 2016, the Articles of Law for Judgment sent by the Attorney General on the 30th March 2016, were read out, during which sitting the accused declared that she does not object to her case being tried and decided summarily.

After having seen all the documents presented in the acts of these proceedings.

After having heard the final submissions by the Prosecution and by the Defence during the sitting of the 7<sup>th</sup> of November 2019.

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<sup>11</sup> Fol 589

Having seen the written Note of Submissions filed by the Prosecution on the 8<sup>th</sup> November 2019.

Having seen that the defence did not present a written Note of Submissions.

### **Having considered**

That Inspector Louise Calleja gave evidence<sup>2</sup> where she said that late in November 2012, the Police received information that illegal activity was going on at Honey Girl Beauty Spa in Balzan. The Police started observing the place and they noticed that every morning three Chinese girls were dropped off by a Chinese man driving a white Hyundai with license plate number FBT 959 between 9.00 and 9.30am. At around 10am or 10.30am, another person went in, who drove a BMW X3 with license no LIN 188, whom she recognised as the accused. Then they observed different males going in and out of the place till around seven or eight in the evening when they close and the accused then drove the three Chinese girls to somewhere in Attard. This went on every day including Sunday. The police interviewed the men that they saw going into the place that were all Maltese. They explained that they either called for an appointment or just went there for a massage and were offered a massage at €20 for half an hour and €40 for an hour, and they paid at reception accordingly. Then one of the Chinese girls would take them in a room where they start the massage. After a few minutes these girls would ask the clients, actually signal to them since they did not speak English offering oral sex, hand jobs, masturbation and all the clients said they accepted but they were asked for more money and they paid the Chinese girl who was giving them a massage for this extra service. The Chinese lady would go out with the money and come back in and give the sexual service. They spoke to many clients, more than ten actually close to 200, and then they requested a search and arrest warrant which was issued. So on the 3<sup>rd</sup> of February 2013 they carried out a search in the place where they found the accused and the three Chinese girls Liu Renhua, Yu Yali and Qin Weihong. During the search they found contraceptives and a vibrator and when they searched the car of the accused they found a large amount of contraceptives. Further searches were carried out at the residence of the

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<sup>2</sup> Fol 19 et seq

accused where a large sum of money was found and was taken by the police. The accused was interrogated and she released a statement which is exhibited at foll.6 after she consulted her lawyer. In her statement she said that she was only a receptionist however when they checked the company that was operating the place they found it was TMC and she was a shareholder together with her business partner Tony Vassallo. She was arraigned on the 5<sup>th</sup> February 2013 and was accused with running a brothel and other connected offences. On cross examination the inspector confirmed that these three Chinese people were legally in Malta and had a valid visa and working permit to work as masseurs with TMC Company and Honey Girl Beauty Spa. Asked if Honey Spa had a valid license as a massage parlour the inspector responded that it had a valid license as a beauty parlour.

Qin Weihong testified<sup>3</sup> that she came to Malta in December 2012 to work as a masseur after having been introduced to a female agent in China by a friend. She paid the agent by bank transfer a fee of RMB 70,000 and another 10,000 RMB to pay for flights, notary fee and visa. She was told that she would have a work permit and work as a masseur earning 20,000 RMB a month. She didn't know that she had to do sexual services. Witness said that she is from Guangdong province and she first flew to Beijing and from then she flew to Malta via Egypt. She did not know who she was going to work with and was met by a Maltese man named Tony on arrival. She was taken to Lin Han's father where she was to live. There were two other girls living there also and they were taken to a massage parlour in Balzan by Lin Han's father daily at around 9.00am. They were given a contract in Chinese which she signed, which stated that they would earn €750 a month including accommodation and food, however she was told that the contract was for the government and not for them, although she was given a copy of the contract she did not know where it was. She said that a client was first asked if he wanted a massage of half an hour or an hour and the client will come in. Then they were taught to ask the client what he wants, the client at times did not understand and Lin Han would go in and ask him herself and she would then tell them what to do and charge them differently for example for a blow job she would charge 30 Euros and if it was intercourse Lin Han would give her a condom. For massage she was paid 25% of amount charged, while for sexual services Lin Han would keep half of the money and give her the other half. She

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<sup>3</sup> Fol 34 et seq.

was told that if she didn't do the sexual services she wouldn't get paid. They were three girls working and she had between two to five clients a day. She worked from 9.00am till 8.00pm and had one day off per week. They didn't go out as they did not know the place and they were told that the Maltese were bad people. After work Lin Han would take them back to the house where they just showered and slept. Although contract said that food and accommodation was paid for, from her salary Lin Han used to deduct €40 for transport, €60 for electricity and water and €165 for the work permit every month and they were only provided with one meal per day. After they were arrested and granted bail, they were told not to admit by Lin Han's father. They felt threatened as Lin Han sent a picture of a woman beaten up from her QQ number, QQ is similar to MSN. She was with the other two girls and they all saw this picture on the computer. Lin Han's father also told them about a female corpse that they found without a head. Lin Han used to say that her boyfriend Tony was mafia so they were afraid and after they admitted to the charges against them they asked for police protection. Lin Han used to say that Tony was the boss but she thought Lin Han was the boss. When asked in cross examination she confirmed that most of her salary was sent back to China through bank transfer and Lin Han assisted her to do this. Regarding the image she saw of the woman who was beaten up, it wasn't actually received but showed up on the computer for a few seconds. Asked if she had ever been arrested for prostitution in Singapore the witness replied "*no never.*" She said that she was a beautician in China and had taken a course on massage so she could come to Malta to work as a masseur which she paid for herself.

Qin Weinhong was reproduced<sup>4</sup> and was shown Doc LC6<sup>5</sup> and she recognised her signature but did not recognise who the other signature belonged to. She also confirmed that she used to work at Honey Girl in Balzan and that she had told the same story to the Court to a female Magistrate two days after they admitted.

Lui Renhua testified<sup>6</sup> that her profession in China was as a salesperson. She came to Malta to earn money as the agent told her that for a normal massage she could earn 20,000 RMB every month. She paid 70,000 RMB for the agent and 10,000RMB for other charges. She no longer had details

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<sup>4</sup> Fol 95

<sup>5</sup> Fol 126

<sup>6</sup> Fol 55 et seq.

of the agent as she had her QQ number, but after she arrived in Malta the agent deleted her. The witness explained that QQ is like MSN you can chat on it. She got to know about the job through an advert on the internet and she never met the agent personally. She was asked to pay a deposit and when she had all the documents she paid the rest of the money by bank transfer to someone whose surname was Zhang. She gave the agent 70,000RMB for the work permit and another 10,000RMB was paid for air freight and other documents. She received the work permit and visa by courier service from China, though she did not remember if there was a name. The witness stated that she flew from Beijing to Egypt and then came to Malta alone on the 14<sup>th</sup> November 2012, where she was met by Tony and Lin Han and she was taken to the house of Lin Han's parents. After the second day she went to Lin Han's shop in Balzan to start work and Lin Han gave her a contract to sign, which she signed. She did not read the contract, but had a look at it, and Lin Han explained it to her and she told her that the contract was only to show for official use, and was not for actual use and she was given a copy of the contract, though she had to look for it. The contract mentioned a wage of €750 and included free accommodation and food. When she started working she told Lin Han that the agent told her that with normal massage she could earn 20,000RMB per month, and Lin Han said it wasn't true, and that if she did not do sexual services she would not earn money. Since she did not speak good English, Lin Han used to communicate with the clients and discuss the price. The sexual service was done by use of the hand and sometimes by using a condom to make love which Lin Han used to provide. When clients come, they would pay Lin Han, before entering the room, €20 for a half hour massage or €40 for an hour massage. Then when they would be in the room the client may request a sexual service and pay her and she would take the money to Lin Han, and then give the requested service. The witness said that she would work six days a week from 9.00am till 8.00pm and have between three to four clients daily. Sometimes she did not take her day off because she got bored at home, and at work she could use the internet. Lin Han's father used to take her to Honey Girls in Balzan in the morning, and Lin Han would take her back home. For the normal massage she was paid €5 out of the €20, and for the extra service she would get half the money paid, from Lin Han. When asked if she got the €750 and free accommodation and food as per the contract, the witness replied that they did not follow the contract, and she only got one meal per day for free. Lin Han used to deduct €60 a month for electricity and water, €40 a month for transport and €160 for the work permit from her

salary. She used to earn around €3000 a month, but Lin Han used to deduct around €400 a month so she used to get approximately €2,600 which she used to send to China as she had borrowed money from friends to come to Malta, which she needed to repay. The witness stated that she still has to pay back around 30,000 RHB. She worked from mid-November until the day she was arrested in February 2013, when she was arrested and went to prison. When she got out of prison, she went to live at Lin Han's parents' home, and after three to four days Lin Han's father started to threaten them. He used to drive fast when he took Qin Weihung, Yu Yali and herself to the police station to sign, and he told them a story of a dead corpse without a head. The witness had told him that he was just trying to scare them, and then from the second day the witness and the other girls decided to take the bus to go to sign. Lin Han's father had also said that they will get a two year sentence and stay in prison. Another time they were out with Lin Han's parents and Lin Han's mother said that they will be kept by the police in a dark small room. Lin Han and her parents used to tell them that Maltese are bad. She also had saved a message on the computer from Lin Han's QQ and when she opened it there was an image of a beaten up woman but this appeared for two seconds. The witness stated that they were scared to live at Lin Han's parents, and decided to admit in their case, but they also asked for police protection since they were victims, as when they arrived in Malta they did not receive the 20,000RMB a month as promised, and if they did not do sexual services they wouldn't earn money. Lin Han's family used to tell them not to say that Lin Han is the boss but that Tony is the boss. She only told this story to the police and to the Magistrate. The witness stated that she had got qualifications as a masseur about six months before coming to Malta, as she needed it to come to Malta, and she herself paid for it. She was from Hebei province and didn't know the other two girls before coming to Malta. When shown document LC37 in Chinese, the witness confirmed that there was her signature on it, and there was one signature that she didn't know who it belonged to as she didn't notice whether it was there before she signed it. When she came to Malta she had €600, 2,000 RMB and \$100 and she now had €200. While in China she only communicated with the agent and she had never spoken to Lin Han. The witness stated that she was not related to her or to the other two girls as she met Lin Han and the girls in Malta. Asked to clarify if the €165 she used to pay per month were for income tax and social security and not for

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<sup>7</sup> Fol 102



the work permit, the witness said that she didn't know but was told that they were for the work permit and she had a valid work permit. The witness said that when she used to render the sexual services to the clients she would be alone with the client in the room. She recognised Lin Han in court and said that Lin Han used to be present only when the price was being negotiated with the client or to collect money or to give them condoms. Asked if she discussed what she was saying with anyone before going to testify she replied that she did not.

YuYali testified<sup>8</sup> that she was a sales person in China and had come to Malta in November 2012 together with her friend Li Yan. Li Yan worked in Lin Han's mum's place. She said that she saw an advert in the newspaper that they could work in Malta doing massage. Then she made contact by QQ and by phone with Gao Jun Yang, an agent who told her that she could go to Europe to work, doing normal massage and the monthly pay would be 20,000 RNB. She said that 70,000RNB was paid to Zh Ang Gang who is the husband of Gao Jun Yang and she was told that she would work for Lin Han in her massage parlour. She also paid 10,000RNB for the air ticket and documents for working permit and visas including a course in massage. The arrangements were made by the agent and her husband and the witness met them in Anshan as they were from the same locality in China, and was given the documents. She travelled from Beijing International Airport to Egypt and then came to Malta where she was met at the airport by Lin Han. She didn't know Lin Han before, but the agent had mentioned her. Lin Han took her to her place to sleep and the second day she was given a contract and started working. The witness was shown Doc LC4<sup>9</sup> and she stated that it wasn't her signature and she hadn't signed it and the document was already signed before it was given to her. The contract stated that the pay was €750 a month and this was to include food and accommodation. After she started working, she felt cheated, because it was not what the agent had said as it was not normal massage as she also needed to provide sexual services such as by using hands or intercourse. Lin Han used to tell them to give these services and also used to give them condoms. Clients used to come in or call and book an appointment with Lin Han, who would know the client and what service they require and how much. The client paid Lin Han and sometimes they paid them, and then the girls gave the money to Lin

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<sup>8</sup> Fol 79 et seq.

<sup>9</sup> Fol 110

Han. She was paid 25%, so for example, for a half hour massage it cost €20 and she was paid €5, while for the sexual services she was paid half of the amount charged to the client. The witness said that Lin Han's father used to take her to work at 9.00am at Honey Girl and she used to finish at 8.00pm. Only one meal was provided, while breakfast and dinner were not included, she also needed to pay €40 for transport, €60 for electricity and water and €165 for work permit. She was paid between €1000 and €2000 a month and she only worked for two and a half months as on the 3<sup>rd</sup> February they were arrested by the police. After they were given bail, they lived at Lin Han's parents place and the witness used to go to the police station to sign. At first Lin Han's father used to take them to sign and he used to drive very fast and tell them about a female dead corpse without a head and then he got angry and stopped taking them to sign. She was told that the Maltese are very bad and not to contact anyone. She used to chat with her family while out on bail. Asked if she saw anything on her computer, the witness replied that she didn't, but Lui Renhau was using QQ on her computer and she assumed that she was talking to Lin Han, and for a few seconds, she saw an image of a girl beaten by an officer wrapped in a bandage and sleeping on the bed. While out on bail, Lin Han's family asked them to go back to work, but they were afraid, and in the next court sitting they admitted to the charges and declared themselves to be victims and asked the police for protection. On the 26<sup>th</sup> March the witness then told her story to the Court. On cross examination the witness said that the contract was for a period of one year, and when asked why she carried out the job which included sexual services, if she was in total disagreement and was not according to the contract, the witness replied that if she did not do this, she will not get any money. She also stated that Lin Han was present most of the time in the shop and she provided lunch, however dinner was only provided if Lin Han was in a good mood. Asked if anyone forced her to sign the contract she replied that she was told that it was required by law. Asked if before the police raided the shop, if there were clients in the shop being given a service while Lin Han was not there, the witness replied that Lin Han was always there. The witness also identified the accused in court.

Inspector Joseph Hersey testified<sup>10</sup> that during the months of December 2012 and January 2013, himself together with members of his unit carried out surveillance on a shop called Honey Girl in Balzan, as the vice squad

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<sup>10</sup> Fol 144 et seq.

had information that illegal activities were being carried out on the premises. They observed that during different days, male persons were going in and out of the shop. Most of them would park a corner or two away and come on foot and go in and spend between 20 minutes and half an hour in the shop. These men were then followed to their car and their particulars were taken and handed to vice squad. On 3<sup>rd</sup> February 2013 they again commenced surveillance together with vice squad personnel at 9.45am, and two female Asians were seen cleaning the shop. At different times in the morning, two men were seen entering the shop and after they came out, their particulars were taken and they were sent to headquarters to speak to Inspector Calleja. At 12.30 Lin Han's father came to the shop with food containers, and as he drove past them, he stopped and looked at them, so after speaking to Inspector Calleja they decided to raid the shop. They went up to the front door which is monitored by CCTV cameras and can only be opened from the inside, so they rang the bell three times and said that if door is not opened, they would have to force it open. They knew that the Asians, Lin Han and a male client were inside so they forced the door open. There was Lin Han sitting behind the desk and two Asian girls sitting on her right side. The witness said that he showed Lin Han the search warrant and asked her to accompany him. As the accused stood up, a number of condoms fell from beneath her dress. When the witness asked the accused why the condoms were hidden under her dress, she replied in an arrogant way, "*is it a crime to keep condoms*". The witness had asked a policewoman to search the Asian girls and in the hand of one of the Asians, another condom was found. Another Asian emerged from inside the room, together with the male client who was spoken to and asked to go to speak to Inspector Calleja. The witness stated that he was present while a search was carried out in the shop, by members of the vice squad, but then he proceeded to the house of Lin Han's father to see if there were more Asians. They checked the passports of the three Asians who were in the shop and discovered that they were actually Chinese. During surveillance they noticed a big man who was later found to be the business partner of Lin Han. A day later he was brought to headquarters and spoken to. The three Asian girls at the shop wore revealing clothing while Lin Han was smartly dressed.

WPC238 testified,<sup>11</sup> that the vice squad had information of reported illegal activities, at a massage parlour in Balzan under the name Honey Girl, and

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<sup>11</sup> Fol 149 et seq.

after weeks of observation on the 3<sup>rd</sup> February 2013 they effected a search after having obtained a search warrant. Together with Inspector Hersey of the CIU, they knocked on the door and identified themselves as police, but the persons inside did not open the door so the door was pushed in. The witness stated that they found three Chinese girls in the reception area eating, and Lin Han who is the manager coming from inside the reception area holding her stomach and her dress, and she sat down behind the desk to eat. As the accused got up from the chair, 17 condoms fell from under her dress and a used condom wrapped in tissue was also found in the area, which was seized. There was also a male client in the shop, but the witness said that he had no contact with him, as he was with Lin Han during the search. A search was effected by PC 1359 in his presence and Lin Han's presence on the premises as well as in the BMW belonging to Lin Han outside the shop, and several condoms were found in the glove compartment. The witness continued by explaining that then, they went to Attard as they had information that Lin Han was living in a penthouse, but her keys didn't match with the lock and she said she lived with her parents. They got the landlord to open for them, but their keys didn't match either, so they took Lin Han to the depot for further investigation. That same evening they went to the accused's parents' house, and in the presence of Lin Han's father effected a search. The witness confirmed that the girls were Chinese from their passports. They had made previous observations and enquires with other male clients and were told that the massage parlour was providing sexual services.

WPS104 testified<sup>12</sup> that she was also present during the search at Honey Girl on the 3<sup>rd</sup> February 2013. She confirmed that after they opened the door there were three Chinese women having lunch and Lin Han was coming from the corridor towards the reception and she seemed to be hiding something under her dress. When WPS 236 asked her what she was hiding she stood up and several condoms fell on the floor. The witness said that she was also instructed to carry out a search on the three Chinese women, where a condom was found in the fist of Lui Ren Hua. When Lin Han was later asked where she lived the accused said she lived with her parents in Attard, though they had information she lived in a penthouse in another street in Attard. They went there and she did not have the keys, and they called the owners who confirmed that they rent the apartment to Lin Han and Anthony Vassallo, but their keys didn't

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<sup>12</sup> Fol 153

match. The witness said that the following day she was instructed to look for Anthony Vassallo, so she went back to the shop as Lin Han told her that Anthony Vassallo used to go there every Monday at 10.00am. She informed him that Inspector Calleja wanted to speak to him and asked him for the keys of the penthouse. He handed her the keys and came to headquarters with them. The witness stated that they picked up Lin Han from the lock up and took her to search the penthouse from where they seized several documents relating to her business and bank documents, condoms, €24,000 in cash, which the witness counted in front of the accused and put in a sealed envelope and handed them to the quartermaster. The witness said that she wasn't present when the three Chinese girls or Lin Han were spoken to, but she knew that Lin Han requested a lawyer. On the third February 2013 WPC 308, WPC 238, PC 159, Inspector Hersey and some of his personnel were present for the search.

WPC 308 testified<sup>13</sup> that on the 3<sup>rd</sup> February 2013 she was sent to arrest Lin Han and confirmed that on entering the shop, there were three Chinese women and Lin Han. WPC 238 gave Lin Han her rights and she confirmed that when the accused stood up, several condoms fell to the floor. Later she and WPS 104, carried out a strip search on the three Chinese women, where a condom was found in the fist of Lui Ren Hua which was then seized. A search was carried out by PC 1359 and WPC 238, in the presence of Lin Han where several condoms and documents and a vibrator were seized. A further search in the accused's car a BMW X3, was carried out by PC 1359 which resulted in more condoms and a box with passports which were seized. Lin Han was asked where she lived and she said she lived with her parents, however they had information that she lived in a penthouse. They went there and called the owners who confirmed that the flat was rented to Lin Han and Anthony Vassallo however their keys didn't match. She was also present during Lin Han's statement and was shown Dok LC2<sup>14</sup> where she recognised her signature on 5 pages.

WPC89 testified<sup>15</sup> that she was present for a search together with WPS 104 and WPC 256 at Lin Han's residence in Attard, where in the living room several documents were found, bank notes and documents related to

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<sup>13</sup> Foll 156 et seq.

<sup>14</sup> Fol 6

<sup>15</sup> Fol 159

business and a bag full of condoms. In the main bedroom a pink make up bag was found with 24,000 cash which she and WPS counted in front of the accused Lin Han. She was also present during the statement given by Lin Han and confirmed her signature on the 5 pages of said statement.

PC1359 Reuben Zammit testified<sup>16</sup> that a search and arrest was conducted on the 3<sup>rd</sup> February 2013 at the massage parlour by himself, WPC 60, WPC 256, WPC 278 and other police officers. When they arrived at the massage parlour, since no one answered, Inspector Hersey pushed open the door and there were three Chinese girls followed by the accused Lin Han, who was given her rights, and a search was affected, where a dildo was found in a chest of drawers in the corridor, where this was seized together with some documents. Lin Han was seen holding her stomach and she sat down, and later, when she stood up, a number of condoms fell. A search was also conducted in her car, a BMW having registration number LIN 188, and on the front seat a pouch with ninety two condoms were found, and in the glove compartment more condoms were found in another pouch and some documents were seized. Lin Han was accompanied to her residence in Attard but she said she did not have access to the apartment. They made contact with her landlord and he said that he rents the apartment to the accused and Anthony Vassallo. The witness stated that that he knew Lin Han from a previous case and he knew the girls were Chinese because their passports were in the car. He said that he was involved in observations conducted before the 3<sup>rd</sup> February and spoke to several clients who had entered the massage parlour, and they told them that illegal activity was going on. On 21<sup>st</sup> November 2013, the witness exhibited the documents, condoms, €60 and mobile phone seized during the search.

PS 46 Charlo Casha testified<sup>17</sup> and exhibited thirty photos he took following an investigation on the 3<sup>rd</sup> May 2012 at Honey Girl massage parlour in Balzan.

Stephen Cachia<sup>18</sup> from transport Malta confirmed that accused is the owner of BMW with registration number LIN 188, and also confirmed<sup>19</sup>

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<sup>16</sup> Fol 167 et seq. & Fol 240 et seq.

<sup>17</sup> Fol 303 et seq.

<sup>18</sup> Fol 181 et seq.

<sup>19</sup> Fol 331

that the owner of the vehicle Hyundai Accent with registration number FBT 979 belongs to Jun Lin ID No 37214 A.

Dr. Amanda Poole<sup>20</sup> representative of MFSA, testified on the 10<sup>th</sup> of October 2013 and presented Memorandum & Articles of Association (AP1<sup>21</sup> and AP2<sup>22</sup>) and documentation showing involvements of the accused Lin Han in two companies, T and TMC Limited and Hua Xia Malta Limited. Dr. Poole testified again<sup>23</sup> on the 10<sup>th</sup> July 2014, and presented documents marked AP1<sup>24</sup> and AP2<sup>25</sup> that from searches conducted at MFSA, it resulted that T & TMC Limited was registered on the 18<sup>th</sup> November 2010 where Lin Han was director, shareholder, secretary and judicial and legal representative. Lin Han resigned as director and judicial and legal representative on the 23<sup>rd</sup> May 2012. She resigned from company secretary on the 20<sup>th</sup> February 2013 and transferred 371 shares to Anthony Vassallo on the 17<sup>th</sup> May 2012. On the 20<sup>th</sup> February 2013 she transferred the remaining 288 shares to Alan Camilleri. Dr Pool also stated that Lin Han is involved in another company called BAT International Trading Limited which was registered on the 6<sup>th</sup> of February 2013.

Joseph Saliba gave his evidence<sup>26</sup> on the 10<sup>th</sup> October 2013 and produced documentation showing that employment licenses were issued to Qin Weihong, Liu Renhua and Yu Yali for employment as masseurs with T&TMC Limited, which were subsequently cancelled on the 3<sup>rd</sup> February 2013.

PL Quentin Tanti representing MTA, testified<sup>27</sup> and presented applications made by the accused on behalf of T&TMC LTD of Golden Dragon Chinese bar and restaurant, Golden Horse Chinese bar and restaurant and Hua Xia Chinese massage centre.

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<sup>20</sup> Fol 186 et seq.

<sup>21</sup> Fol 189 et seq.

<sup>22</sup> Fol 201 et seq.

<sup>23</sup> Fol 387 et seq.

<sup>24</sup> Fol.390 et seq.

<sup>25</sup> Fol 407 et seq.

<sup>26</sup> Fol 212

<sup>27</sup> Fol 257

PC826 Matthew Parnis testified<sup>28</sup> on the 27<sup>th</sup> March 2014, that he was sent to Honey Girl Salon in Balzan on the 3<sup>rd</sup> February 2013 where he took 31 photographs which he presented in Court<sup>29</sup>. He recognised the accused who was present when he took the photographs.

Pio Chetcuti testified<sup>30</sup> and presented a lease agreement between himself, Joseph Chetcuti and TNT & MC Ltd signed on 9/7/2012 which was valid until 9/1/2014 however he stated that Tony and the accused who both used to live there left on the 8/3/2013.

Kurt Mahoney testified<sup>31</sup> on the 9<sup>th</sup> October 2014 that he was nominated by the Court to examine a mobile phone and presented his report.<sup>32</sup> He stated that since there was a lot of data (3668 pages long) he was presenting two DVDs<sup>33</sup>, however most of the data was in a language he did not recognize possibly Chinese.

Pacifico Mallia testified<sup>34</sup> that he was passing by with his van in the morning and stopped and went to the shop in Attard for a massage and the accused, who he recognised in Court asked him for €20 for a massage. This was his first visit to the shop and he went into a room and removed his clothes and lay on a bed face down and there was another Chinese woman who asked for another €20 to do extras by hand to his private parts and he agreed. She went out of the room with the €20 and when she came back the police came and he got dressed before the police came next to him.

Inspector Louise Calleja exhibited<sup>35</sup> a digital video recorder marked as Dok LC7 which was seized from Honey Girl in Balzan and the court appointed Kurt Mahoney to extract all data from DOK LC7 where the expert presented a report.<sup>36</sup>

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<sup>28</sup> Fol 336 et seq

<sup>29</sup> Fol 338 et seq

<sup>30</sup> Fol 303

<sup>31</sup> Fol 431 et seq

<sup>32</sup> Fol 433 et seq

<sup>33</sup> Fol 447

<sup>34</sup> Fol 508

<sup>35</sup> Foll 466

<sup>36</sup> Fol 506 et seq.



Caroline Fabri representing Identity Malta testified<sup>37</sup> on the 19<sup>th</sup> July 2016 and presented Doc CF 1<sup>38</sup> which includes application for a residence permit by the accused Lin Han and other applications filed with Identity Malta.

Inspector Mario Haber testified<sup>39</sup> on the 19<sup>th</sup> July 2016 with reference to the residence permit of the accused.

Antonio Vassallo testified<sup>40</sup> on 8<sup>th</sup> March 2018, that he knew the accused Lin Han and she was his girlfriend for a few years, and that he had met her in her salon in Zabbar. The witness stated that he had a court case against him, which had been decided and he had been found guilty and was given a suspended sentence, the case was about prostitution. Lin Han closed the shop in Zabbar and Honey Girl was opened in Balzan by TNTMC Ltd about five to six years before. First Lin Han was the director, but he then took over as director and Lin Han was a receptionist and she did nails and dealt with the Chinese girls. He signed a contract with the Chinese girls which was in Chinese so he didn't know what was written, but he trusted Lin Han, and was clear with the three girls that they weren't to do any prostitution. He used to visit the place often around three to four times a week and stay for half an hour or an hour, and he saw nothing as he never entered the rooms as there would be clients inside. He never took any bookings or spoke to clients. Lin Han transferred her shares onto him when the shop was already open. He remembered that the police had spoken to him about this case but he didn't know anything. He was held responsible for what happened in the shop although he thought it was massage, he didn't know about prostitution. He knew that they charged €20 for half an hour and €35 for an hour. Lin Han took the money, and at the end of the month she put it in the company, after deducting the wages for the girls and her wage, and they would split the rest of the money between them. Lin drafted the contract in Chinese and he signed it, Lin Han did not sign it. The witness said that the accused took care of the accommodation for the girls and they were fed, as Lin Han used to buy them everything. The shop used to open Monday to Sunday from 9am till 8 or 9pm. Lin Han used to open and close the shop, sometimes the girls opened. Lin Han made arrangements with an agency to bring the three

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<sup>37</sup> Fol 594

<sup>38</sup> Fol 597 et seq.

<sup>39</sup> Fol 616 et seq.

<sup>40</sup> Fol 645 et seq.

girls to Malta, and he took care of their permit, as they all had a working permit. Both he and Lin Han picked them up from the airport when they arrived. Lin Han used to pay the girls around 1500 and 1600 euro a month and she used to take them there in her BMW. He resigned as director of the company a month after he was taken to court. The witness stated that he no longer had shares in the company, as they were registered in Alan Camilleri's name who is the husband of Lin Han. He knew Alan, who wasn't involved in the company and only became involved when he resigned. While he was a director he had access to the accounts, but when he resigned he no longer had access to the accounts. He hadn't spoken to Lin Han for two years, since when he was in court she had called him stupid and he told her to get lost. The rent that the company used to pay for Honey Girl was around €25 a day.

On the 24<sup>th</sup> May 2018, the accused Lin Han chose to testify<sup>41</sup>, and said that she arrived in Malta in 2004 with her ex-boyfriend, and they set up a company to import Chinese appliances and clothes to sell in Malta. After a few months they went back to China as the market was not very good. A few months later, she came back to Malta alone to open a restaurant as she was no longer with her boyfriend. She operated the Gold Dragon in Gardia Street, Marsascala which she operated until eight years before with another boyfriend Hoi Wen Taw. Hoi Wen Taw then opened three massage shops, two in St. Julian's and one in Attard. She only worked in the Attard shop. In 2010 she finished with her boyfriend, and then in the same year she married her husband, and in 2012 opened the massage parlour Honey Girl in Balzan. She was the receptionist, director and manager of the company and she had a trans lady working legally. After three months an inspector went to the shop and said she was doing prostitution in the shop and they arrested them but they were not found guilty. After nine months the inspector went again to the shop in Balzan, but she had sold her business to Anthony Vassallo, as she was scared after the first court case, but they had agreed that she would stay on as a receptionist since he needed her to translate to the Chinese ladies who worked for him. She knew Anthony Vassallo from 2011, as he had told her that he had separated from his wife, and he would take care of her, and since he was older than her, she felt she could trust him and they started living together. There were three Chinese girls working in the shop in Balzan and they all had work permits. She said she invested

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<sup>41</sup> Fol 671 et seq.

around twenty five thousand euros, as the shop was empty and there were four massage rooms, which all had double massage couches. Clients used to call or just walk in, and if the ladies were available, they would do it otherwise they would make an appointment. Her job was to take a booking and she was paid around €1500 a month. She worked from Monday to Friday from 10.00am till 7.00pm. If clients wanted to come after 7.30pm and the ladies were willing to work she would ask Tony who usually didn't object. The shop was opened before 10.00am, by one of the Chinese ladies who had the key to open and she did not have a key. Their prices ranged between €20 and €200 which included the use of the spa and Jacuzzi and a two hour massage. She used to write down everything and Tony used to pay the girls their salary. She used to take the booking but she was not told what goes on inside and she was not allowed to go in, and clients used to talk directly to the ladies. No one ever asked to book an illicit activity. When the shop closed, and she was not in the shop, the ladies used to call her to take them home. In the morning her father used to take them to the shop and he also used to take them Chinese food for lunch. Tony used to pay her father for the transport and food every month. The ladies signed a contract with Tony which was in Chinese and she translated it for Tony. One of the conditions was that they couldn't do prostitution in the shops, as the boss would report them to immigration and the other part was about working hours and wages. On cross examination she was asked if she ever lived with her husband Alan Camilleri and she said that there was something about him she hated and couldn't stay with him. The accused said that in 2013 the shop belonged to a company TNT Co Ltd and Tony was the shareholder. She was shown a document<sup>42</sup> dated 6<sup>th</sup> March 2013, which showed that she was a shareholder and that she stopped being a shareholder after March 2013 which she confirmed. Asked if she had heard the Chinese ladies testifying that she was responsible besides Anthony Vassallo, and that she had made arrangements to bring them to Malta, she replied that they can say what they wanted. She replied that she asked the agency to find ladies to work in the massage parlour since she spoke Chinese on Tony's instructions since he was the boss. The girls were asked if they wished to work after 7.00pm and on Sundays, but since they came here for the money they preferred to work, as the more they worked the more money they got. She worked on nails and did not work on Mondays, but if she had clients on Saturday or Sunday or after 7.00pm she used to tell them

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<sup>42</sup> Fol 398

to leave her the key. The accused testified that she was the receptionist and confirmed that clients used to pay her before entering the shop for a massage, as otherwise they may say they forgot the money after the massage, and she then passed on the money to Tony. Asked if she told the Chinese girls to give sexual services, she stated that she had no interest to tell them so, as the money was not for her. Asked if she did a contract with the girls, she stated that Tony did the contract with them which was in Chinese, and she was there to translate the contract, she herself had drafted the contract. She did not sign the contract, Tony and the three girls signed the contract. She used to take care of the girls, it was their first time in Malta and she was the only Chinese person they met. When asked if she was still in contact with Anthony Vassallo, she said that the relationship was very bad because of his wife. Tony closed down Honey Girl after two months. The inspector took the passports and ETC permits of the Chinese girls, as they had gone to Identity Malta to apply for the resident visa that day. When she was told that the police had been outside the shop since the morning, she stated it was two or three days before when Tony took two ladies to Identity Malta, but they left and decided to go the following Monday as there were too many people. The accused confirmed that she had a black BMW X3 having registration number LIN 888. She stated that she had sold the car to Tony when she sold the company but he allowed her to use it. She confirmed that they had a camera at the shop.

## **Having Considered**

### **The First (1) Charge** **(Articles 248A(1)(2)(3), 248B and 248 E(1) and Chapter 18 of Chapter 9 of the Laws of Malta)**

The accused is hereby being charged with Human Trafficking as per Articles 248A(1)(2)(3) of Chapter 9 of the Laws of Malta. The charges against the accused refer to the date of the 3<sup>rd</sup> February 2013 and in the preceding months.

Article 248A (1) was substituted entirely by virtue of Act VII of 2010 which came into force on the 22nd June 2010, whereby it then read:

*(1) Whosoever, by any means mentioned in sub-article (2), traffics a person of age for the purpose of exploiting that person in:*

- (a) the production of goods or provision of services; or*
- (b) slavery or practices similar to slavery; or*
- (c) servitude; or*
- (d) activities associated with begging; or*
- (e) any other unlawful activities not specifically provided for elsewhere under this sub- title,*

***shall, on conviction, be liable to the punishment of imprisonment from two to nine years.***

It is therefore to be noted that although further amendments were enacted by Act XVIII of 2013, these came into force on the 6th December 2013 and hence the applicable law for this case is that by virtue of Act VII of 2010 which came into force on the 22nd June 2010.

Article 248A provides further:

*For the purposes of this sub-article exploitation includes requiring a person to produce goods and provide services under conditions and in circumstances which infringe labour standards governing working conditions, salaries and health and safety.*

*(2) The means referred to in sub-article (1) are the following:*

- (a) violence or threats, including abduction;*
- (b) deceit or fraud;*
- (c) misuse of authority, influence or pressure;*
- (d) the giving or receiving of payments or benefits to achieve the consent of the person having control over another person;*
- (e) abuse of power or of a position of vulnerability;*

*Provided that in this paragraph "position of vulnerability" means a situation in which the person concerned has no real or acceptable alternative but to submit to the abuse involved.*

*(3) The consent of a victim of trafficking to the exploitation, whether intended or actual, shall be irrelevant where any of the means set forth in sub-article (2) has been used.*

During the proceedings of this case, three Chinese females gave their testimony where they explained to the Court how their journey started in approximately November 2012 until the day they were arrested on the 3<sup>rd</sup> of February 2013 by the Police when the raid was affected on the premises where they used to work at Honey Girl in Balzan.

Liu Renhua, Yu Yali and Qin Wiehong, all testified that they were brought to Malta around the same time in November 2012 after they saw an advert that they could work in Malta as masseurs. They applied through an agent where each paid a sum of money for the Agent's fee, air ticket, visa and work permit. They each were promised that once in Malta they could earn 20,000RMB per month for doing normal massage. The three Chinese girls all stated that when they arrived they were met by Tony or the accused or by both of them, and upon arrival they were all taken to Lin Han's parents' place and that the day after they arrived, they started working and Lin Han gave them a contract to sign in Chinese, where she specifically said that the contract was purely for the Government and not for them. The three Chinese girls stated that the contract said that food and accommodation was included, but this was not true as they were only given one meal a day and on rare occasions they were given dinner, when the accused Lin Han was in a good mood. The three witnesses all stated that every month the accused used to deduct €165 for the work permit, €60 for electricity and water and €40 for transport, from each of the girls' monthly wages. Apart from that, they explained that from each massage they only used to earn 25% of the amount charged to the client and for the sexual services they performed they used to get half of the amount charged to the client, depending on the service and the other half the accused would take for herself.

All three girls confirmed that when they came to Malta they did not know that they had to perform sexual services apart from giving massages, but the accused used to threaten them that if they did not perform these services they will not get paid.

In our legislation, under article 248A, it must be proven that the accused must have committed the recruitment, transportation, sale or transfer of an adult person which includes the 'harbouring' (or concealment) of such person. It appears that our law requires one of these 'actions' as an element for the successful conviction of the accused under Article 249A of the Criminal Code.

Over and above, article 248E goes on to say that, in addition to such actions, such person must be so received, and there is an exchange or transfer of control over that person. The definition goes on to state that it includes such behaviour that facilitates the entry or exit from the territory

of a country for any of the purposes mentioned in (in this case) Article 248A (1).

Article 248 E (1) provides:

*(1) In this sub-title, the phrase "trafficks a person" or "trafficks a minor" means the recruitment, transportation, sale or transfer of a person, or of a minor, as the case may be, including harbouring and subsequent reception and exchange or transfer of control over that person, or minor, and includes any behaviour which facilitates the entry into, transit through, residence in or exit from the territory of any country for any of the purposes mentioned in the preceding articles of this sub-title, as the case may be.*

From the evidence given by the three Chinese girls, they stated on numerous occasions that since they did not understand or speak English, it was always Lin Han who used to translate, either when the clients asked for a particular service or when Tony, who they were told by Lin Han that he was the boss, used to speak to them. The three girls though stated that for them the accused, Lin Han was the boss as she was in control of everything and she was always at the shop with them.

From Anthony Vassallo's testimony it is very evident that he does not know how to speak or write in the Chinese Language, where he stated that any dealings in the Chinese language was done by Lin Han. Anthony Vassallo also testified that the shop in Balzan was opened by T & TMC Limited where at first the accused Lin Han was the Director and after a time he became the director himself.

From the testimony of the girls and also of Anthony Vassallo, the elements of recruitment and transportation of the three Chinese girls by the accused was sufficiently proven.

Furthermore Joseph Saliba, representative of ETC presented the letters confirming that an employment licence was granted for the employment of Liu Renhua dated 24<sup>th</sup> September 2012, Qin Weihong dated 25<sup>th</sup> October 2012 and Yu Yali dated 26<sup>th</sup> October 2012 addressed to T & TMC Limited, at which time the accused Lin Han was still Company Secretary and owned 288 shares in said company.

The element of exploitation for the reasons as cited in Article 248A(1) by any of the means as cited in Article 248A(2), for the reasons as cited in

Article 248B, was also sufficiently proven by the prosecution. The Chinese girls were brought to Malta under the false pretences that they were going to work as Masseurs but in actual fact they were made to provide sexual services (unlawful activities) including prostitution, whilst working for long hours and sometimes without any days off, under threats that if they do not provide these services they will not be paid.

Furthermore from the testimony of the three Chinese girls, it was sufficiently proven that the accused and her family had total control of them, since they used to control their every move, from taking them to work and then back home, having their Passports taken away by the accused, having them sign a contract whilst being told by the accused that the terms and conditions contained in it were just for official purposes, whilst their working conditions were totally different from those promised when they were in China, and the biggest element of deceit as confirmed by all three witnesses, that the accused threatened them with visuals and also with making them fear Tony, who was described by the accused as 'Mafia' if they did not perform sexual services, although they were brought here to perform normal massage. The three Chinese girls were subjected to further threats by the accused and her family constantly as they were told that the Maltese were bad people and they shouldn't speak to anyone.

Hence the Court is convinced that the first charge with respect to Articles 248A(1)(2)(3), 248B and 248 E(1), against the accused was sufficiently proven and hence finds the accused guilty of this charge. The continuous offence charge as per Article 18 of Chapter 9 was also sufficiently proven since the witnesses testified that they had been brought to Malta and had been providing these sexual services under the control of the accused, from the day after they arrived in Malta in November 2012 until they were arrested on the 3rd February 2013.

As with regards to **Article 248D**, mentioned in the first charge against the accused, it is clear that this charge does not apply to this case, since the alleged victims are not minors. Moreover, the Attorney General also deemed it unnecessary to indicate such provision in the formal accusatory document filed on the 30<sup>th</sup> March 2016. For this reason, this Court cannot take any cognizance of such article of the law.



**The Second (2), Third (3) and Fourth (4) Charge**  
**(Articles 7(1)(3), 8(1)(2)(3), 9, 10 and 14 of Chapter 63 of the Laws of Malta)**

The accused is also being charged with Article 7(1) and 7 (3), Articles 8(1) 8(2) and 8(3), and Articles 9 and 10 of the White Slave Traffic (Suppression) Ordinance with the application of Article 14 of Chapter 63 of the Laws of Malta, and the application of Article 18 of the Criminal Code.

The law provides:

*7(1) Any person who knowingly lives, wholly or in part, on the earnings of the prostitution of any other person, shall be liable, on conviction, to imprisonment for a term not exceeding two years: Provided that where that other person has not attained the age of eighteen years, the offence shall be punishable with imprisonment for a term from eighteen months to four years.*

*7(3) A person shall be deemed, until the contrary is proved, to be knowingly living, wholly or in part, on the earnings of prostitution, if it is shown that he lives with, or is habitually in the company of, a person practising prostitution or that he has exercised control, direction or influence over the movements of that person in a manner as to show that he is aiding, abetting or compelling the prostitution of that person with any other person or generally."*

*8(1) Whoever shall keep or manage or share with others in the management of a brothel or of any house, shop or other premises or any part thereof which is or are, or is or are reputed to be resorted to for the purpose of prostitution or other immoral purposes shall be liable, on conviction, to imprisonment for a term not exceeding two years and to a fine (multa) not exceeding four hundred and sixty-five euro and eighty-seven cents (465.87)."*

*8(2) Whoever knowingly lets for hire or permits the use or shares in the profits of any vehicle used for the purpose of prostitution or other immoral purposes shall be liable, on conviction, to imprisonment for a term not exceeding six months and to a fine (multa) not exceeding one hundred and sixteen euro and forty-seven cents (116.47)*

*8(3) A person shall be deemed to share in the management of a brothel or of any house, shop or other premises or any part thereof for the purpose of prostitution or other immoral purposes, if he partakes directly or indirectly of any of the profits of such management, or takes an active part in the management of such brothel, house, shop, premises or part thereof." 91*

*9. Whoever keeps any shop, lodging-house or hotel or any private apartment and suffers or permits such shop, lodging-house, hotel or apartment or any part thereof to be used as a place of assignation for the purpose of prostitution or any other immoral purpose shall be liable, on conviction, to imprisonment for a term from one to six months."*

10. Whoever owns or has under his administration any house or other premises and knowingly lets or permits the use of the same for the purpose of prostitution or other immoral purposes, shall be liable, on conviction, to imprisonment for a term from one to six months.

The Court as with regards to what constitutes 'prostitution' is making reference to the judgement '**Il-Pulizija vs Duncan Fenech u Daniel Schembri**'<sup>43</sup>, where it was stated that;

*"the essence of prostitution is the making of an offer of sexual services for reward, and that is immaterial that the person making the offer does not intend to perform them and does not do so'. Prostitution does not necessarily involve that the woman offers full sexual intercourse. A person who, for example masturbates clients, falls within the definition. Nor is prostitution confined to the case where the person offers his or her body passively."*

Also reference is being made to the case '**Il-Pulizija vs John Bartolo u Conrad Bartolo**'<sup>44</sup> examined the elements of the charges similar to those contested by the co-accused Grixti and Dimech:

*"Artikolu 8 tal-Kapitolu 63 jippreskrivi:*

*(1) Kull min iżomm jew jeżercita jew ikollu sehem ma' oħrajn fl-eżercizzju ta' burdell jew ta' dar, ħanut jew lokal ieħor jew ta' xi parti minnhom li huma ffrekwentati jew magħduda bħala li huma ffrekwentati għal skop ta' prostituzzjoni jew għal skopijiet oħra immorali jehel, meta jinsab ħati, il-priġunerija għal żmien ta' mhux iżjed minn sentejn u multa ta' mhux iżjed minn erba' mija u hamsa u sittin euro u sebgha u tmenin ċenteżmu (465.87). ... ..*

*(3) Persuna titqies li għandha sehem fl-eżercizzju ta' burdell jew ta' dar, ħanut jew lokal ieħor jew ta' parti minnhom għal skop ta' prostituzzjoni jew għal skopijiet oħra immorali, kemm-il darba hija tiegħu sehem direttament jew indirettament minn xi qligħ ta' dak leżercizzju jew tiegħu parti attiva fl-eżercizzju ta' burdell, dar, ħanut jew lokal ieħor jew ta' parti minnhom."*

*L-Artikoli 9 u 10 tal-Kapitolu 63 ikomplu jippreskrivou hekk:*

*"9. Kull min għandu ħanut, alloġġ jew lukanda jew appartament privat u jħalli jew jippermetti li dak il-ħanut, alloġġ, lukanda jew appartament jew xi parti tagħhom jiġu wżati bħala post ta' laqgħa għal skop ta' prostituzzjoni jew għal skopijiet oħra immorali jehel, meta jinsab ħati, il-piena tal-priġunerija minn xahar sa sitt xhur.*

*10. Is-sid jew kull min għandu taħt idejh l-amministrazzjoni ta' dar jew fond ieħor li xjentement jagħti b'kiri jew jippermetti l-użu tagħhom għal skop ta' prostituzzjoni jew għal skopijiet oħra immorali jehel, meta jinsab ħati, il-piena tal-priġunerija minn xahar sa sitt xhur." ....*

<sup>43</sup> Decided on the 2nd October 2014, Court of Criminal Appeal

<sup>44</sup> Decided on the 3rd December 2014 per Hon. Magistrate Dr. Marseanne Farrugia

F'kaz b'fattispeċje simili ghal dak odjern, qamet il-kwistjoni jekk il-frazi "ghal skopijiet ohra immorali" fil-Kapitolu 63, tissodisfax rrekvizit ta' foreseeability taht l-Artikolu 7 tal-Konvenzjoni Ewropea, stante li skont l-imputati f'dak il-kaz, hemm nuqqas ta' certezza tal-ligi li taghmilha impossibbli li gudikant jiddeciedi jekk kemm-il darba l-eghmejjel li huma mixlijin bihom kienux tassew immorali jew le ghal fini tal-ligi.

Fil-fatt saret riferenza ta' din il-kwistjoni lill-Prim'Awla tal-Qorti Civili, li mis-sentenza taghha sar appell lill-Qorti Kostituzzjonali. Din il-kwistjoni tqanqlet ukoll fit-trattazzjoni orali quddiem din il-Qorti mill-abbli difensuri tal-imputati, ghalkemm fil-kaz odjen ma ntabet li issir l-ebda riferenza kostituzzjonali.

Il-kaz, li din il-Qorti ghamlet riferenza ghalha huwa **Il-Pulizija v. Frank Cachia et**, deciz fil-25 ta' Mejju 2012, fejn il-Qorti Kostituzzjonali irriteriet hekk:

"39. Fil-kaz in ezami l-akkuzi li ghandhom l-appellati huma li fl-istabbiliment Maximus tfajliet barranin, bi hwejjeg ta' taht biss (bras u panties) gew impjegati sabiex jaghmlu pole dancing, lap dancing u strip tease, anke shih, ghal klienti bi hlas. Huma gew akkuzati wkoll li offrew servizz ta' zfin topless bi hlas. It-tfajliet kienu jghaddu l-qliegh minn dan is-servizz sesswali lil min kien impjegahom u huma jiehdu commission. L-appellati kienu l-intraprendituri li jorganizzaw dan it-tip ta' servizz.

40. Id-domanda hija, jista' gudikant, indipendentement mill-opinjoni personali u soggettivi tieghu, jiggudika jekk dawn l-atti li dwarhom l-appellati huma akkuzati, rigwardati oggettivament, jekk jirrizultaw privati, jitqiesu bhala atti li jikkostitwixxu r-reat ta' atti maghmula ghal skop ta' prostituzzjoni jew ghal skopijiet ohra immorali. Jistghu l-appellati ragjonevolment jahsbu li ma kinux ser jittiehdu passi kontra taghhom taht dan il-kap meta huma joffru dan is-servizz ta' zfin ta' natura sesswali u/jew erotika b'nisa barranin kwazi gharwenin ghal kollox ghal udjenza komposta kwazi minn irgiel biss, anke f'kabini privati, u dan bi hlas ghal dawn is-servizzi sesswali.

41. Fil-fehma ta' din il-Qorti l-frazi "atti immorali" f'dan il-kaz tissodisfa r-rekvizit ta' foreseeability fil-kontest tal-ligi kif inhi u fis-socjeta Maltija u gudikant ghandu l-parametri biex ikun jista' jasal ghal konkluzjoni jekk lap dancing, pole dancing u strip tease (u mhux semplici zfin b'bikini imma "mimicking sexual acts on stage" b'nisa kwazi gharwenin) jammontawx ghal atti immorali ai termini tal-ligi taht il-Kap. 63" .....

Fid-dawl ta' dawn ir-rizultanzi, din il-Qorti taqbel hafna ma' dak li rriteriet din il-Qorti, diversament preseduta, fil-kawza fl-ismijiet **Il-Pulizija vs. Paul Jason Degiorgio**, deciza fl-14 ta' Frar 2008, fejn din il-Qorti irriteriet hekk:

"Fin-nuqqas ta' tifsira ta' "skopijiet immorali", il-Qorti trid bil-fors b'analogija tesamina ddisposizzjonijiet tal-Kapitolu 63 u tara l-ambjent ta' "clubs" adulti f'dan l-isfond. Tajjeb li jigi osservat f'dan l-istadju li l-Ligi ma tipprojbix l-att sesswali fih innifsu bejn zewg adulti, anki jekk dan ikun bi hlas. Il-Kapitolu 63 jipprojbixxi, fost affarijiet ohra, it-tlajjar ghal dak l-iskop, it-tmexxija ta' burdell ghal dak l-iskop, l-isfruttar ta' persuni ghal dak l-iskop u l-qliegh ta' flus minn dik l-attivita, izda mhux l-atti sesswali bejn mara u ragel li t-tnejn ikunu hekk iridu, anki jekk il-wiehed qed ihallas flus lill-ohra jew ihallas b'mod iehor. Allura l-"iskop immorali" ghandu jigi kkunsidrat fl-isfond tad-disposizzjonijiet tal-Kapitolu 63. Mill-

*interpretazzjoni li din il-Qorti tista' taghti, il-Ligi tfittex li tipprotegi persuni li jigu assoggettati kontra l-volonta taghhom milli jaghmlu atti sesswali ma' terzi, u/jew l-flus li jithallsu ta' hekk jinghaddu lil haddiehor, lil min qed imexxiehom. L-immoralita allura ma tibqax biss izolata fuq l-att sesswali per se, izda li wiehed jisfrutta d-dghjufija ta' haddiehor u jzomm lil dik il-persuna dghajfa taht kontroll assolut tieghu. Huwa f'dan il-kuntest li l-Qorti ghandha tara xi jfisser "skop immorali". Dan qieghead jinghad ukoll u jigi pprecizat peress illi fil-kamp penali ghandha dejjem tinghata interpretazzjoni restrittiva ta' kull kuncett li jkun, u ghalhekk l-iskop "immorali" ukoll irid jigi interpretat b'dan il-mod u f'dan l-isfond."*

From the evidence brought forward by the Prosecution, it is very clear that in this particular massage parlour, the services offered amount to immoral purposes and prostitution. The testimony given by the Prosecuting Officer Superintendent Louise Calleja and also the other Police officers who gave their testimony in this case, who formed part of the team that raided these particular premises, stated, that a number of sexual related objects and aides were found on the premises, including a large amount of condoms and a number of sexual aides. Also used condoms were found in possession of one of the Chinese ladies who was on the premises when the raid was affected, together with the testimony of Pacifico Mallia who was at the massage parlour when the Police raided the premises, where he stated that he was offered a sexual service apart from the normal massage where he was asked to pay an additional €20 to the €20 he had already paid for the massage. Also most Police officers who formed part of the observation team before the raid was affected and who gave their testimony in this case including Superintendent Calleja stated that a number of persons who were questioned upon exiting the premises in question confirmed that they were offered or given sexual services at Honey Girl Massage Parlour in Balzan.

As with regards to the awareness and knowledge of the accused, according to the provisions under Chapter 63 of the Laws of Malta, where it is sufficient for a successful conviction, that the person accused with such charges knows and is aware that the prostitution activity was happening from the premises of which she has control, this was successfully proven by the Prosecution whereby upon entering the premises, the accused was found in possession of a large number of condoms which she tried to hide in her clothing and also another large number of condoms were found in the Black BMW registered in her name. Other contributory evidence was given by the three Chinese women who gave their testimony in this case where they stated that apart from offering normal massage services to the clients of this massage

parlour, they were ordered by the accused to perform any sexual services that clients might request, where because of the language barrier between the Chinese ladies and the clients, it was the accused herself who translated what was being demanded by the client to the Chinese ladies, and also it was the accused herself who collected the extra money for the additional sexual services offered, before these were performed by the Chinese ladies on the client.

As with regards to Article 7(1) and Article 7 (3) of Chapter 63 of the Laws of Malta it was sufficiently proven that the accused knowingly was living wholly or in part on the earnings of prostitution and was habitually in the company of a person or persons practising prostitution and furthermore that the accused according to Article 8(1) exercised control, direction and influence over the movements of those persons thus showing that the accused was aiding, abetting and compelling the prostitution of the three Chinese girls as per their evidence given under oath.

Further evidence contributing to the elements necessary to prove Articles 8(2)(3), 9, 10 and 14 of Chapter 63 of the Laws of Malta, was given by Anthony Vassallo who stated that the day to day running of the premises Honey Girl was left in the hands of the accused Lin Han, where he specifically stated that he used to visit the premises 3 or 4 times a week for about half an hour each time and on these occasions he never entered in the individual rooms, where the clients used to be. He also confirmed that the management of the place and the management of the girls were left entirely in her hands (the accused), as he trusted her, apart from the fact that he could not communicate with the girls since he did not speak Chinese and they did not speak English. He further explained in his testimony that Lin Han and her parents used to provide the accommodation for the Chinese girls and also for transportation and for their food.

The witness Anthony Vassallo further stated that the accused Lin Han took the money that came from the services offered at the shop, and at the end of the month she put it in the company, after deducting the wages for the girls and her wage, and they, himself and the accused, would then split the rest of the money between them.

Further evidence given by the representatives of the MFSA and the Malta Tourism Authority and also ETC, confirmed that the accused Lin Han was

firstly a director until the 23<sup>rd</sup> of May 2012 and then Company Secretary until the 20<sup>th</sup> February 2013 and shareholder of the company T& TMC Ltd until the 20<sup>th</sup> February 2013 which company owned and managed the premises Honey Girl in Balzan, and on behalf of whom the work permits for the three Chinese Girls, namely Liu Renhua, Yu Yali and Qin Wiehong were issued.

Furthermore as per Article 8 (2) of Chapter 63 of the Laws of Malta, the evidence given by Stephen Cachia representative of Transport Malta on the 10<sup>th</sup> October 2013 confirmed that the Black BMW with registration number LIN 188 belonged to the accused Lin Han. The Police officers who gave evidence stated that upon inspection by the Police on the 3<sup>rd</sup> of February 2013 of the said vehicle, a number of items relating to prostitution were found inside the vehicle, including a large number of condoms, documents and passports belonging to the three Chinese girls.

For these reasons this Court deems that the second, third and fourth charge have been sufficiently proven beyond reasonable doubt and hence is finding the accused guilty of these charges.

**The Fifth (5) Charge**  
**(Articles 7, 18(d) and 23(1) of S.L. 409.08 and Article 43(1)(b) of Chapter 409 of the Laws of Malta)**

The fifth charge against the accused is with reference to the premises 'Honey Girl' at Valley Road, Balzan, where she is being accused of using the premises for a purpose other than that it was licensed for, and thus breaching the above mentioned Articles of S.L 409.08 and Chapter 409 of the Laws of Malta.

Subsidiary Legislation 409.08 provides, in the following Articles:

7. *Operators of tourism operations shall not allow their premises to be used, or suffer to be used, at any time for any act contrary to law or morality.*
18. *When the Authority is satisfied that the licensee of a tourism operation:-*
  - (d) *has persistently failed to comply with any condition imposed in his licence,*

23. (1) *Compliance with the provisions of these regulations shall be deemed to be a condition to which a licence to operate any tourism operation is subject, irrespective of whether reference to these regulations is made in the licence itself.*
- (2) *Any person who fails to comply with any of the provisions of these regulations shall be guilty of an offence, and shall be liable to the fines and penalties as indicated in articles 43 and 45 of the Act.*

Subsidiary Legislation 409.08 also provides the following:

*"tourism accommodation" establishments means hotels, tourist villages, aparthotels, guesthouses, hostels and holiday premises and any other accommodation premises used to house tourists, whether on a temporary or permanent basis as the Authority may reasonably define to fall under these regulations*

*"tourism operation" has the same meaning as given to it by the Act and tourism operator shall be construed accordingly, provided that in regulations 7, 9, 10, 11, 12 and 13, "tourism operation" does not include a tourist guide;*

Article 43(1)(b) of Chapter 409 of the Laws of Malta provides that:

43. (1) *Any person who –*
- (b) being in possession of a licence fails to comply with any applicable provision of this Act or with any condition, restriction or other limitation to which the licence is subject; or*

*shall be guilty of an offence against this Act and shall be liable on conviction to a fine (multa) of not less than one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69) and not more than twenty-three thousand and two hundred and ninety-three euro and seventy-three cents (23,293.73), and in the case of an offence under paragraph (b) of this sub article, or in respect of an offence under paragraph (c) of this sub article, if the offender persists in the offence for more than three months, also to imprisonment for a term of not less than three months and not more than three years.*

Chapter 409 further provides the following:

*"tourism operation" means a hotel, guest house, hostel, holiday premises, house used for the provision of accommodation to tourists, catering establishment, travel agency, destination management company, incoming tourist agency, organised excursion operator, tourist guide, and other tourism services, whether licensed or not:*

Hence it is evident from the above quoted legislation that the premises 'Honey Girl' cannot be classified to fall under "tourism operation" as specified in Chapter 409 and S.L. 409.08.

Furthermore, from the evidence given by the Malta Tourism Authority, PL Quentin Tanti, it resulted from the searches performed by the Authority that the premises Honey Girl was not traced on the database of the Authority.<sup>45</sup>

In view of the above, the Court is convinced that this charge was not proven beyond reasonable doubt by the Prosecution and hence finds the accused not guilty of this charge.

### Decide

Therefore, the Court, whilst finding the accused **not guilty of the fifth (5) charge** brought against her, after having seen Articles 17, 18, 23, 31, 248A(1)(2)(3), 248B and 248E(1) of Chapter 9 of the Laws of Malta, and Articles 7(1)(3), 8(1)(2)(3), 9, 10 and 14 of Chapter 63 of the Laws of Malta, finds the accused **guilty of the first (1), second(2), third(3) and fourth (4) charges** brought against her and condemns her to a **five (5) year term of effective imprisonment.**

The Court, after having seen **Article 8(2) and 14 of Chapter 63** of the Laws of Malta is ordering the cancellation of any licence held by the offender Lin Han in respect of any hotel, lodging house, shop or other premises wherein or within the precincts of the said premises Honey Girl, Valley Road, Balzan, and is also ordering the cancellation of the offender's driving licence and any other licence held by the offender Lin Han in respect of the vehicle, Black BMW registered in her name, with registration number LIN 188.

The Court is also hereby ordering, according to **Article 23 of Chapter 9** of the Laws of Malta, the forfeiture of the corpus delicti, used or intended to be used and obtained in the commission of the crimes as committed by the accused Lin Han, namely the sum of twenty four thousand Euros (€ 24,000) confiscated from the offender's residence and deposited with the

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<sup>45</sup> Fol. 263



Police Quartermaster, together with all documentation and items seized from Lin Han's residence and from the premises Honey Girl, Valley Road Balzan, as documented and marked in the acts of these proceedings as RZ1, RZ2 and RZ 3 and Doc LC7.

The Court, after having seen **Article 412C of Chapter 9** of the Laws of Malta, in order to provide for the security of Liu Renhua, Yu Yali and Qin Wiehong is hereby issuing a **Protection Order** against the accused Lin Han in favour of Liu Renhua, Yu Yali and Qin Wiehong and their respective families and this for a period of five (5) years from the date of judgment as per decree being attached to this judgement.

Furthermore, in terms of **Article 533 of Chapter 9** of the Laws of Malta, the Court orders the offender Lin Han to pay to the Registrar, the sum of € 753.98 representing expenses incurred in the employment of experts.

The Court orders that a copy of this judgement and attached decree be communicated to the Registrar of Courts and to the Commissioner of Police.

**Dr. Astrid May Grima B.A. LL.D. Adv. Trib. Eccles. Melit.**  
Magistrate