



## **Court of Magistrates (Malta) as a Court of Criminal Judicature**

**THE POLICE (INSPECTOR NICHOLAS VELLA) V. JAN MARK OSIADACZ (ID. 362441A)**

**MAGISTRATE: DR. VICTOR G. AXIAK**

**17/10/2023**

THE COURT,

Having seen the charges proffered against the accused:

**To. Jan Marek Osiadacz                      ID.362441(A)**

**Born : Poland. 7/2/1984.**

**Residing : 18 `Falcon Hurst`Flt.6, Triq Ix-Xambekk, Naxxar,**

**As you have been charged that on the 06/02/2023 at about 09.45hrs at Swieqi Road, Swieqi,**

(1). You rode or drove on a road an e-kickscooter whether privately owned or rented from an e-kickscooter sharing operator, which was not registered and licensed with the Authority from Transport in Malta. (sec.3(3) LS.499.67)

(2). You drove the mentioned e-kickscooter when it was not covered by a policy of insurance in respect of third party risks. (Sec.4 LS.499.67)

The Prosecution requests that the mentioned person be disqualified from holding or obtaining any driving licence for a period of time that the Court deems fit.

Having heard the witnesses summoned before it, that is, Enforcement Officer 227 and the accused himself;

Having seen all the acts of the case including the sworn affidavit of Stephen Cachia (Transport Malta);

Gives the following

### **Judgement**

1. From the testimony of **EO 227 Juan Mizzi** it results that on the date, in the place and at the time in question the accused was driving a privately owned e-kickscooter that had not been registered with Transport Malta. From the affidavit of **Stephen Cachia** it results that the accused registered the e-kickscooter in question (together with another one) on 28<sup>th</sup> February 2023.
2. The accused **Jan Marek Osiadacz** insisted on defending himself during the case even though the Court warned him of the potential consequences should he be found guilty of the charges and also informed him of his right to legal assistance. The accused took the stand even after the Court informed him of his right to remain silent. On the stand he essentially admitted the charges brought against him and stated that he didn't know that the law required him to register the e-kickscooter with Transport Malta and to obtain a policy of insurance with regard to third-party risks. He testified that soon after the incident he regulated his position by registering the e-kickscooters with Transport Malta.
3. With regard to the first charge, the relevant article of the law (Art. 3(3) of Subsidiary Legislation 499.67 "The Micromobility Regulations") states as follows:  
  

**3 (3) No person shall ride or drive on a road an e-kickscooter, whether privately-owned or rented from an e-kickscooter sharing operator, which is not registered and licensed with the Authority.**
4. The Court notes that it has been proven that the accused was driving on a road an e-kickscooter that was not registered and licensed by Transport Malta. However the

Court also notes that the provision of the law that provides for punishment with regard to this offence makes reference to the wrong article and subarticle of the law:

**27.(1) Any person who contravenes the provisions of regulation 3(4) shall be guilty of an offence and shall, on conviction, be liable to a fine (multa) of five hundred euro (€500)**

Given that Regulation 3(4) only refers to the registration fee payable by the user and is altogether separate and different from Regulation 3(3), the Court cannot impose this punishment.

5. With regard to the second charge it has been proven that the accused was driving the e-kickscooter in question without being covered by a policy of insurance in respect of third party risks. Therefore this second charge has been proven.

#### **Decision**

**For the abovementioned reasons, the Court acquits the accused of the first charge and having seen the relevant article of the law (Subsidiary Legislation 499.67, Art. 4) finds him guilty of the second charge brought against him. The Court condemns the guilty party to pay a fine (multa) of € 2,330. In addition to the fine, the Court disqualifies the offender from holding or obtaining a driving licence for a period of twelve months (Subsidiary Legislation 499.67, Art. 27(2A)).**

**V.G. Axiak  
Magistrate**

**Y.M. Pace  
Dep. Registrar**