



**COURT OF MAGISTRATES (MALTA)
As a Court of Criminal Judicature**

MAGISTRATE
Dr. Victor George Axiak LL.D. Dip. Tax

Sitting held on 01 July, 2019

The Police
(Inspector Lianne Bonello, Inspector Nicholas Vella)

vs

Mustafa M Abdalla Ben Khalifa
(Holder of Libyan Passport No. KJF31RH8)

The Court

1. Having seen that the accused Mustafa M Abdalla Ben Khalifa, of Libyan nationality, son of Mohammed and Aicha, born and residing in Tripoli, Libya, holder of Libyan Passport No. KJF31RH8, was submitted under arrest and charged with having:
 - i. *“in these Islands, on the 28th June 2019, at about 6am, at the Malta International Airport, Gudja, failed to declare to the Comptroller of Customs, that he was carrying a sum equivalent to Euro10,000 or more in cash, whilst entering Malta, in breach of Regulation 3 of Subsidiary Legislation 233.07 (Cash Controls Regulations) of the External Transactions Act (Chapter 233 of the Laws of Malta).”*
2. Having seen that the Court was also requested:

- i. “that in case of a finding of guilt of the accused, apart from inflicting the punishment prescribed at Law, also orders the forfeiture of all the objects exhibited in these proceedings”,*
 - ii. “that in pronouncing judgement or in any subsequent order, sentence the person/s convicted, jointly or severally, to the payment, wholly or in part, to the Registrar, of the costs incurred in connection with the employment in the proceedings of any expert or referee, within such period and in such amount as shall be determined in the judgment or order, as per Section 533 of Chapter 9 of the Laws of Malta.”*
3. Having seen the consent of the Attorney General granted under the provisions of Regulation 3(5) of the Cash Control Regulations (Subsidiary Legislation 233.07)
4. Having taken cognisance of the proceedings of the sitting held on 29 June 2019.
5. Having seen the documents exhibited by the Prosecution and having heard the evidence of Customs Official Antonella Muscat dictated in the presence of the accused during the sitting held today 1 July 2019. The same Customs Official testified that the total amount of undeclared cash amounted to **thirty-four thousand seven hundred and five euro (€34,705)** consisting of:
 - i. eight (8) cheques for the amount of four thousand euro (€4,000) each, and*
 - ii. two-thousand seven hundred and five euro (€2,705) cash into different denominations.*
6. Having heard the accused plead guilty to the charge at an early stage of the proceedings, which guilty plea was confirmed by the same offender after the Court, in terms of section 453 (1) of Chapter 9 of the Laws of Malta, warned him of the legal consequences of such guilty plea, and allowed him sufficient time to re-consider his reply, and to change it.

Considerations

7. Considered that from the evidence submitted and from the guilty plea registered by the accused, the accused is guilty of the charge brought against him.
8. Considered that the total amount of undeclared cash that was being carried by the accused amounted to thirty-four thousand seven hundred and five euro (€34,705) and that this was the amount seized by the Commissioner.
9. Considered that as regards punishment, Regulation 3(4)(c) of the Cash Control Regulations (Subsidiary Legislation 233.07) provides as follows:

“If the sum mentioned in sub-regulation (1) which is falsely declared or not declared is of a value of twenty thousand and one euro (€20,001) or more, the Commissioner shall seize the sum in excess of ten thousand euro (€10,000) or the whole amount when the cash is indivisible and the person shall, on conviction, be liable to a fine (multa) equivalent to twenty-five per cent (25%) of the value of all the cash being carried, including the sum of ten thousand euro (€10,000), as represented in local currency on the date when the person is entering or leaving Malta or is transiting through Malta, provided that in no case shall the fine (multa) exceed fifty thousand euro (€50,000), and the court shall also order the forfeiture in favour of the Commissioner of the undeclared amount of cash in excess of ten thousand euro (€10,000), or the whole amount when the cash is indivisible”

10. Considered that therefore the accused is liable to a fine equivalent to twenty-five per cent (25%) of the value of all the cash being carried, which fine amounts to eight-thousand six hundred and seventy-six euro and twenty-five cents (€ 8,676.25).
11. Considered that in the particular circumstances of this case, the whole amount shall be forfeited in favour of the Commissioner since the cash is indivisible.

Decides

12. For these reasons, the Court:
 - i. finds the accused Mustafa M Abdalla Ben Khalifa guilty of the charge brought against him under Regulation 3(1),(2) and (3) of Subsidiary Legislation 233.07 (Cash Controls Regulations) of the External Transactions Act (Chapter 233 of the Laws of Malta),**
 - ii. condemns him to the payment of a fine (multa) of eight-thousand six hundred and seventy-six euro and twenty-five cents (€ 8,676.25),**
 - iii. in accordance with Regulation 3(4)(c) of the Cash Control Regulations (Subsidiary Legislation 233.07) orders the forfeiture in favour of the Commissioner of the whole amount of cash that was being carried by the accused, that is, thirty-four thousand seven hundred and five euro (€34,705) consisting of eight (8) cheques for the amount of four thousand euro (€4,000) each and two-thousand seven hundred and five euro (€2,705) cash into different denominations.**

- iv. abstains from taking cognisance of the request to order the offender to pay any expenses relating to experts in terms of section 533 of Chapter 9 of the Laws of Malta since no experts were nominated in these proceedings.**

Dr. Victor George Axiak
Magistrate

Mario Azzopardi
Deputy Registrar