



**COURT OF MAGISTRATES (MALTA)  
AS A COURT OF CRIMINAL JUDICATURE**

**MAGISTRATE DR MARSE-ANN FARRUGIA LL.D.**

**Sitting held today Monday, 18th July 2022**

**Committal Proceedings Number: 483/2019 MLF**

**The Police  
(Inspector Brian Xuereb)**

**vs**

**Dusan Osuch**

The Court:

1. Having seen the charges - as corrected by a decree of the 30<sup>th</sup> October 2019 - brought against:

Dusan Osuch, son of Dusan and Zusana nee' Obselkoba, with no fixed address holder of Maltese Residence Permit with 209514A, born in Partizanske, Slovakia on 14/15/1986, Mob:77605558.

Charged with having on the 20<sup>th</sup> July 2019 and the months before, at various times and in various places in the Maltese Islands:

1. Misapplied, converted to his own benefit or to the benefit of any other person, anything which has been entrusted or delivered to him under a title which implies an obligation to return such thing or to make use thereof for a specific purpose with the aggravating circumstances that the offence was committed by reason of his profession, trade, business, management, office or service or in consequence of a necessary deposit;
2. By means of any unlawful practice, or by the use of any fictitious names, or the assumption of any false designation, or by means of any other deceit, device or pretence calculated to lead to the belief in the existence of any fictitious enterprise or of any imaginary power, influence or credit, or to create the expectation or apprehension of any chimerical event, shall make any gain to the prejudice of another person.

The Court was requested to issue a Protection Order against the accused in order to provide the security to John Bonello 529579M and Luisa Attard 184174M and to the company registered as Roltz Eyewear Ltd or for keeping public peace or for protecting the injured person or other individuals from harassment or other conduct which will cause a fear of violence in accordance to Article 412C of Chapter 9 of the Laws of Malta.

2. Having heard the evidence and saw all the records of the case and the documents exhibited.
3. Having seen that in the sitting of the 16<sup>th</sup> May 2022, the Prosecuting Officer declared that the amount illicitly gained by the defendant amounts to the sum of four hundred and fifty Euro (€4850).
4. In the same sitting of the 16<sup>th</sup> May 2022, the defendant registered a guilty plea to the second charge brought against him of fraud to the amount of €4850
5. The Court warned the defendant of the serious consequences of his registering a guilty plea and in particular that the maximum punishment for his guilty plea is that of four (4) years imprisonment and suspended the sitting so that the defendant could consult with his legal consultants, to see whether he wanted to retract his guilty plea.

6. When the case was called again, the Court asked the defendant whether he had enough time to consult his defense lawyers and he answered in the affirmative and when asked by the Court whether he was going to confirm his guilty plea, the defendant replied in the affirmative.
7. The Court heard the submissions by the parties regarding the punishment.

### **Considerations of this Court**

8. From the evidence submitted, as well as from the guilty plea registered by the defendant himself in respect of the second charge against him, the Court finds the defendant guilty of the second charge of fraud preferred against him.
9. In view of the fact that this first charge of aggravated misappropriation was obviously preferred against the defendant as an alternative to the second charge of fraud, the Court is going to abstain from taking cognisance of the first charge.
10. As regards punishment, the Court took into account the fact that the defendant registered this guilty plea at a very advanced stage of the proceedings. These committal proceedings started in 2019, and the defendant registered this guilty plea when all persons residing in Malta had already testified, and the Court was waiting for the execution of the two requests for international co-operation – one to Slovakia and one to the United Kingdom. In fact the Court file is about 550 pages long. So one cannot certainly speak of the registration of an early guilty plea, as submitted by the defence, because the defendant still wasted the time of the Court and of the Police force.
11. According to the statement which he released to the Police, the defendant has been living in Malta since September 2018, and his adjourned conviction sheet is clean.
12. In the sitting of the 6<sup>th</sup> April 2022, the following minute was registered:

*“Dr Montalto for the parte civile informs the Court that the parties to this case have reached an amicable settlement in relation to all civil and commercial matters arising*

*from the previous contractual relationship. The injured party thus declares that it has no further pretenses whatsoever of any kind against Mr Osuch and that the agreement reaches is a definite and unconditional one. The parte ciivle further declares that in virew of the above, it has no interest in the ongoing procedures and is for all intents and purposes of law unequivocally declaring that it is renouncing to its original complaint and to any subsequent criminal action taken within the parameters set at law.”*

## **Conclusion**

- 13.** For the above mentioned reasons, the Court:
1. abstains from taking cognisance of the first charge preferred against the defendant.
  2. after seeing Articles 308 and 310(1)(b) of the Criminal Code, Chapter 9 of the Laws of Malta finds the defendant guilty of the second charge preferred against him but in the light of the considerations above-mentioned, is condemning him to a period of two (2) years imprisonment, which are being suspended for a period of four (4) years from to-day, in terms of Section 28A(1) of Chapter 9 of the Laws of Malta.
  3. In accordance with Section 28A(4) of Chapter 9 of the Laws of Malta, the Court explained in clear and simple language the meaning of this judgement to the accused, and the consequences if he commits another offence punishable with imprisonment within the operative period.
- 14.** The Court orders that within six (6) workingdays, the Attorney General is given access to a scanned copy of the records, together with access to a scanned copy of the judgment

**Magistrate**

**Doreen Pickard  
Deputy Registrar**