



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

Magistrate Dr Leonard Caruana LL.D (Melit.) M.A. (Fin. Serv.)

Today, the 25th November 2024

The Police
(Inspector Jean Paul Attard)

Vs

Maxime Asacha Muehlematter
(Maltese Identity Card number 0119901A)

The Court,

Having seen the charges brought against **Maxime Asacha Muehlematter**, 20 years of age, son of Patrick and Anne Christine nee' Adego, born at Bienne, Switzerland on the 4th March 2002 and resident at 119, Triq il-Pedidalwett, Madliena, Is-Swieqi, holder of ID Card Number **0119901A** and Maltese Residence Permit Number **MT2560409** and accused him for having on the twenty fourth (24th) September, 2022, between midnight (0000hrs) and half past one in the morning (0130hrs) and/or during the previous hours, in Triq il-Madliena, Swieqi, and/or in other parts on the Maltese islands:

1. Through imprudence, carelessness, unskilfulness in your art or profession, or non-observance of regulations, caused the death of 21 year old Benjamin Simon Laferla;
2. And further for having on the same date, time, place and circumstances involuntarily caused grievous bodily harm to 20 year old Florencia Ximena Machuca Reyes, as certified by Dr. Bernard Briffa (MD: 4691) from Mater Dei hospital;
3. And further for having on the same date, time, place and circumstances through imprudence, negligence or unskilfulness in your trade or profession, or through non-observance of any regulation, caused damaged on a vehicle of make Renault, model Zoe, bearing registration number CSH 158, to the detriment of Auto Sales Limited;
4. And further for having on the same date, time, place and circumstances, involuntarily damaged a private immovable property to the detriment of Paul Colombo;
5. And further for having on the same date, time, place and circumstances, driven a motor vehicle in a reckless manner;
6. And further for having on the same date, time, place and circumstances, driven a motor vehicle in a negligent manner;
7. And further for having on the same date, time, place and circumstances, driven a motor vehicle of make Renault, model Zoe, bearing registration number CSH 158, on a road or other public place whilst under the influence of alcohol or drugs;

8. And further for having on the same date, time, place and circumstances, driven the said vehicle and failed to keep to the left side of the road or failed to signal when you were going to change direction.

The Court was requested to, in case of guilt, apart from applying the penalty according to the law, disqualify the defendant's driving license for the period it deems appropriate.

The Court was also requested to apply Section 533(1) of Chapter 9 of the Laws of Malta, as regards to the expenses incurred by the Court appointed Experts.

Having seen the Articles of Law indicated by the Attorney General in its note for judgement of the 26th February 2024 wherein the following articles were indicated:

1. Articles 17 and 31 of the Criminal Code, Cap. 9 of the Laws of Malta;
2. Article 225(1) of the Criminal Code, Cap. 9 of the Laws of Malta;
3. Article 225(2) of the Criminal Code, Cap. 9 of the Laws of Malta;
4. Article 226 of the Criminal Code, Cap. 9 of the Laws of Malta;
5. Article 328 of the Criminal Code, Cap. 9 of the Laws of Malta;
6. Article 533 of the Criminal Code, Cap. 9 of the Laws of Malta;
7. Article 15(1)(a) of the Traffic Regulations Ordinance, Cap. 65 of the Laws of Malta;
8. Article 15(A) of the Traffic Regulations Ordinance, Cap. 65 of the Laws of Malta;
9. Articles 15(A)(2) 17 and 31 of Traffic Regulations Ordinance, Cap. 65 of the Laws of Malta;

Having seen that in today's sitting the prosecution withdrew the charges numbers 5,6 and 7 given that there was no material evidence that could to a finding of guilt on these charges;

Having seen that during today's sitting Maxime Asacha Muehlematter registered a guilty plea and admitted to the charges numbers 1, 2, 3, 4 and 8 brought against him and, with the application of Article 392A(1) and Article 453(1) of the Criminal Code, Chapter 9 of the Laws of Malta, the Court warned him in the most solemn manner about the legal consequences of his admission, and afforded him a period of time to reconsider their guilty plea.

Having seen that after being given enough time, the accused confirmed his guilty plea;

Having seen all the evidence submitted by the prosecution;

Having heard the oral submissions made by the prosecution and defence council in regard to the punishment that ought to be awarded to the accused.

Considered: -

On the 24th September 2022 at around 1.30am the vehicle bearing registration number CSH-158 driven by the accused crashed into a wall in Madliena belonging to third parties. In the vehicle there were three other passengers, namely Benjamin Simon Laferla, Florencia Ximena Machuca Reyes and Marija Radunovic. A medical team together with a number of officials went on site where it was found that Benjamin Simon Laferla was in danger of loss of life, Florencia Ximena Machuca Reyes suffered grievous injuries whilst Marija Radunovic and the accused suffered slight injuries. All four persons were taken to Mater Dei Hospital for further treatment. Unfortunately, Benjamin

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Simon Laferla lost his life a few days after the accident. An *in genere* investigation was carried out and a number of experts were appointed to assist in the *in genere*.

Considered;

That in regard to the charges number 5,6 and 7 the Prosecution withdrew the charges prior to the admission of guilt of the person charged and therefore the Court cannot find any guilt in these charges and will consider them as not being ever proffered against the accused.

In relation to the eighth charge, it results that this charge is based on Regulation 75 of the Motor Vehicle Regulations (S.L. 65.11) and is classified as a contravention and punishable with an *ammenda* in accordance with Article 55 of the Traffic Regulations Ordinance. Article 688 of the Criminal Code establishes a prescriptive period of three months for these type of offences and given that the accident happened on the 24th September 2022 and there is no evidence that accused was notified with the case prior to the 24th December 2022, the Court declares this charged as time-barred.

Considers:

That in regard to the punishment, the Court is taking into account his admission of guilt and his co-operation with the investigative authorities. On the other hand, the Court cannot take these offences lightly, especially since driving a vehicle in itself requires a considerable degree of constant attention and even the slightest distraction could have fatal results as is the present case. The accused has a clean police record.

Given the circumstances of this case, the Court finds that the punishment to be awarded must reflect the seriousness and severity of this case. On the other hand, however, an effective term of imprisonment is not advisable given the situation of the accused.

Decide:

Therefore, on the basis of the above, the Court after having seen Articles 17, 31, 225(1), 226, 328 of the Criminal Code, Cap. 9 and after hearing the voluntary and unconditional admission of the accused, finds **Maxime Asacha Muehlematter guilty** of the first, second, third and fourth charge brought against him and condemns him to two (2) years imprisonment which, with the application of Article 28A of the Criminal Code is ordering such period of imprisonment not to take effect unless, during a period of four years, from today, the offender commits another offence punishable with imprisonment whilst abstains from the eighth charge given that this is time-barred.

In addition to the above and with the application of Article 30(1)(b) of the Criminal Code, the Court is hereby ordering Maxime Asacha Muehlematter to be disqualified from holding or obtaining a driving license for a period of one year to be reckoned from today.

In terms of Article 533 of the Criminal Code, the Court is ordering Maxime Asacha Muehlematter to pay unto the Registrar of the Criminal Courts and Tribunals the sum of €5,397.96 representing the fees and expenses paid to the experts in connection with these proceedings.

In accordance with Article 28A(4) of the Criminal Code, the Court explained to the offender in ordinary language his liability under article 28B of the Criminal Code if during the operational period he commits an offence punishable with imprisonment.

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Orders that within six working days the Attorney General is given access to a scanned copy of the acts of these proceedings and an access to a scanned copy of the judgement and this in terms of Article 392A(2) of the Criminal Code.

Ft.Dr. Leonard Caruana LL.D., M.A. (Fin. Serv).
Magistrate

Sharonne Borg
Deputy Registrar