



CRIMINAL COURT

**THE HON. MR. JUSTICE
LAWRENCE QUINTANO**

Sitting of the 19 th September, 2011

Number 18/2011

**The Republic of Malta
Vs
Paco Carmona Alves**

The Court,

Having seen the bill of indictment no. 18/2011 against the accused Paco Carmona Alves wherein he was charged with:

- 1) After the Attorney General premised in the First Count of the Bill of Indictment that
on the sixth (6th) of August of the year two thousand and ten (2010) and during the previous days, in these islands and outside these islands of the Republic of Malta the accused Paco Carmona Alves conspired with persons in these islands and outside of these islands to knowingly, import illegally drugs, namely cocaine. That in order to carry out this plan, the accused Paco

Carmona Alves had agreed to carry the illegal drugs under the soles of his shoes which he was wearing and travel to Malta via a flight from Dusseldorf, Germany to Malta and after arriving to pass on these drugs to other persons in Malta. The accused would receive a considerable amount of money for such services rendered.

Subsequently on the sixth (6th) of August of the year two thousand and ten (2010), the Drug Squad Police together with the Customs Officers were carrying out inspections at the Malta International Airport. During the search, the accused, Paco Carmona Alves, was acting suspiciously and by means of further investigations, it resulted that the accused was carrying, knowingly, hidden inside the soles of these shoes an illegal amount of the drug cocaine which was not in accordance with our law.

Fortunately the accused was arrested by the police on the date of his arrival that is on the sixth (6th) of August of the year two thousand and ten (2010) in the abovementioned circumstances.

In fact it resulted that the illegal drugs carried consisted of cocaine in the aggregate amount of over one hundred and forty eight grams (148.50 grams).

The illegal substance found carries the total street value of over eleven thousand and two hundred euros (€11,286), the previous currency equivalent of over four thousand, eight hundred Maltese Lira (Lm 4,843.77) and a high purity of over forty percent (42%).

By committing the abovementioned acts with criminal intent, Paco Carmona Alves rendered himself guilty of conspiracy to trafficking in dangerous drugs (cocaine) in breach of the provisions of the Dangerous Drugs Ordinance.

Wherefore, the Attorney General, in his capacity, accused Paco Carmona Alves of having on the sixth (6th) of August of the year two thousand and ten

(2010) and in the preceding days, by means of several acts even though committed at different times but constituting a violation of the same provisions of law and committed in pursuance of the same design, guilty of conspiracy in Malta and outside Malta to trafficking in dangerous drugs (cocaine) in breach of the provisions of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta) or of promoting, constituting, organising or financing the conspiracy; demanded that the accused be proceeded against according to law, and that he be sentenced to the punishment of imprisonment for life and to fine of not less than two thousand three hundred and thirty Euro (€2,330) and not more than one hundred sixteen thousand and five hundred Euro (€116,500) and to the forfeiture in favour of the Government of Malta of the entire immovable and movable property in which the offence took place as described in the bill of indictment, as is stipulated and laid down in sections 9, 10(1), 12, 14, 15(A), 20, 22(1)(a)(d)(f)(1A) (1B)(2)(a)(i)(3A)(a)(b)(c)(d), 26, 30 and 30A of the Dangerous Drugs Ordinance and regulation 4 and 9 of the 1939 Regulations for the Internal control of Dangerous Drugs (Legal Notice 292/39), and in sections 17, 18, 20, 22, 23, 23A, 23B, 23C and 533 of the Criminal Code or to any other punishment applicable according to law to the declaration of guilty of the accused.

2) After the Attorney General premised in the Second Count of the Bill of Indictment that on the sixth (6th) of August of the year two thousand and ten (2010) and during the previous days, in these islands and outside these islands of the Republic of Malta the accused Paco Carmona Alves conspired with persons in these islands and outside of these islands to knowingly, import illegally drugs, namely heroin. That in order to carry out this plan, the accused Paco Carmona Alves had agreed to carry the illegal drugs under the soles of his shoes which he was wearing and travel to Malta via a flight from Dusseldorf, Germany to Malta and after arriving to pass on these drugs to other persons in Malta.

The accused would receive a considerable amount of money for such services rendered.

Subsequently on the sixth (6th) of August of the year two thousand and ten (2010), the Drug Squad Police together with the Customs Officers were carrying out inspections at the Malta International Airport. During the search, the accused, Paco Carmona Alves, was acting suspiciously and by means of further investigations, it resulted that the accused was carrying, knowingly, hidden inside the soles of these shoes an illegal amount of the drug heroin which was not in accordance with our law.

Fortunately the accused was arrested by the police on the date of his arrival that is on the sixth (6th) of August of the year two thousand and ten (2010) in the abovementioned circumstances.

In fact it resulted that the illegal drugs carried consisted of heroin in the aggregate amount of over four hundred and ninety grams (491.40 grams). The illegal substance found carries the total street value of over twenty two thousand and six hundred Euros (€22,604.40), the previous currency equivalent of over nine thousand, seven hundred Maltese Lira (Lm 9,701.45) and a high purity of thirty five percent (35%).

By committing the abovementioned acts with criminal intent, Paco Carmona Alves rendered himself guilty of conspiracy to trafficking in dangerous drugs (heroin) in breach of the provisions of the Dangerous Drugs Ordinance.

Wherefore, the Attorney General, in his capacity, accused Paco Carmona Alves of having on the sixth (6th) of August of the year two thousand and ten (2010) and in the preceding days, by means of several acts even though committed at different times but constituting a violation of the same provisions of law and committed in pursuance of the same design, guilty of conspiracy in Malta and outside Malta to trafficking in

dangerous drugs (heroin) in breach of the provisions of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta) or of promoting, constituting, organising or financing the conspiracy; demanded that the accused be proceeded against according to law, and that he be sentenced to the punishment of imprisonment for life and to fine of not less than two thousand three hundred and thirty Euro (€2,330) and not more than one hundred sixteen thousand and five hundred Euro (€116,500) and to the forfeiture in favour of the Government of Malta of the entire immovable and movable property in which the offence took place as described in the bill of indictment, as is stipulated and laid down in sections 9, 10(1), 12, 14, 15(A), 20, 22(1)(a)(d)(f)(1A) (1B)(2)(a)(i)(3A)(a)(b)(c)(d), 26, 30 and 30A of the Dangerous Drugs Ordinance and regulation 4 and 9 of the 1939 Regulations for the Internal control of Dangerous Drugs (Legal Notice 292/39), and in sections 17, 18, 20, 22, 23, 23A, 23B, 23C and 533 of the Criminal Code or to any other punishment applicable according to law to the declaration of guilty of the accused.

3) After the Attorney General premised in the Third Count of the Bill of Indictment that owing to the nature of the circumstances which took place on the sixth (6th) of August of the year two thousand and ten (2010) and during the preceding days, as indicated in the First Count of this Bill of Indictment, it transpired that the accused, wilfully and knowingly, travelled to Malta from Dusseldorf, Germany on Air Malta flight number KM 353, whilst carrying throughout the entire trip, an illegal drug on his person under the soles of the shoes he was wearing which resulted to be cocaine and which substance is illegal in accordance with our law and which by his own admission the accused was aware that the substance was illegal. The accused gave his full consent to taking the flight concerned, whilst being fully aware of the purpose of his journey and the illegal substance which he had carried before he boarded his flight so as to bring the same to Malta.

Effectively, if the Drug Squad Police and the Customs Officers failed to notice the accused upon his arrival, the contents of these drugs under the soles would have been transferred to third parties in Malta and would have been trafficked for financial gain. The illegal substance under the soles of his shoes consisted of cocaine in the aggregate amount of over one hundred and forty eight grams (148.50 grams). The illegal substance found carries the total street value of over eleven thousand and two hundred euros (€11,286), the previous currency equivalent of over four thousand, eight hundred Maltese Lira (Lm 4,843.77) and a high purity of over forty percent (42%).

The accused was not in possession of any licence or authorisation issued under the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta), which authorised or permitted in any way the importation of the dangerous drug concerned by the accused.

Cocaine is a dangerous drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance. Paco Carmona

Alves was not in possession of any valid and subsisting import authorisation granted in pursuance of the said law.

By committing the abovementioned acts with criminal intent, the accused Paco Carmona Alves rendered himself guilty of intending to bring or causing to be brought into Malta in any manner whatsoever a dangerous drug (cocaine), being a drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta), when he was not in possession of any valid and subsisting import authorisation granted in pursuance of the said law.

Wherefore, the Attorney General, in his capacity, accused Paco Carmona Alves of having on the sixth (6th) of August of the year two thousand and ten (2010) and in the preceding days by several acts

even though committed at different times but constituting a violation of the same provisions of law and committed in pursuance of the same design, guilty of meaning to bring or causing to be brought into Malta in any manner whatsoever a dangerous drug (cocaine), being a drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta), when he was not in possession of any valid and subsisting import authorisation granted in pursuance of the said law; demanded that the accused be proceeded against according to law, and that he be sentenced to the punishment of imprisonment for life and to fine of not less than two thousand three hundred and thirty Euro (€2,330) and not more than one hundred sixteen thousand and five hundred Euro (€116,500) and to the forfeiture in favour of the Government of Malta of the entire immovable and movable property in which the offence took place as described in the bill of indictment, as is stipulated and laid down in sections 2, 9, 10(1), 12, 14, 15, 15(A), 20, 22(1)(a)(1B)(2)(a)(i)(3A)(a)(b)(c)(d), 25, 26, 30, 30A of the Dangerous Drugs Ordinance and regulation 4 and 9 of the 1939 Regulations for the Internal control of Dangerous Drugs (Legal Notice 292/39), and in sections 17, 18, 20, 22, 23, 23A, 23B, 23C and 533 of the Criminal Code or to any other punishment applicable according to law to the declaration of guilty of the accused.

4) After the Attorney General premised in the Fourth Count of the Bill of Indictment that owing to the nature of the circumstances which took place on the sixth (6th) of August of the year two thousand and ten (2010) and during the preceding days, as indicated in the Second Count of this Bill of Indictment, it transpired that the accused, wilfully and knowingly, travelled to Malta from Dusseldorf, Germany on Air Malta flight number KM 353, whilst carrying throughout the entire trip, an illegal drug on his person under the soles of the shoes he was wearing which resulted to be heroin and which substance is illegal in accordance with our law and which by his own admission the accused was aware

that the substance was illegal. The accused gave his full consent to taking the flight concerned, whilst being fully aware of the purpose of his journey and the illegal substance which he had carried before he boarded his flight so as to bring the same to Malta.

Effectively, if the Drug Squad Police and the Customs Officers failed to notice the accused upon his arrival, the contents of these drugs under the soles of his shoes would have been transferred to third parties in Malta and would have been trafficked for financial gain. The illegal substance under the soles of his shoes consisted of heroin in the aggregate amount of over four hundred and ninety grams (491.40 grams). The illegal substance found carries the total street value of over twenty two thousand and six hundred Euros (€22,604.40), the previous currency equivalent of over nine thousand, seven hundred Maltese Lira (Lm 9,701.45) and a high purity of thirty five percent (35%).

The accused was not in possession of any licence or authorisation issued under the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta), which authorised or permitted in any way the importation of the dangerous drug concerned by the accused.

Heroin is a dangerous drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance. Paco Carmona Alves was not in possession of any valid and subsisting import authorisation granted in pursuance of the said law.

By committing the abovementioned acts with criminal intent, the accused Paco Carmona Alves rendered himself guilty of intending to bring or causing to be brought into Malta in any manner whatsoever a dangerous drug (heroin), being a drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta), when he was not in

possession of any valid and subsisting import authorisation granted in pursuance of the said law.

Wherefore, the Attorney General, in his capacity, accused Paco Carmona Alves of having on the sixth (6th) of August of the year two thousand and ten (2010) and in the preceding days by several acts even though committed at different times but constituting a violation of the same provisions of law and committed in pursuance of the same design, guilty of meaning to bring or causing to be brought into Malta in any manner whatsoever a dangerous drug (heroin), being a drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta), when he was not in possession of any valid and subsisting import authorisation granted in pursuance of the said law; demanded that the accused be proceeded against according to law, and that he be sentenced to the punishment of imprisonment for life and to fine of not less than two thousand three hundred and thirty Euro (€2,330) and not more than one hundred sixteen thousand and five hundred Euro (€116,500) and to the forfeiture in favour of the Government of Malta of the entire immovable and movable property in which the offence took place as described in the bill of indictment, as is stipulated and laid down in sections 2, 9, 10(1), 12, 14, 15, 15(A), 20, 22(1)(a)(1B)(2)(a)(i)(3A)(a)(b)(c)(d), 25, 26, 30, 30A of the Dangerous Drugs Ordinance and regulation 4 and 9 of the 1939 Regulations for the Internal control of Dangerous Drugs (Legal Notice 292/39), and in sections 17, 18, 20, 22, 23, 23A, 23B, 23C and 533 of the Criminal Code or to any other punishment applicable according to law to the declaration of guilty of the accused.

5) After the Attorney General premised in the Fifth Count of the Bill of Indictment that under the same circumstances as the previous Counts of this Bill of Indictment, that is on the sixth (6th) of August of the year two thousand and ten (2010) and during the previous

days, Paco Carmona Alves wilfully and knowingly caused the importation of the aforementioned drug (cocaine) with the intention to pass on the same illegal substance to another person or persons and being fully aware that the said drug would be trafficked against the law in the Maltese Islands.

Paco Carmona Alves in fact intended, offered and gave the drugs, or part of them, to a third party, namely a certain John Michael with whom arrangements were made to pass on the drugs with the aim that the latter would sell them to third parties. This illegal activity was intended to be done at a profit for Paco Carmona Alves.

Cocaine is a dangerous drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance Paco Carmona Alves was not in possession of any valid and subsisting procurement, manufacture, exportation or importation authorisation of such illegal substance, duly granted in pursuance of the said law.

By committing the abovementioned acts with criminal intent, the accused Paco Carmona Alves rendered himself guilty of by several acts committed even though committed at different times but constituting a violation of the same provision of the law and committed in pursuance of the same design, having sold or otherwise dealt in an illegal substance (cocaine), without a license by the Minister responsible for Health or without being authorised by these Rules or by authority granted by the Minister responsible for Health to supply the drug mentioned (cocaine), or without being in possession of an import or export authorisation issued by the Chief Government Medical Officer in pursuance of the provisions of Part IV and Part VI of the Ordinance, and without being licensed or otherwise authorised to manufacture the drug or without a license to procure the same.

Wherefore, the Attorney General, in his aforesaid capacity, accused Paco Carmona Alves of being guilty of having, on the sixth (6th) of August of the year two thousand and ten (2010) and during the previous days, by several acts committed even though committed at different times but constituting a violation of the same provision of the law and committed in pursuance of the same design, supplied or procured or offered to supply or procure an illegal substance (cocaine) to or for any person whether in these Islands or elsewhere, or advertise the drugs for sale, without a license by the Minister responsible for Health or without being authorised by these Rules or by authority granted by the Minister responsible for Health to supply the drug mentioned (cocaine), or without being in possession of an import or export authorisation issued by the Chief Government Medical Officer in pursuance of the provisions of Parts IV and VI of the Ordinance, and without being licensed or otherwise authorised to manufacture the drug or without a license to procure the same;

Demanded that the accused be proceeded against according to law, and that he be sentenced to the punishment of imprisonment for life and to fine of not less than two thousand three hundred and thirty Euro (€2330) and not more than one hundred sixteen thousand and five hundred Euro (€116,500) and to the forfeiture in favour of the Government of Malta of the entire immovable and movable property in which the offence took place as described in the bill of indictment, as is stipulated and laid down in sections 9, 10(1), 12, 14, 15(A), 20, 22(1)(a)(2)(a)(i)(1B)(3A)(a)(b)(c)(d) and 26 of the Dangerous Drugs Ordinance and regulations 4 and 9 of the Internal control of Dangerous Drugs Rules, 1939 (Government Notice 292 of 1939), and in Articles 18, 23 and 533 of the Criminal Code (Cap. 9 of the Laws of Malta) or to any other punishment applicable according to law to the declaration of guilty of the accused.

6) After the Attorney General premised in the Sixth Count of the Bill of Indictment that under the same circumstances as the previous Counts of this Bill of Indictment, that is on the sixth (6th) of August of the year two thousand and ten (2010) and during the previous days, Paco Carmona Alves wilfully and knowingly caused the importation of the aforementioned drug (heroin) with the intention to pass on the same illegal substance to another person or persons and being fully aware that the said drug would be trafficked against the law in the Maltese Islands.

Paco Carmona Alves in fact intended, offered and gave the drugs, or part of them, to a third party, namely a certain John Michael with whom arrangements were made to pass on the drugs with the aim that the latter would sell them to third parties. This illegal activity was intended to be done at a profit for Paco Carmona Alves.

Heroin is a dangerous drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance Paco Carmona Alves was not in possession of any valid and subsisting procurement, manufacture, exportation or importation authorisation of such illegal substance, duly granted in pursuance of the said law.

By committing the abovementioned acts with criminal intent, the accused Paco Carmona Alves rendered himself guilty of by several acts committed even though committed at different times but constituting a violation of the same provision of the law and committed in pursuance of the same design, having sold or otherwise dealt in an illegal substance (heroin), without a license by the Minister responsible for Health or without being authorised by these Rules or by authority granted by the Minister responsible for Health to supply the drug mentioned (heroin), or without being in possession of an import or export authorisation issued by the Chief Government Medical Officer in pursuance of the provisions of Part IV

and Part VI of the Ordinance, and without being licensed or otherwise authorised to manufacture the drug or without a license to procure the same.

Wherefore, the Attorney General, in his aforesaid capacity, accused Paco Carmona Alves of being guilty of having, on the sixth (6th) of August of the year two thousand and ten (2010) and during the previous days, by several acts committed even though committed at different times but constituting a violation of the same provision of the law and committed in pursuance of the same design, supplied or procured or offered to supply or procure an illegal substance (heroin) to or for any person whether in these Islands or elsewhere, or advertise the drugs for sale, without a license by the Minister responsible for Health or without being authorised by these Rules or by authority granted by the Minister responsible for Health to supply the drug mentioned (heroin), or without being in possession of an import or export authorisation issued by the Chief Government Medical Officer in pursuance of the provisions of Parts IV and VI of the Ordinance, and without being licensed or otherwise authorised to manufacture the drug or without a license to procure the same;

Demanded that the accused be proceeded against according to law, and that he be sentenced to the punishment of imprisonment for life and to fine of not less than two thousand three hundred and thirty Euro (€2330) and not more than one hundred sixteen thousand and five hundred Euro (€116,500) and to the forfeiture in favour of the Government of Malta of the entire immovable and movable property in which the offence took place as described in the bill of indictment, as is stipulated and laid down in sections 9, 10(1), 12, 14, 15(A), 20, 22(1)(a)(2)(a)(i)(1B)(3A)(a)(b)(c)(d) and 26 of the Dangerous Drugs Ordinance and regulations 4 and 9 of the Internal control of Dangerous Drugs Rules, 1939 (Government Notice 292 of 1939), and in Articles 18, 23 and 533 of the Criminal Code (Cap. 9 of the Laws

of Malta) or to any other punishment applicable according to law to the declaration of guilty of the accused.

7) After the Attorney General premised in the Seventh Count of the Bill of Indictment that having illegally imported on the sixth (6th) of August of the year two thousand and ten (2010) into Malta, the dangerous drug cocaine, as described under the First, Third and Fifth Count of this Bill of Indictment, Paco Carmona Alves, as a consequence of the suspicions raised to the Drug Squad Police and Customs Officers, was searched and was subsequently found to be carrying knowingly and illegally, under the soles of his shoes cocaine in the aggregate amount of over one hundred and forty eight grams (148.50 grams). The illegal substance found carries the total street value of over eleven thousand and two hundred euros (€11,286), the previous currency equivalent of over four thousand, eight hundred Maltese Lira (Lm 4,843.77) and a high purity of over forty percent (42%).

The accused himself admitted that these drugs were intended to be trafficked and which amount is in itself indicative that the illegal substance was too great to be intended merely for personal use.

Cocaine is a dangerous drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance. Paco Carmona Alves was not in possession of any valid and subsisting import authorisation granted in pursuance of the said law.

By committing the abovementioned acts with criminal intent, the accused Paco Carmona Alves rendered himself guilty of possession of a dangerous drug (cocaine), being a drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta) when not in possession of any valid and subsisting import or possession authorization

granted in pursuance of the said law, and with intent to supply in that such possession was not for the exclusive use of the offender.

Wherefore, the Attorney General, in his capacity, accused Paco Carmona Alves of having on the sixth (6th) of August of the year two thousand and ten (2010) and in the preceding days, by several acts even though committed at different times but constituting a violation of the same provisions of law and committed in pursuance of the same design, guilty of possession of a dangerous drug (cocaine), being a drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta), when not in possession of any valid and subsisting import or possession authorization granted in pursuance of the said law, and with intent to supply same in that such possession was not for the exclusive use of the offender; demanded that the accused be proceeded against according to law, and that he be sentenced to the punishment of imprisonment for life and to fine of not less than two thousand three hundred and thirty Euro (€2,330) and not more than one hundred sixteen thousand and five hundred Euro (€116,500) and to the forfeiture in favour of the Government of Malta of the entire immovable and movable property in which the offence took place as described in the bill of indictment, as is stipulated and laid down in sections 2, 9, 10(1), 12, 14, 15, 15(A), 20, 22(1)(a)(1B)(2)(a)(i)(3A)(a)(b)(c)(d), 25, 26, 30 and 30A of the Dangerous Drugs Ordinance and regulation 4 and 9 of the 1939 Regulations for the Internal control of Dangerous Drugs (Legal Notice 292/39), and in sections 17, 18, 20, 22, 23, 23A, 23B, 23C and 533 of the Criminal Code or to any other punishment applicable according to law to the declaration of guilty of the accused.

8) After the Attorney General premised in the Eighth Count of the Bill of Indictment that having illegally imported on the sixth (6th) of August of the year two

thousand and ten (2010) into Malta, the dangerous drug heroin, as described under the Second, Fourth and Sixth Count of this Bill of Indictment, Paco Carmona Alves, as a consequence of the suspicions raised to the Drug Squad Police and Customs Officers, was searched and was subsequently found to be carrying knowingly and illegally, under the soles of his shoes heroin in the aggregate amount of over four hundred and ninety grams (491.40 grams). The illegal substance found carries the total street value of over twenty two thousand and six hundred Euros (€22,604.40), the previous currency equivalent of over nine thousand, seven hundred Maltese Lira (Lm 9,701.45) and a high purity of thirty five percent (35%).

The accused himself admitted that these drugs were intended to be trafficked and which amount is in itself indicative that the illegal substance was too great to be intended merely for personal use.

Heroin is a dangerous drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance. Paco Carmona Alves was not in possession of any valid and subsisting import authorisation granted in pursuance of the said law.

By committing the above mentioned acts with criminal intent, the accused Paco Carmona Alves rendered himself guilty of possession of a dangerous drug (heroin), being a drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta) when not in possession of any valid and subsisting import or possession authorization granted in pursuance of the said law, and with intent to supply in that such possession was not for the exclusive use of the offender.

Wherefore, the Attorney General, in his capacity, accused Paco Carmona Alves of having on the sixth (6th) of August of the year two thousand and ten (2010) and in the preceding days, by several acts

even though committed at different times but constituting a violation of the same provisions of law and committed in pursuance of the same design, guilty of possession of a dangerous drug (heroin), being a drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta), when not in possession of any valid and subsisting import or possession authorization granted in pursuance of the said law, and with intent to supply same in that such possession was not for the exclusive use of the offender; demanded that the accused be proceeded against according to law, and that he be sentenced to the punishment of imprisonment for life and to fine of not less than two thousand three hundred and thirty Euro (€2,330) and not more than one hundred sixteen thousand and five hundred Euro (€116,500) and to the forfeiture in favour of the Government of Malta of the entire immovable and movable property in which the offence took place as described in the bill of indictment, as is stipulated and laid down in sections 2, 9, 10(1), 12, 14, 15, 15(A), 20, 22(1)(a)(1B)(2)(a)(i)(3A)(a)(b)(c)(d), 25, 26, 30 and 30A of the Dangerous Drugs Ordinance and regulation 4 and 9 of the 1939 Regulations for the Internal control of Dangerous Drugs (Legal Notice 292/39), and in sections 17, 18, 20, 22, 23, 23A, 23B, 23C and 533 of the Criminal Code or to any other punishment applicable according to law to the declaration of guilty of the accused.

Having seen all the records of the case, including those of the compilation of evidence before the Court of Magistrates (Malta) as a Court of Criminal Inquiry;

Having seen the joint application filed by the Attorney General and the accused on the 30th August, 2011, whereby, after declaring that in the event that the accused was filing a guilty plea to the charges brought forward in his regard in the above referred to Bill of Indictment, requested that the punishment to be awarded should consist of a term of imprisonment of ten (10) years and

the imposition of a fine of thirty thousand Euros (€30,000) together with the other sanctions and consequences that are prescribed by law for the above conviction in terms of the provisions of the Dangerous Drugs Ordinance Chapter 101 of the Laws of Malta, including the confiscation of any monies and movable and immovable properties of the accused.

Having seen that in today's sitting the accused, in reply to the question as to whether he was guilty or not guilty of all the charges preferred against him under the counts of the Bill of Indictment, stated that he was pleading guilty thereto;

Having seen that this Court then warned the accused in the most solemn manner of the legal consequences of such statement and allowed him a short time to retract it, according to Section 453 (Chap. 9);

Having seen that the accused after being granted such a time, persisted in his statement of admission of guilt;

Now therefore declares Paco Carmona Alves guilty of all counts in the Bill of Indictment, namely of having:-

1. on the 6th August 2010 by means of several acts even though committed at different times but constituting a violation of the same provisions of law and committed in pursuance of the same design, guilty of conspiracy in Malta and outside Malta to trafficking in dangerous drugs (cocaine) in breach of the provisions of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta) or of promoting, constituting, organising or financing the conspiracy; and this according to the First Count of the Bill of Indictment;

2. on the 6th August 2010 by means of several acts even though committed at different times but constituting a violation of the same provisions of law and committed in pursuance of the same design, guilty of conspiracy in Malta and outside Malta to trafficking in dangerous drugs (heroin) in breach of the provisions of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta) or of promoting, constituting, organising or

financing the conspiracy; and this according to the Second Count of the Bill of Indictment;

3. on the 6th August 2010 by several acts even though committed at different times but constituting a violation of the same provisions of law and committed in pursuance of the same design, guilty of meaning to bring or causing to be brought into Malta in any manner whatsoever a dangerous drug (cocaine), being a drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta), when he was not in possession of any valid and subsisting import authorisation granted in pursuance of the said law, and this according to the Third Count of the Bill of Indictment;

4. on the 6th August 2010 by several acts even though committed at different times but constituting a violation of the same provisions of law and committed in pursuance of the same design, guilty of meaning to bring or causing to be brought into Malta in any manner whatsoever a dangerous drug (heroin), being a drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta), when he was not in possession of any valid and subsisting import authorisation granted in pursuance of the said law, and this according to the Fourth Count of the Bill of Indictment;

5. on the 6th August 2010 by several acts committed even though committed at different times but constituting a violation of the same provision of the law and committed in pursuance of the same design, supplied or procured or offered to supply or procure an illegal substance (cocaine) to or for any person whether in these Islands or elsewhere, or advertise the drugs for sale, without a license by the Minister responsible for Health or without being authorised by these Rules or by authority granted by the Minister responsible for Health to supply the drug mentioned (cocaine), or without being in possession of an import or export authorisation issued by the Chief Government Medical Officer in pursuance of the provisions of Parts IV and VI of the Ordinance, and without being licensed or otherwise authorised to

manufacture the drug or without a license to procure the same;

6. on the 6th August 2010 by several acts committed even though committed at different times but constituting a violation of the same provision of the law and committed in pursuance of the same design, supplied or procured or offered to supply or procure an illegal substance (heroin) to or for any person whether in these Islands or elsewhere, or advertise the drugs for sale, without a license by the Minister responsible for Health or without being authorised by these Rules or by authority granted by the Minister responsible for Health to supply the drug mentioned (heroin), or without being in possession of an import or export authorisation issued by the Chief Government Medical Officer in pursuance of the provisions of Parts IV and VI of the Ordinance, and without being licensed or otherwise authorised to manufacture the drug or without a license to procure the same, and this according to the Sixth Count of the Bill of Indictment;

7. on the 6th August 2010, by several acts even though committed at different times but constituting a violation of the same provisions of law and committed in pursuance of the same design, guilty of possession of a dangerous drug (cocaine), being a drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta), when not in possession of any valid and subsisting import or possession authorization granted in pursuance of the said law, and with intent to supply same in that such possession was not for the exclusive use of the offender, and this according to the Seventh Count of the Bill of Indictment;

8. on the 6th August 2010, by several acts even though committed at different times but constituting a violation of the same provisions of law and committed in pursuance of the same design, guilty of possession of a dangerous drug (heroin), being a drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta), when not in possession of any valid and

subsisting import or possession authorization granted in pursuance of the said law, and with intent to supply same in that such possession was not for the exclusive use of the offender, and this according to the Eighth Count of the Bill of Indictment.

Having considered all the circumstances of the case, this Court is satisfied that the combination of sanctions and measures requested by the prosecution and the accused are those which it would have been lawful for it to impose upon conviction for the offences to which the accused has pleaded guilty and that it does not have cause to order the trial of the cause to be proceeded with or to reject said request for any other reason.

Having considered the guilty plea of the accused after the Court explained to him in clear terms the consequences of his request, now proceeds to pass the sentence indicated to it by the parties as aforestated.

Having seen articles 2, 9, 10(1), 12, 14, 15, 15(A), 20, 22(1)(a)(d)(f)(1A)(1B)(2)(a)(i)(3A)(a)(b)(c)(d), 25, 26, 30 and 30A of the Dangerous Drugs Ordinance (Chap.101); Regulations 4, and 9 of the 1939 Regulations for the Internal Control of Dangerous Drugs (L.N. 292/1939) and Sections 17, 18, 20, 22, 23, 23A, 23B, 23C and 533 of the Criminal Code (Cap. 9 of the Laws of Malta).

Now therefore condemns the said Paco Carmona Alves to a term of imprisonment of ten (10) years, and to the payment of a fine (multa) of thirty thousand Euros (€30,000), which fine (multa) shall be converted into a further term of imprisonment of eighteen months according to Law, in default of payment ;

Furthermore condemns him to pay within month the sum of one thousand, five hundred forty two Euros and sixty four cents (€1542.64) being the sum total of the expenses incurred in the appointment of court experts in this case in terms of Section 533 of Chapter 9 of the Laws of Malta. Should this sum not be paid, then it should be converted into a prison term in accordance with the law.

Furthermore, orders the forfeiture in favour of the Government of Malta of all the property involved in the said crimes of which he has been found guilty and other movable and immovable property belonging to the said Paco Carmona Alves.

And finally orders the destruction of all the objects exhibited in Court, consisting of the dangerous drugs or objects related to the abuse of drugs, which destruction shall be carried out as soon as possible by Godwin Sammut under the direct supervision of the Deputy Registrar of this Court who shall be bound to report in writing to this Court when such destruction has been completed, unless the Attorney General files a note within fifteen days declaring that the said drugs are required in evidence against third parties.

< Final Judgement >

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