



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

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

Sitting held on 23 January 2020  
Epiphany Session

**The Police**  
(Inspector Keith Vella)

vs

**Eyüp Mermutlu**  
(Holder of Turkish Passport No. U22487781)

**The Court**

1. Having seen that the accused Eyüp Mermutlu, of Turkish nationality, son of Cezmi and Remziye nee' Kosar, born in Ankara, Turkey and residing in Dalaman – Nugla, Turkey, holder of Turkish Passport No. U22487781, was brought before it under arrest and charged with having:
  - i. *“in these Islands, on the 17 December 2019, at about 09:15hrs, at the Malta International Airport, Gudja, failed to declare to the Commissioner for Revenue, that he was carrying a sum equivalent to € 10,000 or more in cash, whilst leaving Malta to Istanbul, Turkey, 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)<sup>1</sup>
4. Having taken cognisance of the proceedings of the sitting held on 18 December 2019.
5. Having seen the documents exhibited by the Prosecution and having heard the evidence of Customs Official Kirsten Paul Borg dictated in the presence of the accused during the sitting held today 23 January 2020. The same Customs Official testified that the total amount of undeclared cash amounted to **forty-five thousand one hundred and eighty-five euro (€45,185)** consisting of:
  - i. € 35,520 in cash, ten thousand euro (€10,000) of which were returned to the defendant and the rest were seized in terms of law.
  - ii. £ 8,285 in cash (equivalent, according to the Prosecution and the Defence, to the amount of € 9,665) which were seized in terms of law.
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

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<sup>1</sup> Fol 6

Court 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 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”*

9. 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 **eleven thousand two hundred ninety-six euro and twenty-five cents (€ 11,296.25).**
10. Considered that the amount seized of thirty-five thousand one hundred and eighty euro (€ 35,185) shall be forfeited in favour of the Commissioner.

### Decide

11. For these reasons, having seen the law (Regulations 3(1), (4)(c) of Subsidiary Legislation 233.07 (Cash Controls Regulations) of the External Transactions Act (Chapter 233 of the Laws of Malta)), the Court upon the accused’s admission finds him guilty of the charge brought against him and:
  - i. **condemns him to pay a fine (multa) of eleven thousand two hundred ninety-six euro and twenty-five cents (€ 11,296.25),**

- ii. **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 cash that was seized, that is, thirty-five thousand one hundred and eighty euro (€ 35,185).**
- iii. **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**

