



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

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

Today, the 07th April 2025

THE REPUBLIC OF MALTA

Vs

BOJANA DURIC
(Maltese Identity Card number 0138469A)

BILJANA TUTIC
(Maltese Identity Card number 0174866A)

The Court,

Having seen the charges brought against **Bojana Duric** of fifty-seven (57) years, born in Serbia, on the third (3rd) of August of the year nineteen sixty-seven (1967), residing at 40, Fl 1, Triq San Filippu, Birzebbugia, holder of Serbian passport number 013628690 and holder of Maltese Identity card number 0138469A and against **Biljana Tutic** of forty-nine (49) years, born in Serbia, on the twenty-third (23rd) of February of the year nineteen seventy-five (1975), residing at South Point, Blk A, Fl 3, Triq il-Knisja, Birzebbugia,

holder of Serbian passport number 016252654 and holder of Maltese identity card number 0174866A and accused with having between the first (1st) day of July of the year two thousand twenty-four (2024) and the thirty-first (31st) day of August of the year two thousand twenty-four (2024), in these Islands and/or outside of these Islands, by several acts committed by them, even if at different times, which constituted violations of the same provision of the law, and were committed in pursuance of the same design:

1. Committed acts of Money Laundering by:
 - i. Converting or transferring property knowing or suspecting that such property was derived directly or indirectly from, or the proceeds of, criminal activity or from an act or acts of participation in criminal activity, for the purpose of or purposes of concealing or disguising the origin of the property or of assisting any person or persons involved or concerned in criminal activity;
 - ii. Concealing or disguising of the true nature, source, location, disposition, movement, rights with respect to, in or over, or ownership of property, knowing or suspecting that such property is derived directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;
 - iii. Acquiring, possessing or using of property knowing or suspecting that the same was derived or originated directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;
 - iv. Retaining without reasonable excuse of property knowing or suspecting that the same was derived or originated directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;

- v. Attempting any of the matters or activities defined in the above foregoing sub-paragraphs (i), (ii), (iii) and (iv) within the meaning of article 41 of the Criminal Code;
- vi. Acting as an accomplice within the meaning of article 42 of the Criminal Code in respect of any of the matters or activities defined in the above foregoing sub-paragraphs (i), (ii), (iii) and (iv) and (v);

And all this in breach of Article 3 of the Prevention of Money Laundering Act, Chapter 373 of the Laws of Malta, and Article 18 of the Criminal Code, Chapter 9 of the Laws of Malta. (Articles 2 and 3 of Chapter 373 of the Laws of Malta, Article 18 of Chapter 9 of the Laws of Malta)

The Court was requested to order the issuance of a “Seizing and Freezing Order” and attach in the hands of third parties in general all moneys and other movable property due or pertaining or belonging to the accused, and prohibit the accused from transferring, pledging, hypothecating or otherwise disposing of any movable or immovable property such that the specific assets that are to be attached should be the following (or assets and property having the same value):

With regards Bojana Duric:

- The total sum of nine thousand, eight hundred and forty-eight euros (€9,848);
- The bank account held in the name of such accused with the bank Moneybase with number IBAN MT87CCUH32001100300020001097865;

With regards Biljana Tutic:

- The total sum of three thousand, six hundred and seventy-four euros (€3,674);

- The bank account held in the name of such accused with the bank Moneybase with number IBAN MT87CCYG32001100300020001097743;

And this in terms of Article 23A of the Criminal Code, Chapter 9 of the Laws of Malta and Article 5 of the Prevention of Money Laundering Act, Chapter 373 of the Laws of Malta as regulated by Article 36 of the Proceeds of Crime Act, Chapter 621 of the Laws of Malta;

The Court, in the case of a guilty verdict against the accused and in addition to any punishment that the Court may impose was also requested to order the confiscation of any property that this Honourable Court determines that is subject to confiscation as a result of finding of guilt, in terms of Article 38(1) of the Proceeds of Crime Act, Chapter 621 of the Laws of Malta, including any other punishment that may be imposed for a relevant offence, as well ordering the forfeiture in favour of the Government of the proceeds or of such property the value of which corresponds to the value of such proceeds deemed to be derived from the offence of money laundering and liable to confiscation or forfeiture by the court, due or pertaining or belonging to the accused, in terms of Article 23B of the Criminal Code, Chapter 9 of the Laws of Malta;

The Court was also requested that in the case of guilt, in addition to the punishment in accordance to Law, the forfeiture of the corpus delicti, of the instruments used or intended to be used in the commission of the crime, and of anything obtained by such crime and this in terms of Article 23 of the Criminal Code;

The Court was requested that in the case of guilt, in addition to the punishment in accordance to Law, orders the accused to pay the costs incurred in connection to the employment of any experts as provided in Article 533(1) of Chapter 9 of the Laws of Malta and orders the accused to pay damages as per Article 532A of Chapter 9 of the Laws of Malta;

Having seen the Order of the Attorney General issued on the 16 October 2024 in accordance with Article 3(2A)(a)(ii) of the Prevention of Money Laundering Act (Cap. 373 of the Laws of Malta) wherein it is directed that the persons charged are brought before the Court of Magistrates (Malta) as a Court of Criminal Judicature to answer for the accusations proffered against them for the breach of the provisions of the same Act.

Having seen that during the sitting of the 9th December 2024 **both** the accused registered a guilty plea and admitted to the charges brought against them 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 them in the most solemn manner about the legal consequences of their admission, and afforded them a period of time to reconsider their guilty plea.

Having seen that after being given enough time, the accused confirmed their 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;

That from the evidence produced in this case it results that on the 25 July 2024, Bojana Duric opened an account with a local Financial Institution and deposited €10 in it. On the 20 August 2024 she received two transactions of €250 each from two individuals having separate bank accounts with two Financial Institutions registered in the Czech Republic. On the 21 August 2024 she received a further two transactions of €4,674 each from two bank accounts registered with two Financial Institutions registered in Germany. On the same date, she transferred the sum of €9,562 to a Spanish Bank account pertaining to a cryptocurrency exchange registered in the Czech Republic. The remaining balance of €296 was then transferred to an account with an e-Banking

institution. Subsequently, on the 26 August 2024, the local Financial Institution submitted a Suspicious Transaction Report with the authorities.

When asked about this transaction by the local Financial Institution, Bojana Duric explained that these funds originated from the sale of immovable property in the Czech Republic and that the funds were transferred to Germany as she lent some money to her friends. She said that the funds were transferred to a cryptocurrency exchange on the advice of her friend who works with the exchange.

Biljana Tusic, from her end, opened an account with the same local Financial Institution as Bojana Duric on the 22 July 2024. There was minimal activity in this account until she received a transaction of €250 and another one of €750 both on the 22 August 2024. One of the transactions was received from a financial institution in the Czech Republic whilst the other in Germany. That same day she transferred the amounts received to an account in her name held with a local financial institution and subsequently transferred the sum of €960 to an account held by a third party with the same financial institution. On the 23 August 2024 she was due to receive the sum of €2,674 which transaction did not go through due to incongruence with the account activity.

When questioned about this transaction by the local Financial Institution, Biljana Tusic explained that the sum received was a repayment of a loan from a friend of hers.

The police noticed that there were similarities between these two seemingly unrelated transactions. First of all, both accused are employed at the same workplace, the explanation given for the transactions was substantially similar, the financial institutions involved are the same and there is a proximity in the dates of the transaction.

On the 2 September 2024 the accused were spoken to by the police, where they both explained that they were induced by a certain "Noah" to earn money by performing some cryptocurrency transactions. They confirmed that they do

not know who this person is. sThe scheme was that they receive funds and transfer a portion of them for the purchase of cryptocurrencies whilst keeping the rest as a commission. They both stated that the descriptions given to the transactions were fictitious and that their accounts with the local financial institution were opened solely for the purposes of these transactions. They stated that the communication with this “Noah” was done through tele messaging services and that when they informed him that they were being questioned by the police he immediately deleted all communication.

Upon further investigation with the German authorities, the police received information that the sum of €4,674 transferred to Bojana Duric was the result of a fraud committed against a third party. Although requests for information were sent by the police to the other jurisdictions about the transactions, no information was yet received until the date of their admission of guilt before this Court.

Considers:

That in this case, from the information received it results that the accused were led into believing that they could make money but what appeared to be a simple transaction of purchasing cryptocurrency with funds that were not even theirs but were given to them. From the evidence brought to this court it is clear that the accused could have easily suspected that these transactions are extremely suspicious. They did not know who the other person, “Noah”, was and were also aware that the descriptions accompanying the transactions were not true. This mere suspicion is enough to satisfy the elements of the offence of Money Laundering as defined by Article 2 of the Prevention of Money Laundering Act (Cap. 373 of the Laws of Malta), and subsequently have breached Article 3(2A)(a)(ii) of the same Act.

That in regard to the punishment, Article 3(2A)(a)(ii) of the mentioned Act stipulates that any person found guilty of committing the offence of Money Laundering is liable to a term of imprisonment of not less than 18 months but not exceeding 9 years or a fine (multa) of not less than €20,000 but not more than €250,000 or to both such fine and imprisonment together.

Moreover, Article 38(1) of the Proceeds of Crime Act (Cap. 621 of the Laws of Malta) stipulates that when a person is convicted of a relevant offence (such as the present charges) the Court shall include a Confiscation Order with the aim of confiscating any property¹ which it determines as being subject to confiscation. Article 3(6) of the Proceeds of Crime Act, on the other hand, defines property subject to confiscation as including the proceeds of crime, facilitating property, and all property involved in a money laundering offence (emphasis added by this Court).

Therefore, apart from finding guilt of the persons charged and awarding the respective punishment, the Court must also confiscate in favour of the Government of Malta, the sums involved in the commission of this offence and as indicated by the prosecution.

In regard to Article 38(2) of the Proceeds of Crime Act, the Court notes that the prosecution has already indicated the assets which are subject to confiscation, this being:

In regard to **Bojana Duric**:

- The total sum of nine thousand, eight hundred and forty eight Euro (€9,848);
- The Bank account held in her name with the bank Moneybase bearing IBAN MT87CCUH32001100300020001097865;

In regard to **Biljana Tutic**:

- The total sum of three thousand, six hundred and seventy four Euro (€3,674);

¹ As defined in article 3(6) of the Proceeds of Crime Act.

- The Bank account held in her name with the bank Moneybase bearing IBAN MT87CCUH32001100300020001097743;

The Court also notes that during today's sitting, the accused informed the Court that they are not contesting the list of assets subject to confiscation and that therefore the Court may proceed to confiscate the indicated assets.

Decide:

Therefore, on the basis of the above, the Court after having seen Article 3 of the Prevention of Money Laundering Act (Cap. 373 of the Laws of Malta) and Article 18 of the Criminal Code (Cap. 9 of the Laws of Malta) and after hearing the voluntary and unconditional admission of the accused, finds **Bojana Duric** and **Biljana Tutic** guilty of all the charges brought against them and condemns each one of them to eighteen (18) months 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 (4) years from today, either of them commits another offence punishable with imprisonment in which case this period of imprisonment will take effect in regard to that person.

In addition to the above and in accordance with Article 38(1) of the Proceeds of Crime Act, the Court is making a Confiscation Order and is subsequently ordering the confiscation in favour of the Government of Malta the following assets:

In regard to **Bojana Duric**:

- The total sum of nine thousand, eight hundred and forty eight Euro (€9,848);
- The Bank account held in her name with the bank Moneybase bearing IBAN MT87CCUH32001100300020001097865;

In regard to **Biljana Tutic**:

- The total sum of three thousand, six hundred and seventy four Euro (€3,674);
- The Bank account held in her name with the bank Moneybase bearing IBAN MT87CCUH32001100300020001097743;

Given that no experts were appointed in these proceedings, the Court is abstaining from applying the provisions of Article 533 of the Criminal Code in this case.

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

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