



**COURT OF MAGISTRATES (MALTA)
AS A COURT OF CRIMINAL JUDICATURE
MAGISTRATE DR. GABRIELLA VELLA B.A., LL.D.**

Case No. 353/2022

**The Police
(Inspector Andy Rotin)**

Vs

Kristiyan Slavchev Dakov

Today, 8th July 2025

The Court,

After having considered the charges brought against **Kristiyan Slavchev Dakov**, son of Slavcho and Ankadakova, born in Bulgaria on the 14th September 1995 and holder of Identity Card Number 0065861A, of having committed several acts, even if at different times, which constitute violations of the same provision of the law, on the 19th May 2022 and/or the following days, within the Maltese Islands:

1. Using violence, including moral and, or psychological violence, and, or coercion, in order to compel another person to do, suffer or omit anything or to diminish such other person's abilities or to isolate that person, or to restrict access to money, education or employment to the detriment of Nicole Borg and/or Elton Anthony Borg and/or other persons;
2. Caused Nicole Borg and/or Elton Anthony Borg and/or other persons fear that violence will be used against him/her or his/her property or against the person or property of any of his/her ascendants, descendants, brothers or sisters and/or other person;
3. By means of an electronic communications network or apparatus threatened the commission of any crime;
4. By means of an electronic communications network or apparatus with intent to extort money or any other thing, or to make any gain, or with intent to induce another person to do or omit from doing anything, threatened to accuse or to make a complaint against, or to defame, that or another person to the detriment of Nicole Borg and/or Elton Anthony Borg and/or any other person;

5. By means of an electronic communications network or apparatus made any other improper use;
6. Uttered insults or threats to the detriment of Nicole Borg and/or Elton Anthony Borg and/or any other person;
7. Disobeyed the lawful orders of any authority or of any person entrusted with a public service;

After considering the requests put forth by the Prosecution for the Court to: (i) in order to provide for the safety of Nicole Borg and Elton Anthony Borg or for the purpose of providing for the safety of other individuals or for the keeping of the public peace or for the purpose of protecting the injured person or other individuals of their family from harassment or other conduct which will cause a fear of violence, issue a Protection Order against Kristiyan Slavchev Dakov in terms of Section 412C of Chapter 9 of the Laws of Malta, and (ii) in case Kristiyan Salvchev Dakov is found guilty of the charges brought against him, where it deems it expedient, for the purpose of providing for the safety of the injured person and other individuals, apply Sections 382A, 383, 384, 385 and 412D of Chapter 9 of the Laws of Malta; (iii) in case Kristiyan Salvchev Dakov is found guilty of the charges brought against him, to apply Section 533 of Chapter 9 of the Laws of Malta with regards to any expenses incurred by Experts appointed by the Court;

After having considered the documents marked Doc. “AR1” to Doc. “AR9” submitted by the Prosecution at folios 15 to 37 of the records of the proceedings, amongst which the Consent of the Attorney General in terms of Section 370(4) of Chapter 9 of the Laws of Malta in the Maltese and the English Language¹;

After having hearing the accused declare that he has no objection to his case being dealt with summarily and plead that he is not guilty of the charges brought against him²;

After having heard testimony by Nicole Borg during the sittings held on the 26th September 2022³ and on the 25th October 2022⁴ and after having considered the documents submitted by her marked as Doc. “NB1” to Doc. “NB3” at folios 55 to 57 of the records of the proceedings and Doc. “NBX” at folio 68 of the records of the proceedings, after having heard testimony by Elton Anthony Borg during the sitting held on the 26th September 2022⁵ and by Kurt Borg⁶ and Erica Borg⁷ during the sitting held on the 25th October 2022, testimony by Dr. Beppe Micallef Trigona

¹ Doc. “AR1” and Doc. “AR2” at folio 15 and 16 of the records of the proceedings.

² Folio 39 of the records of the proceedings.

³ Folios 51 to 54 of the records of the proceedings.

⁴ Folios 66 and 67 of the records of the proceedings and folio 76 of the records of the proceedings.

⁵ Folios 58 to 61 of the records of the proceedings.

⁶ Folios 69 to 71 of the records of the proceedings.

⁷ Folios 72 to 75 of the records of the proceedings.

during the sitting held on the 22nd November 2022⁸ and testimony by PS790 Nathan Zerafa during the sittings held on the 22nd November 2022⁹ and on the 23rd January 2024¹⁰ and after having considered the document submitted by PS790 Nathan Zerafa marked Doc. “NZ” at folios 85 to 89 of the records of the proceedings, after having heard testimony by PS2344 Abigail Laferla during the sittings held on the 22nd November 2022¹¹ and on the 21st March 2023¹² and after having considered the documents submitted by her marked Doc. “ALX” at folios 94 to 100 of the records of the proceedings and Doc. “AL” at folio 177 of the records of the proceedings, after having heard testimony by Inspector Andy Rotin during the sittings held on the 19th January 2023¹³, on the 11th May 2023¹⁴ and on the 7th March 2024¹⁵ and after having considered the documents submitted by him marked Doc. “AR10” to Doc. “AR13” at folios 129 to 138 of the records of the proceedings and Doc. “ART” at folios 187 to 190 of the records of the proceedings, after having heard testimony by Eleanor Vella D’Amato during the sitting held on the 11th May 2023¹⁶ and after having considered the documents submitted by her marked Doc. “ID” at folios 193 to 247 of the records of the proceedings, after having heard testimony by the Psychiatric Expert Dr. Joseph Cassar¹⁷ during the sittings held on the 19th July 2023¹⁸ and on the 16th May 2024¹⁹ and after having considered his Report at folios 271 to 275 of the records of the proceedings, after having heard testimony by Probation Officer Sveltana Bezzina Giannoukos given during the sitting held on the 27th September 2024²⁰ and after having considered the Social Inquiry Report submitted by the said Probation Officer marked Doc. “SB” at folios 311 to 330 of the records of the proceedings, and after having heard testimony by the accused during the sitting held on the 12th November 2024²¹ and by Dr. Paul Sciberras given during the sitting held on the 21st January 2025²²;

After having heard oral submissions by the Prosecution and Defence Counsel;

After having considered all the records of the proceedings;

⁸ Folios 78 to 80 of the records of the proceedings.

⁹ Folios 81 to 84 of the records of the proceedings.

¹⁰ Folios 279 to 283 of the records of the proceedings.

¹¹ Folios 90 to 93 of the records of the proceedings.

¹² Folio 176 of the records of the proceedings.

¹³ Folios 121 to 128 of the records of the proceedings.

¹⁴ Folio 186 of the records of the proceedings.

¹⁵ Folios 285 to 288 of the records of the proceedings.

¹⁶ Folios 191 and 192 of the records of the proceedings.

¹⁷ Appointed by means of a Decree dated 1st June 2023 at folio 249 of the records of the proceedings.

¹⁸ Folios 269 and 270 of the records of the proceedings.

¹⁹ Folios 292 to 301 of the records of the proceedings.

²⁰ Folios 305 to 310 of the records of the proceedings.

²¹ Folios 332 to 349 of the records of the proceedings.

²² Folios 368 to 375 of the records of the proceedings.

Considers:

The accused is being charged with having committed several acts, even if at different times, which constitute violations of the same provision of the law, on the 19th May 2022 and/or the following days, within the Maltese Islands: (1) Using violence, including moral and, or psychological violence, and, or coercion, in order to compel another person to do, suffer or omit anything or to diminish such other person's abilities or to isolate that person, or to restrict access to money, education or employment to the detriment of Nicole Borg and/or Elton Anthony Borg and/or other persons; (2) Caused Nicole Borg and/or Elton Anthony Borg and/or other persons fear that violence will be used against him/her or his/her property or against the person or property of any of his/her ascendants, descendants, brothers or sisters and/or other person; (3) By means of an electronic communications network or apparatus threatened the commission of any crime; (4) By means of an electronic communications network or apparatus with intent to extort money or any other thing, or to make any gain, or with intent to induce another person to do or omit from doing anything, threatened to accuse or to make a complaint against, or to defame, that or another person to the detriment of Nicole Borg and/or Elton Anthony Borg and/or any other person; (5) By means of an electronic communications network or apparatus made any other improper use; (6) Uttered insults or threats to the detriment of Nicole Borg and/or Elton Anthony Borg and/or any other person; (7) Disobeyed the lawful orders of any authority or of any person entrusted with a public service.

The accused pleaded that he is not guilty of the charges brought against him.

Evidence:

Nicole Borg²³, one of the alleged victims in these proceedings, testified that she knew the accused, whom she recognised as being Kristiyan Dakov, way back in 2017 and stated that *we went out twice or three times with his best friend and my cousin but then it just ended, about 3 or 4 times maybe, but then it ended. Time passed and I saw him again last December ... December 2021. Again with my cousin and his friend, the same we met twice or three times but with them and not alone, never alone, and in May I received some messages from him. ... May 2022. ... On Instagram. After the messages I went to the police and after 2 days he posted a video speaking about me and my father and even my uncle.*

With regards to the messages, which were sent to her by the accused on the 19th May 2022, Nicole Borg stated that *he was saying that my father was threatening him and that my father put cameras in his house and that he went into his house and my father doesn't even know him. ... He told me "Where's your father? I am going to come for him", he told me that he wanted to fight him ... He also told me that my father hates him and my father doesn't even know him and he never met him. He only saw him at the Police Station on that day and that was the first time he met him. ... he was threatening him and even on the video that he posted.* With

²³ Testimony given during the sitting held on the 26th September 2022, folios 51 to 54 of the records of the proceedings.

regards to the video which she claimed was posted on the 20th or 21st May 2022, Nicole Borg stated that *he was saying bad things about me and about my father, he said that I do bad things and that my father taught me how to do them, he was threatening my father and he said that my father put cameras and microphones in his house and in his car and again, my father doesn't even know him. He was also threatening my uncle and he said that he doesn't care about them. ... He posted the video, he was saying very bad things about me and my family, I got a very bad depression and I even have the certificates and everything, because of him I had 2 months where I didn't even go out and I didn't even go to work because I was scared even going out the door. I used to go out only with my parents or with my brother and my life changed completely because of him. I never thought that he would do it because I never did anything bad to him and even my parents don't even know him ... it was all for nothing. He tried to accuse me of things that I didn't even do, he said that I cheated on him when I wasn't even with him, I only went out with him twice or three times when I was 16 years old. Can you imagine a 16 year old cheating on him? Then after 5 years he accused me and my father of these things. It doesn't make sense.*

Asked whether anything in particular might have triggered the accused to post the video in question, Nicole Borg replied *no, nothing. I last saw him in December 2021 and then on the 19th May I received the messages. I haven't even spoken to him, I didn't even speak to him or anything from December until May.* She further stated that *the Police asked him to delete it (that is the video) and he didn't delete it. He made fun of them actually on more stories after that.*

During the sitting held on the 26th September 2022²⁴, Nicole Borg submitted a report drawn up by Dr. Beppe Micallef Trigona and also the medical prescriptions of the medicines he prescribed her - Doc. "NB1" to Doc. "NB3" at folios 55 to 57 of the records of the proceedings. During the sitting held on the 25th October 2025²⁵, Nicole Borg submitted a pen-drive marked as Doc. "NBX"²⁶ containing the messages sent to her by the accused and the video posted by the accused on his Instagram account, together with other videos posted on the accused's Instagram account.

Elton Borg²⁷, the other alleged victim in these proceedings, testified that *jien sirt nafu* - the accused whom he recognised as Kristiyan Dakov - *darba l-Għassa. L-ewwel darba li ltqajt miegħu kien gol-Għassa tal-Pulizija tal-Hamrun.* Asked about the incidents concerning the merits of these proceedings, Elton Borg stated that his daughter Nicole *ma nafx bagħtitlix jew ċemplitli imma nsomma u qaltli "Da, inti qed tiġġieled ma' xi ħadd?" u jien għeditilha "Qed niġġieled ma' xi ħadd?" Qaltli "Iva, għax qed iċempilli wieħed u qalli li qed tiġġieled miegħu".* Asked whom his daughter was referring to, Elton Borg replied and further stated *għal Dakov u jien għidtilha li lanqas biss nafu u lanqas qatt ma rajtu b'għajnejja. Kif jista' jkun*

²⁴ Folios 51 to 54 of the records of the proceedings.

²⁵ Folio 66 and 67 of the records of the proceedings.

²⁶ Folio 68 of the records of the proceedings.

²⁷ Testimony given during the sitting held on the 26th September 2022, folios 58 to 61 of the records of the proceedings.

qed niggielied ma' xi hadd li jien nahlef bil-gurament ... li jiena lanqas biss qatt ma rajtu u qatt ma kellimtu? Jien ghidt kif jista' jkun u qaltli "Għax dan qed jgħid li qed tiġgieldu?" u jien hsibt li xi hadd qed jiċċajta magħha fil-verità. In fatti, bqajt sejjer l-ikla jiena u lanqas biss mort, xejn. Imbagħad reggħet ċemplitli nsomma u għidtilha biex tmur l-Għassa għax qisha bdiet tibza' u jien bqajt l-ikla. Sadanittant ċemplitli l-mara u qaltli "Ejja għax hawn wiehed qed jgħajjat u qed jgħid li morthu id-dar tiegħu", li jien dħaltli d-dar tiegħu u kif rajt hekk imbagħad għidtilhom "Skuzawni imma ha jkolli nitlaq" u mort l-Għassa. Kien hemm żewġ kuntistabbli tal-Pulizija bdew jisimgħuh kollox jiġifieri, u jien mort u għidtili jien nahlef u nerga' nahlef, 4 darbiet qed nahlef, li jien lil lanqas qatt ma rajtu u lanqas qatt ma kellimtu, fuq uliedi nahlef. Jien qatt ma rajtu u qatt ma kellimtu lil dan. Qalli "għax inti ġejt u dħaltli d-dar" u jien għidtili "Jien dħaltlek id-dar?". Qalli "Iva, inti dħaltli d-dar" u għidtili "Imma int min int?" U hu beda jgħidli "Ma tafnix?" U beda jgħajjatli b'ismi "Ma tafnix, Elton?". Hemm żewġ kuntistabbli tal-Pulizija xhud ukoll u min kiteb ir-rapport jiġifieri kien xhud ukoll. Bdejt ngħidli "Jiena ma nafekx" u qalli "Inti dħaltli d-dar, inti ġejtli d-dar, dħaltli d-dar". Imbagħad jien għedtili "Imma jien żgur?" U qalli "Mela jekk mhux inti, sħabek. Inziltu minn vann blu". Għidtili "vann blu?" U qalli "iva, inziltu minn vann blu intom". Għidtili "jien inzilt minn van blu?" U qalli "jekk mhux inti, sħabek mela". Jiena dakinhar l-ewwel darba li rajtu u l-ewwel darba li kellimtu. Lanqas qatt ma rajtu jew kellimtu lil dan jien. ... Imbagħad insomma konna l-Għassa u beda jgħid xi affarijiet, lanqas naf x'beda jgħid imbagħad lill-Pulizija, għax il-Pulizija mbagħad miskin spiċċajt tħassartu għax iġġennu il-Pulizija. Tant beda jgħid affarijiet u jgħajjat u storbu nsomma, imbagħad telaq l-hemm. Wara giet it-tifla tibki u qaltli "Da, ara x'hawn" u kif rajt il-video ... tal-biza' ta. ... Kliem ħazin. Li jiena, nahlef li nistħi ngħidha, immur mal-mara minn wara u ngħallem lit-tifla tagħmel is-sess minn wara imma mhux hekk jiġifieri... Dan tefa' lit-tifla għand psikjatra, tefa' lit-tifla ma taħdimx, tefa' lit-tifla ma toħroġx u ma nafx kemm għamlet żmien tibkili ... tibki kuljum ... Jiena ma niflaħx iktar għal dan l-inkwiet. Dak qalali storja tinkiteb lili. Anke li kienu veru, aħseb u ara li mhumieq u nixtieq inkun naf jien għalfejn fettillu jagħmel din l-istorja għax ma tezistix. Dan mhux xi hadd kelli relazzjoni miegħu jien jew nafu jew xi haġa. Dan xejn, lanqas biss nafu jien. Dan kissirli familja lili bil-mara tibki d-dar kuljum għax dawn l-affarijiet mhux billi tagħmilhom, dawn l-affarijiet nagħmluhom imma trid tkun taf x'se jiġri wara.

Elton Borg further stated that in the video posted by the accused, apart from him, his daughter and his wife, his brother Kurt Borg was mentioned too.

Erica Borg²⁸ stated that she met the accused, whom she recognised as Kristiyan Dakov, only once and this at the Police Station and that it was one fine day when my daughter was very confused and very scared, that this guy was texting her with strange messages that don't make sense and then, the other day, he was sending videos on Instagram ... they were addressed to us especially to my husband and he was saying very rude and bad words. ... Beda jindirizza l-video li jgħid lir-raġel tiegħi b'mod vera ħamallu u veru affarijiet li anke tgħidhom tistħi għax aħna vera mhux ta' dawn l-affarijiet u aħna konna għall-affari tagħna ġo

²⁸ Testimony given during the sitting held on the 25th October 2022, folios 72 to 75 of the records of the proceedings.

darna u ma nafx minn fejn inqala' dan bir-rispett kollu u mingħalih irid jiżuffjetta bina, b'isem ir-raġel u b'isem il-familja tiegħi, ma nafx għalfejn, mingħajr hadd ma jaf u werwirli lit-tifla sa' għand psikjatra kelli neħodha, tibza' toħroġli mid-dar, tkun għall-affari tagħha riegda d-dar u ma nkunux hemm aħna u tghidli, "Ma, qed nisma' l-ħsejjes" werwirieli tifla ta' 21 sena dan.

Asked what was said about her personally, Erica Borg replied that li jiena, ir-raġel tiegħi jkollu affarijiet intimi miegħi minn wara u b'hekk ngħallem lit-tifla kif għandhom ikunu l-affarijiet. Dak li qal fuqi personali. Asked how she felt about the video posted by the accused, Erica Borg replied tal-mistħija. ... Imwerwra, imbezzgħa u ħafna mixed feelings li anke tibgħat lit-tifel l-iskola, dan hemm xi hadd li qiegħed isus warajna, għalfejn? Meta aħna lanqas biss nafuh lil dan ir-raġel. ... Imkissrin ħafna u mbezzgħin kif qed ngħidlek għax anke nidhol mill-bieb tad-dar nibda nibza' għax dan, inti qatt m'għamiltu xejn, bniedem jasal javvelik jew ixandrek b'dan il-mod. Darba minnhom kont qed inżomm lit-tifla ta' oħti u nara karozza barra, twerwirt ... Għidt dan wasal li jiġini s'hawn imma ma kienx hu fil-verità. Imma biex ngħidlek kemm konna mbezzgħin. Asked what sort of medical help was sought for her daughter Nicole, Erica Borg replied morna għand Dr. Beppe Micallef Trigona, kien taha l-kalmanti u qalilha ... li vera hi bħal speċi għaddejja minn trauma kbira, it-tifla titkellem u tibki, joħroġu sħabha per eżempju qabilha u jkunu qegħdin go post, dakinhar kienu qegħdin San Ġiljan, "Nic, ejja jekk trid imma hawn hu". It-tifla mwerwra u ovujament it-tifla mhux sejra fejn ikun hemm hu. Iddettalha ħajjitha for no use, għalxejn.

Kurt Borg²⁹ testified that he does not know who the accused is and asked by the Court about his involvement in the matters forming the merits of these proceedings, he replied ma nafx, naħseb aħjar staqsejtu lilu għax jiena lili daħħalni fil-video. Jien inbiegħ il-karozzi vera, għandi showroom l-Imsida li hija vera u beda jgħid fil-video "Ejja inti Kurt Auto Dealer, ħa nurik min jiena, urini x'bajd għandek". ... Jien lil dan lanqas nafu jew naħlef li la qatt rajtu, la qatt kellimtu, la kont nagħrfu jiġifieri xejn xejn xejn minn dan. Asked how he got to know about the video posted by the accused, Kurt Borg replied fil-Facebook, jiena fil-mobile rajtu jiġifieri għax imbagħad il-video, f'kemm ili ngħidlek, kulhadd beda jċempel għax ġera fuq li ġera dan il-video. Nicole bdiet tibki u bdejna ngħidulha "X'gara?", għditilha biex narah, ma flaħtx narah u jekk tarah tinduna għax idejkek. Asked how he felt after watching the video, Kurt Borg replied jiena ridt nikkalma lit-tifla ta' hija minħabba kif bdiet tirreagixxi, issemmejt jien ukoll u bdejt ngħidilha li dan xi ħaġa qed tigri għax bil-Malti qisha xi ħaġa ta' l-imġienen, ma nafx x'qed jiġri u jiena ma nafux. Jiena lanqas idea tiegħu m'għandi jew jiġifieri rajtu għaddej jew xi ħaġa u hu semmieni li nbiegħ il-karozzi, li għandi s-showroom l-Imsida u vera, b'isem is-showroom Kurt Auto Sales ukoll jiġifieri hu fuqi kien jaf.

PS790 Nathan Zerafa³⁰ testified that on the 19th May of this year, a certain Nicole Borg reported at the station where she stated that a certain Kristiyan Dakov sent her some messages that she felt that were threats directed at her

²⁹ Testimony given during the sitting held on the 25th October 2022, folios 69 to 71 of the records of the proceedings.

³⁰ Testimony given during the sitting held on the 22nd November 2022, folios 81 to 84 of the records of the proceedings.

father. We saw these messages which were actually pictures I remember, anyway she was feeling that she was bothered by Mr. Dakov, who I recognize here in this room and I remember that we called for him, he came to the station and we tried to establish exactly what happened and I remember him telling me that he suspected that her father entered his apartment in Birkirkara, put some cameras inside, moved some objects inside his house, however he said that there was no break-in or damages in the front door and I also remember him saying that Nicole's father would have entered and accessed also inside his vehicle. I remember that in my opinion what he was saying was a little bit difficult to believe and actually he had no proof of it and I asked him if he maybe needed perhaps medical help or if he was taking any medication at the time and he replied that he didn't and that he didn't need and I informed the Inspector about the report. PS970 submitted the Police Incident Report dated 19th May 2022, marked as Doc. "NZ" at folios 85 to 89 of the records of the proceedings.

Under cross-examination³¹ PS970 Nathan Zerafa stated that the accused wanted to file a report against Elton Borg on the basis of the allegations he was levelling at him. Asked whether he carried out a search at the residence of the accused, PS970 replied *I couldn't because out of my remits and in fact, when I was on the line with Mr. Dakov and he told me that this case happened in Birkirkara, he told me that he was in fact on his way to report this at the Birkirkara Police Station. I searched on the Police system, however I couldn't find any report lodged. ... at a certain point he also told me that he went and he filed the report because he didn't come immediately, some hours passed since Mr. Dakov arrived at the Hamrun Police Station.* Asked whether he informed the Birkirkara Police Station about the accused's allegations against Elton Borg, PS970 replied *I asked them if they know about this case but they didn't know.* Asked if he asked his colleagues at the Birkirkara Police Station to search the accused's residence, PS970 replied that *it doesn't work like that. Mr. Dakov has to report physically* and he insisted that when a case is likely to involve an investigation, it is best to submit the report at the pertinent Police Station and not at just any Police Station. PS790 confirmed that on the 19th May 2022, the accused did not seem very coherent and that he was not making much sense in what he was saying. He also stated that the accused looked paranoid.

Under further cross-examination³², asked whether he read the messages received by Nicole Borg and whether there were any threats in the said messages, PS970 Nathan Zerafa confirmed that he read the messages and that in his opinion there were no threats. Asked about the picture showing a knife, he stated that the picture was of a knife in a kitchen and that the knife could easily be seen as a utensil in that case. Asked again *so you don't feel they were direct threats*, PS970 replied *yes exactly, correct.* He also stated that the messages themselves were mostly directed at asking Nicole Borg to tell her father Elton Borg to stop following him (the accused), and that if Elton Borg would not leave him alone, he (the accused) would file a report against him.

³¹ *Ibid.*

³² Testimony given during the sitting held on the 23rd January 2024, folios 279 to 283 of the records of the proceedings.

PS2344 Abigail Laferla³³ testified that *a report was filed on the 21st May 2022 regarding insults and threats, by two persons, Nicole Borg and her father Elton Anthony Borg. They came to the station, they filed the report, I informed Mr. Dakov Kristiyan Slavchev to come to the station so that he can state his version of events to this report ... the complainant provided the video and I showed it to him.* PS2344 submitted the Police Incident Report dated 21st May 2022, marked as Doc. “ALX” at folios 94 to 100 of the records of the proceedings.

Under cross-examination³⁴ PS2344 confirmed that Nicole Borg told her *that she went on her Instagram and she clicked on his account which showed a video of Dakov insulting her and her father and threatening her.* Asked whether she asked Nicole Borg if she followed Dakov via Instagram, PS2344 replied that she hadn’t asked such a question. PS2344 also stated that she didn’t watch the video directly via Dakov’s Instagram account but she was given a copy of the video by the complainant who had saved it on her mobile phone and she didn’t check that the video presented to her was actually posted on Dakov’s account.

During the sitting held on the 21st March 2023³⁵, PS2344 Abigail Laferla exhibited the video that was presented to her by the complainant when she lodged her report - Doc. “AL” at folio 177 of the records of the proceedings. At this point the Court would like to point out that when it tried to view the contents of Doc. “AL” it transpired that the CD submitted by PS2344 Abigail Laferla on the 21st March 2023, was blank.

Inspector Andy Rotin³⁶ testified that his involvement in this case started *from the 19th May 2022, where first I was informed of the first report which is presented in the acts with Police Report Number 2/POL/2476 and then subsequently I was informed also about another police report concerning the same person Kristiyan Salvchev Dakov who I can identify in this Hall, and the second report was reported on the 21st May 2022. The second report is being referenced as 2/POL/2515/2022. The nature of the reports were launched by the same person being Nicole Borg, holder of Identity Card 60001(L), as well as her father Elton Borg, holder of Identity Card Number 323478(M), concerning the several messages being sent from the Instagarm profile of Kristiyan Dakov to the Instagram profile of Nicole Borg where he sent several messages including threats. Subsequently, he also posted a live video on his Instagram profile also directed at Elton Borg, his daughter Nicole as well as his brother and his wife.*

Inspector Rotin submitted a USB and a CD both containing the video in question which was copied by him personally - Doc. “AR10” and Doc. “AR11” at folios 129 and 130 of the records of the proceedings, together with screenshots of the messages sent from the profile with username k.dakovv, which belongs to Kristiyan

³³ Testimony given during the sitting held on the 22nd November 2022, folios 90 to 93 of the records of the proceedings.

³⁴ Testimony given during the sitting held on the 22nd November 2022, folios 90 to 93 of the records of the proceedings.

³⁵ Folio 176 of the records of the proceedings.

³⁶ Testimony given during the sitting held on the 19th January 2023, folios 121 to 128 of the records of the proceedings.

Slavchev Dakov³⁷, to the profile with username nicoleborg, which belongs to Nicole Borg³⁸, marked as Doc. “AR12” at folios 131 to 136 of the records of the proceedings.

Inspector Rotin further testified that *with regards to the rest of the investigation, a warrant was issued against Kristiyan Dakov on the 21st May 2022, at that stage several attempts have been made to locate Kristiyan Dakov but this resulted in the negative and later on, on the 28th June 2022, Dakov reported at the Hamrun Police Station willingly, where there he released a statement at my office - Doc. “AR3” at folios 17 to 19 of the records of the proceedings. ... During the statement, Dakov had also presented me with a copy of flight tickets where he explained that during that time when he couldn’t be found, he went back to Bulgaria. The reason stated for that was that he continued to state that he is afraid of Elton Borg and his family, that they were following him or were going to do something to him etc. During the statement I asked Dakov if he wishes to file a police report regarding these issues where he didn’t want to, I also told him to substantiate myself with further information regarding these allegations which he didn’t give and his response was that he will say everything in Court. Asked whether the accused denied, or confirmed or said anything about the video posted on Instagram, Inspector Rotin replied if I’m not mistaken, at one point I told him if he was contacting Nicole Borg who was the complainant and he told us that, and I’m quoting “I spoke to Nicole just to tell her to tell her father to stop following and stop making damages and that he will make a report otherwise. Then 5 minutes after I had sent her a message and told her that I was going to make a report at the Hamrun Police Station”, and he spoke to her before making the alleged report. ... I referred him to the video and his answer was “I don’t know anything about them.” ... I showed him his profile as well where the video was coming from and he even confirmed that it is his profile. ... as you can see in the statement, every time I make reference to the videos, if they are connected to Elton and his family, he replied “I don’t know” and in the second question he told me “I don’t know, it’s not about them”, which I don’t understand the reason why.*

Asked whether he went into what issues, if any the accused could have had with the Borg family, Inspector Rotin replied in the affirmative and stated *with regards to Nicole Borg, I even spoke to her and she informed me of the relationship they had in the past many years ago but she told me that she hadn’t communicated with him for a very long time but recently she bumped into him. Asked if he informed the accused about what Nicole Borg had said, Inspector Rotin replied Yes, of course. ... At that time he continued to allege that he communicated with her because Elton Borg was following him and also threatening him to cause damage.*

Under cross-examination³⁹, Inspector Rotin confirmed that PS790 Nathan Zerafa informed him that on the 19th May 2022, the accused was acting in an incoherent manner and he confirmed that from the Police Incident Report it results that on that date the accused was offered medical assistance by the Police but he refused.

³⁷ Doc. “AR14” at folio 138 of the records of the proceedings.

³⁸ Doc. “AR13” at folio 137 of the records of the proceedings.

³⁹ Testimony given during the sitting held on the 19th January 2023, folios 121 to 128 of the records of the proceedings.

During the sitting held on the 11th May 2023⁴⁰, Inspector Andy Rotin submitted a request made by him to the Cyber Crime Unit, entitled “Request for Technical Assistance with reference 2/POL/2476/2025” - Doc. “ART” at folios 187 to 190 of the records of the proceedings - and stated that *I made a request so that the Cyber Crime Unit can request MITA, which is the organization which takes care of Facebook, Instagram and other social media platforms, with regards to any information they would have on the URL related to the Instagram profile of the accused. Basically, their reply was that they couldn’t provide any information because the username account written in the request had been deleted and they don’t have any information to provide.*

Under further cross-examination⁴¹, Inspector Rotin reiterated that the Police Report bearing number 2/POL/2476/2022 was lodged by Nicole Borg. He also confirmed that from the said report it transpires that the accused wanted to lodge a report against Elton Borg because he was scared of him and that he, that is the accused, had informed Nicole Borg about his intention to file said report against her father and that was what led to Nicole Borg filing her report against the accused. Inspector Rotin also confirmed that he never got a formal confirmation that the messages were sent from the accused’s profile.

Dr. Beppe Micallef Trigona⁴² stated that Nicole Borg was a patient of his whom he had seen only once on the 23rd May 2022, *where she presented in a state of shock to our clinic where she made a number of allegations about a third party, I wrote a certificate for her which details the allegations she was making and I also started her on the appropriate treatment for the conditions which she presented with back in May 2022. This was the first and the last time that I saw Ms. Borg. ... What I stated on the certificate is that she presented with a number of anxiety related symptoms. Basically, I diagnosed her with an acute stress reaction which in common terms could be referred to as a shock. Back then, she stated that the symptoms started after she allegedly received communication from a person which she stated that she had dated a number of years ago and he was allegedly making a number of threats and accusations against her and publishing certain things on social media. The certificate goes on to state that I started her on the appropriate treatment which ... is called Mirtazapine and Sedoxil and I had written also that I recommend that the Police should take any necessary actions to investigate the allegations that Ms. Borg was making when she presented to my office on that date.*

Under cross-examination⁴³, Dr. Micallef Trigona confirmed that he only saw Nicole Borg once on the 23rd May 2022, and he also stated that that session lasted around 45 minutes. Asked whether Nicole Borg had previously suffered from anxiety, Dr. Micallef Trigona replied that *she was not on any treatment according to what she told me. ... As in I examined her and on examining her she was severely anxious*

⁴⁰ Folio 186 of the records of the proceedings.

⁴¹ Testimony given during the sitting held on the 7th March 2024, folios 285 to 288 of the records of the proceedings.

⁴² Testimony given during the sitting held on the 22nd November 2022, folios 78 to 80 of the records of the proceedings.

⁴³ *Ibid.*

and what she stated is that the anxiety started about a week before I saw her, so a week before the 23rd May, after she received communication from this person. Obviously, I have no records and she denied any history of anxiety. ... I diagnosed her with anxiety not only from what she was telling me but from my mental state examination in front of me, but as you are saying, I don't have any records, as in I didn't have access of any previous records, I don't, if she has seen a psychiatrist in the past but that was my clinical examination when I saw her on that day.

Psychiatric Expert Dr. Joseph Cassar⁴⁴ submitted and confirmed under oath his Report pertinent to the examination of Nicole Borg, which Report is exhibited at folios 271 to 275 of the records of the proceedings. From the said Report it transpires that after Dr. Joseph Cassar interviewed Nicole Borg under oath and examined her, he concluded that: *after taking due consideration of the medical letter written by Dr. Beppe Micallef Trigona dated 24/5/2023, after having taken a history from Ms. Nicole Borg and after having examined Ms. Borg, it is my conclusion that Ms. Nicole Borg holder of ID 060001L, suffers from Post Traumatic Stress Disorder. Looking at the Emendi fil-Ligi dwar Danni Ċivili mill-Ministeru tal-Ġustizzja u l-Intern 2010, pg 27-28 which states “Disturbi persistenti fl-umur fil-każ ta’ feriti fiżiċi post-traumatiki li jkunu jeħtieġu trattament kumpless u fit-tul b’konsegwenzi morbużi gravi, jista’ jkun hemm tbatija mentali fil-forma ta’ disturbi persistenti fl-umur (stat depressiv): a. Monitoraġġ mediku ta’ sikwit minn speċjalista, trattament maġġuri bil-pilloli meħtieġ fl-Isptar jew barra mill-Isptar minn 10 sa’ 20%; b. Monitoraġġ mediku regolari minn speċjalista b’ttrattament sporadiku b’pilloli speċifiċi minn 3 sa’ 10%; c. Li jkollhom bżonn monitoraġġ mediku b’intervalli rregolari bi trattament intermittenti sa’ 3%. “Dawn jiġru wara sintomi mentali kaġunati permezz ta’ ġrajja fdaqqa, mhux mistennija u brutali ta’ fatt trawmatiku li ma jkunx jista’ jlaħhaq miegħu l-individwu. Il-fattur ta’ tensjoni għandu jkun qawwi u/jew fit-tul. Il-ġrajja suppost tkun miftakkra tajjeb. Il-grupp ta’ sintomi jinkludi ansjetà ta’ fobija, komportament li jevita n-nies, diżordni ossessiva u koattiva u bidla fil-personalità. Anke jekk ikkurati kmieni, il-każ ma jistax jiġi stmat qabel sentejn jew ċirka wara l-fatt. Sindrome ta’ fobija qawwija - minn 12 sa’ 20%, Ansjetà mill-fobija b’attakki ta’ paniku, imġieba li tevita n-nies u disturb ossessiv - minn 8 sa’ 12%, Sintomi ta’ ansjetà mill-fobija, imġieba li tevita n-nies u disturb ossessiv-koattiv minn 3 sa’ 8%, Sintomi minuri ta’ ansjetà mill-fobija sa’ 3%.” This diagnosis of PTSD was done Diagnostic Statistical Manual 5 TR of American Psychiatric Association. As to the percentage disability according to the tables presented in the Emendi fil-Ligi dwar Danni Ċivili mill-Ministru tal-Ġustizzja u l-Intern 2010, pg. 27-28, Ms. Borg has a permanent disability of 8% (Sintomi ta’ ansjetà mill-fobija, imġieba li tevita in-nies u disturb ossessiv-koattiv 3-8%).*

Under cross-examination⁴⁵, the Psychiatric Expert Dr. Joseph Cassar declared that he only examined Nicole Borg once, since that was the extent of his remit, and that for the purposes of his remit he read the letter by Dr. Beppe Micallef Trigona who was her treating psychiatrist and obviously I had to take that into consideration

⁴⁴ Testimony given during the sitting held on the 19th July 2023, folio 269 of the records of the proceedings.

⁴⁵ Testimony given during the sitting held on the 16th May 2024, folios 292 to 301 of the records of the proceedings.

because that is an actual psychiatric assessment as well. He further stated that Nicole Borg did not inform him that she only went to Dr. Micallef Trigona once and did not follow up with him. Furthermore whilst remembering that Nicole Borg showed him something on her mobile he could not remember if she showed him messages or videos, nor the content of the same. Dr. Cassar acknowledged that he did not confirm if the things Nicole Borg told him were true however, he further stated that *what I could see and what I could ascertain from the interview, because obviously as part of the psychiatric evaluation when the patient is recounting incidents, you obviously would be examining her mental state as she is recounting it. ... What I could note at that time was anxiety when recounting the event. ... she came specifically to recount an incident and the anxiety was pari passu with the incident. She didn't have like an exam the next day or she, I mean so there was nothing which could have alerted me to understand that the anxiety was coming from somewhere else except her recounting the actual incident.* Being challenged by Defence Counsel that he had never before met or examined Nicole Borg and so he could not completely determine that she was not an anxious person by nature or had issues prior to this incident or was anxious because she was meeting a Psychiatrist, Dr. Cassar stated *experience has also taught me to understand what is anxiety related to her meeting a Psychiatrist for the first time and the anxiety that a traumatic episode institutes on the human being. So, I think my experience can differentiate the two and in my opinion the anxiety was related to her recounting the actual traumatic event.* Asked whether he knew anything about her family or previous relationships with boyfriends or at the time of the event, Dr. Cassar replied that *if it is not written (in his report) I wouldn't have asked her no. ... If it was not related to anything which was abusive or traumatic in her life, which I would have asked her about, then it was written so I did not ask her about, you know, specific normal family dynamics or any relationship dynamics.*

The **accused**⁴⁶ testified that he is from Bulgaria and has been living in Malta since 2007. With regard to Nicole Borg he stated that *we got to know each other through friends. We started dating obviously but it was nothing serious, I mean, you know. We were seeing each other, then we stopped dating, then we start seeing each other again and I mean, that's it. But we got to know each other through friends.* Asked what happened to him at the time of the events forming the merits of these proceedings, the accused replied *there was a point in my life when I used to smoke weed a lot and I was, you know, like depressed let's say. ... even I see a psychologist, I have been seeing now for a long time and he confirmed that basically so, yes, I myself did not realise, I wasn't feeling very well but I did not know that it is an anxiety or depression.* Asked whether he knows Elton Borg, the accused replied that he does not know him personally and what he knows about him he knows through Nicole Borg since she used to tell him a lot about her father. Asked to explain further what happened during the period forming the merits of these proceedings, the accused stated *first, I see like a scratch in my father's car. It was you know, it was from beginning to end of the car. Like a huge scratch. ... I didn't think it was anything with regards with me because it wasn't my car so you*

⁴⁶ Testimony given during the sitting held on the 12th November 2024, folios 332 to 349 of the records of the proceedings.

know I didn't. ... My father said maybe it was because of parking or whatever. But then, I see the same scratch on my car. I start seeing like every two or three days, punctures on my car you know. ... it is like I got literally paranoid that somebody is after me. ... Asked whether he also thought that he had cameras in his house, the accused replied yes, it developed really ... it was strange for me as well. I got really scared, I don't know why. ... I thought that it was Nicole's father and you know, like basically their family. I thought that it was them. ... They were doing the damages and you know that they are trying to harm me in some way. So, what I did, you know, I was thinking like, I was super paranoid and I am like what am I supposed to do you know in this situation. ... So I texted her you know, I sent her literally a picture of a knife at home that I thought it was you know, they entered my house and they put it there. ... I texted her and I tell her, "listen, I am experiencing things, tell your father to stop otherwise I will make a police report". So that was my intention you know.

Asked what happened after he sent the messages to Nicole Borg, the accused replied that when I text her those messages, an Inspector from the Police, from Hamrun Police Station, call me you know, he say, "Listen you sent some messages to Nicole Borg, you have to come to the Police Station". ... I was paranoid but I went straight away to the Police Station to speak to the Police to see what is going on exactly. So when I tried to explain what is going on to the Police, you know, he was listening to me ... he listened to me and he say "Listen you don't know what you are talking about. You are going home now or I going to personally take you to the hospital" ... I tell them, "Listen, somebody is doing damage on my car, on my father's car ... I think I have cameras at home. I think somebody got into my house". ... the thing is that the other things like somebody got into my house, was most likely developed from the paranoia but there were things that were real like the damages on my house and these things. ... I went home and you know I was, it is like the paranoia that I had at that time, after I left the Police Station was like extreme level, like literally I wasn't myself, because I knew that I had a problem and I tried to speak to the Police and you know they did not ... I went home, I explained to my mum and my dad you know what is going on and I tell them, "Listen, I cannot stay here because I am feeling unsafe". So the first thing I did was straightaway buy a ticket to my country. ... Bulgaria. The accused claimed that he left for Bulgaria because I was scared. I was fearing that you know somebody will hurt me and my parents through me you know, when I have a problem you know to go and seek the Police and I was at that time, I did not find help from the Police, I am sorry to say so. ... I originally thought ... that since they live in Hamrun, since they are, and you know the Police Inspector called me from there, Police Station of Hamrun, and I thought that they are friends you know that they do not want to make a report against them.

The accused stated that once he was in Bulgaria I felt, you know, that bad feeling that you know somebody did something wrong to you and you have to run away you know from that person and you cannot do anything about it. Not even Police, nobody cannot do anything to that person you know. Like, and so I take bizarre decision to make those videos you know to make things known if somebody hurt me or if somebody from my family they will know whom to go. That was the

reason why I did the videos. I apologise and I am sorry for the bad words that I used, for the insults, for the threats. I did it so that if they hurt me or somebody from my family, they will know who did it. Like at least they will have kind of a pointer who was... The accused also stated that whilst he was in Bulgaria he received another call from the Hamrun Police Station asking him to go there since he needed to be spoken to. Since he wasn't in Malta he did not go right away, but upon his return to Malta he went to the Police Station. He also stated that during his stay in Bulgaria he visited a Psychologist and upon his return to Malta he also visited another Psychologist, Dr. Paul Sciberras.

Asked why he thought that the Borg family were out to get him, the accused replied *when I was dating her (that is Nicole Borg) my best friend used to date her cousin. So they weren't just dates I mean they were in a relationship ... for maybe two years or so. He used to tell me a lot about them. A lot about you know their situation and you know, like between friends we used to talk a lot. And, you know, a lot of times they had fights like these, their family will go in front of their house, they will go in front of their house you know, having fights and arguments., .. and he used to tell me like, you know, her father send somebody after him to actually beat him and these things. So, you know, these things I connected them at the time like that.* The accused finally stated that he is sorry and ashamed for what he has done and apologises for his actions and words but insists that all of his behaviour stemmed from his state of paranoia at the time.

Under cross-examination⁴⁷, the accused stated that his actions did not stem from any issues he might have had with Nicole Borg at the time since, in his own words, he did not have any feelings for her, and he reiterated that his actions were probably a direct result of his use of weed at the time. The accused confirmed that he was the one to post the video in question on his Instagram account and he also confirmed that the Instagram profile k.dakovv was his and he was the only one to have complete use of the said profile.

Dr. Paul Sciberras⁴⁸ testified that he recognises the accused as Kristiyan Dakov, one of his patients. In this regard he stated *Mr. Dakov original contacted me in December 2022 and he asked for my professional help with a view of seeking psychological support. The first session was held on the 19th December 2022. Contact has been throughout these two years with different levels of frequency of contact and different intensity of contact and the last contact was, the last session was held yesterday, yesterday evening. ... Prior to contacting me, Mr. Dakov had been ... to Bulgaria and he had consulted with the Bulgarian psychologist who provided a former diagnosis of mixed anxiety and was in a depressive state and he had the documentation. He brought that documentation along in our first encounter. I subsequently concurred with that diagnosis. Obviously things have changed from that time but initially that was to the diagnosis which I confirmed. ... There was an element of paranoia that continued for some time especially when there would be the usual disruption due to a court case being adjourned. Mr.*

⁴⁷ Testimony given during the sitting held on the 12th November 2024, folios 332 to 349 of the records of the proceedings.

⁴⁸ Testimony given during the sitting held on the 21st January 2025, folios 368 to 375 of the records of the proceedings.

Dakov is Bulgarian so at times he is ... not fully conversant with the Maltese cultures so at times he feels that he was being discriminated, he felt uncomfortable. But when I say paranoia, this is not from a psychopathological, this is not from a mental health, gross mental health issues, it is a heightened state of alertness, feeling very vulnerable, feeling despondent at times and this is that sometimes there will be a sense of helplessness and hopelessness due to insecurity and the uncertainty of the outcome of the court hearing. But he is not misdiagnosed, not mentally. ... Mr. Dakov was very motivated, he was always motivated in regular attendance to the sessions, very open and very disclosing. From our first meeting, he was open about the reason as to the court case which he felt, you know, ... it was an impulsive act on his part which was regretful about and ... part of the issues that we were discussing is his impulsivity, his insecurities, so we were throughout these two years, we were not just dealing with a here and now and trying to find better coping mechanisms and dealing with impulsivity and sometimes anger management but we are also dealing with past and present personal anxious issues and the thing he has managed to resolve a lot of that. There is more stability in his life.

Dr. Sciberras stated that when he first met the accused, he was highly anxious and depressed and there was this element of feeling very insecure. ... Bordering of being paranoid. ... Feeling of paranoia can be triggered by very significant life events, life stresses, such as he was experiencing due to what led to the Court case, and he was feeling insecure and at times was also, felt also insecure for his own personal, for his own person. ... For his own personal safety and at times also obviously because of the ongoing court case. ... He was afraid that the persons he had the issues with might present some form of danger to him, physical and also he felt that they ... or the circumstances, might be such a negative nature so that he won't finish up in prison for example. Asked whether during the sessions, the accused ever mentioned Elton Borg, Dr. Sciberras replied yes throughout the sessions he was disclosing and he mentioned this person and he did feel that possibly he might be in danger. This was one of the reasons he mentioned that he had left Malta and go to Bulgaria but then came back again ... So this sense of insecurity and sense of paranoia came from feeling insecure for his own personal safety and at that time, he was also living with his parents and I think he felt that there might also be negative repercussions on his parents but then he came back to Malta to face justice, to deal with these issues.

Asked what he can say today about the accused, Dr. Paul Sciberras replied I think Christian is a very changed person. Initially when he came to see me, he was unemployed, there was a lot of restriction on his social life so basically he was still living with his parents so he was unemployed basically, staying at home. Ruminating over his situation which is bad news. Eventually, he started to have full time employment, increase in socialisation. Now he is starting, he has been for some time going to the gym, very health conscious. So from a person who was highly anxious, highly depressed, with some paranoia features at times initially, and very impulsive, he is ... more mature, more socially adjusted person. Socially adjusted meaning he also has worked. There is more social interaction, he goes out with friends whereas initially at times, because of the curfew, there was a lot of

curtailing of that social interaction. I think he is a very well adjusted person. In the sessions we discuss not just issues pertaining to the court or to the issues which led to him being hauled to Court in the first place, but also we discuss a lot of personal existential issues, ... I think Kristiyan is a very changed person, more adjusted, less impulsive with better decision making processes. I think he is, thanks to his motivation and his consistent attendance to the sessions, he is a changed person and I wish him well. I think he deserves a lot of good things in his life. ... at present Kristiyan is not manifesting any anxieties, not depressed, is very well adjusted. I think the transition to full time employment, his very keen interest in health, he goes to the gym regularly, takes care of his diet, his better social interaction, so I think this is an all round improvement and he is a very well adjusted person. The only negative stressor is his obviously, the uncertainty about the outcome of this, of the Court which is perfectly understandable. ... It is normal reaction to a situation that with hind-sight should not have been there in the first place, but this was led was his impulsivity and this is what we have worked on a lot so Kristiyan is a changed person, very well-adjusted member of society. ... I think Kristiyan has a lot of positive attributes. He is a well-adjusted person, he is a mature person. We all make mistakes, idiotic mistakes and I think he has learned a lot from the mistakes that he is aware of and which led to this impulsivity which led to him being here.

Charges brought against the accused.

By virtue of the **first charge** brought against him, the accused is being charged with having committed several acts, even if at different times, which constitute violations of the same provision of the law, on the 19th May 2022 and/or the following days, within the Maltese Islands: (1) Using violence, including moral and, or psychological violence, and, or coercion, in order to compel another person to do, suffer or omit anything or to diminish such other person's abilities or to isolate that person, or to restrict access to money, education or employment to the detriment of Nicole Borg and/or Elton Anthony Borg and/or other persons.

This first charge brought against the accused is clearly founded on the offence of private violence in terms of **Section 251(1) of Chapter 9 of the Laws of Malta**, as a continued offence in terms of Section 18 of Chapter 9 of the Laws of Malta.

Section 251(1) of Chapter 9 of the Laws of Malta provides that: *Whosoever shall use violence, including moral and, or, psychological violence, and, or coercion, in order to compel another person to do, suffer or omit anything or to diminish such other person's abilities or to isolate that person, or to restrict access to money, education or employment shall, on conviction, be liable to the punishment laid down in sub-article (1) of the last preceding article.*

As observed by the Court of Magistrates (Gozo) as a Court of Criminal Judicature in the judgement in the names **Il-Pulizija v. Francis Xavier Micallef** decided on the 17th February 2011, *l-elementi li jsawwru dan r-reat huma l-vjolenza li qed tintuza bhala forma ta' theddida* kontra persuna sabiex iggieghel lil dik il-

*persuna tagħmel xi haġa, jew iħalli li jsir xi haġa, jew sabiex iġieghlu jonqos milli jagħmel xi haġa*⁴⁹.

The Court read the messages which the accused admits to have sent to Nicole Borg and watched the video which the accused also admits to have posted on his Instagram account, which messages and video are found in the pen-drive submitted by Nicole Borg and marked as Doc. “NBX” at folio 130 of the records of the proceedings (the video has also been submitted by Inspector Andy Rotin as Doc. “AR10” and Doc. “AR11” at folios 129 and 130 of the proceedings, and screenshots of the messages have also been submitted by Inspector Rotin too as Doc. “AR12” at folios 132 to 136 of the records of the proceedings), and deems that whilst the gist of the messages and of the video is indeed threatening towards Elton Borg and insulting towards Nicole Borg, Elton Borg and Erica Borg, the same said messages and video do not and cannot be considered to constitute the use of violence in terms of Section 251(1) of Chapter 9 of the Laws of Malta.

The threats uttered by the accused towards Elton Borg, particularly where in the messages sent to Nicole Borg he says *isma' għid lil missierek jekk jiġi darb'ohra quddiem id-dar jew jekk jipprova jagħmel xi haġa hażina ha jiddispjaċih, ... ta għidlu jekk irid nintaqaw u jgħidli fejn niġi niġi bil-qalb kollha. Kummiedja kbira issir Nicole ... biex tkun taf li ha niftah rapport għall-unika raġuni li ma rridx in-nies iwegħhu qed tifhimni Nic*, and where in the video posted on Instagram he says *daqqa ta' harta ntik man, lanqas hemm bżonn ingib gun, lanqas hemm bżonn ingib sniper ... lanqas hemm bżonn ingib nies, xejn, lilek daqqa ta' harta ntik u taf fejn nitfgħek, l-ITU man, Mater Dei ta*, were all verbal threats however, from the evidence submitted during the course of these proceedings, it does not result that at any point the accused used any form of physical violence on any member of the Borg family, including Nicole Borg and/or Elton Borg, **and**, even though the messages and the video were upsetting to Nicole Borg and her parents, it does not result that at any point the accused exercised any form of moral or psychological violence or coercion on any member of the Borg family, including Nicole Borg and/or Elton Borg.

In view of the above, the Court reiterates that whilst the messages the accused sent to Nicole Borg and the video he posted on his Instagram account, in particular the parts cited above, most definitely amount to threats particularly towards Elton Borg, the same cannot be deemed to constitute or give rise to the offence provided for under Section 251(1) of Chapter 9 of the Laws of Malta. Consequently the Court cannot find the accused guilty of the first charge brought against him.

By virtue of the **second charge** brought against him, the accused is being charged of having committed several acts, even if at different times, which constitute violations of the same provision of the law, on the 19th May 2022 and/or the following days, within the Maltese Islands: Caused Nicole Borg and/or Elton Anthony Borg and/or other persons fear that violence will be used against him/her

⁴⁹ Emphasis by this Court.

or his/her property or against the person or property of any of his/her ascendants, descendants, brothers or sisters and/or other person.

The second charge brought against the accused is clearly founded on the offence of private violence in terms of **Section 251(3) of Chapter 9 of the Laws of Malta**, which provides that *whosoever shall cause another to fear that violence will be used against him or his property or against the person or property of any of his ascendants, descendants, brothers or sisters or any person mentioned in article 222(1) shall be liable to the punishments prescribed in sub-article (1) decreased by one to two degrees: Provided that where the offender shall have attained his end, he shall be liable to the punishment laid down in sub-article (2) decreased by one to two degrees*, as a continued offence in terms of Section 18 of Chapter 9 of the Laws of Malta.

As observed by this Court, differently presided, in the judgement in the names **Il-Pulizija v. Gianluca Abela**, decided on the 14th September 2022, for the offence set out in Section 251(3) of Chapter 9 of the Laws of Malta to subsist, *jeħtieġ biss li jkun hemm att materjali konsistenti f'manifestazzjoni ta' theddid ta' vjolenza li tkun effettivament ikkaġunat lis-soġġett passiv tar-reat jibża' li ser tintuża vjolenza kontrih jew kontra l-proprjetà tiegħu jew tal-persuni elenkati fl-istess dispożizzjoni legali. Għalkemm il-kondotta jew imġieba ripetuta m'hijiex fost l-elementi tar-reat addebitat lill-imputat odjern, il-Prosekuzzjoni xorta waħda jeħtigilha tipprova f'kull każ illi l-imputat kellu l-mens rea li jikkaġuna biża' fis-soġġett passiv li ser tintuża vjolenza fuqu jew fuq il-proprjetà tiegħu u li l-azzjonijiet tiegħu effettivament ikkaġunaw dan il-biża'. Din il-prova ta' l-aħħar tista' ssir ukoll billi jintwera li oġġettivament, fiċ-ċirkotanzi partikolari tal-każ, dan il-biża', bħala stat ta' emozzjoni soġġettiva, seta' jiġi raġjonevolment innissel fis-suġġett passiv. Il-liġi ma tiddefinixxix u lanqas tillimita l-mezzi li bihom tiġi ikkaġunata l-biża' ta' vjolenza.*

The Court reiterates that the messages sent by the accused to Nicole Borg and the video posted by him on his Instagram account - relevant parts of which have already been cited further up in this judgement - were undoubtedly of a threatening nature, and the threats levelled by the accused particularly against Elton Borg, were ones which effectively threaten the use of violence against him, particularly where in the video the accused says *daqqa ta' ħarta ntik man, lanqas hemm bżonn ingib gun, lanqas hemm bżonn ingib sniper ... lanqas hemm bżonn ingib nies, xejn, lilek daqqa ta' ħarta ntik u taf fejn nitfgħek, l-ITU man, Mater Dei ta*. The Court also has no doubt as to the mens rea of the accused behind the said messages and video, in the sense that it was his clear intention to threaten Elton Borg and thus scare and intimidate the said Elton Borg and also his daughter Nicole Borg.

In so far as concerns the actual fear caused to the subject of violence against him or his property or against any person mentioned in Section 251(3) of Chapter 9 of the Laws of Malta or their property, the Court deems that from the evidence put forth by the Prosecution this element only resulted with regard to Nicole Borg. Even though the threats were intended for and aimed mainly at Elton Borg, the Court deems that there is no evidence which shows that said Elton Borg was at any point

fearful of the accused. Even though it clearly results that Elton Borg was annoyed at the accused's antics and worried about the effect the messages and videos in question had on his daughter Nicole Borg, the Court reiterates that from evidence submitted during the course of these proceedings, it does not result that Elton Borg was in any way fearful of the accused.

The situation with regard to Nicole Borg however is completely different to that of Elton Borg. While, as already observed, Elton Borg did not show any fear at the threats levelled against him by the accused, from evidence submitted by the Prosecution during the course of these proceedings, it clearly results that Nicole Borg, Elton's daughter, was very and intensely fearful for her father's safety in the light of the messages sent by the accused on the 19th May 2022, and the video posted by him just a few days later in spite of a Police Report already being lodged against him. This whole episode had a drastic effect on Nicole Borg who had to resort to the services of a Psychiatrist, take medication for her emotional state and effectively end up suffering from Post Traumatic Stress Disorder.

Even though the Defence tried to down play the effect this whole matter had on Nicole Borg by emphasising that she only went to Dr. Beppe Micallef Trigona once on the 23rd May 2022 and never held any further sessions with him or any other Psychiatrist, the Court cannot and must not ignore the observations made not only by Dr. Beppe Micallef Trigona upon examining Nicole Borg but the conclusions reached by Psychiatric Expert Dr. Joseph Cassar after interviewing and examining the said Nicole Borg.

In his report Dr. Beppe Micallef Trigona observed that the 23rd May 2022 was the first time he met Nicole Borg *who presented with multiple symptoms of severe anxiety, including feeling restless and on-edge, difficulty concentrating, strong worry and ruminations, insomnia and panic attacks. Ms. Borg would satisfy the criteria for a diagnosis of an acute stress reaction (shock) at this point*⁵⁰. This diagnosis was confirmed under oath by him during the sitting held on the 22nd November 2022⁵¹. Further to the report by Dr. Beppe Micallef Trigona, there are also the conclusions reached by Psychiatric Expert Dr. Joseph Cassar who, as already observed previously in this judgement, concluded that Nicole Borg suffers from Post Traumatic Stress Disorder with a permanent disability of 8%.

Even though the Defence tried to minimise the conclusions reached particularly by Psychiatric Expert Dr. Joseph Cassar, by claiming that he did not go into her previous mental and emotional state, family background or into past or current relationships, the Court cannot fail to point out that the Defence did not provide any form of evidence which shows and proves that at the same time when Nicole Borg received the messages from the accused on the 19th May 2022, and the accused posted the video on his Instagram account, there were other matters or issues in her life which could have caused or contributed to her initial diagnosis of shock and the eventual diagnosis of Post Traumatic Stress Disorder.

⁵⁰ Emphasis by the Court. Doc. "NB1" at folio 55 of the records of the proceedings.

⁵¹ Folios 78 to 80 of the records of the proceedings.

In view of the above, the Court deems that the Prosecution managed to prove beyond reasonable doubt that the accused is indeed guilty of the second charge brought against him, however this limitedly with regard to Nicole Borg.

By means of the **third, fourth and fifth charges** brought against him, the accused is being charged with having committed several acts, even if at different times, which constitute violations of the same provision of the law, on the 19th May 2022 and/or the following days, within the Maltese Islands: (3) By means of an electronic communications network or apparatus threatened the commission of any crime; (4) By means of an electronic communications network or apparatus with intent to extort money or any other thing, or to make any gain, or with intent to induce another person to do or omit from doing anything, threatened to accuse or to make a complaint against, or to defame, that or another person to the detriment of Nicole Borg and/or Elton Anthony Borg and/or any other person; (5) By means of an electronic communications network or apparatus made any other improper use.

The said charges brought against the accused are clearly founded on the offence of use of electronic communications apparatus to make threats in terms of **Section 49(a), (b) and (c) of Chapter 399 of the Laws of Malta**, each one as a continued offence in terms of Section 18 of Chapter 9 of the Laws of Malta.

Section 49(a), (b) and (c) of Chapter 399 of the Laws of Malta provides that: *Any person who by means of an electronic communications network or apparatus - (a) threatens the commission of any crime; or (b) with intent to extort money or any other thing, or to make any gain, or with intent to induce another person to do or omit from doing any thing, threatens to accuse or to make a complaint against, or to defame, that or another person; or (c) makes any other improper use thereof, shall be guilty of an offence under this Act and shall, on conviction, be liable to a fine (multa) not exceeding twenty five thousand euro (€25,000) and, in the case of a continuing offence, to a further fine (multa) not exceeding five hundred euro (€500) for each day during which the offence continues: Provided that, without prejudice to the application of any other law, words or expressions uttered or published on an electronic communications network or apparatus shall not constitute an offence against this Act if they are uttered or published as part of artistic, satirical, comic or cultural expression, of any kind, and do not lead to credible and realistic threats to the personal liberty or security of any person or to a person's property.*

As observed by the Court of Criminal Appeal in the judgement in the names **Il-Pulizija v. Dr. Alfred Grech** decided on the 19th July 2013, *l-għemil kontemplat fil-paragrafi (a) u (b) [of Section 49 of Chapter 399 of the Laws of Malta] jikkonsisti fl-użu minn xi persuna ta' network jew apparat ta' komunikazzjoni elettronika sabiex jikkomunika lil haddieħor theddida ta' għemil għall-għanijiet previsti f'dawk il-paragrafi. In vista ta' l-għanijiet hemm previsti ma hemmx dubju li l-liġi fl-istess paragrafi qed tikkontempla għemil li bl-użu ta' xi network jew apparat ta' komunikazzjoni elettronika huwa mmirat sabiex jagħmel ħsara, jdejjaq, jivvessa*

jew joffendi lil haddieħor. Meta fil-paragrafu (ċ) jingħad li “jagħmel užu ieħor mhux xieraq” isegwi li dik id-dispożizzjoni titratta minn għemil li ma jikkonsistix neċessarjament f’thedd id iżda li, bl-applikazzjoni tar-regola eiusdem generis, huwa għemil ieħor li jittrasmetti lil haddieħor messaġġ li jagħmel ħsara, jdejjaq, jivvessa jew joffendi lil haddieħor u għaldaqstant ma hux għemil xieraq...

In view of the evidence put forth during these proceedings, the Court is of the opinion that the Prosecution managed to prove beyond reasonable doubt that the accused is indeed guilty of the third and fifth charges brought against him but not of the fourth charge so brought against him.

As already observed previously in this judgement, the accused, by means of the messages sent to Nicole Borg and the video posted on his Instagram account, clearly threatened the commission of a crime against Elton Borg, particularly when in the video he states *daqqa ta’ ħarta ntik man, lanqas hemm bżonn ingib gun, lanqas hemm bżonn ingib sniper ... lanqas hemm bżonn ingib nies, xejn, lilek daqqa ta’ ħarta ntik u taf fejn nitfgħek, l-ITU man, Mater Dei ta*. In the said video, the accused does not only utter threats against Elton Borg but he also insults and vilifies the said Elton Borg, his wife Erica Borg and Nicole Borg, and therefore in this regard the said video also amounts to *għemil ieħor li jittrasmetti lil haddieħor messaġġ li jagħmel ħsara, jdejjaq, jivvessa jew joffendi lil haddieħor u għaldaqstant ma hux għemil xieraq*.

Whilst it clearly results that the accused is to be found guilty of the offence in terms of Section 49(a) and (c) of Chapter 399 of the Laws of Malta, the Court deems that he cannot be found guilty of the offence in terms of Section 49(b) of Chapter 399 of the Laws of Malta since the Prosecution did not submit evidence which shows and proves that the accused did anything with intent to extort money or any other thing or to make any gain from the Borg family. In so far as concerns the last part of the said provision of the law, that is the intention *to induce another person to do or omit from doing any thing, threatens to accuse or to make a complaint against, or to defame, that or another person*, the Court deems that the facts of this case do not amount to such a situation.

In view of the above the Court deems that the accused is to be found guilty of the third and fifth charge brought against him, but he is not to be found guilty of the fourth charge so brought against him.

By means of the **sixth charge** brought against him, the accused is being charged with having committed several acts, even if at different times, which constitute violations of the same provision of the law, on the 19th May 2022 and/or the following days, within the Maltese Islands: Uttered insults or threats to the detriment of Nicole Borg and/or Elton Anthony Borg and/or any other person and by means of the **seventh charge** brought against him, the accused is being charged, with having disobeyed the lawful orders of any authority or of any person entrusted with a public service.

The sixth charge brought against the accused is clearly founded on the contravention provided for in **Section 399(1)(e) of Chapter 9 of the Laws of Malta**, and this too as a continued offence in terms of Section 18 of the Laws of Malta.

Section 399(1)(e) of Chapter 9 of the Laws of Malta provides that: *Every person is guilty of a contravention against the person who: ... (e) utters insults or threats not otherwise provided for in this Code, or being provoked, carries his insult beyond the limit warranted by the provocation* - the first part of this provision being that relevant to these proceedings.

As observed by the Court of Criminal Appeal in the judgement in the names **Il-Pulizija v. Joseph Frendo**, decided on the 7th July 1995, *fil-kuntest ta' l-artikolu 339(1)(e) tal-Kodiċi Kriminali, theddida tfisser li l-aġent jipprospetta lil persuna oħra ħsara ngusta fil-futur (ħsara li però ma tkunx tammonta għal reat ieħor ikkontemplat band' oħra fil-Kodiċi, e.ż. l-Artikolu 249) liema ħsara tkun ukoll ipprospettata li tiddependi mill-volontà ta' l-istess aġent*.

In view of all that has already been observed with regards to the second, third and fifth charges brought against the accused, the Court is of the opinion that from the evidence submitted by the Prosecution it results beyond reasonable doubt, that the accused is guilty of the sixth charge brought against him.

The seventh charge brought against the accused is clearly founded on the contravention provided for in **Section 338(ee) of Chapter 9 of the Laws of Malta**, which provides that: *Every person is guilty of a contravention against public order, who - disobeys the lawful orders of any authority or of any person entrusted with a public service⁵², or hinders or obstructs such person in the exercise of his duties, or otherwise unduly interferes with the exercise of such duties, either by preventing other persons from doing what they are lawfully enjoined or allowed to do, or frustrating or undoing what has been lawfully done by other persons, or in any other manner whatsoever, unless such disobedience or interference falls under any other provision of this Code or of any other law*.

Even though in the Police Incident Report dated 21st May 2022 marked as Doc. "AR8" at folios 30 to 36 of the proceedings, there is stated that *il-Pulizija ordnat lil Dakov, Kristijan Slavchev sabiex jitneħħa l-filmat minn fuq Midja Soċjali, minħabba xi insulti u kliem oxxen kif ukoll xi dagħa, iżda Dakov, Kristijan Slavchev irrifjuta milli jobdi l-ordnijiet tal-Pulizija peress li Dakov, Kristijan Slavchev ma qal xejn ħażin u libertà tal-kelma*, this particular aspect of the report was not corroborated by any form of evidence and PS2344 Abigail Laferla made absolutely no mention about this fact in her testimony. Furthermore both PS2344 Abigail Laferla and Inspector Andy Rotin stated that they watched the video as a copy provided to them by Nicole Borg and neither one of them confirmed whether or not the said video was still on the accused's Instagram account during the days following the report filed on the 21st May 2022. Apart from this in an email sent by

⁵² The part pertinent to these proceedings.

Inspector Andy Rotin to the Cyber Crime Unit dated 26th March 2023⁵³, the said Inspector states *Content was posted on the 21st May 2022 and post was an Instagram story which was removed after 24 hours, time is unknown*⁵⁴.

In view of all of the above it clearly results that the Prosecution did not submit sufficient proof to prove that the accused is guilty of the seventh charge brought against him, and therefore the Court cannot find him guilty of said seventh charge so brought against him.

Diminished responsibility:

The accused insists and emphasises that at the time of the events forming the merits of these proceedings he was very anxious, depressed and also paranoid and it was this state of anxiety, depression and paranoia which led him make allegations against Elton Borg and pushed him to send the messages to Nicole Borg and post the video on his Instagram account. Dr. Paul Sciberras, the accused's Psychologist, also confirmed that when he started seeing the accused, shortly after his return from Bulgaria, he was very anxious and depressed bordering on paranoia. However, Dr. Sciberras emphasised that the accused's state of mind was not *from a psychopathological, this is not from a mental health, gross mental health issues, it is a heightened state of alertness, feeling very vulnerable, feeling despondent at times and this is that sometimes there will be a sense of helplessness and hopelessness due to insecurity and the uncertainty of the outcome of the court hearing. But he is not misdiagnosed, not mentally.*

It clearly results that whilst the accused is not claiming to have been insane at the time of the commission of the events forming the merits of these proceedings, his psychological state was such that it impaired his thought processes and led him to do and say the things which he did and said. The Court is of the opinion that the accused is seeking to put forth the defence of diminished responsibility.

With regard to this particular defence reference is made to the judgement in the names **Il-Pulizija v. Omissis**, delivered by the Court of Criminal Appeal on the 27th April 2022, where the said Court observed that: *dak li kellu jiġi stabbilit kwindi fil-każ taht il-lenti tal-Qorti huwa l-presenza jew l-assenza tal-kapaċità ta' l-awtur tar-reat li jiddistingwi bejn it-tajjeb u l-ħażin fil-mument tal-kummissjoni tar-reat. Fil-fatt anke fil-każ ta' l-eżenzjoni maħsuba fl-artikolu 33 tal-Kodiċi Kriminali, mhux kull stat ta' ġenn jwassal lil persuna akkużata tibbenefika minnha, iżda biss dak l-istat ta' ġenn fis-sens legali billi jrid neċessarjament jiġi ippruvat li l-akkużat ma kienx jaf x'qed jagħmel u li dak li kien qed jagħmel kien ħażin. U allura għalkemm il-kapaċità mentali ta' l-appellat setgħat kienet waħda afflitta minn xi forma ta' diżabbiltà, dan ma jeżentahx awtomatikament mir-responsabbiltà penali sakemm ma jiġix ippruvat li huwa ma kienx konxju tal-fatt illi dak li kien qed jagħmel, b'referenza għall-aġir inkriminatorju minnu kommess, u mhux fl-astratt, kien moralment żbaljat u kontra l-Liġi. Illi huwa minnu li l-*

⁵³ Folio 189 of the records of the proceedings.

⁵⁴ Emphasis by the Court.

Ewwel Qorti rinfaċċjata b'persuna b'kapacià intellettuali ta' tifel, u li ma kienx afflitt minn ebda mard mentali, fejn allura strettament jista' jkun li ma jaqa' taht ebda waħda mid-diżposizzjonijiet tal-liġi imħaddna fit-Titolu II ta' l-Ewwel Ktieb tal-Kodiċi Kriminali li jitkellem dwar "Il-Volontà u l-Età tal-Ħati". Illi l-Professur Mamo fin-noti tiegħu fil-fatt jitkellem dwar il-kunċett ta' dritt li jeżisti fis-sistema kontinentali, iżda mhux dik Maltija ta' l-hekk imsejjaħ "semi-responsibility" jew "diminished responsibility": "It is well known that there is no clear-cut line between the sane and the insane. The two grade into each other as day passes into night, and between the two extremes are certain twilight conditions, not serious enough to render the victim irresponsible for crime not even to require his confinement as an insane person in a mental hospital, but nevertheless rendering him incapable of sound, calm judgement, especially under the conditions of stress at which crime may be resorted to. These borderline types of mental unsoundness are sometimes referred to as partial insanity, which term, in connection with the subject we are now discussing means a mental impairment which is not so complete as to render its victim wholly irresponsible for his criminal acts. Now it has been sometimes argued that these border line cases of mental unsoundness, though not sufficient to come within the total exemption from criminal responsibility, should nevertheless serve as an extenuation of responsibility and reduce the punishment. These individuals, it is said may not be incapable of understanding the wrongfulness of their acts or of controlling their impulses, but they are less capable of doing so than normal persons, and the law should make allowance for this deficiency by punishing them less harshly than normal offenders". Illi għalkemm il-medicina psikjatrika llum għamlet avvanzi kbar miż-żmien li kien qed jikteb il-kompjant Professur Mamo, madanakollu ma saret ebda bidla fil-liġi sabiex jiġi introdott dan il-kunċett ta' diminished responsibility applikabbli għal dawk il-persuni adulti, li għalkemm ma humiex afflitti minn ebda mard mentali, madanakollu jbatu minn kundizzjonijiet oħra li jistgħu jaffettwawhom il-kapacià mentali tagħhom f'għajnejn il-liġi. Żgur, madanakollu, illi l-artikoli 35 u 37 tal-Kodiċi Kriminali ma jistgħux jiġu reżi applikabbli meta l-persuna akkuzata hija adulta u mhux ta' l-età indikata fl-imsemmija disposizzjonijiet tal-liġi.

In view of the above, the Court deems that the accused cannot benefit from any form of diminished responsibility. The fact that the accused could have had impulsivity and anger management issues, together with personal anxious issues, does not exempt him from responsibility or place him in a position of diminished responsibility, even more so when the accused himself stated that during said time he consumed Cannabis, which consumption was described by him as problematic. In this regard it is pertinent to note that in her Social Inquiry Report⁵⁵, Probation Officer Svetlana Bezzina Giannoukos observed that *Dakov reported that prior to the initiation of the current proceedings he used to smoke Cannabis on a daily basis and that he halted his consumption of the substance two years ago. The accused claimed that he was brought up to avoid drugs altogether, yet explained that he started his Cannabis use at the age of 16 or 17 and described his consumption as frequent. He explained that his friends at the time used to smoke*

⁵⁵ Doc. "SB" at folios 311 to 330 of the records of the proceedings.

Cannabis and the consequently, he had easy access to the substance and grew to like it. Dakov explained that after the first months of Cannabis use he started to experience anxiety, heart palpitations and mood changes and that in the succeeding years he managed to refrain from using at intervals. However, he specified that during the periods of Cannabis use, he used to consume around one gram of the substance throughout the whole day. He described his Cannabis use prior to the alleged offence as problematic and explained that smoking the substance rendered him paranoid and lazy.

Punishment:

In so far as concerns punishment the Court took into account the nature of the offences of which the accused is to be found guilty, however it also took into account the fact that the accused has a clean conviction sheet, it does not result that he has committed any other offences or breached the law in any other way and following sessions which Psychologist Dr. Paul Sciberras, he has come a very long way from the state and situation he was in at the time of the events forming the merits of these proceedings and this as attested and testified by the said Dr. Sciberras. The Court also took into consideration: (a) the fact that from the Social Inquiry Report drawn up by Probation Officer Svetlana Bezzina Giannoukos marked as Doc. "SB" at folios 311 to 330 of the records of the proceedings, the accused no longer makes use of Cannabis or any other illicit substances; and (b) the Care Plan recommended by the said Probation Officer - *the continuation of psychological therapy is considered important for Dakov's overall well being. Psychological sessions should also ensure a continued assessment of his mental state and assist in his maintenance of a drug-free life. As part of his efforts to lead a stable life, it is also expedient that he engages in regularised work.*

Decision:

For the above-mentioned reasons the Court, whilst finding the accused not guilty of the first, fourth and seventh charges brought against him and therefore discharges him from the same, after considering Sections 17(d), 18, 31, 251(3), 251H(b) and 339(1)(e) of Chapter 9 of the Laws of Malta and Section 49(a)(c) of Chapter 399 of the Laws of Malta, finds the accused guilty of the second, third, fifth and sixth charges brought against him however, since the Court is satisfied that the supervision of the accused by a Probation Officer is desirable in the interest of securing his continued rehabilitation and of protecting the public from harm from the said accused and preventing the commission of further offences, and also having regard to the circumstances of the case, including the nature of the offences of which the accused has been found guilty and the character of the said accused, in terms of Section 7 of Chapter 446 of the Laws of Malta, places the accused under a Probation Order for the period of two (2) years from date of this judgement and under the terms and conditions set out in the relative Decree delivered today, which Decree is being attached to and forms an integral part of this judgement.

In terms of Section 7(7) of Chapter 446 of the Laws of Malta, the Court explained to the accused, in ordinary language, the effect of the Probation Order, including any

additional requirements set out there in, and that if he fails to comply therewith or commits another offence during the operative period of the said Order, he will be liable to be sentenced for the original offences of which he is being found guilty.

In terms of Section 7(8) of Chapter 446 of the Laws of Malta, the Court orders that a copy the Probation Order issued against the accused be served forthwith on the accused and the Director for Probation Services.

In addition to the Probation Order being imposed on the accused, the Court is also placing the accused under a Treatment Order in terms of Section 412D of Chapter 9 of the Laws of Malta for period of two (2) years from date of this judgement and this under the terms and conditions set out in the relative Decree delivered today, which Decree is being attached to and forms an integral part of this judgement.

In terms of Section 412D(4) of Chapter 9 of the Laws of Malta, the Court is warning the accused that if at any time during the period that the Treatment Order being imposed upon him is in force it is proved to the Court's satisfaction that he failed to comply with any of the requirements or conditions of the said Treatment Order, the Court may impose on him a fine (*ammenda*) not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (€1164.69).

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 Elton Anthony Borg, Erica Borg and Nicole Borg for a period of three (3) years from 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 today, 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.

The Court abstains from considering the request put forth by the Prosecution in terms of Section 533 of Chapter 9 of the Laws of Malta.

MAGISTRATE

DEPUTY REGISTRAR