



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

MAGISTRATE DR. RACHEL MONTEBELLO LL.D.

Today, 4th April 2024

**THE POLICE
(Inspector Eman Hayman)**

-Vs-

MIRALEM LIHIC

The Court,

Having seen the charges brought against **MIRALEM LIHIC**, 43 years, son of Ramo Lihic and Safida Lihic, without any fixed address, born at Makarska, Croatia on the 21/6/1980 and holder of Maltese ID Card Number 249617L, who was charged with having on the night of the 16/3/2024 and the morning of the 17/03/2024 in Mater Dei Hospital, Tal-Qroqq, Msida:-

1. Voluntarily committed spoil, damage to or upon any movable or immovable property with caused amount of the damage not exceeding two thousand and five hundred euro (€2,500) but exceeds two hundred and fifty euro (€/250)

2. Committed simple theft, which offence of theft does not exceed two hundred, thirty two euros and ninety-four cents (€232.94) to the detriment of the Mater Dei Hospital and security employee Marco Borg

Having ordered that the proceedings are conducted in the English language in accordance with Article 3 of the Judicial Proceedings (Use of English Language) Act after having heard the defendant declare that he does not understand the Maltese language but that he does speak and understand the English language;

Having seen the record of the proceedings;

Having heard the defendant plead guilty to the charges brought against him during the arraignment;

Having heard the defendant confirm his guilty plea even after having been afforded the time to reconsider their admission of guilt and to consult with his legal counsel and even after having explained to him in simple language, the nature of the charges and the punishment contemplated by law in the event of a finding of guilt for that offence;

Consequently, in view of this voluntary and unconditional admission of guilt, in the presence of his legal counsel, the Court has no alternative but to find the accused guilty of all the charges brought against him and to sentence him accordingly.

Having heard the final submissions made by the Prosecution and the Defence Counsel in relation to the punishment to be inflicted upon admission of guilt.

For the purposes of inflicting punishment, the Court considered that the charges brought against the accused, that is of causing voluntary damages to property belonging to Mater Dei Hospital, that is, public property, as a serious offence. In fact, apart from the punishment for the crime under article 325(1)(b) of the Criminal Code -

which applies in view of the fact that the amount of the damage caused is estimated at €573.86 – a fine equivalent to the amount of the damage caused must also be imposed.

It must also be pointed out that although the defendant was charged also with the crime of simple theft of several objects to the detriment of Mater Dei Hospital and its employees, it would result from an examination of the current incident reports brought forward by the Prosecution that this theft was committed by the forceful opening of the doors of the lockers where the stolen objects were kept, with resultant damage to the said lockers. This means that the theft was effectively aggravated by “means” as defined in articles 263 and 264 of the Criminal Code. However, since the relevant crime with which the defendant was charged in summons is that of “simple theft” without any aggravating circumstances, the Court can only find defendant guilty in terms of articles 284 and 285 of the Criminal Code.

The Court must also consider the fact that the forceful breakage of the locker doors was designed for the commission of the crime of theft and consequently, the provisions of article 17(h) of the Criminal Code must be applied. Consequently, only the punishment for the graver offence must be applied, that is, the crime of voluntary damage to property which crime is punishable with imprisonment for a term of with months to fourteen months in terms of article 325(1)(b) of the Criminal Code.

The Court also took into account the fact that the defendant admitted to the charges at the earliest possible opportunity and co-operated with the Police during their investigation of the crimes. His criminal conviction sheet while not completely clean is neither excessively onerous. It would also result that many of the objects stolen from the lockers were retrieved from defendant’s possession, save for cash in the sum of circa €50 which was stolen from one of the lockers to the detriment of Marco Borg. As would result from the submissions made by the defence counsel, the defendant acknowledges that he has a serious drug problem which he wishes to address and requested the necessary assistance; indeed it also results that he has already made

contact with OASI and Agenzija Caritas in order to seek help to overcome this addiction.

For these reasons and after having seen articles 17(h), 31, 284, 285 and 325(1)(b) of the Criminal Code, upon admission finds MIRALEM LIHIC guilty as charged and condemns him to eight (8) months imprisonment and a fine *multa* of five hundred and seventy three Euro (€573.00) payable within one (1) year.

In terms of article 412D of the Criminal Code, issues a Treatment Order in respect of the offender for a period of three (3) years in order to treat and overcome drug addiction.

Orders that a copy of this judgement is served on the Chief Executive Office of the Corradino Correctional Facility and the Director of Department of Probation and Parole for purposes of implementation of the Treatment Order.

In terms of article 15A of the Criminal Code, orders the offender to pay unto Marco Borg (ID 310362M) the sum of fifty Euro (€50) representing the amount stolen to his detriment, within one (1) month.

Orders that a copy of this judgement is also served on the Registrar of the Court for the purpose of payment of the fine multa.

**DR. RACHEL MONTEBELLO
MAGISTRATE**