



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

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

Today, the 30th day of November 2022

The Republic of Malta

vs

Omissis;

Omissis 1;

Omissis 2;

**Marvis Iyeke Marvis Iyeke, holder of Maltese Identity Card number 44869(A),
and**

Omissis 3

Criminal Proceedings No. 703/2022

The Court,

Having seen the charges brought against the defendants Omissis, Omissis 1, Omissis 2, **Marvis Iyeke** and Omissis 3 who are being charged with having:

In these Islands, on the eleventh (11) of August 2020, and in the days and months following this date:

By several acts done by them, 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 having:
 - 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.

Omissis 1 is also charged with having on these Islands, on the eighth (8) of January 2021 or in the following days, in order to gain advantage or benefit for herself or others, in a document knowingly made a false declaration or statement or gave false information in violation of article 188(2) of Chapter 9 of the Laws of Malta;

Omissis 1 is also charged with the offence of recidivism in terms of articles 49 and 50 of the Laws of Malta by means of a judgment of the Court which judgment became final and cannot be changed or revoked.

Omissis 2 is also being charged with breaching his bail conditions which were imposed on him by a decree dated 11 August 2017, and revised by a decree

dated 28 May 2018, issued by Magistrate Dr Natasha Galea Sciberras in the case 'The Police vs Omissis 2'.

This Court was kindly being 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 favour of the Government of the proceeds offence 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 being 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 are their property, as well as prohibiting them 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 Honourable Court was also kindly 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;

Having heard witnesses.

Having seen all the acts and documents exhibited.

Having seen the joint application filed by the Attorney General and the defendant on the 16th November 2022 in terms of Article 392A(5) of the Criminal Code, Chapter 9 of the Laws of Malta, wherein it is stated that in the event that there is an admission of guilt on the part of the defendant Marvis Iyeke for the offences brought against him, the punishment to be inflicted upon him by the Honourable Court should be that of two (2) years imprisonment which by application of article 28A of the Criminal Code, Chapter 9 of the Laws of Malta are to be suspended for four years from the date of judgment, and a payment of a fine (*multa*) of twenty thousand Euro (EUR 20,000) and the forfeiture in favour of the Government of all moneys or other movable property, and of the entire immovable property of the defendant, even if the defendant's immovable property has, since his being 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, together with any other sanction and/or consequence that is mandatory and consequential to the declaration of guilt, in

terms of the Criminal Code and The Prevention of Money Laundering Act, Chapters 9 and 373 of the Laws of Malta respectively.

Whereas having heard, in today's sitting, the defendant plead guilty to all charges brought against him.

Whereas the Court observed the dictates of Article 392A(1) of the Criminal Code whereby the defendant was warned by the Court in the most solemn manner of the legal consequences of his guilty plea, and after having explained the consequences of such admission, namely what the punishment for the offences to which an admission of guilt was being registered entailed and moreover the import and significance of the joint application he had filed with the Attorney General, and upon assuring itself that the defendant had understood the Court's explanations, gave him time to consult with legal counsel so as to reconsider and withdraw his guilty plea should he so decide.

After the sitting was suspended for fifteen minutes, the defendant and defence counsel returned and the defendant confirmed his guilty plea, which plea was registered by the Court.

Considers,

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

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

With regards to punishment to be inflicted against the defendant, the Court will be taking into consideration the application filed by the Attorney General and the defendant in terms of Article 392A(5) of the Criminal Code, Chapter 9 of the Laws of Malta. In terms of Article 392A(7) of the Criminal Code, the Court will proceed to award the sentence indicated to it by the parties on their own request in terms of Article 392A(5) of the Criminal Code, since it is satisfied with the sanction therein indicated.

In its considerations the Court took into consideration the accused's late 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 in concert with five others in committing this wicked and despicable offence which witnessed the exploitation of the kindness, generosity and vulnerability of two women.

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 Article 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 and to the payment of a fine (*multa*) of twenty **thousand Euro (€20,000)** payable in monthly instalments within two (2) years from today.

Furthermore, having seen article 15A and 28H of the Criminal Code, Chapter 9 of the Laws of Malta, orders the defendant to make complete restitution to the complainants MD and RB of the amounts of six thousand Euro (€6,000) and eight thousand Euro (€8,000) respectively, which amounts are to be wholly paid within six months from today but in monthly instalments.

Having applied the provisions of Article 15A of the Criminal Code, the Court will not apply the provisions of article 23B of the Criminal Code, Chapter 9 of the Laws of Malta, and that of Article 3(5) of the Prevention of Money Laundering Act, Chapter 373 of the Laws of Malta, preferring to compensate the victims 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 complainants within the established time-limit of six months, the sentence of two years imprisonment will be brought into force forthwith.

In terms of Article 533 of the Criminal Code, Chapter 9 of the Laws of Malta, orders the defendant to the payment of **€1,858** equivalent to one sixth of the amount due as expert fees.¹

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

¹ Fol.1695A. Original taxed report found in the acts **The Republic of Malta vs Tabi Ovi**

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.²

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

² Vide **Il-Pulizija vs Doris (Maria Dolores) Borg**, Per Onor. Imħallef Dr. Edwina Grima LL.D., Deciża 26 ta' Novembru 2021 Appell Nru: 178/2018. Vide ukoll **Il-Pulizija vs Brian Buttigieg et**; Per Onor. Imħallef Dr. Aaron Bugeja, Deciża 25 ta' Frar, 2020; Appell Nru. 276 tal-2017.