

In the Criminal Court

Judge

Hon. Mr. Justice Patrick Vella, B.A., LL.D., M. Juris (EUR Law).

Bill of Indictment
Nr. 17/2000

The Republic of Malta

vs

Omissis
Perry Ingomar Toornstra

This, 12th day of June, 2001.

The Court,

Having seen Bill of Indictment 17/2000.

Having seen the verdict given today whereby the Jurors have found Perry Ingomar Toornstra **(1)** by eight (8) votes in favour and one (1) vote against guilty of the accusation under the 1st Count, **(2)** by seven (7) votes in favour and two (2) votes against guilty of the accusation under the 2nd Count, and **(3)** by seven (7) votes in favour and two (2) votes against guilty of the accusation under the Third and Final Count.

Declares Perry Ingomar Toornstra guilty of:

(1) having with another one or more persons in Malta, and outside Malta, conspired for the purpose of committing an offence in violation of the provisions of the Medical and Kindred Professions Ordinance (Chapter 31 of the Laws of Malta), and specifically of importing and dealing in any manner in psychotropic drugs, and of having promoted, constituted, organized and financed such conspiracy;

(2) of meaning to bring or causing to be brought into Malta in any manner whatsoever a dangerous drug (Ecstasy, also known as designer drug MDMA, and LSD drug, or rather - Lysergic Acid Diethylamide), being a drug restricted and controlled under the provisions of Part A, Third Schedule, as well as part B of the Medical and Kindred Professions Ordinance, when he was not in possession of any valid and subsisting import authorization granted in pursuance of said law; so, however, that the importation was under such circumstances denoting that the importation was not for the exclusive use of the offender, and so, however, too, that said offence is to be deemed a single offence, called a continuous offence, since the several acts committed by the offender, even if at different times, constitute violations of the same provision of the law, and were committed in pursuance of the same design;

3. Knowingly having been in possession of a dangerous drug (Ecstasy, also know as designer drug MDMA, and LSD drug, or rather Lysergic Acid Diethylamide), being a drug restricted and controlled under the provisions of Part A, Third Schedule, as well as part B of the Medical and Kindred Professions Ordinance, when not in possession of any valid and subsisting import authorization granted in pursuance of said law; so, however, that such offence was under such circumstances that such possession was not for the exclusive use of the offender; and so, however, too, that said offence is to be deemed a single offence, called a continuous offence, since the several acts committed by the offender, even if at different times, constitute violations of the same provisions of the Law, and were committed in pursuance of the same design.

Having heard submissions made by Counsel for the Defence and Counsel for the Prosecution regarding the punishment to be inflicted.

Having considered all the circumstances of the case, and in particular the following:

1. The almost unanimous verdict returned by the jury especially as regards the 1st Count;

2. The considerable amount, quality and variety of the drugs in question, namely almost 5000 Ecstasy pills, as well as the LSD drug;

3. The extremely dangerous nature of these drugs, especially the Ecstasy pills which can easily lead to death. In other words the extremely high potential danger which this kind of drug has on society.

4. The fact that the verdict clearly shows that this was an organized conspiracy which involved the importation into Malta of the said drugs on at least two occasions.

5. The fact that had this considerable amount of such dangerous drugs ever been disposed of in the local market, as was planned by the said conspiracy, it would have undoubtedly left very devastating and tragic consequences, possibly fatal ones too, and as such, therefore, this Court considers such illegal activity as a most serious crime against the Maltese society, which it has a duty to protect.

6. The fact that the punishment to be meted out has to reflect the verdict given in all the 3 Counts.

Having seen Articles 40A, 88, 89, 120 A (1) (f) (2) (a) (i) of Chapter 31, 22A, 22B, 22E, 27, and 30 of Chapter 101, Regulation 8 of Legal Notice 292/39, 18, 23, 17 (b), 20, 31 and 533 of Chapter 9, and Articles 5 (2) (b), and 15 of Chapter 217.

Condemns the said Perry Ingomar Toornstra to twenty (20) years imprisonment, from which period is to be deducted the time he has spent in preventive custody in connection with this case, as well as to a Multa of Forty Thousand Maltese Liri (Lm40,000) which are to be converted into a further period of eighteen (18) months imprisonment should he fail to pay the said Multa according to law.

Furthermore the Court is declaring the said Perry Ingomar Toornstra to be a prohibited imigrant and accordingly, authorizes the issue of a Removal Order from these Islands against him which has to take effect immediately upon him having served the punishment meted out to him by this Court.

The Court also orders the forfeiture in favour of the Government of Malta of the entire immovable and movable property of the said Perry Ingomar Toornstra in which the offences took place as mentioned in the Bill of Indictment and orders the confiscation of all items seized from the possession of Perry Ingomar Toornstra and which have been exhibited in these proceedings.

Finally in terms of Article 533 of Chapter 9, the Court also condemns Perry Ingomar Toornstra to pay 1/3rd of the expenses incurred in the appointment of all experts during these proceedings, which amount he has to pay within one month from being requested by the Registrar of Courts, failing which these will also be converted into a prison term according to law.

(ft) Joseph Sammut
Dep/Registrar