



**COURT OF MAGISTRATES (MALTA)  
AS A COURT OF COMMITTAL**

**MAGISTRATE DR.  
JOSEPH A. APAP BOLOGNA**

Sitting of the 31 st August, 2007

Number. 699/2007

**THE COURT**

Having seen the European arrest warrant issued by the Tribunale di Modica against Lin Yi wherein it is stated that the same person is wanted by the Italian authorities, as a Scheduled Country, in terms of Article 5 of Legal Notice 320 of 2004 for the offences of participation in a criminal organization and for trafficking in human beings, which offences are listed as scheduled, according in Schedule 2 of the same legal notice listed in the said arrest warrant and with respect to which his surrender to Italy is being sought.

Having seen the certificate issued by the Attorney General in accordance with Article 7 of the same Legal Notice.

Having seen the request for the extradition of the same person to the above mentioned Judicial Authority.

Having seen all the acts relative to this case;

Having considered

That as can be seen from the records of the proceedings of the sitting held on the 28<sup>th</sup> of August 2007, the same person, voluntarily, informed the Court, and this in the presence of his legal counsel and through the interpreter - duly appointed by the same Court in accordance with the law - that he “ .... would like to submit himself to the Foreign Judicial Authority involved and therefore is of his own free will, consenting to his extradition to Italy.” It is to be pointed out that this declaration was made in accordance with article 43 (3) of the above mentioned legal notice in the sense that “ ... he is not renouncing to the rule of speciality”.

In view of the above and in accordance with article 45 (2) (a) of Legal Notice 320 of 2004, the Court orders that Lin Yi, as described in the arrest warrant, be kept under custody to await his extradition to Italy which is to take place within ten (10) days from today.

This order is being made subject to the following:

- a) It is to be clearly expressed that, as already stated above, the person involved has not renounced to the rule of Speciality and therefore this Order is being issued provided that the same person is tried in regard to the offences of participation in a criminal organization and trafficking of human beings as specified and described in the above mentioned European arrest warrant under paragraph B (vide page 9 of these acts).
- b) It has being brought to the notice of the Court that Lin Yi is serving a sentence of imprisonment in Malta (vide article 29(1) of the same legal notice). In this regard it seems that the Court has a discretion in applying either article 29 (2), or article 36 (1) of the same legal notice. However, article 36 (2) specifies that this discretion would not be applicable if an Order is made under article 44 or 46 *ibid*. In view of what has just been stated, the Court is therefore applying article 50 of the same legal notice and therefore in accordance with subarticle 3 (a) and (b) the

person involved is to be kept in custody until the conclusion of the proceedings against him for the offences involved in this case and in respect of which he is permitted to be dealt with by this order in the scheduled country as qualified by paragraph A above. Moreover, the same person is to be returned to Malta to serve the remainder of his sentence on the conclusion of the proceedings in Italy.

c) Finally, having seen articles 25 and 15 (5) of the same legal notice, together with article 16 of the Extradition Act (Chapter 276 of the Laws of Malta) the Court is informing the person involved that if he feels that his human rights have been, are being, or are going to be infringed, he has a right of redress under article 46 of the Constitution of Malta and or under Chapter 319 of the Laws of Malta.

**< Final Judgement >**

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