



In the Criminal Court

Onor. Madame Justice Consuelo Scerri Herrera, LL.D., Ph.D.

Bill of Indictment number: 31/2022

The Republic of Malta

vs

Andrej Krstikjevikj

Today, the 10th of April 2024

The Court,

Having seen the bill of indictment number thirty one of the year two thousand and twenty two brought against **Andrej Krstikjevikj** holder of German identity card no. 'Y0H2817NX', wherein the Attorney General in the bill of indictment premised:

First (1) Count:

Aggravated possession of the whole or any portion of the plant Cannabis

The facts of the case:

Whereas on the eighth (8) of August of the year two thousand and nineteen (2019), at around five o'clock in the morning (5 a.m.), the Executive Police and the Immigration Police carried out an inspection at the Imsida primary school, following several reports that squatters were occupying the said school during the night. The school,

which is located at Victor de Naro Street, Imsida, was at that time temporarily closed due to a structural refurbishment.

Whereas during the inspection, the police found a person sleeping in a classroom, by the name of Andrej Krstikjevikj (hereinafter in this Bill of Indictment referred to as “the accused”). Following a search on the accused’s person and his belongings, the police found in his possession a considerable amount of substance which was suspected to be Cannabis plant.

Whereas following an analysis carried out by a forensic expert, it resulted that the total weight of the plant Cannabis found in the accused’s possession amounted to two kilograms (2kgs) and twelve point ninety-two grams (12.92g), with a purity of approximately twenty-two per cent (22%), and a total street value ranging between twenty thousand and one hundred euros (€20,100) and fifty-six thousand, two hundred and eighty euros (€56,280).

Whereas the plant Cannabis found in the possession of the accused was found under circumstances which denote that it was not intended for his personal use.

Whereas the plant Cannabis is a dangerous drug scheduled under Part I of the First Schedule of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta.

The consequences:

Consequently, by committing the abovementioned acts with criminal intent, the accused Andrej Krstikjevikj rendered himself guilty of being in possession of a dangerous drug, namely the whole or any portion of the plant Cannabis, as specified and controlled under the provisions of Part III of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta, when he was not in possession of any authorisation or licence as required by law to be in possession of the said drug, and which drug was found under circumstances denoting that it was not intended for his personal use, and, furthermore, such an offence took place in, or within one hundred metres (100m)

of the perimeter of a school, youth club or centre, or such other place where young people habitually meet.

The accusation:

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, accuses Andrej Krstikjevikj of having, on the eighth (8) of August of the year two thousand and nineteen (2019), in the Maltese Islands, rendered himself guilty of having in his possession a dangerous drug, namely the whole or any portion of the plant Cannabis, as specified and controlled under the provisions of Part III of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta, when he was not in possession of any authorisation or licence as required by law to be in possession of the said drug, and which drug was found under circumstances denoting that it was not intended for his personal use, and, furthermore, such an offence took place in, or within one hundred metres (100m) of the perimeter of, a school, youth club or centre, or such other place where young people habitually meet.

The punishment demanded:

Wherefore, the Attorney General, in the name of the Republic of Malta, demands that the accused be proceeded against according to the law and that he be sentenced to the punishment of imprisonment for life and to a fine (multa) of not less than two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37) but not exceeding one hundred and sixteen thousand and four hundred and sixty-eight euro and sixty-seven cents (€116,468.67), and the forfeiture in favour of the Government of Malta of the entire immovable and movable property in which the offence took place as described in the Bill of Indictment, as is stipulated and laid down in Articles 2, 8(d), 9, 10(1), 12, 20, 22(1)(a),(2)(a)(i),(3A)(a)(b)(c)(d)(7), 22(A), 24A, and 26, of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta, and of Rules 2, 9, and 16, of the Internal Control of Dangerous Drugs Rules (G.N. 292/1939) as subsequently amended, and of articles 23, 23A, 23B, 23C, 31, and 533, of Chapter 9 of

the Laws of Malta or to any other punishment applicable according to the law to the declaration of guilt of the accused.

The Second (2) Count

Aggravated possession of MDMA (Ecstasy)

The facts of the case:

Whereas as narrated in the first Count of this Bill of Indictment, on the eighth (8) of August of the year two thousand and nineteen (2019), at around five o'clock in the morning (5 a.m.), the Executive Police and the Immigration Police carried out an inspection at the Inside primary school which is located at Victor de Naro Street, Inside.

Whereas during the inspection, the police found the accused Andrej Krstikjevikj sleeping in a classroom of the said school which, at the time, was temporarily closed due to structural refurbishment. Following a search on the accused's person and his belongings, the police found a considerable amount of pills which were suspected to be Ecstasy pills.

Whereas following an analysis carried out by a forensic expert, it resulted that the accused had in his possession a total of one hundred and sixty (160) pills containing '3,4-methylenedioxymethamphetamine' (hereinafter in this Bill of Indictment referred to as 'MDMA' or, as commonly referred to as, 'Ecstasy'), which carried a total street value ranging between one thousand, one hundred and twenty euros (€1,120) and one thousand and six hundred euros (€1,600).

Whereas the drug MDMA (Ecstasy) found in the possession of the accused was found under circumstances which denote that it was not intended for his personal use.

Whereas MDMA (Ecstasy) is a dangerous drug scheduled under Part A of the Third Schedule of the Medical and Kindred Professions Ordinance, Chapter 31 of the Laws of Malta.

The consequences:

Consequently, by committing the abovementioned acts with criminal intent, the accused Andrej Krstikjevikj rendered himself guilty of being in possession of a dangerous drug, namely MDMA (Ecstasy), as specified and controlled under the provisions of Part A of the Third Schedule of the Medical and Kindred Professions Ordinance, Chapter 31 of the Laws of Malta, when he was not in possession of any authorisation or licence as required by law to be in possession of the said drug, and which drug was found under circumstances denoting that it was not intended for his personal use, and, furthermore, such an offence took place in, or within one hundred metres (100m) of the perimeter of a school, youth club or centre, or such other place where young people habitually meet.

The accusation:

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, accuses Andrej Krstikjevikj of having, on the eighth (8) of August of the year two thousand and nineteen (2019), in the Maltese Islands, rendered himself guilty of having in his possession a dangerous drug, namely MDMA (Ecstasy), as specified and controlled under the provisions under the provisions of Part A of the Third Schedule of the Medical and Kindred Professions Ordinance, Chapter 31 of the Laws of Malta, when he was not in possession of any authorisation or licence as required by law to be in possession of the said drug, and which drug was found under circumstances denoting that it was not intended for his personal use, and, furthermore, such an offence took place in, or within one hundred metres (100m) of the perimeter of a school, youth club or centre, or such other place where young people habitually meet.

The punishment demanded:

Wherefore, the Attorney General, in the name of the Republic of Malta, demands that the accused be proceeded against according to the law and that he be sentenced to the punishment of imprisonment for life and to a fine (multa) of not less than two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37) but not exceeding one hundred and sixteen thousand and four hundred and sixty-eight euro and sixty-seven cents (€116,468.67), and the forfeiture in favour of the Government of Malta of the entire immovable and movable property in which the offence took place as described in the Bill of Indictment, as is stipulated and laid down in articles 40A, 120A(1)(a),(2)(a)(i),(2A),(2B), and 121A, of the Medical and Kindred Professions Ordinance, Chapter 31 of the Laws of Malta, and of Rules 2, 9, and 16, of the Internal Control of Dangerous Drugs Rules (G.N. 292/1939) as subsequently amended, and of Articles 23, 23A, 23B, 23C, 31, and 533, of Chapter 9 of the Laws of Malta, or to any other punishment applicable according to the law to the declaration of guilt of the accused.

The Third (3) Count

Simple possession of the whole or any portion of the plant Cannabis

The facts of the case:

Whereas, as narrated in the previous Counts of this Bill of Indictment, following a police inspection at the Imsida primary school on the eighth (8) of August of the year two thousand and nineteen (2019), the accused Andrej Krstikjevikj was found in possession of a considerable amount of drugs suspected to be Cannabis grass and Ecstasy pills. Due to the fact that the accused was showing signs of disorientation, he was subsequently admitted to Mater Dei Hospital and, following a toxicology test, he tested positive for cannabinoids, which substance derives from the plant Cannabis.

Whereas on the thirteenth (13) of August of the year two thousand and nineteen (2019), the accused Andrej Krstikjevikj was brought to the Sliema Police station whereby he released a statement to the police according to the law. In his statement,

the accused stated that he uses drugs, particularly Cannabis. Therefore, in his statement, the accused Andrej Krstikjevikj admitted to the police that he had in his possession the drug Cannabis for his personal use.

Whereas Cannabis is a dangerous drug scheduled under Part I of the First Schedule of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta.

The consequences:

Consequently, by committing the abovementioned acts with criminal intent, the accused Andrej Krstikjevikj rendered himself guilty of being in possession of a dangerous drug, namely the whole or any portion of the plant Cannabis, as specified and controlled under the provisions of Part III of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta, when he was not in possession of any authorisation or licence as required by law to be in possession of the said drug.

The accusation:

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, accuses Andrej Krstikjevikj of having, on the eighth (8) of August of the year two thousand and nineteen (2019), in the Maltese Islands, rendered himself guilty of having in his possession a dangerous drug, namely the whole or any portion of the plant Cannabis, as specified and controlled under the provisions of Part III of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta, when he was not in possession of any authorisation or licence as required by law to be in possession of the said drug.

The punishment demanded:

Wherefore, the Attorney General, in the name of the Republic of Malta, demands that the accused be proceeded against according to the law and that he be sentenced to the punishment of imprisonment for a term of not less than twelve (12) months but not exceeding ten (10) years and to a fine (multa) of not less than four hundred and sixty-five euro and eighty-seven cents (€465.87), but not exceeding twenty-three thousand

and two hundred and ninety-three euro and seventy-three cents (€23,293.73), and the forfeiture in favour of the Government of Malta of the entire immovable and movable property in which the offence took place as described in the Bill of Indictment, as is stipulated and laid down in Articles 2, 8(d), 9, 10(1), 12, 20, 22(1)(a),(2)(a)(ii),(3A)(a)(b)(c)(d)(7), 22(A), 24A, and 26, of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta and of Rules 2, 9, and 16, of the 1939 Internal Control of Dangerous Drugs Rules (G.N. 292/1939) as subsequently amended, and of articles 23, 23A, 23B, 23C, 31, and 533, of Chapter 9 of the Laws of Malta or to any other punishment applicable according to the law to the declaration of guilt of the accused.

The Fourth (4) Count

Simple possession of MDMA (Ecstasy)

The facts of the case:

Whereas, as narrated in the previous Counts of this Bill of Indictment, following a police inspection at the Imsida primary school on the eighth (8) of August of the year two thousand and nineteen (2019), the accused Andrej Krstikjevikj was found in possession of a considerable amount of drugs suspected to be Cannabis grass and Ecstasy pills. Due to the fact that the accused was showing signs of disorientation, he was subsequently admitted to Mater Dei Hospital and, following a toxicology test, he tested positive for MDMA (Ecstasy).

Whereas on the thirteenth (13) of August of the year two thousand and nineteen (2019), the accused Andrej Krstikjevikj was brought to the Sliema Police station whereby he released a statement to the police according to the law. In his statement, the accused Andrej Krstikjevikj stated that he consumes drugs, particularly Ecstasy. Whereas 'Ecstasy' is the street name which is commonly used for the drug MDMA. Therefore, the accused Andrej Krstikjevikj admitted to the police that he had in his possession the drug MDMA (Ecstasy) for his personal use.

Whereas MDMA (Ecstasy) is a dangerous drug scheduled under Part A of the Third Schedule of the Medical and Kindred Professions Ordinance, Chapter 31 of the Laws of Malta.

The consequences:

Consequently, by committing the abovementioned acts with criminal intent, the accused Andrej Krstikjevikj rendered himself guilty of being in possession of a dangerous drug, namely MDMA (Ecstasy), as specified and controlled under the provisions of Part A of the Third Schedule of the Medical and Kindred Professions Ordinance, Chapter 31 of the Laws of Malta, when he was not in possession of any authorisation or licence as required by law to be in possession of the said drug.

The accusation:

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, accuses Andrej Krstikjevikj of having, on the eighth (8) of August of the year two thousand and nineteen (2019), in the Maltese Islands, rendered himself guilty of having in his possession a dangerous drug, namely MDMA (Ecstasy), as specified and controlled under the provisions of Part A of the Third Schedule of the Medical and Kindred Professions Ordinance, Chapter 31 of the Laws of Malta, when he was not in possession of any authorisation or licence as required by law to be in possession of the said drug.

The punishment demanded:

Wherefore, the Attorney General, in the name of the Republic of Malta, demands that the accused be proceeded against according to the law and that he be sentenced to the punishment of imprisonment for a term of not less than twelve (12) months but not exceeding ten (10) years and to a fine (multa) of not less than four hundred and sixty-five euro and eighty-seven cents (€465.87), but not exceeding twenty-three thousand and two hundred and ninety-three euro and seventy-three cents (€23,293.73), and the forfeiture in favour of the Government of Malta of the entire immovable and movable

property in which the offence took place as described in the Bill of Indictment, as is stipulated and laid down in articles 40A, 120A(1)(a),(2)(a)(ii),(2A),(2B), and 121A, of the Medical and Kindred Professions Ordinance, Chapter 31 of the Laws of Malta, and of Rules 2, 9, and 16, of the Internal Control of Dangerous Drugs Rules (G.N. 292/1939) as subsequently amended, and of articles 23, 23A, 23B, 23C, and 533, of Chapter 9 of the Laws of Malta, or to any other punishment applicable according to the law to the declaration of guilt of the accused.

Considers,

Having seen the joint application of the Attorney General and the accused Andrej Krstikjevikj dated 2nd April, 2024 wherein the parties stated that they have reached an agreement in terms of article 453A of the Criminal Code humbly requestes this Honourable Court that in the event that the accused Andrej Krstikjevikj admits to all charges progerred against him in the Bill of Indictment the punishment to be applied by this same Honourable Court shall be that of a term of eight (8) years effective imprisonment and a fine multa of thirty thousand euros (€30,000) and this in addition by the payment of the expenses incurred in connection with the employment of the Court expenses, and other sanctions and consequences that are manatory prescribed by law upon conviction, including the forfeiture in favour of the Government of Malta of all moneys or other movable property in terms of Chapter 101 of th laws of Malta and in terms of the provisions of the Crminal Code Chapter 9 of the laws of Malta.

Having seen during the sitting of 9th April 2024 that the accusd Andrej Krstikjevikj confirmed his guilty plea in relation to all the charges listed in the Bill of Indictment and having seen that the accused Andrej Krstikjevikj has understood the importance of this joint application and punishment therein mentioned.

Having seen the conduct sheet of the accused, exhibited as dokument CS5 at fol. 16 of the acts of the proceedings which is pristine without the registration of any offence.

Considers,

Having seen the case-law of this Court, specifically in connection with charges of aggravated possession in the drug Cannabis and MDMA.

Having seen the testimony of the Court appointed expert Dr Godwin Sammut who exhibited his report marked as dok GS exhibited in the acts of these proceedings (Dok fol.34 Vol. 1) in front of the Court of Magistrates as a Court of Criminal Inquiry, wherein he concluded that the alleged substance is tetrahydrocannabinol, the total weight of the green buds was two kilos point zero one 2.01kg) and the purity of THC in the buds was approximately twenty two per cent (22%). Wherein he also concluded that the alleged substance MDMA was also found in the exhibits he examined. The total number of pink pills was 160.

Having seen the case-law regarding punishment inflicted when the accused registers an early admission of guilt, particularly: Ir-Repubblika ta' Malta vs. Nicholas Azzopardi¹ ; Ir-Repubblika ta' Malta vs. Mario Camilleri² , Il-Pulizija vs. Emmanuel Testa³ (kif ukoll il BLACKSTONE'S CRIMINAL PRACTICE (Blackstone Press Limited 2001 edit);

The Court, in this particular case, adheres to the request of the Attorney General and the accused Andrej Krstikjevikj their joint application of the 2nd of April 2024 and subsequently, after having seen articles 2, , 8 (d), 9, 10 (1), 12, 20, 22(1)(a) (1B)(2)(a)(i) (3A)(a) (b) (c) (d)(7), 22A, 24A, 26 of the Dangerous Drugs Ordinance Chapter 101 of the Laws of Malta, regulations 2, 9 and 16 of the 1939 Regulations on the Internal Control of Dangerous Drugs (G.N. 292/1939) and of articles 23, 23A, 23B, 23C, 31 and 533 of the Criminal Code, condemns Andrej Krstikjevikj to eight (8) years imprisonment, together with a fine multa of thirty thousand Euros (Euro 30,000)

¹ Deciza mill-Qorti ta' l-Appell Kriminali nhr l-24 ta' Frar 1997

² Deciza mill-Qorti ta' l-Appell Kriminali nhar il-5 ta' Lulju 2002

³ Deciz mill-Qorti ta' l-Appell Kriminali nhar is-17 ta Lulju 2002

which in default of payment will be converted to a further term of imprisonment according to law in terms of article 11 of the Criminal Code.

Moreover, in terms of article 533 of the Criminal Code condemns Andrej Krstikjevikj to pay the following expenses namely: -

1. The sum of three hundred and fourteen euros and thirty-euro cents (€314.30), which sum represents the expenses incurred for the Court nominated expert Dr Godwin Sammut (as per doc GS1 fol. 33, Vol. 1 of the proceedings).
2. The sum of four hundred and fifty-eight euros and twelve-euro cents (€458.12) which sum represents the expenses incurred for the Court nominated expert Keith Cutajar (as per doc KC 1 fol. 72, Vol. 1 of the proceedings).
3. To pay the sum of two hundred and sixty-two euros and fifteen-euro cents (€262.50), which sum represents the expenses for the Court nominated expert Dr Mario Scerri (as per doc MS1 Fol. 103, Vol. 1 of the proceedings).
4. To pay the sum on thousand, one hundred and thirty euros and fourty euro cents (€130.40), which sum represents the expenses incurred for the Court nominated expert PS 586 Mario Azzopardi as per doc MA1 fol. 1333 Vol. II of the proceedings).
Dan l-istess rapport rega gie esebit darb ohra nhar is-16 ta' Gunju 2020 pero il-Qorti sejra tinjora it-tieni rapport ai fini tal-hlas ta l-ispejjez.)
5. To pay the sum of sum sixty-four euros and twenty-five-euro cents (€64.25) which sum represents the expenses incurred for the Asset Recovery Bureau as per doc YB1 fol. 186 Vol. II of the proceedings,
6. The sum of two hundred and eighty-four euros and twenty-two-euro cents (€484.22) which sum represents the expenses incurred for the Court nominated expert Keith Cutajar (as per doc KC X fol. 316, Vol. 111 of the proceedings,

Thus, in total the accused must pay the Court the sum of **€1,713.79** representing court expenses in terms of section 533 of the laws of Malta.

If the expenses are not paid within a year from the date of this judgment, they will be converted to a term of additional imprisonment according to law.

Moreover, orders the forfeiture in favor of the Government of Malta of all the property involved in the said crimes of which they have been found guilty and other moveable and immovable property belonging to the said Andrej Krstikjevikj.

Finally, orders the destruction of all the objects exhibited in Court, consisting of the dangerous drugs or objects related to the abuse of drugs, which destruction shall be carried out by the Assistant Registrar of the Criminal Court, under the direct supervision of the Deputy Registrar of this Court who shall be bound to report in writing to this Court when such destruction has been completed, unless the Attorney General files a note within fifteen days declaring that said drugs are required in evidence against third parties.

(ft) Consuelo Scerri Herrera
Hon Madame Justice