



The Court of Magistrates (Malta)

As a Court of Court of Criminal Judicature

Magistrate Dr. Nadine Sant Lia

B.A., LL.M(Kent), LL.D; Barrister at Law (England & Wales)

Republic of Malta

vs

Gabriel-Ionut Ghiorghita

Comp No: 792/2024

Today the 14th November 2024

The Court after having seen the charges in respect of Gabriel-Ionut Ghiorghita of thirty four (34) years old, born in Romania on the 13th of June of the year nineteen ninety (1990) without a fixed address and holder of Romanian Identity card number VN833676

Accused in the name of the Republic of Malta for having between the first (1st) of October of the year two thousand and twenty-four (2024) and the second (2nd) of October of the year two thousand and twenty-four (2024) from MGM Media Games Malta of Saint Sebastian Street, Hal Qormi and/or in other areas of these Islands:

1. Committed theft of cash, which theft is aggravated by means, time and amount which amount exceeds two hundred and thirty-two euros and ninety-four cents (232.94) but does not exceed two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37) and this to the detriment of MGM – Media Games Malta and/or other natural and/or legal person/s;
2. And also for on the same dates, time, place and circumstances with intent to commit theft to the detriment of MGM – Media Games Malta and/or other natural and/or legal person/s shall have manifested such intent by overt acts which were followed by a commencement of the execution of the crime, which crime was not completed in consequence of some accidental cause independent of the will of the offender, which attempted theft was aggravated by means, time and amount which amount exceeds two thousand and three hundred and twenty-nine euro and thirty-seven cents.
3. And also for on the same dates, time, place and circumstances, wilfully committed any spoil, damage or injury to or upon any movable or immovable property belonging to MGM – Media Games Malta and/or any other natural and/or legal person/s which damage does not exceed two thousand and five hundred euro (€2,500) but exceeds two hundred and fifty euro (€250).
4. And also for on the same dates, time, place and circumstances knowingly suppressed, or in any other manner destroyed or altered the traces of, or any circumstantial evidence relating to an offence.

This Honourable Court is requested that in the instance the accused is found guilty, to apply articles 532A, 532B and 533 of Chapter 9 of the Laws of Malta,

in addition to Article 15A of Chapter 9 of the Laws of Malta together with any other article of the law which ensures compensation and/or restitution in favour of the victims.

Having seen that during the examination of the defendant in the sitting of the 3rd October 2024 done in accordance with article 392(1) of the Criminal Code, the defendant pleaded not guilty to the second charges against him but entered a guilty plea for the first charge.¹

Having seen that during the sitting of the 3rd October 2024 the defendant entered a guilty plea in respect of the charges proffered against him and this after the Court repeatedly gave him the opportunity to seek legal advice from his legal counsel and after the Court was authorised to proceed nonetheless;

In view of the defendant's declaration, the Court warned him in the most solemn manner of the consequences arising out of his guilty plea and granted him a reasonable time within which to retract such guilty plea should he so wish. After the Court granted this time to the accused, and after giving him the option to seek advice from his legal counsel, the accused reiterated that he is guilty as charged.

In view of this declaration, duly reiterated, the Court has no option but to find the accused guilty as charged in accordance with article 392A of Chapter 9 of the Laws of Malta and could proceed to deliver judgment against him.

Having seen that there exist no valid reasons in accordance with article 392A(3) of Chapter 9 of the Laws of Malta for the Court to doubt the validity of such

¹ Page 6 act of proceedings

plea of admission, or that the accused is not guilty of the crimes with which he is charged. Therefore, the crimes are sufficiently proven.

Having seen the records of the proceedings as well as the documents filed together with the charge sheet and the particular circumstances of this case;

Having heard submissions by the parties on the punishment;

Having Considered

The facts of the case

This case concerns theft done by the defendant towards MGM – Media Games Malta that was aggravated by means, time and the value of the thing stolen.

Having considered

The punishment

The Court in its deliberations concerning the punishment took note of the following factors:

- The admission of the defendant. The defendant admitted in the second sitting whilst the prosecution was still putting forward its evidence. Therefore, the defendant should benefit from the fact that he registered an admission during the early course of proceedings and this shall serve in his favour in the circumstances of the cases. This is in line with the principles espoused in local case law that by registering an early plea, the Court is saved from entering into unnecessary expenses as well as administratively be able to expedite matters quicker. The Court here

makes reference to the cases **Ir-Repubblika ta' Malta vs. Nicholas Azzopardi**², **Il-Pulizija vs. Emmanuel Testa**³, as well as legal scholars **ARCHBOLD Sentencing Guidelines 2021**⁴ and **BLACKSTONE'S CRIMINAL PRACTICE**⁵ on this point.

- Article 142(1) tal-Criminal Justice Act 2003 in England establishes five principles that should be considered when calibrating the appropriate punishment:

(a) the punishment of offenders (b) the reduction of crime (including its reduction by deterrence) (c) the reform and rehabilitation of offenders (d) the protection of the public (e) the making of reparation by offenders to persons affected by their offence.

- The charges are aggravated by means of time, means and the value of the amount stolen. Therefore this means that the Court cannot give the punishment in the minimum in accordance to article 280(1) of the Criminal Code.
- Article 20 of the Criminal Code state that when the law expressly provides that a punishment should not be given in the minimum, the punishment that should be give must always contain at least one third of the difference between the minimum and the maximum.
- The prosecution in its submissions to the Court on the appropriate penalty to be considered, reiterated that it was requesting an alternative to imprisonment in the form of a suspended sentence and compensation

² Qorti Kriminali deciza 24 ta' Frar 1997

³ Qorti tal-Appell Kriminali , [7.7.2002]

⁴ Thomson Reuteurs, S-29

⁵ Blackstone Press Limited – 2006 edition

to the victims in the amount of Euro one thousand, five hundred (€1,500) which the defence agreed to.

The Court is not bound to apply the proposed terms of punishment by the prosecution or the defence, even when there is an agreement between the two sides.

The Court however notes that the proposed or suggested punishment is within the legal parameters and can be considered.

- The parties also informed the Court that the defendant suffered from alcoholism and therefore the Court should consider giving him a Treatment Order to assist him dealing with this problem.

Decide

The Court, upon the unconditional guilty plea registered by the accused charged and after having seen articles 261(b)(c)(f), 263(a), 264(1), 265, 266, 267, 270, 278(3), 279(a), 280(2), 41(1)(a) 261(b)(c)(f), 263(a), 264(1), 265, 266, 267, 270, 278(3), 279(b), 280(2), 325(1)(b), 111(2) of the Criminal Code, Chapter 9 of the Laws of Malta, upon his voluntary admission finds Gabriel-Ionut Ghiorghita **guilty** as charged of all the charges brought against him and condemns him to a term of effective imprisonment of **two (2)** years imprisonment which in accordance to article 28A of the Chapter 9 of the Laws of Malta the said term is being suspended for four (4) years from today.

In terms of Article 28A(4) of Chapter 9 of the Laws of Malta, the Court explained to the accused in plain and simple language his liability under Article 28B of

Chapter 9 of the Laws of Malta, if during the operational period of this suspended sentence he commits an offence punishable with imprisonment.

The Court having seen article 15A and 28H of the Criminal Code order the guilty party to compensate MGM-Media Games Malta the amount of one thousand and five hundred Euros (€1,500) with the maximum term allowed by law to pay it in full. The failure of which will entitle the MGM-Media Games to seek civil redress by means of an Executive Title in the civil courts.

The Court after having seen article 412D of Chapter 9 of the Laws of Malta places the accused under a Treatment Order for a period of two (2) years to address his alcoholism and this in accordance with the decree attached with this judgment which shall be considered to be an integral part of this judgment.

The Court confirms that the Treatment Order was given after the Court explained to the accused in plain and simple language the obligations and responsibilities emanating from the Treatment Order including the consequences should he breach the Treatment Order and after the accused gave his consent.

Furthermore, in view of the fact that no experts were appointed in this case, the Court abstains from taking further cognisance of the prosecutions requests in terms of Article 533 of Chapter 9 of the Laws of Malta.

Finally, the Court, after having seen Article 392A of the Criminal Code orders that this judgment together with the records of the proceedings be transmitted to the Attorney General within six working days in terms of law.

**Delivered today the 14th November 2024, at the Courts of Justice in Valletta,
Malta.**

**Dr. Nadine Sant Lia
Magistrate**

**Oriana Deguara
Deputy Registrar**