



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

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

Today 22nd April 2025

Case Number: 110/2025

The Republic of Malta

Vs

Beyene Fessahatsion Weldeabzghi

The Court,

Having seen the charges brought against the accused **Beyene Fessahatsion Weldeabzghi**, thirty three (33) years old, son of Fessahatsion and Ezgaharia nee' Weidetnsaie, of Eritrean Nationality, born in Eritrea, on the twenty-fourth (24th) of May of the year one thousand, nine-hundred and ninety-one (1991), residing in forty four (44), Algoma, Triq it-Torri, Imsida and holder of Maltese Identity Card number 115501A.

In the name of the Republic of Malta, we hereby charge **Beyene Fessahatsion Weldeabzghi** for having on the sixth (6th) of February of the year two thousand and twenty five (2025), between seven (07:00) and eight (08:00) in the morning, in a Garden situated near Triq Nazzjonalni and Portes des Bombes, Floriana also known as *Floriana Garden* and/or in other places in these Islands:

1. With intent to commit, engaged in non-consensual carnal connection, that is to say, vaginal, anal or oral penetration with any sexual organ on the

person of **Omissis**, whereby he 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;

2. And furthermore, that on the same date, time, place and circumstances, without a lawful order from the competent authorities, and saving cases where the law authorizes private individuals to apprehend offenders, arrested, detained or confined **Omissis** against her will, or provided a place for carrying out such arrest, detention or confinement, which crime is aggravated given that it was committed as a means of compelling **Omissis** to do an act or submit to treatment injurious to the modesty of the same **Omissis**;
3. And furthermore, that on the same date, time, place and circumstances, with intent to commit, a non-consensual act of sexual nature which does not, in itself, constitute any of the crimes, either completed or attempted, referred to in articles 198 to 206 of Chapter 9 of the Laws of Malta on the person of **Omissis**, whereby he 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;
4. And furthermore, that on the same date, time, place and circumstances, with intent to commit, except in the cases referred to in the preceding articles of this Sub-title or in any other provision of law, by any act committed in a public place or in a place exposed to the public, whereby he 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;
5. And furthermore, that on the same date, time, place and circumstances, with intent to commit, subjected **Omissis** to an act of physical intimacy, and/or requested sexual favours from **Omissis**, and/or subjected **Omissis** to any act and, or conduct with sexual connotations, including spoken words,

gestures and, or the production, display or circulation of any written words, pictures, and, or any other material, where such act, words, and, or conduct is unwelcome to the victim, and could be reasonably be regarded as offensive, humiliating, degrading, and, or intimidating towards that person, whereby he 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;

6. And furthermore, that on the same date, time, place and circumstances, caused **Omissis** fear that violence will be used against her or her property or against the person or property of any of her ascendants, descendants, brothers or sisters or any person mentioned in article 222(1);
7. And furthermore, that on the same date, time, place and circumstances, during the operational period of a suspended sentence, given by the Court of Magistrates (Malta) as a Court of Criminal Judicature, on the thirty-first (31st) of August of the year two thousand and twenty-two (2022) presided by Magistrate Dr. Caroline Farrugia Frendo L.L. D. committed an offence punishable with imprisonment;
8. And furthermore, if found guilty, is deemed to be a recidivist as stipulated in Articles 49 and 50 of Chapter 9 of the Laws of Malta, and this after being sentenced for any offence by a judgement, which has become *res judicata*;

This Court is being requested to provide security for **Omissis** as the Court sees fit and necessary and under all the conditions that deems appropriate, by issuing a Protection Order in terms of Article 412C of Chapter 9 of the Laws of Malta;

In the case of guilt, in addition to the punishment in accordance with the Law, the Court is being requested to order that the sentence is notified to the Registrar as contemplated in Article 6(2) of Chapter 518 of the Laws of Malta;

In the case of guilt, in addition to the punishment in accordance with the law, the Court is being requested to apply any Article which ensures the compensation and/or restitution to the victim in relation to the relevant offences;

The Court is also being requested that in the case of guilt, in addition to the punishment in accordance with the law, orders the accused to pay the costs incurred in terms of Articles 532A, 532B and/or Article 533 of the Criminal Code, Chapter 9 of the Laws of Malta;

In the case of guilt, in addition to the punishment in accordance with the law, the Court is being requested to apply Articles 382, 383, 384, u 385 of Chapter 9 of the Laws of Malta;

Having seen the records of the case;

Having seen that the accused **Beyene Fessahatsion Weldeabzghi** pleaded guilty to the charges brought against him, which guilty plea was reiterated by the accused after that the Court explained to him the legal consequences of his guilty plea and gave him sufficient time to reconsider and withdraw his guilty plea;

Having heard submissions regarding punishment by the prosecution and the defence counsel.

Considers that:

The accused pleaded guilty to the charges brought against him and thus these have been sufficiently proven.

However the Court saw that certain charges were given as alternative charges, in particular that of attempted non consensual acts of a sexual nature in terms of Articles 41 and 207 of Chapter 9 of the Laws of Malta and that of an attempted offence against decency or morals committed in public in terms of Articles 41 and 209 of Chapter 9 of the Laws of Malta, which are alternative to the offence of attempted rape in terms of Articles 41 and 198 of Chapter 9 of the Laws of Malta. Thus the Court decides to find the accused guilty of the charge of attempted rape.

With reference to the punishment to be meted out, this Court is taking into account, the serious nature of the charges of which the accused is being found guilty, the conviction sheet exhibited by the Prosecution, from where it results that the accused has already been found guilty of several offences and the

circumstances of the case. The Court is also taking into consideration the fact that the accused pleaded guilty at the earliest possible opportunity in these proceedings.

Conclusion

For these reasons, the Court, after having seen Articles 28B(1), 41, 49, 50, 86, 87(1)(g), 198(1), 207, 209, 222(1), 251A(c)(d)(e), 251(3) of the Criminal Code, Chapter 9 of the Laws of Malta, deems the third (3rd) and fourth (4th) charges to be an alternative to the first (1) charge and therefore abstains from taking further cognisance of the third (3rd) and fourth (4th) charges, and finds the accused **Beyene Fessahatsion Weldeabzghi** guilty of the first (1st), second (2nd), fifth (5th), sixth (6th), seventh (7th) and eighth (8th) charges brought against him and in respect of the first (1st), second (2nd), fifth (5th), sixth (6th) and eighth (8th) charges condemns him to a punishment of **seven (7) years effective imprisonment** – from which term one must deduct the period of time, prior to this judgement, during which the person sentenced has been kept in preventive custody in connection with the offences in respect of which he is being found guilty by means of this judgement.

Furthermore as regards the seventh (7th) charge and by application of Section 28B(1) of Chapter 9 of the Laws of Malta, the Court orders that the **term of two (2) years imprisonment** originally suspended for four (4) years to which the accused was condemned by a judgement delivered by this Court as presided by Magistrate Dr. Caroline Farrugia Frendo on the thirty first (31st) August of the year two thousand and twenty two (2022) in the names *Il-Pulizija -vs- Beyene Fessahatsion Weldeabzghi* **is brought into effect.**

In terms of Section 382A of Chapter 9 of the Laws of Malta the Court is further issuing a Restraining Order against the accused with regard to Omissis for a period of three (3) years from the date of this judgement and this under the terms and conditions set out in a Decree issued today, which Decree is being attached to and forms an integral part of this judgement.

The Court explained to the accused in ordinary language that in terms of subsection (3) of Section 382A of Chapter 9 of the Laws of Malta, if without reasonable excuse he contravenes any prohibition or restriction imposed upon

him by the Restraining Order issued against him, he shall be guilty of an offence and shall, on conviction be liable to a fine (multa) of seven thousand Euro (7,000) or to imprisonment not exceeding two (2) years or to both such fine and imprisonment.

In order to further protect the injured party, the Court orders a ban on the publication of the name of the said party.

In view of the fact that no experts were appointed in this case, the Court abstains from taking further cognisance of the prosecution's request in terms of Article 533 of the Criminal Code, Chapter 9 of the Laws of Malta

The Court orders that a copy of this judgement is served upon the Registrar of the Criminal Courts and Tribunals for it to be inserted by means of a note in the acts of the proceedings in the names Il-Pulizija -vs- Beyene Fessahatsion Weldeabzghi before this Court presided by Magistrate Dr. Caroline Farrugia Frendo.

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 judgement.

Magistrate Dr. Giannella Camilleri Busuttil

Deputy Registrar Michela Attard Deguara