



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

MAGISTRATE DR. ELAINE RIZZO BA. LL.D.

Today, 12th July 2024

THE REPUBLIC OF MALTA

VS

JOAR ARE LYNGAAS

THE COURT,

After having seen the charges brought against **Joar Are Lyngaas, of 35 years, son of Joar and Goril nee' Johnsson, born in Norway on the 20th of June 1989, residing in May Flower Court, Flat 7, St. Aloysius Street, Msida, and holder of Norwegian Driving License number 20068929181**, whereby he stands charged for having, between the twenty-ninth (29th) day of May of the year two thousand and twenty-four (2024) and the ninth (9th) day of July of the year two thousand and twenty-four (2024) and/or in the preceding days and/or in the preceding months, by several acts committed by him, even if at different times, which constitute violations of the same provision of the law, and are committed in pursuance of the same design, at *GamesPlus*, Triq Santa Margherita, San Gwann, Malta, and/or in other places in these Islands:

1. Committed theft of various objects and/or boxes of playing cards that include *Pokemon cards* and/or other playing cards, which theft is aggravated by 'amount', which amount of the things stolen exceeds two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37) to the detriment of *GamesPlus* and/or Miguel Demanuele and/or other persons and/or other entities;¹

¹ Article 261(c), 279(b) of Cap. 9 of the Laws of Malta

2. In the same time, place and circumstances, knowingly took part in the sale or disposal of property obtained by theft, namely the aforementioned *Pokemon cards* and/or other playing cards;²

Additionally, in the event that the accused is found guilty for any or all of the aforementioned charges, in addition to the punishment that Lyngaas may be sentenced, the prosecution requested the Court to:

- i. order him to make restitution to the injured party of any property or proceeds stolen or knowingly received or obtained by fraud or other unlawful gain to the detriment of such party by or through the offence, or to pay to such party such sum of money as may be determined by the Court as compensation for any such loss as aforesaid or for any damages or other injury or harm, in terms of Article 15A of Chapter 9 of the Laws of Malta; and
- ii. order him to pay the expenses incurred in terms of articles 532B and 533 of the Criminal Code (Chapter 9 of the Laws of Malta), and also, if this Court deems it appropriate, the dispositions of Article 532A of the Criminal Code (Chapter 9 of the Laws of Malta);

Having seen that the accused registered a guilty plea, which plea was confirmed after the Court solemnly explained to the accused the consequences thereof and after he was given ample time to consult again with his lawyer and reconsider his plea with the possibility to withdraw the same;

After having seen all the documentary evidence and the full acts of proceedings;

After having heard all the testimonies and submissions made by the parties;

Also after having seen that the Prosecution verbally requested this Court to apply articles 383, 384, 385 of the Criminal Code, for the safety and protection of the victims and this request was not objected to by the accused as minuted in today's records of the sitting.

After having heard submissions by the Parties with regards to the punishment which should be meted out, whereby there was an agreement

² Article 334(a) of Cap 9 of the Laws of Malta

between the accused and the Attorney General that the appropriate punishment would be that of two years suspended for four years in terms of article 28A of the Criminal Code;

Considers:

Whereas, the accused has admitted to the charges brought against him and thus these have been sufficiently proven in terms of law;

With reference to the penalty to be meted out, the Court, is taking into consideration the serious nature of the offence for which the accused is pleading guilty including the value of the res refurtiva which is not a negligible one. Having said so, the Court, is also taking into consideration his clean conviction sheet, his cooperation with the police and the fact that a guilty plea was registered at the earliest stages of the proceedings. In light of the above circumstances although the Court deems that such aggravated theft should be meted with an imprisonment sentence, enough reasons exist for the imprisonment not to be an effective one and this as also agreed to by the parties (the accused and the Attorney General).

Decide:

Consequently, for the above reasons and upon the accused's admission, the Court, after seeing articles 261(c), 279(b) and 334(a) of the Criminal Code, is finding the accused, **JOAR ARE LYNGAAS**, guilty of the charges proffered against him and is consequently condemning him to two (2) years imprisonment which, in terms of article 28A of the Criminal Code, shall not come into effect unless he commits another offence punishable with imprisonment within four (4) years from today.

In terms of Article 28H of the Criminal Code, the Court is ordering the convicted person to make a restitution in favour of Miguel Demanuele of the value of the things stolen, namely three thousand three hundred and eighty one Euro and fifty six Euro cents (€3,381.56) and this within the period of six (6) months from today.

In addition in terms of Article 383 of the Criminal Code, the Court is issuing a protection order against Joar Are Lyngaas and in favour of Miguel

Demanuele and Games Plus for the safety of these individuals and for keeping of public peace. For this purpose, the Court is ordering the Lyngaas to enter into his own recognizance the sum of one thousand Euro (€1,000) for the period of twelve (12) months.

In terms of articles 28A and 28H of the Criminal Code, the Court explained to Joar are Lyngaas in ordinary language his liability in terms of articles 28B and 28H if during the operational period he commits an offence punishable with imprisonment and/or if he fails to comply with the direction given to make a restitution in favour of the victim.

Finally, the Court orders that, the Attorney General be granted access to a scanned copy of the records of this case including this judgement within six (6) working days.

MAGISTRATE DR. ELAINE RIZZO BA. LL.D.

Christine Farrugia
Deputy Registrar.