



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

**MAGISTRATE DR. JOSEPH MIFSUD
B.A. (LEG. & INT. REL.), B.A. (HONS.), M.A. (EUROPEAN), LL.D.**

Sitting of the 3rd February 2016

**The Police
(Inspector Darren Buhagiar)**

vs.

Dusan Kljajcin

Case Number 46/2016JM

The Court,

After having seen the charges brought against **Dusan Kljajcin** of twenty three (23) years of age, Serbian nationality, son of Zoran & Jelica, born in Serbia on 2nd September 1992, residing at 149, Salvatore Court, Flat 10, Triq Sir Luigi Preziosi, San Pawl il-Bahar and holder of Serbian passport bearing number 012330290 charged with having on the 18th January 2016 or previous days, in order to gain any advantage or benefit for himself or others, in any document intended for any public authority, knowingly made a false declaration or statement or gave false information (Chap. 9, Sec. 188 of the Laws of Malta);

And charge him also with having on same date circumstances, made or caused to be made any false return, false statement or false representation in relation to any information to be given under or for purposes of the Immigration Act (Chap. 217, Sec. 32 (1c) of the Laws of Malta.

Having examined all the documents forming part of the proceedings.

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Having heard the accused plead guilty to the charges brought against him, notwithstanding the fact that the Court in terms of Section 453(1) of Chapter 9 of the Laws of Malta warned him in the most solemn manner of the legal consequences of his guilty plea after having given him sufficient time within which to reconsider and withdraw his guilty plea.

Having heard both the Prosecution and the defence agreeing that the accused should not be sentenced to an effective jail term.

Having seen various declarations from Pope Francis on Immigration:

“Where is your brother?” His blood cries out to me, says the Lord. This is not a question directed to others; it is a question directed to me, to you, to each of us. These brothers and sisters of ours were trying to escape difficult situations to find some serenity and peace; they were looking for a better place for themselves and their families, but instead they found death. How often do such people fail to find understanding, fail to find acceptance, fail to find solidarity. And their cry rises up to God! Once again I thank you, the people of Lampedusa, for your solidarity. I recently listened to one of these brothers of ours. Before arriving here, he and the others were at the mercy of traffickers, people who exploit the poverty of others, people who live off the misery of

others. How much these people have suffered! Some of them never made it here.”¹

“Despite the problems, risks, and difficulties to be faced, great numbers of migrants and refugees continue to be inspired by confidence and hope; in their hearts they long for a better future, not only for themselves but for their families and those closest to them.”²

“Migrants and refugees are not pawns on the chessboard of humanity. They are children, women, and men who leave or are forced to leave their homes for various reasons, who share a legitimate desire for knowing and having, but above all for being more.”³

“It is necessary to respond to the globalization of migration with the globalization of charity and cooperation, in such a way as to make the conditions for migrants more humane.”⁴

Considers

That, as a consequence of the admission of the accused of the charges brought against him, the Court finds the accused guilty of the said charges.

With regards to the punishment to be inflicted, the Court will be taking into consideration various factors, including the nature of the charges brought against the accused, his guilty plea at an early stage of these proceedings, his co-operation with the Police, his clean conviction sheet and the fact that both the Prosecution and the defence agreeing that the accused should not be sentenced to an effective jail term.

Therefore, the Court, after having seen and considered Section 188 of Chapter 9 of the Laws of Malta, and Section 32(1)(c) of Chapter 217 of the Laws of Malta, finds the accused **Dusan Kljajcin** guilty of all the charges brought against him and condemns him to one (1) year imprisonment however, since the

¹ Homily at Lampedusa, July 8, 2013

² Ibid.

³ Message for the 2014 World Day of Migrants and Refugees, September 24, 2013

⁴ Message for the 2015 World Day of Migrants and Refugees, September 3, 2014

Court is of the opinion that there are sufficient reasons which warrant that the said term of imprisonment be suspended, in terms of Section 28A of Chapter 9 of the Laws of Malta, suspends the said term of one (1) year imprisonment for a period of two (2) years from date of this judgment.

In terms of Section 28A(4) of Chapter 9 of the Laws of Malta the Court has explained to the accused in plain language his liability under Section 28B of Chapter 9 of the Laws of Malta if during the operational period he commits an offence punishable with imprisonment.

Dr. Joseph Mifsud
Magistrate

Margaret De Battista
Dep. Reg.