



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

**MAGISTRATE DR. GIANNELLA CAMILLERI BUSUTTIL
B.A., M.A. (Fin. Serv.), LL.D.**

Today 21st August 2024

Case Number: 9477/2023

**The Police
(Inspector Elisia Scicluna)**

vs

Idris Hamam

Ibrahim Dabo

The Court,

Having seen the charges brought against the accused **Idris Hamam**, twenty five (25) years old, son of Idris and Zahra neè Ahmed, born in Sudan on the twenty fifth (25th) January of the year nineteen ninety eight (1998), without a fixed address, holder of Maltese residence permit number 9004675A and police number 201-020, and **Ibrahim Dabo**, thirty three (33) years old, son of Cramon and Dusu neè Cisse, born in Conakry, Guinea on the first (1st) February of the year nineteen ninety (1990), without a fixed address in Malta, holder of Guinean passport number 000419761,

And accuse them with having on the twenty fifth (25th) of December of the year two thousand and twenty three (2023) and/or days and/or months before, in the Maltese Islands:

- 1) Provided or made available or offered to provide the *drug and/or 'psychotropic drug' and/or 'new psychoactive substance'* as defined in Chapter 31, to an individual or individuals or for the use by an individual or individuals, without being in possession of a licence issued by the President of Malta and/or without having an authorization by means of the Regulations of 1939 for the Internal Control of Dangerous Drugs (GN 292/1939) or any authority provided by the President of Malta that may provide drugs and without the possession of an authorisation for the importation or exportation issued by the Principle Doctor of the Government according to the disposition of the sixth section of the mentioned Ordinance and without having any licence or any sort of authorisation to manufacture or provide any substance mentioned or without possessing any licence to procure the same substance, and this in breach of Regulation 4 of the Regulations of 1939 for the Internal Control of Dangerous Substances (GN 292/1939) as it was eventually amended and also in breach of the Ordinance of Dangerous Medicine according to Chapter 101 of the Laws of Malta;
- 2) Also on the same date, time, location, and circumstances, had in possession *drug and/or 'psychotropic drug' and/or 'new psychoactive substance'* as defined in Chapter 31 and this breaching the disposition of the Ordinance regarding the Medical Profession in Chapter 31 of the Laws of Malta which in the indicated circumstances show that same were not for the exclusive personal use;
- 3) Also on the same date, time, location, and circumstances, committed these *crimes in or within the distance of one hundred metres from the parameter of a school, club or any similar place attended by teenagers*, in breach of Article 120A of Chapter 31 of the Laws of Malta.

The Court is respectfully requested to apply Section 533(1) of Chapter 9 of the Laws of Malta, with regards to the expenses incurred by the Court appointed experts.

Having seen the records of the case, including the Order of the Attorney General of the twenty seventh (27th) of December of the year two thousand and twenty three (2023) in terms of subarticle (2) of Article 120A of the Medical and Kindred

Professions Ordinance, Chapter 31 of the Laws of Malta, for both the accused to be tried before the Court of Magistrates as a Court of Criminal Judicature¹;

Having seen that during their arraignment on the twenty seventh (27th) December of the year two thousand and twenty three (2023), during their examination in terms of law, both the accused pleaded not guilty to the charges brought against them;

Having also heard both the accused plead guilty to the charges brought against them, during the sitting held on the twenty fifth (25th) July of the year two thousand and twenty four (2024), which guilty plea was reiterated by the accused after that the Court explained to them the legal consequences of their guilty plea and gave them sufficient time to reconsider and withdraw their guilty plea;

Having heard final oral submissions by the parties regarding the punishment to be inflicted on the accused.

Considers that:

Both the accused pleaded guilty to the charges brought against them and in view of the said guilty plea the Court finds both the accused guilty of all the charges brought against them.

In so far as concerns the punishment to be inflicted, the accused cannot be deemed to have filed an early guilty plea, and this in view of the fact that when they entered such a plea, the Prosecution had tendered most, if not all, of the evidence in this case. Therefore it is certainly not the case that the Prosecution's and the Court's time and resources have been saved through the said plea at this stage of the proceedings.

The Court also took into consideration the serious nature of the charges brought against both the accused, the circumstances of the case and the amount of drugs found. In terms of the report drawn up by expert Scientist Gilbert Mercieca², it results that the substances MDMB-4-en-PINACA and 5-Fluoro-ADB were identified in the herbal material found inside the forty-nine (49) plastic bags within the documents marked as DA530/101-102 exhibited in these proceedings, with a combined total weight of 5.25 grams.

¹ Doc F and Doc G at fol. 19 and 20 of the acts of the proceedings

² At fol. 274 of the acts of the proceedings

Furthermore, for the purpose of the punishment to be inflicted, the Court is applying the provisions of Section 17 of the Criminal Code, Chapter 9 of the Laws of Malta with respect to the first and second charges and the increase in punishment contemplated in the second proviso of Section 120A(2) of the Medical and Kindred Professions Ordinance, Chapter 31 of the Laws of Malta.

Conclusion

For these reasons, the Court after having seen Sections 40A, 118A, 120A(1)(a)(2)(b)(i) and the second proviso of Section 120A(2) of the Medical and Kindred Professions Ordinance, Chapter 31 of the Laws of Malta, Regulations 2, 3(1) of the Drugs (Control) Regulations, Legal Notice 22 of 1985 as amended, and Sections 17 and 533 of the Criminal Code, Chapter 9 of the Laws of Malta, finds the accused **Idris Hamam** and **Ibrahim Dabo** guilty of the charges brought against them and condemns them each to a term of fifteen (15) months effective imprisonment – from which term one must deduct the period of time, prior to this judgement, during which the persons sentenced have been kept in preventive custody in connection with the offences in respect of which they are being found guilty by means of this judgement – and a fine (multa) of eight hundred euros (€800).

In terms of Section 533(1) of the Criminal Code, Chapter 9 of the Laws of Malta, the Court condemns each of the persons sentenced to the payment of half of the expenses relating to the appointment of experts by the Inquiring Magistrate, namely Dr. Marisa Cassar³ and PS 586 Mario Azzopardi⁴ and to the payment of half of the expenses relating to the appointment of expert Florence Apap⁵ in these proceedings, amounting, to the total sum of five thousand seven hundred and thirty two euros and ninety four euro cents (€5732.94). The Court is also condemning each of the persons sentenced to the payment of half of the expenses relating to the appointment of expert Mr. Gilbert Mercieca⁶ by the Inquiring

³ From Dr. Marisa Cassar's report marked as 'Doc MC1' inserted at fol. 191 et seq. of the acts of the proceedings it results that the expenses amount to €1298.

⁴ From the report of PS 586 Mario Azzopardi marked as 'Doc MA' inserted at fol. 166 of the acts of the proceedings it results that the expenses amount to €146.10 and from the copy of the report of the same expert exhibited at fol. 284 of the acts of the proceedings, it results that there are further expenses of €56.50.

⁵ From the report of Ms. Florence Apap marked as 'Doc FA' inserted at fol. 241 of the acts of the proceedings it results that the expenses amount to €4232.34.

⁶ The report exhibited by Mr. Gilbert Mercieca marked as 'Dok GM' inserted at fol. 153 of the acts of the proceedings and the copy of the same report in the English language inserted at fol. 267 of the acts of the proceedings, give no indication of the amount of expenses.

Magistrate, once these expenses are determined by the Registrar of the Criminal Courts and Tribunals.

The Court orders that the drugs exhibited as ‘Doc GM1’⁷ are destroyed, once this judgement becomes final, under the supervision of the Registrar, who shall draw up a *proces-verbal* documenting the destruction procedure. The said *proces-verbal* shall be inserted in the records of these proceedings not later than fifteen days from the said destruction.

The Court orders that a copy of this judgement is served upon the Registrar of the Criminal Courts and Tribunals.

In terms of Section 392A(2) of the Criminal Code, Chapter 9 of the Laws of Malta, the Court orders that within six (6) working days from the date of this judgement, the Attorney General shall be given access to a scanned copy of the records, together with access to a scanned copy of the judgment.

Magistrate Dr. Giannella Camilleri Busuttil

Deputy Registrar Michela Attard Deguara

⁷ At fol. 148 of the acts of the proceedings