



MALTA

**COURT OF MAGISTRATES (MALTA)**  
**AS A COURT OF CRIMINAL JUDICATURE**  
**MAGISTRATE DR.**  
**CONSUELO-PILAR SCERRI HERRERA**

Sitting of the 2 nd April, 2015

Number. 97/2015

**The Police**

**(Inspector Gabriel Micallef)**

**vs**

**HASHIM ELAMIR**

**The Court,**

Having seen that the accused **HASHIM ELAMIR**, holder of Maltese Refugee Commission document numbered 18041, was arraigned before her and charged with having on the 2<sup>nd</sup> April 2015 and the previous 4 months, on these islands;

1. had in his possession the psychotropic and restricted drug (ecstasy) without a special authorisation in writing by the superintendent of Public Health, in breach of the provisions of the Medical and Kindred Professions Ordinance, Chapter 31 of the Laws of Malta and the Drugs (Control) Regulations, Legal Notice 22 of 1985 as amended, which drug was found under circumstances denoting that it was not intended for his personal use.
2. Supplied or distributed, or offered to supply or distribute dangerous drugs (Ecstasy), being a drug restricted and controlled under the provisions of the Kindred and medical Profession ordinance to person/s, who are not authorised person/s or for the use of other person/s, without being Fully authorised in breach of the Medical and Kindred Profession Ordinance Chapter 31 of the Laws of Malta and the Drugs (Control) Regulations, Legal Notice 22 of 1985 as amended.
3. had in his possession (otherwise than in the course of transit through Malta of the territorial waters thereof) the resin obtained from the plant Cannabis, or any other preparation of which such resin formed the base, in terms of Section 8 (a) of Chapter 101 of the Laws of Malta, which drug was found under circumstances denoting that it was not intended for his personal use.

4. supplied or distributed, or offered to supply or distribute the drug (*cocaine*), specified in the First Schedule of the Dangerous Drug Ordinance, Chapter 101, of the Laws of Malta , to person/s, or for the use of other person/s, without being licensed by the President of Malta, without being fully authorised by the Internal Control of Dangerous Drugs Regulations (G.N.292/1939), or by other authority given by the President of Malta, to supply this drug, and without being in possession of an import and export authorisation issued by the Chief Government Medical Officer in pursuance of the provisions of paragraph 6, of the Ordinance and when he was not duly licensed or otherwise authorised to manufacture or supply the mentioned drug, when he was not duly licensed to distribute the mentioned drug, in pursuance of the provisions of Regulation 4 of the Internal Control of Dangerous Drugs Regulations (G.N.292/1939) as subsequently amended by the Dangerous Drugs Ordinance, chapter 101 of the Laws of Malta
  
5. For being a recidivist after being sentenced for an offence by a judgement issued by the Court of Magistrates (Malta), which judgement has become absolute.

The Court was also requested to apply Section 533(1) of Chapter 9 of the Laws of Malta, as regards to the expenses incurred by the Court appointed Experts.

## Informal Copy of Judgement

Having seen all the documents exhibited in the acts of these proceedings by the Prosecution in particular consent of the Attorney General for this case to be dealt with summarily, conviction sheet of the accused, documentation issued by the Office of the Refugee Commission and statement of the accused.

Having heard the accused declare that he does not understand the Maltese language though he understands the English language and thus the Court ordered that the proceedings are to be held in the English language in terms of Section 5 of the Judicial Proceedings Act.

Having heard the accused declare that he is indigent, the Court appointed Dr Joseph Mizzi as Legal Aid Lawyer to assist the accused.

Having heard the accused declare that he understands the nature of the charges brought forward against him.

Having heard the accused plead guilty to the charges brought forward against him.

The Court explained to the accused the consequences of his plea of guilt in the presence of his legal aid lawyer and after having given the accused sufficient time to reconsider his guilty plea and saw that the same accused

insisted on registering in the acts of these proceedings his plea of guilt, had no alternative but to register such plea.

In the light of the above plea of guilt which guilty plea was made voluntarily, expressly and unconditionally, the Court is satisfied that the accused is to be found guilty of the charges brought forward against him.

The Court considered the early plea of guilt registered by the accused in the first appointed sitting for the hearing of this case. It also took note of the collaboration of the accused in this investigation as can be evidenced from the statement released by the accused on the 2<sup>nd</sup> April 2015 wherein he admitted to the possession of the drug cannabis and ecstasy and to the trafficking of the drug ecstasy.

The Court also took note of the relatively clean conduct sheet of the accused, apart from one offence relating to possession of cannabis in the year 2014 wherein he was given an unconditional discharge.

The Court however considers such crimes to be of a serious nature and undoubtedly feels that a prison sentence should be given to address such illegalities.

**Thus the Court, having seen the relevant sections at law, in particular Sections Section 8(a) of Chapter 101 of the Laws of Malta, L.N. 22 of 1985**

**and Regulation 4 of GN 292/1939 decides to find the accused HASHIM ELAMIR guilty of the charges brought forward against him by the prosecution and condemns him to eighteen months imprisonment and to the payment of a fine (multa) of five hundred euro (€500).**

**The Court does not take cognisance of the request of the Prosecution to condemn the accused to pay the expenses of any appointed experts in terms of Section 533(1) of Chapter 9 of the Laws of Malta since it does not appear that such experts were appointed in this case.**

**< Final Judgement >**

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