



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

MAGISTRATE DR ELAINE MERDIECA LL.D

POLICE

(Police Inspector Jean Paul Attard)

against

PAUL ISAAC

(ID 49114(A))

Case No.: 146/2021

Today 1<sup>st</sup> of March 2022

The Court,

After having seen the charges brought against the accused, **Paul Isaac**, son of James and Grace nee' Akinyanju born in Sierra Leon on the 12<sup>th</sup> April 1977,

residing at Apartment No. 1, Hgejjeg street, Bugibba and holder of Maltese Identity Card no. 49114A;

Charged with having on the 28<sup>th</sup> September 2021 and /or previous days on these islands:

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

3. Had in his possession (otherwise than in the course of transit through Malta of territorial waters thereof) the whole or any portion of the plant Cannabis in terms of Section 8 (d) of the Chapter 101 of the Laws of Malta, which drug was found under circumstances denoting that it was not intended for his personal use.
4. Had in his possession (otherwise than in the course of transit through Malta of the territorial waters thereof) the whole or any portion of the plant Cannabis in terms of Section 8(d) of the Chapter 101 of the Laws of Malta.
5. Committed these offences in, or within 100 metres of the perimeter of a school, youth club or centre or such other place where young people habitually meet in breach of Article 22(2) of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta.

The Court was requested to apply article 533(1) of Chapter 9 of the Laws of Malta in connection with the expenses incurred by the Court appointed experts.

Having seen the Order of the Attorney General issued in terms of article 22(2) of the Dangerous Drugs Ordinance (Cap. 101 of the Laws of Malta) for this case to be tried summarily by this Court sitting as a Court of Criminal Judicature<sup>1</sup>;

Having heard all the evidence brought forward and the submissions made by the parties;

Having seen all the documentary evidence and the full acts of proceedings;

### Considers:

**Inspector Jean Paul Attard** testified that on 28<sup>th</sup> September 2021 at around 1.45am during police patrol at St. George's Street in Paceville, PS1161 and PS922 noticed the accused acting suspiciously whilst talking to a couple (male & female).

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<sup>1</sup> Fol. 7 of the acts of proceedings

After noticing police's presence, the accused on his own crossed the road towards Hugo's Boutique. The police ran after him and before apprehending him they saw him drop something on the ground. They arrested the accused, gave him his rights and on the ground, they found fourteen sachets of white substance suspected to be cocaine. The police also seized a mobile from his possession together with an amount of cash (Eur. 365 and coins and thirty Sterling pounds in his wallet). The Inspector also explained that after being taken to the police lock up the accused had to be taken to the emergency department given that the accused was complaining of chest pains. A search was also conducted at the accused's residence for which he had a key in his possession. The address of this residence was Apartment 1, Triq il-Hgejjeg, Bugibba. In this residence the police found 2 sachets of suspected Cannabis, which the accused admitted were for his personal use. In this residence the police also found a box of digital scale, a pocket digital scale, without the actual scales. A blade and two cardboard boxes were found in the said scale's pocket. The witness explained that in this apartment there was just one bedroom although some items belonging to his girlfriend were also found in the property. The accused in his statement said that presently his girlfriend was not in Malta.

In his first statement to the police, which was taken after the accused consulted with his lawyer (but opted not to have his lawyer present during the said interrogation), the accused stated: that he lives in Bugibba and that he used to work for Farsons until 10<sup>th</sup> January 2021. He explained that at the time of his arrest he was in Paceville to collect money to send it abroad to African families. He confirms that he was alone in Paceville. He says that he did not see the police pick up the alleged drugs from the floor. He said that he did not run from the police and confirmed that when he arrived at Paceville he had only coins as money: *"maybe about Eur. 6"*. He said that whilst in Paceville, he met four people

who owed him money. He provided the police with their names and provided details of the money they gave him. He confirmed that the mobile seized is his mobile phone. With reference to the fourteen sachets allegedly containing cocaine, the accused denied that these were his. He refers to 'black people' who could have possibly been in the area doing something but he does not give details thereof.

In his second statement to the police, he confirmed that he is residing alone in apartment no. 1, triq il-Hgejjeg, Bugibba, which apartment was searched by the police. With reference to the sachets containing suspected cannabis, the accused said they were his and were intended for personal use. He says that he bought them from a Maltese person, the identity of whom is unknown. He declares that he does not use cocaine. With reference to the scale pocket he said that he used to use them to measure salt for soup. He confirms that he has a bank account with Bank of Valletta which he uses to send money to different banks in Nigeria. He says that his clients are all Nigerian.

**PS1161 Aldo Zammit** testifies that on 28<sup>th</sup> September 2021 at about 1.45am to 2am he was patrolling the Paceville area with PS922. He explained that further down between the areas of Havana to the direction of the AXIS carpark, he noticed the accused talking to two youths probably students. As soon as they noticed the police, the students went down St. George's street towards St. George's Bay whilst the accused crossed the road in front of Hugo Boutique Hotel. The Police asked the accused to stop but the accused did not stop. Subsequently he was apprehended by the witness from his shirt and as soon as he was doing this he noticed the accused throwing two bags on the ground. I went to grab these bags and in one of them I found thirteen sachets with white substance and another sachet which was loose in the other bag. The accused at

that point was arrested and taken to the police station. The police inspector was informed and the alleged illegal substance was weighed to amount about 7 grams. The witness also explained that during a search performed on the accused a number of cash was found (Eur. 365 and 30 Sterling pounds). In cross-examination, he explained that he decided to go after the accused as opposed to the couple who were with him given that he was the one talking to them and he was showing them something. He explained that the accused was ordered by the police to stop but he did not do so. He says that the couple were not followed given that it was just him and PS922 at the time. He confirms that he saw the accused throwing something on the ground from his shirt. The witness confirmed that he was the one who picked the packet from the ground with gloves and after that he put them in an evidence bag when at the police station. After that a search was done on his person where they found an amount of cash for which a receipt was drawn up at the St. Julian's police station. He confirmed that he is the one who took the accused to the police station and that he is the one who carried the drugs to the police station, which substance was subsequently passed to the Police Inspector in the morning. He confirmed again that on the ground he found thirteen sachets attached together and one loose sachet. He confirmed that he saw the accused throwing these same packets on the floor as soon as he grabbed him from the shirt.

**PS922 Valmor Medati** testified that on the 28<sup>th</sup> September at about quarter to two in the morning, whilst he was patrolling Paceville area with PS1161, near where it used to be the AXIS disco he noticed the accused talking to two (white) people. As soon as they noticed police presence, they separated immediately with the police following the accused. The witness explained that his colleague was a bit faster than him and had told him that he noticed the accused throwing something on the floor. The witness stopped the accused and performed a search

on his person. His colleague picked up 13 sachets of white substance and another loose packet. The witness confirms that he saw these sachets for the first time in his colleague's hand. He also confirmed that it was only his colleague who took the accused to the police station. In cross examination he confirmed that the couple that the accused was talking to and the accused split up as soon as they saw the police approaching. They noticed that Paul Isaac's pace was faster (though not running) and hence they (PS922 and PS1161) decided to go after Paul Isaac. Other police officers on duty had to go after the couple but the witness cannot relate and what they did since he was not with them. The witness was also not able to identify who were the other police officers who went after the couple. He also explained that this was not a planned operation. He stated that the accused was first stopped by PS1161 who saw the accused throwing something on the ground. The witness confirms on oath that he personally did not see Paul Isaac throwing anything on the ground. He also confirmed that whilst he was keeping the accused to the wall, behind him PS1161 collected the things from the ground. He explains further that it was PS1161 who took him to the police station.

**Dr. Martin Bajada** who was appointed as court expert at the request of the prosecution to extract information from the seized mobile phone (JPA1) declared that the phone had a pin code and the only information which could be extracted was information held on the two sim cards.

**Dr. Robert Musumeci** who was appointed as a court expert at the request of the prosecution for the purpose of establishing whether the point in which the accused was arrested was within a 100m parameter from a place in which young people meet. In his conclusions Dr. Musumeci declared on oath that the accused

was apprehended 12.9 metres away from an establishment displaying the words 'Muse Middle East'.

**Pharmacist Godwin Sammut** was appointed as a court expert at the prosecution's request with the purpose of analysing the substances seized in this case concluded:

*"Extracts taken from the white powder that are in the exhibit labelled as Doc JPA7 resulted positive for Cocaine. The total weight of the white powder was 4.1 g and the total number of sachets was 14. The purity of the cocaine in the whited powder was approximately 23%. Traces of cocaine was also detected on the blade which is in the exhibit labelled as Doc JPA8. Cocaine is controlled under Part I of the First Schedule of Chapter 101 of the Laws of Malta.*

*Tetrahydrocannabinol was found in the extracts taken from the green buds that are in the exhibit labelled as Doc. JPA7. The total weight of the green buds is 0.57g. the amount was too low to analyse for purity of THC. Cannabis is controlled under Part III of Chapter 101 of the Laws of Malta."*<sup>2</sup>

**PC744 Joseph Bajada** explained that in the evening of 28<sup>th</sup> September 2021 he went to Mater Dei Hospital and met Inspector Attard at the Medical Cardiac ward. Present there was also PC987 Sultana and the accused Paul Isaac. He confirmed that at this point Inspector Attard interrogated the accused. When this was over the witness was instructed to go the accused's residence at Triq il-Hgejjeg, Bugibba to conduct a search. In his residence the witness found two packets suspected to be cannabis, one under the cushion of the sofa and the

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<sup>2</sup> Fol. 62 of the acts of proceedings.



other at the top cupboards of the kitchen under a doyle. In the kitchen the witness also found a white box and the pocket of a measuring scale without the measuring scale. Inside the pocket there was a blade and two pieces of cardboard.

**PC987 Daniel Joseph Sultana** explained that on 28<sup>th</sup> September he went to Mater Dei Hospital to the Cardiac ward where he found Mr. Paul Isaac together with the Inspector.

On 1<sup>st</sup> December 2021, the defence declared that it had no evidence to produce.

#### **Considers further:**

The accused stands charged of possession of cocaine in circumstances denoting that it was not for his personal use; possession of cocaine; possession of cannabis in circumstances denoting that it was not for his personal use; possession of cannabis; and that the aforementioned offences were committed within the distance of 100 metres from a place in which young people meet.

The **facts in brief** are the following:- On 28<sup>th</sup> September 2021 at about 1.45am, whilst patrolling in Paceville, PS1161 and PS922 noticed the accused talking and showing something to a couple. Upon noticing the police's presence they split up and the said two officers followed the accused who was walking away from them by a fast pace. As soon as PS1161 grabbed his shirt, he noticed the accused throwing on the ground sachets. There were thirteen sachets attached together and other sachet loose but all of the sachets contained white substance suspected to be cocaine. Whilst PS922 held the accused to the wall, PS1161 picked up the sachets. A search was conducted on the accused's person from which it resulted that the accused was carrying Eur. 365 and 30 Sterling pounds in cash on him. Subsequently he was taken to the police station. Subsequently a

search was conducted in his residence from where several items related to drug abuse were seized together with two sachets containing cannabis.

In his statements<sup>3</sup> lawfully taken after the accused consulted with his lawyer and refused the right to have the same lawyer present during the said interrogations, the accused confirmed that the cannabis sachets found at his residence were for his personal use. However, he denied that he consumes cocaine. He confirms that in his residence he resides there alone. With reference to a number of items usually related to drug abuse, the accused said that they were in his possession given that he uses them for the measurement of salts. With regards to cocaine found whilst in Paceville he denied that they belong to him. He says that he did not see the police officer picking them up. He says that he saw other persons selling drugs. With regards to the cash on him he explains that he was collecting money from people so that he will transfer their funds abroad.

1. Possession of Cocaine (1<sup>st</sup> and 2<sup>nd</sup> charge proffered against the accused)

PS1161 testifies that he saw the accused talking and showing something to a couple. Then, after detecting police presence, they split up with the accused walking away from the police with a fast pace. The police called on him to stop but he continued getting away. PS1161 also states that as soon as he grabbed the accused from his shirt, he saw the accused throwing on the ground thirteen sachets attached together and another loose sachet on its own, the same ones he subsequently picked up and seized. Whilst being asked in cross-examination whether it could be that he threw the substances before he arrived, PS1161 was categorical:

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<sup>3</sup> Fol. 17 and 20 of the acts of proceedings.

*“Witness: No, no, no, I saw him throwing it, I emphasise it, I saw him throwing it as soon as I had grabbed him from his shirt. As soon as I grabbed him from his shirt, he was with a white shirt I think, yes with buttons. As soon as I grabbed him from it he just threw them on the floor .... Was it with the left hand or right hand?”*

*His left hand because I grabbed him to this right, I grabbed his right so it was his left.”*

This Court has no reason to doubt the version of events given by PS1161. It is also clear from his testimony that he was close enough to the accused to see all that the accused was doing. Hence this Court believes that the drugs that were seized from the ground by the police actually belonged to the accused who threw them on the ground as soon as he realised that he was about to be arrested given his awareness of the illegality. This Court believes that the drugs in his possession were the reason why he tried to get away from the police as soon as he saw their presence and the reason why he did not stop when he was asked by the police to stop.

Pharmacist Godwin Sammut confirmed that the fourteen sachets which were seized by the police upon the accused’s arrest effectively contained cocaine. In fact in his conclusions he concluded:

*“Extracts taken from the white powder that are in the exhibit labelled as Doc JPA7 resulted positive for Cocaine. The total weight of the white powder was 4.1g and the total number of sachets was 14. The purity of the cocaine in the white powder was approximately 23%. Traces of cocaine was also detected on the blad which is in the exhibit*

*labelled as Doc. JPA 8. Cocaine is controlled under Part I of the First Schedule of Chapter 101 of the Laws of Malta”<sup>4</sup>*

Hence, what is left to be determined is whether the drugs that were in the accused’s possession were intended exclusively for personal consumption or otherwise.

In its judgement of 12th May 2005 in the names Il-Pulizija vs Marius Magri, the Court of Criminal Appeal held that:

*“Illi dawn il-kazijiet mhux l-ewwel darba li jipprezentaw certa diffikolta` biex wiehed jiddetermina jekk id-droga li tkun instabet kienitx intiza ghall-uzu personali jew biex tigi spjaccjata. Il-principju regolatur f`dawn il-kazijiet hu li l-Qorti trid tkun sodisfatta lil hinn minn kull dubbju dettat mir-raguni w a bazi tal-provi li jingabu mill-prosekuzzjoni li l-pussess tad-droga in kwistjoni ma kienx ghall-uzu esklussiv (jigifieri ghall-uzu biss) tal-pussessur. Prova, ossia cirkostanza wahda f`dan irrigward tista`, skond ic-cirkostanzi tal-kaz tkun bizzejjed.”*

In the case Il-Pulizija vs Brian Caruana, decided by the Court of Criminal Appeal on 23rd May 2002, the Court held the following:

*“kull kaz hu differenti mill-iehor u jekk jirrizultawx ic-cirkostanzi li jwasslu lill-gudikant ghall-konvinzjoni li droga misjuba ma tkunx ghall-uzu esklussiv tal-akkuzat, fl-ahhar mill-ahhar hija wahda li jrid jaghmilha l-gudikant fuq il-fatti specji li jkollu quddiemu w ma jistax ikun hemm xi “hard and fast rule” x`inhuma dawn ic-cirkostanzi indikattivi. Kollox jiddependi mill-assjem tal-provi w mill-evalwazzjoni tal-fatti li jaghmel il-gudikant u jekk il-konkluzjoni li jkun wasal ghaliha il-gudikant tkun perfettament*

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<sup>4</sup> Fol. 62 of the acts of proceedings.

*raggungibbli bl-uzu tal-logika w l-buon sens u bazata fuq il-fatti, ma jispettax lil din il-Qorti li tissostitwiha b'ohra anki jekk mhux necessarjament tkun l-unika konkluzzjoni possibbli"*

In this case, the global amount of cocaine (4.1g) is not a substantial amount hence it could be likewise indicative of both personal consumption and not for personal use. Hence this Court is going to analyse other circumstances to determine whether this substance was intended for personal consumption or not for personal use. Although as stated, the amount of 4.1g is not a substantial one, it is not an amount that one individual would consume all by himself in just one night. This bearing in mind that the substance was not found in his residence but he was in possession of it whilst at Paceville. Additionally, the aforementioned substance was not found in one bag but in fourteen different small sachets. It is also worth noting that each of the fourteen sachets contained nearly the same weight of cocaine. In fact, the individual weight of the said sachets was as follows: 0.31g; 0.28g; 0.25g; 0.31g; 0.30g; 0.30g; 0.28g; 0.29g; 0.31g; 0.30g; 0.27g; 0.31; 0.30g; and 0.29g.<sup>5</sup> This is indicative of the fact that the drugs in the accused's possession were divided and prepared in such a way so that they will be ready for trafficking. Subsequently at his residence, the police identified a number of items which could be considered as drug paraphilia, amongst them a scale pocket (without the scales), a blade and two cardboard pieces. Lastly, the accused was also found in possession of cash in two denominations. This is indicative that the accused was given payments from different people that night. When asked about the cash during his statement the accused explained that during that night he met various people who would give him cash so that he will forward that amount to other countries. The Court does not find this version credible given that the

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<sup>5</sup> Reference is made to fol. 61 of the acts of proceedings.

amount of cash seized (Eur. 365 and 30 Sterling pounds) is not substantial enough to tally with the amount of cash that four people (mentioned in his statement) would like to forward abroad. Moreover it makes no sense whatsoever, that a person living in Malta hence using the Euro denomination would pass on cash in sterling denomination for onward forwarding to Africa. Additionally, no other evidence was found, such as notes and details, as to where he needs to send the money or other details related to these transaction which according to his statement he used to undertake. Hence the amount of cash found in the accused's possession is indicative of the fact that the accused did receive payments that night. The last circumstance that this Court is also considering in determining whether the cocaine found in the accused's possession was intended exclusively for his personal consumption or otherwise, is the fact that in his second statement the accused categorically denied that he uses cocaine.

*“Q: Do you ever take cocaine?”*

*A: No, never.”*

Hence, for the aforementioned reasons this Court is of the view that the drugs which were in the accused's possession were found in circumstances denoting that it was not for his personal use. Hence this Court finds that the prosecution has managed to prove beyond reasonable doubt the first charge brought against the accused, whilst it finds that there is not enough evidence to find the accused guilty of the second charge.

## 2. Possession of Cannabis plant (3<sup>rd</sup> and 4<sup>th</sup> charges proffered against the accused)

Whilst undertaking a search in his residence, the police found two sachets of cannabis thereat. In his statement, the accused confirms that presently he was

residing in that residence alone. He also confirms that he personally consumes cannabis. From the report submitted by Pharmacist Godwin Sammut it transpires that there was a huge discrepancy between the two sachets found – 0.45g and 0.12g. The total amount of cannabis found in his residence was that of 0.57g hence not a substantial amount. These factors are indicative that the said substance was intended for his personal use. Hence the Court will be acquitting the accused from the third charge proffered against him.

With regards to the fourth charge, given that the accused was found in possession of 0.57g Cannabis in circumstances denoting personal consumption, this Court is also considering the amendments that were introduced by virtue of the Act LXVI of 2021 particularly article 4A(1) of Cap. 537 of the Laws of Malta which stipulates:

*Notwithstanding the provisions of any other law, the possession by a person over the age of eighteen (18) years of the drug cannabis in an amount not exceeding seven grams, in circumstances in which it may be reasonably deemed that such possession is for the personal use of such person, **shall not constitute an offence**, and that person shall not be subject to being taken into custody under arrest saving when there is a reasonable suspicion of trafficking or dealing in the drug cannabis. (Emphasis of this Court).*

Hence although simple possession of cannabis at the time of the alleged offence constituted a crime, this is not more the case.

Article 12 of Chapter 249 of the Laws of Malta stipulates:

*(1) Where any Act passed after the commencement of this Act repeals any other law, then, unless the contrary intention appears, the repeal shall not –*

*(a) revive anything not in force or existing at the time at which the repeal takes effect;*

*(b) affect the previous operation of any enactment so repealed or anything duly done or suffered under any law so repealed;*

*(c) affect any right, privilege or liability acquired or accrued or incurred under any law so repealed;*

*(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed, or any liability thereto;*

*(e) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid,*

*and any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing Act had not been passed*

However, reference is made to the judgement delivered by the Court of Criminal Appeal in the names ***Pulizija vs. Juanita Fenech*** delivered on the 27<sup>th</sup> of February 2019, wherein it was declared:

*“Illi in linja mad-decizjonijiet moghtija mill-Qorti Ewropeja tad-Drittijiet tal-Bniedem ibbazati fuq l-artikolu 7 tal-Kovenzjoni Ewropeja dwar il-Drittijiet tal-Bniedem, il-Qorti hija tal-fehma illi*



*illum ebda piena ma ghandha tigi imposta fuq l-appellanti u l-Qorti bilfors trid tastjeni milli tiehu konjizzjoni ta' dina l-akkuza:*

*“The Court notes that the obligation to apply, from among several criminal laws, the one whose provisions are the most favourable to the accused is a clarification of the rules on the succession of criminal laws, which is in accord with another essential element of Article 7, namely the foreseeability of penalties .... The Court .... affirms that Article 7 § 1 of the Convention guarantees not only the principle of non-retrospectiveness of more stringent criminal laws but also, and implicitly, the principle of retrospectiveness of the more lenient criminal law. That principle is embodied in the rule that where there are differences between the criminal law in force at the time of the commission of the offence and subsequent criminal laws enacted before a final judgment is rendered, the courts must apply the law whose provisions are most favourable to the defendant.”*

*Din il-posizzjoni ġiet riaffermata permezz tas-sentenza tal-Qorti Ewropeja fl-ismijiet Öcalan v. Turkey deciza fit-18 ta' Marzu, 2014.*

*Illi l-Professur Sir Anthony Mamo jidher li kien tal-fehma ukoll li f'sitwazzjonijiet bħal dawn il-proċeduri jew l-effett provenjenti minnhom permezz tas-sentenza li tkun ingħatat, għandhom jieqfu.*

*"In fact, in the hypothesis under discussion, though the liability was contracted while the former law was still in force, the prosecution and sentence would be carried on and pronounced after such law has been repealed. So that, if such*

*law were to be applied to such prosecution and sentence, it would be given an effect beyond its legal limit of operation. It is thus not by way of an equitable retrospective application of the new law but rather on the grounds that the operation of the old law cannot extend beyond its repeal (divieto di ultra-attività) that, in this hypothesis, the criminal proceedings cannot be maintained in respect of the act which, at the time of the trial, has ceased to constitute a criminal offence”.*

**B’hekk illum għalkemm il-prosekuzzjoni tar-reat abrogat fil-mori tal-proċeduri jista’ jitkompla u dan fid-dawl ta’ dak li jipprovdi l-Att dwar l-Interpretazzjoni, madanakollu l-istess qiegħed jitqies illi huwa leżiv tal-artikolu 7 tal-Konvenzjoni Ewropeja dwar id-Drittijiet tal-Bniedem.**” (emphasis of this Court)

Hence in view of this reasoning this Court will be declaring that proceedings with regards to the fourth charge have been exhausted.

3. Committed these offences in or within 100 metres of the perimeter of a school, youth club or centre, or such other place where young people habitually meet in breach of article 22(2) of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta.

In view of what has been stated earlier on this judgement this fifth charge is intrinsically connected with the first charge proffered against the accused, namely that of possession of cocaine in circumstances denoting that it was not for his personal use. From the evidence brought forward by the prosecution it transpires that the accused was apprehended in the centre of Paceville which is well renowned as an area where young people meet. Moreover, the accused was arrested just 12.9 metres away from the establishment named Muse Middle East

which is also a place where young people meet. Hence this Court after having seen the testimonies of court expert Robert Musumeci, PS1161 and PS922 as to where the accused was noticed by the police speaking to the young couple and where the accused was apprehended by the police is of the view that this charge has also been sufficiently proven in terms of law.

**Considers further:**

That for the purpose of punishment to be inflicted, this Court is taking into account the clean conduct sheet of the accused, the serious nature of the charges of which he is being found guilty, the conduct of the accused, the amount and nature of drugs found in his possession.

**Decide:**

For these reasons and after having seen articles 8(d), 22(1)(a), 22(2)(b)(i) and (ii) and second proviso thereto of the Dangerous Drugs Ordinance, Cap. 101 of the Laws of Malta, regulations 4 and 9 of Subsidiary Legislation 101.02; and article 4A of Chapter 537 of the Laws of Malta, this Court, acquits the accused **Paul Isaac** of the second and third charges brought against him whilst it **finds him guilty of the first and fifth charges brought against him and condemns him to nine months effective imprisonment** (from which period one must deduct the period of time, prior to this judgement, during which the person sentenced has been held in preventive custody in connection with this case) **and to the payment of a fine (multa) of seven hundred euros (Eur. 700).**

With regards to the proceedings in relation to fourth charge brought against the accused, the Court is proceeding to declare them as exhausted in view of the newly introduced article 4A of Chapter 537 of the Laws of Malta (as explained earlier on in this judgement).

Additionally, in terms of article 533 of Chapter 9 of the Laws of Malta, the Court is ordering the accused to pay the Registrar of this Court the sum of seven hundred fifty Euros and forty-eight euro cents (Eur. 750.48)<sup>6</sup> representing expenses incurred in the employment of experts in relation to the charges for which he was found guilty.

Furthermore, the Court is ordering the destruction of the contents of Document JPA3 and JPA 7, once this judgement becomes final and definitive, under the supervision of the Court Registrar, who shall draw up a process-verbal documenting the destruction procedure. The said proces-verbal shall be inserted in the records of these proceedings not later than fifteen days from said destruction.

The Court explained the said judgement to the accused.

MAGISTRATE DR. ELAINE MERCIECA BA. LL.D.

Christine Farrugia

Deputy Registrar

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<sup>6</sup> This amount excludes the expenses for Dr. Musumeci given that his expenses were not indicated in his report.