



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

MAGISTRATE DR MARSE-ANN FARRUGIA LL.D.

Sitting held today Wednesday, 14th September 2022

**The Police
(Inspector Godwin Scerri)**

vs

Vlatko Ivanovski

The Court,

1. Having seen the charges brought against Vlatko Ivanovski son of Ordan and Zorica nee Taseva, born on the 12th July 1985 in Kochani, Macedonia, resident at 81, St Joseph, Fl 3, Triq l-Imhar, San Pawl il-Bahar, holder of Macedonian passport number B0533105 and Maltese residence permit number 0243382A.

Charged with having in the month of August 2020 in Triq l-Imhar, San Pawl il-Bahar and Triq ic-Cern, San Pawl il-Bahar and on these Islands by means of several acts committed, even if at different times, which constituted violations of the same provision of the law, and were committed in pursuance of the same design:

1. Pursued a course of conduct that caused his wife Olivera Ivanoska to fear that violence will be used against her or her property or against the person or property of

any of her ascendants, descendants, brothers or sisters or any person mentioned in Article 222(1).

Art. 251B, 251H of Cap. 9 of the Laws of Malta

2. Moreover, for having on the same date, place, time and circumstances, used violence, including moral and, or, psychological violence, and, or coercion, in order to compel another person and hence his wife Olivera Ivanoska to do, suffer or omit restrict access to money, education or employment.

Art. 251, 251H of Cap. 9 of the Laws of Malta

3. Moreover, for having on the same date, place, time and circumstance, uttered insults or threats not otherwise provided for in this Code, or having been provoked, carried his insults beyond the limit warranted by the provocation and this to the detriment of his wife Olivera Ivanoska;

Art. 339(1)(e) of Cap. 9 of the Laws of Malta

The Court was requested to provide for the safety of Olivera Ivanoska by issuing a Protection Order in accordance with the provisions of Article 412C of Chapter 9 of the Laws of Malta under such restrictions or prohibitions as the Court may consider necessary.

The Court was requested to provide for the safety of Olivera Ivanoska in accordance with Article 383 of Chapter 9 of the Laws of Malta.

The Court was also requested that, in passing judgement against the accused, together with any punishment to which it may sentence the offender, make a Restraining Order in terms of Article 382A of Chapter 9 of the Laws of Malta for the protection of Olivera Ivanoska.

2. Having seen the note of referral for judgement of the Attorney General dated 12th November 2021, wherein he was of the opinion that there might result an offence (or offences) under the provisions of:

(a) Articles 251B and 251H(a) of the Criminal Code, Chapter 9 of the Laws of Malta;

- (b) Articles 251(1) (with reference to Article 250(1)) and 251H(a) of the Criminal Code, Chapter 9 of the Laws of Malta;
 - (c) Article 339(1)(e) of the Criminal Code, Chapter 9 of the Laws of Malta;
 - (d) Articles 382A, 383, 384, 385, 386, 412C and 412D of the Criminal Code, Chapter 9 of the Laws of Malta; and
 - (e) Articles 17, 18, 31, 532A, 532B and 533 of the Criminal Code, Chapter 9 of the Laws of Malta.
3. Having heard the defendant declare that he has no objection that his case is tried summarily.
 4. Having heard the evidence and saw all the records of the case and the documents exhibited.
 5. Having heard heard prosecuting officer and the lawyer of the injured party declare that they are relying on the evidence as it is from the records of the case and are not going to make oral submissions
 6. Having heard oral submissions of the defence.
 7. Having heard the evidence and having seen the report of the Probation Officer Cherise Boffa presented in the sitting of the 11th May 2022.
 8. Having seen that in the same sitting, the parties agreed that the case can be adjourned for judgement.

THE FACTS

9. In brief the facts which gave rise to these proceedings are the following:
 - (i) Olivera Ivanoska reported at the Qawra Police station that she is being threatened by the defendant, her husband. She stated that on the 14th August 2020, whilst she was at her night shift at work, the defendant messaged her that he went out and that

he left their five -year -old daughter alone at her apartment, and that he also lost all their money around nine hundred Euro (€900). She also stated that when she returned home from work at about 7.30am, an argument arose between them, he (the defendant) grabbed a knife and started shouting, insulting and threatening her even with death.

- (ii) The complainant stated that she moved out of the house the following day, and the defendant started threatening her again.
- (iii) Even though the Police spoke to the defendant about the allegations of his wife, on the 16th August 2020, the complainant went to the Qawra Police station and stated that the defendant had sent her a message stating “You will die to-day”. She received another message from him threatening her with death whilst she was at the Police station.
- (iv) Consequently, the defendant was arrested and these criminal proceedings were instituted against him.

Considerations of this Court

- 10. Before this Court, Olivera Ivanovska confirmed in substance the events she reported to the Police. However, it must be stated that she was a reluctant witness, because she wanted to drop the charges against the defendant, and only gave evidence because she was ordered to do so by the Court. In her evidence, the witness obviously was trying to minimize the arguments she was having with the defendant, and the threatening behaviour of the defendant.
- 11. The messages sent to her by the defendant are eloquent enough. The court expert appointed by the Court confirmed that these messages were sent from the mobile of the defendant and the defence did not dispute that they were actually sent by the defendant.
- 12. In the sitting of the 4th November 2020, Olivera Ivanovska confirmed under oath that she and the defendant are in the process of reconciliation and that she does not need any more

the protection order which was issued in her favour in the beginning of the proceedings. She also stated that she has no further interest in these proceedings.

13. From the evidence brought forward by the Prosecution, the Court finds him guilty of the charges preferred against him.

Considerations on Punishment

14. For the purpose of punishment, the Court took into consideration that the defendant has been living in Malta for the past four years and he has a clean criminal record.
15. He has a full work on full-time basis and at the time of the incident he was also working on a part-time job. He has been married to Olivera Ivanoska for the past nine years and they have a seven -year -old daughter. From the reports of the Probation Officer, who was following the defendant under a Provisional Order of Supervision, the marriage was a stable one, but at the time of the incident, the couple were both busy with work commitments, and juggling between work, and looking after their daughter.
16. During these proceedings, both the defendant and his wife attended couple therapy, which helped them improve their communication skills, and re-stabilise their relationship. They have been living together again for the last one year and a half, after the Protection order was revoked at the request of his wife, and from the reports of the Probation Officer they have moved on from that incident.
17. Hence, this seems to have been an isolated incident, the defendant admitted informally his mistake, and both he and his wife worked towards re-establishing a serene lifestyle in their marriage.
18. In her report, the Probation Officer stated as follows:

“During the compilation of this report, Vlatko stated that he will be committed to performing the community service order in a diligent and satisfactory manner in accordance to the instructions given by this Honourable Court.

Throughout the sessions with the Probation Officer during the Provisional Order of Supervision issued on the 31st. August 2020, the defendant has always been receptive to the guidance and instructions given by the undersigned Probation Officer. He has always attended his appointments and also attended family therapy during the first year. Feedback provided by his wife, Olivera, was always positive since he has progressed in his attitude towards her. Additionally, she pointed out that he has always contributed financially since he has always worked hard. He is also more present in his daughter's life.

In view of all the above information, Vlatko Ivanoski is suitable to perform community work. Therefore, it is being humbly recommended that a Community Service Order in accordance to Article 11 of Chapter 446 of the Laws of Malta is given with the amount of hours deemed sufficient by this Honourable Court.”

19. In view of all the circumstances of the case, the Court agrees with the Probation Officer's recommendation that the defendant should compensate for his mistake by performing commity work without payment.

Conclusion

20. For these reasons, the Court:
 1. after seeing the provisions of law listed in the note of referral for judgement of the Attorney General of the 12th November 2021, namely Articles 251B(1), 251H(a), Articles 251(1) (with reference to Article 250(1)), 251H(a) and Article 339(1)(e) of the Criminal Code, Chapter 9 of the Laws of Malta, finds the defendant guilty of all the offences contemplated in these provisions of law, but in the light of all the circumstances of the case and in terms of Article 11 of Chapter 446 of the Laws of Malta orders that the offender be placed on a Community Service Order, to perform unpaid work for hundred (100) hours, in the place and under those arrangements which shall be made by the Office of Probation and Parole, and under the other conditions specified in the same Order which is being annexed to this judgement, and forms an integral part thereof.

The Court explained in clear and simple language the meaning and consequence of this judgement to the offender.

The Court orders that a copy of this judgement, together with the Community Service Order annex to it, is communicated to the Director of Probation and Parole.

Magistrate

Doreen Pickard
Deputy Registrar