



**Court of Magistrates (Malta)
As A Court of Criminal Judicature**

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

Today, the 22nd day of June, 2021

**The Republic of Malta
vs
YOUSOUF MADOU SOUMAORO BEN holder of Maltese Identity Card
Number 0065561A;**

Criminal Proceedings No. 220/2021

The Court,

Having seen the charges brought against the defendant **YOUSOUF MADOU SOUMAORO BEN**, who is being charged with having:

In these Islands, on the 26th October, 2020, and in the days and month following this date up until the thirtieth (30) of November, 2020:

By several acts done by him, even at different times, and in breach of the same provisions of the Law, and made by a single resolution:

1. Committed acts of money laundering by:
 - i. Converted or transferred property knowing or suspecting that such property is derived directly or indirectly from, or the proceeds of, criminal activity or from an act or acts of participation in criminal activity, for the purpose of or purposes of concealing or disguising the origin of the

property or of assisting any person or persons involved or concerned in criminal activity;

- ii. Concealed or disguised the true nature, source, location, disposition, movement, rights with respect of, in or over, or ownership of property, knowing or suspecting that such property was derived directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;
 - iii. Acquired, possessed or used property knowing or suspecting that the same was derived or originated directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;
 - iv. Retained without reasonable excuse of property knowing or suspecting that the same was derived or originated directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;
 - v. Attempted any of the matters or activities defined in the above foregoing sub-paragraphs (i), (ii), (iii) and (iv) within the meaning of article 41 of the Criminal Code;
 - vi. Acted as an accomplice within the meaning of article 42 of the Criminal Code in respect of any of the matters or activities defined in the above foregoing sub- paragraphs (i), (ii), (iii), (iv) and(v);
2. And also in the same date, time, place and circumstances, in Malta knowingly received or purchased any property which was stolen, misapplied or obtained by means of any offence, whether committed in Malta or abroad, or knowingly took part, in any manner whatsoever, in the sale or disposal of the same;

This Court was requested that in case of guilt, in addition to inflicting the penalties laid down in the Law and in addition to the said punishment, it also order the confiscation of all the exhibited goods, of the corpus delicti and the instruments which served or were intended to be used to commit the crime, and of all that has been obtained by the crime, as well as order the confiscation in favor of the Government of the proceeds offense or of such property the value of which corresponds to the value of such proceeds as well as of all the property of the accused in terms of Chapter 373 as well as articles 23 and 23B of the Criminal Code;

This Court was also requested to seize from third parties in general all moneys and movable or immovable property which are due to or pertain to the accused

or is his property, as well as prohibiting him from transferring or otherwise disposing of any movable or immovable property in terms of article 5 of Chapter 373 even as applicable under article 23A of Chapter 9.

This Court was also requested to order in case of guilt, the accused to pay costs related to the appointment of experts in the proceedings as contemplated in article 533 of Chapter 9 of the Laws of Malta.

Whereas having heard the defendant plead guilty to all charges brought against him notwithstanding the fact that the Court warned him in the most solemn manner of the legal consequences of his guilty plea, and after having given him sufficient time within which to reconsider and withdraw his guilty plea;

Having heard witnesses;

Having seen all the acts and documents exhibited;

Having heard the prosecution and defence counsel make their submissions on punishment;

Considers:

Having heard the guilty plea of the defendant to the charges brought against him, the Court has no alternative but to declare the defendant guilty of the said charges.

With regards to punishment, the Court took into consideration the accused's relatively early admission of guilt, his clean criminal record, the nature of the offences of which he stands charged and the circumstances of the case, namely that the defendant acted together with another person in committing this offence and hence he is only liable for half the amount illicitly taken from the complainant, namely that of €4,000.

In view of the above, the Court, after having seen articles 17, 23, 23A, 23B, 31 and 334 of the Criminal Code, Chapter 9 of the Laws of Malta and Articles 3 of The Prevention of Money Laundering Act, Chapter 373 of the Laws of Malta, finds the defendant guilty of the charges brought against him and sentences him to a punishment of two (2) years imprisonment which by application of article 28A of the Criminal Code, Chapter 9 of the Laws of Malta, are being suspended for four years from this day.

Furthermore, having seen article 15A and 28H of the Criminal Code, Chapter 9 of the Laws of Malta, orders the defendant to make restitution to the

complainant, Rita Bonnici, in the amount of €4,000, which amount is to be paid by the 22nd December, 2021.

Having applied the provisions of Article 15A of the Criminal Code, the Court is not applying the provisions of article 23B of the Criminal Code preferring to compensate the victim rather than forfeit an amount equivalent to the monies unlawfully received by the defendant.

The Court explained to the defendant in ordinary language the significance of this judgement and of the consequences he will face should he fail to observe the conditions imposed, namely that should he commit another offence during the operative period of the suspended sentence and should he fail to make payment to the complainant Rita Bonnici within the established time-limit of six months, the sentence of two years imprisonment will be brought into force forthwith.

Finally in terms of Article 3(5) of the Prevention of Money Laundering Act, Chapter 373 Laws of Malta, and Article 22(3A)(b)(d)(7) of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta, rendered applicable to these proceedings by Article 3(7) of the Prevention of Money Laundering Act, Chapter 373 Laws of Malta, orders the forfeiture in favour of the Government of all moneys or other movable property, and of the entire immovable property of the person so found guilty even if the immovable property has since the offender was charged passed into the hands of third parties, and even if the said monies, movable property or immovable property are situated in any place outside Malta.¹

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

¹ Vide **Il-Pulizija vs Brian Buttigieg et**; Per Hon. Mr. Justice Dr. Aaron Bugeja, Dec.25.02.2020; Appeal No. 276 of 2017