

CONCLUSION OF APPEAL

For: **Ms. Diana GAYANOVICH** (National Reg. No 82.05.15-584.44),
born in Pernik in Bulgaria on 15 May 1982, residing at 3111 Rotselaar,
Aarschotsesteenweg 82 box 0002,

No legal AID available
Representing herself

Against: **The Public Prosecutor at the Brussels Court of Appeal** with registered office at.
1000. Brussels, Place Poelaert,

and

Civil Party Melissa PELGRIMS Inspector of police choosing place of
residence at 3120 Tremelo, Kruisstraat 24

represented by Mrs Stephanie Lenaerts, lawyer in Leuven, deputy Mrs
Bert Beelen, lawyer in Leuven

COURT OF APPEAL BRUSSELS
SECTION CRIMINAL COURT
DOCKET NUMBER 2023/CO/422

Sitting on October 01. 2024 room 13 at 16:00

**Contests the Verdict pronounced on 27 February 2023 in
room C1 by the criminal Court Leuven**

I. CHARGES

**A. possession - purchase - transport of substances without a permit (with the
exception of cannabis for personal use)**

A1. In Rotselaar on 15 August 2019
LE60.LB.3009/2019

A2. Leuven on 18 November 2019
LE60.LC.29475/2019

A3. Leuven on 10.August 2021
LE60.LC.17822/2021

B. to possess prohibited weapons

Rotselaar on August 15, 2019
LE36.LB.2594/2019

C. intentionally inflicting injuries or blows on ministerial officials and agents

in Rotselaar on August 15, 2019
LE41.18.2638/2019

D. The rebellion without weapons

In Rotselaar on August 15, 2019
LE41.18.2638/2019

II. THE RELEVANT FACTS AND PROCEDURAL PREMISES REGARDING A1; B; C;D

**A1. In Rotselaar on 15 August 2019
namely to have possessed amphetamines
LE60.LB.3009/2019**

Contested

1. I had received a plant as a gift from friend and decided to go to the forest near home, for some soil. I had with me a little shovel, and small plastic bag for the soil.

A burglar alarm went off (*haven't reacted to it at all*) at the industrial zone across the street, as I came out of the woods have seen police agent's nervously running around. The sight of this scene it made me nervous as well. My first thought was that I may get in the middle of shooting, or something violent.

As soon as the police seen me loudly ordered to drop everything, and to approach, so I did. Even before I was able to ask what is happening, I was handcuffed with no other explanation but "*This is for your own safety*". In reality I was put in very vulnerable position, without any reason whatsoever. I was treated immediately as the perpetrator. Without any kind of explanation. Of course, I couldn't understand what is happening, but at this point I was genuinely afraid. I proclaimed my innocence but wasn't heard by the police officer's.

This is also stated in the initial report of August 15, 2019:

- "*The person concerned does not understand why she was handcuffed and says she did nothing wrong*".

Being unaware and restricted I felt as a target. Therefore I asked if I can at least sit inside my car. Wasn't allowed, so I asked if possible to sit inside the police car. Instead I was placed in the back of the combi.

Eventually I was told that they are looking for the perpetrators of a burglary.

The police have checked what is in the bag. On several occasions I have asked to check my car, to escort me to my house being 200 meters away, take a look inside... Didn't receive any answer. Wasn't allowed to get out and smoke,

however to stretch my legs was fine.

Had to go back in the combi.

2. It is then that I heard over the radio station description of the suspects; 2 males, and a female wearing black sports hoodie sweater with long sleeves, hulky build. Even before the agents left the police station they knew the **perpetrator are 2 males and 1 female with Nissan Micra** (*see police report*)

Foolishly enough I thought I can go...

I wasn't allowed. They wanted to search my vehicle. I felt like a toy, think when I offered, and could shorten my time in detention, they ignored me. Now that I can go the police wants to use it so it's prolonged. I realized that the police officer's were **mocking me**.

I was offended and felt humiliated, it made me upset so I refused. There wasn't a reason for it. Nor Legally or otherwise.

The violence that followed was absolutely not call for . I was forcibly dragged on my belly out of the combi, fixed on the ground, and beaten by them. Regardless what the opposite parties are claiming, I was the victim here! (*see annex*)

I was accused and convicted not only without evidences but in contradiction of them.

3. I was so confused and afraid, was hurting everywhere. During the beating by **accident** (*Ms. Pelgrims herself called it accident*) I have bite a police officer. I have immediately told that I have HCV, just as I do with dentist for example. I have done it impulsively, it felt the right thing to do. My intentions were truly pure, regardless even this was used against me;

For the sake of clarity body "search" was not needed nothing could be hidden due to my outfit. (*see pic's*). It felt like to have the key of my car was very important for the police. They had no reason or right to do it. But most importantly it was wrong, it was abuse of power and position. But statement was made; Superiority.

Once they had the key I was put back in the combi, still handcuffed despite the many requests to loosen up the handcuffs, or take them off because I have thin veins and thrombosis.

The handcuffs were removed after the ambulance came, nurse have spotted me in the combi and wanted to see me. She told to the police immediately to take off the handcuffs. While I was speaking with the nurse, the police was searching my car.

The search of my car was illegal. The police had no reason or right to search my car at all, the perpetrators were captured although they found my story strange it was in the total beginning confirm to be true. On top of

it my car is VW sportsvan a big car compare to NISAN MICRA which was the car identified on the crime scene.

4. I was told that in my car they found a little box with (¿)drugs, and a knife. They asked If I knew something about it?

I wasn't present during the search so I didn't see what was found but I knew the knife was in the car I got it as a present a few hours earlier from a friend, didn't know is illegal. About the drugs I told them that if they were drugs they weren't mine. It is also fact I do lend my car to a friends.. And I myself didn't use.

Some small talk I have received the key of my car, but was told I should walk just in case if I suffered some injuries on my head.

How thoughtful...

5. Couple of months later I received letter from Ethias accusing me of been liable for the injury on the police officer. It came out of the blue. I assumed is to pay the ambulance costs. (*see annex text mss's*)

At this particular **15.08.2019** I had my friend , at my house to help me organize my garage. The first thing she did is to take pictures of my injuries, and she was the one who gave me the knife as a gift. She also wrote testimony, which I received from her personal email. And the pictures she sent at first on messenger. Then I took photos of them with the date and the hour.

Regardless I have given to my attorney the photos with date and time and the email was send directly to her from the witness personal email the court have so easily dismissed, both the pictures and the testimony.

The authenticity can be proven which makes them valuable and admissible in court of Appeal. So does the certificate from my doctor.

- **On the other hand we have the police version of what happened. They claim:**

- I was visibly on drugs, and to have admitted to it
- Having drugs in my possession which were seized
- Weapon in my possession which also was seized
- Intentionally inflicted injuries on a police officer
- Visibly violent to my self
- Unstable and unpredictable behaviour

- **The decisions and the actions taken by the police officers telling different story:**

- Official report or saliva sample for drug testing was never made, to confirming positive results, signed by me. And sent to the lab.
- My driving licence wasn't taken away immediately for 2 weeks

- Not even a picture with the white powder and the sample confirming the content is in deed drugs showing discoloration.
 - The white powder the police claims found in my car I have never seen nor the official report of seized items was made and signed by me
 - The white powder on the photos was never tasted to confirm is indeed drugs.
 - Being accused of attack on police officer, aggressive, unstable and unpredictable. Displayed tendency of dangerous behaviour for the society a myself
6. Utterly enough after such serious accusations one would expect that the person concerned would be taken to the police station to do the necessary testing's, the paperwork, and to be kept trough the night , ensuring the safety of other citizens and the safety of the person itself.

Instead I was given back the keys of my car, and instructed to walk home because of possible injuries on my head

Regardless of the complete and absolute lack of any supporting documentation, the verdict issued on **27.02.2023** Leuven is as follows:

... "The facts of charges A1, B, C and D have been proven by the results of the criminal investigation, in particular the findings of the police officers, the photo of the spring knife with lock in the criminal file, the statements of the defendant, the statement of Melissa Pelgrims, the medical certificate of Melissa Pelgrims, the photo of the drugs found and the positive result of the drug test carried out."

For me is terrifying how skilfully evidence's in my favour are being dismissed on one hand, and on the other, things that don't exist, it never have, are fabricated, and used to criminally prosecute and effectively Convict a single mother with 2 children with different nationality to pay thousands and thousands of euro and sentence of over a year

7. Furthermore, according to the Criminal court in Leuven there is no reason to doubt the police officer's.

The concept of Court and Justice isn't based on believe or trust. But on **Healthy Doubt** and tons of **Evidence**

As a consequence of assuming something is true based on who says it, rather on what can show for it, it left me with no legal certainty at least to say. And the future of my children uncertain!

Moreover it seems that, the Court should embraced both sides simultaneously, namely prosecution and **protection**

Indeed ;
having legal certainty I understand in the way that regardless, of which side one may end up, can feel protected and reassured.

According the contested verdict I was handcuffed because the police officers found my story **strange**.

8. Even then there is a procedure that the police is obligated to follow, in regards of both being able to collect evidences for prosecution, and if there is no evidence the person concerned cannot be prosecuted.
 - When the police find illegal items during the search of a vehicle and the item/a are seized official report should be drawn up signed by the owner of the vehicle, or the person having the vehicle at the time.
 - If there is suspicion someone is under the influence of drugs, the saliva test should be administered, on the spot or on the police station to confirm this. In case of positive results the person in question should sign this as well
 - The found item that is **suspected** to be drugs should be sent also to the laboratory to be confirmed is indeed drugs
 - The drive license should be immediately taken for a period of 14 days.

None of the above was done, how can anyone be convicted without evidences? Nothing of it can be proven, and taken that I was simply let go and given the keys of my car the only thing to be assume is I was framed!

Since the Law isn't based on trust but on **procedural safeguards** and **evidences**.

It is basic in the rule of evidence that bare allegations, unsubstantiated by evidence, are not equivalent to proof. Therefore mere allegations are not evidence

Being convicted of a crime has serious, sometimes devastating, consequences. My 2 children (18 months old and 12 years with special needs currently at UPC Leuven Vleugel K can be deprived of their mother). Therefore, States must prove guilt to a high standard. If there is '**reasonable doubt**', an accused person must be given the benefit of the doubt, and cleared because the state's 'burden of proof' **has not been met**.

One cannot be prosecuted if the **procedural safeguards** are not followed, and there is no **evidence** to make a case, let alone for conviction .

On page 7 are so called the seized items for **A1 A2** and **A3**

- **A2** and **A3** have the positive test along
- **A1** does not
- **A2** and **A3** are similar almost identical items small glass vial's
- **A1** does not have nothing in common with them cannot be linked to the same person
- **A2** and **A3** the amount of amphetamines is a very small in **A2** below **0.00 grams** in **A3 0.26 grams** here to, very close to each other
- **A1** on the other hand above **11 grams** here to does not seem to be fitting in either

There is absolutely no indication that the big plastic tapware box with considerably bigger amount of white powder - substance in belongs to me

Therefore In main order I request an acquittal for Charge A1 based of absolute lack of evidence. Bare allegations, unsubstantiated by evidence, are not equal to proof.

Charge A1.



Charge 2

Bijlage 1 blad 9 aan PV nr: LE 60 LC 029475/2019
d.d-18/11/2019

Fotodossier drugsbezit



Kleurindicatieve drugtest + bewaarpotje één

Charge A3



Foto 2



Overzichtsfoto positieve kleurindicatieve test (2)

**Subordinate order the failure of the police officers to follow procedures and
The illegal search of my vehicle**

**B. Rotselaar on August 15, 2019
to possess prohibited weapons
LE36.LB.2594/2019**

10. This charge is not disputed. I am keen to outline the exact circumstances.

I received this knife as a gift that day from a friend, who had bought it for me on the internet.

Did not had yet the chance to remove the knife from the car. I also did not know that this type of knife was prohibited.

I ask the court my personal circumstances and history to be taken into account when determining the sentence. Very limited income and having 2 children as a single mother. Collective debt settlement since 14.09.2023. Therefore I am having very difficult time providing for my children.

I don't have violent history involving weapons or **otherwise**.

**C. Rotselaar on August 15, 2019 namely: Intentionally inflicting
Injuries or blows on ministerial officials and agents
LE41.18.2638/2019 and;**

**D. Rotselaar on August 15, 2019 The rebellion without weapon
LE41.18.2638/2019**

11. In regards with the bite in the file aren't any medical documents suggesting that Ms. Pelgrims was;

- at the doctors on duty at Heist-op- den – Berg at any given time.
- There is **NO** medical certificate that blood was drawn up, at any given time neither
- Even less than blood test need to be repeated in the future. The opposite. The medical certificate is clear no further referral
- Nor does indicate that the skin was in any way penetrate.
- Nor does suggest with her and her husband were trying to have a In Vitro

12.As a matter of fact the only certificate provided in the file is as follows:

- Bite wound
- Ecchymosis: **NO**
- hematoma: **NO**
- **Abrasions (Schaafwonden): NO**
- Mental state at the time: **Normal**
- **REFERRAL REQUIRED: NO**
- As above mentioned trauma no disability was prescribed
- **I have been arrested (without reason)**
- Signature from Ms. Pelgrims agreed with it

1

MEDISCH ATTEST BIJ FYSIEK GEWELD

Registreer 36-200-2017

16-08-2017

LOKALE POLICE DOORWISCHING VERKEER

ondergetekende, Dr. Vanseverant Sarah, dokter in de geneeskunde, verklaar op 16/08/2017, onderzocht te hebben de genaamde Pelgrims Melissa (*30/03/1984)

Geborenstraat 2
3301 Aarschot

en volgende toestand en/of letsels te hebben vastgesteld :

Lichaamsdelen	Krabben	Ecchymosen	Hematomen	Schaafwonden	Andere
Hoofd	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Gelaat	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Hals	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Borstkas	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Buik	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Rug	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Armen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Voorarmen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Polsen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	bijtende
Handen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Benen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Wien	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Genitalien	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Anus	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Psychische toestand op het ogenblik van de vaststelling:

Normaal

Oorzaken van de letsels volgens de patiënt:

Vrouw heeft gisteren haar gebeten terwijl ze werd aangehouden.

Doorverwijzing noodzakelijk : ☒ nee ☐ ja, maar

Als gevolg van bovenvermeld trauma werd geen arbeidsongeschiktheid voorgeschreven.

Datum en handtekening voor akkoord door de patiënt

16/8/2017

Handtekening van de arts

Dr. Vanseverant Sarah
14798636004
Tel. 016/53.08.43
Dorpstraat 4 001
3130 Begijnendijk
Opgevaakt in 3 exemplaren waarvan 2 voor de patiënt en één exemplaar voor het medisch dossier

Dr. Vanseverant Sarah
1-47986-36-004
Dorpstraat 4/01
3130 Begijnendijk
016/53.08.43

The only thing that the certificate confirmed is a bite wound, and since there was no abrasions (Minor damage on the skin), it seems appropriate to be considered the bite was **self inflicted** just before visiting the doctor. Bite wounds don't stay for a day without leaving any traces. According to the doctor there was no bruises, no penetration absolutely nothing.

I have 18 old months baby at home exactly the age of biting . I can reassure you he can bite really hart within few hours is gone!

There wasn't any forensic examination conducted to confirm the mark of the bite matches my teeth.

Therefore since Ms. Pelgrims claims their is a scar of the bite until the day of today I would like to see it. Not only a picture of a hand, but a picture of a hand **that belongs to Ms. Pelgrims**. And a forensic expertise on whether the mark matches mine teeth pattern

13. **I have been prosecuted and criminally convicted for having an VIRUS .**

It would be the same to convict someone from having whooping cough or missals

COVID-19 a pandemic virus with high mortality rate, and yet I bet not a single person was prosecuted, and criminally convinced for sneezing as a result of being **forced** to inhale cinnamon.

Your honour I was the victim of police brutality suffered serious injuries, taking in account my thrombosis it was a life threatening.

The bite was an honestly and accident that has occurred during the beating the police officers inflicted on me. This can be seen, and proven by all means Through:

- My GP certificate (traces were present almost 2 months after the event)
- Pictures taken by my friend immediately after with a date and time
- By the testimony of my friends send from her personal email
- And last but not least, the audio recording I have made on the phone conversation I had with Ms Pelgrims. She said it herself that it was an accident. And shown remorse about beginning the procedure in court.

14. Nevertheless, when I appealed and she had the opportunity to let it go, she did not .

I was aware of the disadvantages I have, such as credibility, legal assistance, social status, nationality, From my perception all different levels of disadvantages were a serious threat. In attempt to equalize my chances I have decided to use and audio recording. Downloaded an App from Google Play and on 31 August 2022 called at the police station where Ms. Pelgrims works to confront her. ...

*"In Belgian criminal law, the general principle is that one can record a conversation they are participating in without the need to inform the other parties involved. This is based on the concept that if you are a party to the conversation, you have a right to document. The use of recordings, even those legally obtained, must align with the **principles of proportionality and necessity**. This means **the recording should be necessary for the pursuit of a legitimate aim**, and it must be proportional to the rights and freedoms of the other party. For example, a recording might be considered admissible if it serves **as a providing crucial evidence in a case and there are no other means to obtain such evidence**.*

*In practice, the admissibility of recordings as evidence in court in Belgium. is assessed on a case-by-case basis. The court will consider the manner In which the recording was obtained, its relevance to the case, and whether the recording respects the legal principles of privacy and data protection. To summarise, while recordings of conversations in which one is a participant are generally legal in Belgium, their admissibility as evidence in court is contingent upon their compliance with privacy laws and **the principles of proportionality and necessity**. It is crucial that such recordings do not infringe on the rights of the individuals involved and are **used in a manner that is consistent with the pursuit of justice**"...*

Therefore, since the recording is has a legitimate aim, it fits the rule of necessity and proportionality, and is made only for purposes for pursuit of justice there is no reason to be rejected by the court as not admissible.

Furthermore, the only rights and freedom on stake are the one from my kids and myself.

Principles according to GDPR ART 6

Article 6. Lawfulness of processing

- *1. Processing shall be lawful only if and to the extent that at least one of the following applies:*
 - *(a) the data subject has given consent to the processing of his or her personal data for one or more specific purposes;*
 - *(b) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;*
 - *(c) processing is necessary for compliance with a legal obligation to which the controller is subject;*
 - *(d) processing is necessary in order to protect the vital interests of the data subject or of another natural person;*
 - *(e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;*

- *(f) processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.*
- *Point (f) of the first subparagraph shall not apply to processing carried out by public authorities in the performance of their tasks."*

The GDPR does not imply to Ms Pelgrims since she was on duty when the incident accrued, she was on duty when I called her and we have discussed an event that I was the victim in my private time while she was in uniform! This based on assumptions that her personal life isn't discussed.

Further more according to GDPR the conversation isn't illegal if can protect an interest of a civil person And especially if children are involved. If I am convicted my children will be directly effected by it, will leave them without a mother! And this I will not let it happen until I live, so certain people get financial benefits on the back of me and most important my 2 innocent children.

The conversation was made not with intended to harm anyone but to protect **myself and my children**.

The court of Appeal can't seriously considering to condemned and criminally convict innocent women, mother of 2 children.

Iam innocent confirm by Ms Pelgrims as well.

If the court convince me regardless the evidences clearly showing my innocence that would be a Illegal

In regards of rebellion without weapon. It was not rebellion, at least this is not what the intended was. I wanted my rights to be respected, considered all. It is possible that the police has viewed this as a rebellion, but hardly can be said that attempt of person to seeking protection under his/hers rights can be defined as rebellion. Hardly one should be punished for wanting to be treated as a human being.

III. Standards of proof and standards for conviction

In principle, every type of evidence is allowed, as long as it is obtained in a legal manner. However, in order to be able to convict someone, the trial judge must be **absolutely convinced**, that the accused is guilty of the offences for which has been charged with.

A merely strong possibility or probability that the defendant has committed the punishable act **does not suffice**

Article 6 ECHR also contains some more specific defendants' . Whether the right to fair trial has been observed, will be assessed on the basis of an *in globo* evaluation, taking into account all aspects of the pre-trial and trial stages.

The right to a fair trial implies and requires an **equality of arms** between the defendant and the public prosecutor. In addition to the right to present one's arguments to the court in an equal manner, examples of that equality of arms principle include the right for all parties to have access to the file and the right to have equal access to remedies.

Furthermore, the right to a fair trial finds further precision in the requirement that the evidence adduced **should be lawfully** obtained and that counter-evidence should be possible.

I am requesting acquittal of charge C and charge D in main order illegal arrest and detention. Discrimination, unfair and abusive treatment, not fair trial.

In subordinate on the fact that the bite was an accident as a consequence of the beating I endured; Action reaction scenario, which was confirmed by Ms. Pelgrims as well. And as a human being I am in title to the same rights as everyone else. Therefore should not be viewed and presented as a rebellion.

THE RELEVANT FACTS AND PROCEDURAL PREMISES REGARDING CHARGES A2; A3;

Relevant History:

CHARGE A2.

**Leuven on 18 November 2019 amphetamines in possession _
LE60.LC.29475/2019 a.k.a. LE/L/81/LC/302386/2019**

LE/L/81/LC/302386/2019 _ Derde kamer on 23.04.21 as follows:

...” in Leuven on 18 November 2019

***Whereas charge A against Diana Gayanovich has been proven.
In view of the seriousness of the conduct, a disqualification should be pronounced for charge A, in particular in view of the socially unacceptable nature of driving a vehicle while the blood analysis has shown the presence of substances that affect driving ability and the concentration determined has exceeded the legal standard.***

***In Leuven on 18 November 2019
Whereas charges B, C, D, E against Riad De Pauw have been proven”...***

Appealed filed on 20.05.2021 _ Criminal court Leuven...

The verdict from the police court came out with the most severe penalty. I found it to be unproportioned with the violation. Considering that I didn't cause the accident, I also reacted timely and managed to stop, so no further injuries

were inflicted. And it was the first time that I had an accident. Or tested positive on anything

LE/L/81/LC/302386/2019_ C7 verdict on 10.02.2022 Criminal court
Leuven as follows:

*... “On 18 November 2019 at approximately 8:48 am, an accident occurred in Leuven on the Nieuwe Mechelsesteenweg at the intersection with the ring road. It concerns a collision between the VW vehicle of the defendant and the Yamaha motorcycle driven by Raid De Pauw. **In the collision, the motorcyclist failed to give way to the defendant Gayanovich.** In the contested judgment, he was convicted of violating art. 8.3 paragraph 2 and art. 19.3.3° of the WVR The*

defendant was found to be driving under the influence of drugs.

...” When determining the sentence, the court takes into account the statutory penalty and the seriousness of the facts, with the personality and criminal history of the defendant.

The defendant's criminal history is relatively favourable, given that her criminal record includes only one conviction, for a speeding offense dating from 2019

*The driving ban has also been adjusted to the seriousness of the facts and the criminal record of the defendant, so that the request of the public prosecutor to impose a longer driving ban cannot be granted. **The court takes into account the fact that the defendant is being supervised by the MSOC Vlaams Brabant and that she will have to successfully complete the medical and psychological tests in order to obtain the restoration of the right to drive***

*Decision entered into force on 3 September 2020. This fixed compensation currently amounts to 50 euros.
At present, there is no legal basis for indexation, so the fixed compensation must be reduced to 50 euros.*

*The decision regarding the contribution to the Fund for Secondary Legal Aid should also be reviewed, as this is not due. Taking into account the fact that the defendant benefits from second-line aid and a lawyer has been appointed by the BJB to assist her, **she is exempt from paying this contribution.***

The costs of the appeal will be borne half by the defendant and the other half by the Belgian state.

*The contested judgment is confirmed, within the limits of the appeal, but the fine is **suspended for a period of 3 years, for the amount of €150, increased by 70 decimals to €1,200.***

*The court states that the fixed compensation currently amounts to 50 euros and that the defendant should be **exempted from paying the contribution of 20 euros for secondary assistance.***

The costs of the appeal, estimated at EUR 83.71, will be borne half by the defendant and the other half by the state.”...

This should have been the final decision. Nevertheless;

LE60.LC.29475/2019 _ 28.03.2022 – Summoned by Criminal Court Leuven where I was convicted once again On 27.02.23 for which is. current appeal pending follows:

...”On November 18, 2019, the police arrived at the scene following a traffic accident with injuries, in which the defendant was driving under the influence of narcotics. In the defendant's handbag, which was on the passenger seat, two storage jars with white powder and two snuff pipes were found. The defendant told the officers that the white powder was not hers.

The drug test resulted positive for amphetamines.

The defendant now disputes the facts of charge A2.

The facts of charge A2 have been proven by the results of the criminal investigation, in particular the findings of the reporting officers, the statement of the defendant and the result of the drug test performed. The fact that the quantity of amphetamines was not weighed does not allow the court to decide otherwise

CHARGE A3.

**10.August 2021 Leuven amphetamines in possession
LE60.LC.17822/2021 a.k.a. LE/L/90/LC/ 485122/2021
The verdict from the police court Leuven on 3 March 2022 as follows:**

...”Accused as having in Leuven on August 10, 2021 to have driven a vehicle or a riding animal in a public place, or to have accompanied a driver for the purpose of training, while the saliva analysis referred to..... level of which is equal to or higher than the level determined in Article 62ter §1 of the aforementioned Act for saliva analysis and in Article 63 §2 of the same Act for blood analysis, namely Amphetamines: more than 5000.00mL

Considering the documents in the file.

Whereas the charge against Diana Gayanovich has been proven.

Whereas a driving ban is imposed for the charge, partly because of the increased risk of accidents and the socially unacceptable nature of driving a vehicle under the influence of drugs.

*Convicts Diana Gayanovich of the charge:
In default:*

up to a fine of 1600.00 EURO, being 200.00 EURO increased by 70 decimals; fine replaceable in the event of failure to pay within the statutory period by a driving ban of 60 days.

Declares Diana Gayanovich disqualified from driving all motor vehicles for a period of 2 months.

Makes the restoration of the right to drive dependent on successful completion of a medical and psychological examination.

Obligates Diana Gayanovich to pay a contribution of 1 times the sum of 200.00

EURO, being 1 x 25.00 EURO increased by 70 decimals to finance the Fund to assist victims of deliberate acts of violence.

Orders Gayanovich Diana to pay a contribution of EUR 22.00 to the Budgetary Fund for Secondary Legal Aid.

Refers Diana Gayanovich to all costs of the proceedings, to date estimated at EURO 164.68 in her name.

Sentences Diana Gayanovich to the fixed compensation of 52.42 EURO.”...

A3. Leuven on 10.August 2021

**Verdict 27.02.2023 which currently pending before the court
LE60.LC.17822/2021 a.k.a. LE/L/90/LC/ 485122/2019**

...”On August 10, 2021, the police's attention was drawn to the defendant's driving behaviour. Before the search of her vehicle began, the defendant stated that there were amphetamines in her handbag, which was on the passenger seat. The officers found a box with a snuff pipe and a box with a white substance in her handbag. The defendant stated that she used amphetamines twice a month on the weekend.

*The drug test resulted positive for amphetamines (0.26 g).
The defendant did not respond to the invitation for questioning.
The defendant now disputes the facts of charge A3.
The facts of charge A3 are proven by the results of the criminal investigation, in particular the findings of the reporting officers and the result of the drug test performed. The fact that it concerns a small amount of amphetamines does not allow the court to decide otherwise”..*

I do not **dispute** that I was under the influence behind the steering wheel of my car on **18. November 2019**; nor I dispute the fact I was behind the steering wheel on

10 August 2022

I argue that I have been already prosecuted and convicted for both charges namely **CHARGE A2 and A3**

Further more for **A2** appeal was lodged where on **10. February 2022** I was acquittal for big part of the sentence

Moreover in regards of **A3** the verdict came out on **3. March 2022** from the Police court Leuven

I wasn't present in court, neither I go on the interview with the police. There was nothing I could say in my defence. Default conviction it seemed appropriate to me.

For both charged **A2; and A3**; it should be end on above mentioned dates Namely:

A2 - 10.02.2022

Gerechtelijke fouillering
Uitgevoerd van 18/11/2019 om 10:22 uur tot 18/11/2019 om 10:24 uur.
Wijze van uitvoering: Ontkleden
Verantwoordelijke: Sente Davey, Hoofdinspecteur van politie
Uitgevoerd door: Mertens Shana, Inspecteur van politie
Resultaat: Negatief

INBESLAGNAME

Op 18/11/2019 om 10:00 uur door Mertens Shana, Inspecteur van politie

Categorie:	Drugs / Attributen > Andere
Aantal:	1.00 Stuks
Commentaar:	bewaarpotje met restanten
Betrokkenheid:	andere
Eigenaar:	GAYANOVICH Diana
Categorie:	Drugs / Attributen > Andere
Aantal:	6.50 Gram
Commentaar:	bewaarpotje met restanten
Betrokkenheid:	andere
Eigenaar:	GAYANOVICH Diana
Categorie:	Drugs / Attributen > Snuifpijpje
Aantal:	2.00 Stuks
Betrokkenheid:	andere
Eigenaar:	GAYANOVICH Diana
Categorie:	Drugs > Amfetamineachtigen / amfetamines (Incl speed, ...)
Aantal:	Niet meetbaar
Betrokkenheid:	andere
Commentaar:	Restanten
Eigenaar:	GAYANOVICH Diana

De neerlegging van de in beslag genomen voorwerpen zal deelvormen van een navolgend proces-verbaal met als nummer LE.60.LC.030661/2019.

SEININGEN

Geautomatiseerde gegevensoverdracht naar de Algemene Nationale Gegevensbank.

INLICHTINGEN

- GAYANOVICH deelt ons mee dat ze haar zoon bij zijn vader ging ophalen om deze naar het school te brengen. dit onder invloed van verdovende middelen. Hiervoor verwijzen wij naar het aanvankelijk proces-verbaal met nummer LE.42.LC.029483/2019.
- Voor de verrichtingen inzake de in beslag genomen goederen verwijzen wij naar het navolgend proces-verbaal met nummer LE.60.LC.030661/2019.
- GAYANOVICH blijft te verhoren.

AANVERWANTE DOSSIERS

- Aanvankelijk proces-verbaal met nummer: LE.81.LC.302386/2019 aangaande de feiten "verkeersongeval met gewonden".
- Navolgend proces-verbaal met nummer: LE.90.LC.471206/2019, aangaande de feiten "drugs in verkeer".
- Aanvankelijk proces-verbaal met nummer: LE.42.LC.029483/2019, aangaande de feiten "verontrustende situatie".

BIJLAGE

- Fotodossier

PZ LEUVEN

5388

PRO JUSTITIA

Blad 5, aan PV nr. LE 60 LC 017822/2021
dd. 10/08/2021

De hierboven beschreven voorwerpen worden verpakt, verzegeld en voorzien van een inbeslagnemingsetiket. De voorwerpen worden tevens vermeld op een inventaris der inbeslaggenomen goederen, dewelke als bijlage aan onderhavige akte gevoegd wordt.
Op 11/08/2021 gaan wij over tot de neerlegging van deze goederen ter griffie van de Correctionele Rechtbank te Leuven, dit onder het OS-nummer 2103908.

Op 10/08/2021 om 15:40 uur door Van Riet Joachim, inspecteur van politie
SIN-nummer : BABO6137

Categorie:	Drugs / Attributen > Snuifpijpje
Aantal:	1.00 Stuks
Commentaar:	Doosje met daarin een metalen snuifpijpje
Betrokkenheid:	gebruikt (andere)
Eigenaar:	GAYANOVICH DIANA

De hierboven beschreven voorwerpen worden verpakt, verzegeld en voorzien van een inbeslagnemingsetiket. De voorwerpen worden tevens vermeld op een inventaris der inbeslaggenomen goederen, dewelke als bijlage aan onderhavige akte gevoegd wordt.
Op 23/08/2021 gaan wij over tot de neerlegging van deze goederen ter griffie van de Correctionele Rechtbank te Leuven, dit onder het OS-nummer 2103908.

6

VERVOERMIDDELEN

Aard:	Personenauto
Merk / type:	VOLKSWAGEN GOLF SPORTSVAN
Kentekenplaat:	1RVD735
Chassisnummer:	WVWZZZAUZGW516357
Betrokkenheid:	gebruikt (andere)
Verzekering:	NATEUS NV

SEININGEN

Geautomatiseerde gegevensoverdracht naar de Algemene Nationale Gegevensbank.

AANVERWANTE DOSSIERS

- Aanvankelijk proces-verbaal drugs in verkeer: LE 90 LC 485122/2021

BLIJFT TE VERHOREN

GAYANOVICH DIANA, 3111 Rotsefaar, Aarschotsesteenweg 82 bus 0002

VOORTZETTING ONDERZOEK

Wij laten het over aan de wijsheid van uw ambt of er al dan niet een staalname dient te gebeuren van de twee kristalachtige substanties (SIN-nummers BABO6135 en BABO6136) welke negatief testten op de kleurindicatieve testen, dit met het oog op een toxicologisch onderzoek.

BILAGE

Bijlage nr 1: Fotodossier
Bijlage nr 2: Inventaris der in beslag genomen goederen (roze staat)

Naarvan akte, gesloten op 24/08/21

Van Riet Joachim
Inspecteur van politie



Page 19 of 24

One can imagine the dreadful feeling of hopelessness within being summoned to stand again a trial for it. Followed by convictions for both charges and convicted on **27.02.2023**; an year later.

It is terrifyingly striking to see the contrast in decision making of the same human beings:

10.02.22

*... “On **18 November 2019** at approximately 8:48 am, an accident occurred in Leuven on the Nieuwe Mechelsesteenweg at the intersection with the ring road. It concerns a collision between the VW vehicle of the defendant and the Yamaha motorcycle driven by Raid De Pauw. In the collision, the motorcyclist failed to give way to the defendant Gayanovich. In the contested judgment, he was convicted of violating art. 8.3 paragraph 2 and art. 19.3.3° of the WVR*

defendant was found to be driving under the influence of drugs.

VS

27.02.23

*... ”On **November 18, 2019**, the police arrived at the scene following a traffic accident with injuries, in which the defendant was driving under the influence of narcotics. In the defendant's handbag, which was on the passenger seat, two storage jars with white powder and two snuff pipes were found. The defendant told the officers that the white powder was not hers.*

The drug test resulted positive for amphetamines.

The defendant now disputes the facts of charge A2.

10.02.2022

... ” When determining the sentence, the court takes into account the statutory penalty and the seriousness of the facts, with the personality and criminal history of the defendant.

The defendant's criminal history is relatively favourable, given that her criminal record includes only one conviction, for a speeding offense dating from 2019

VS

27.02.2023

“When determining the sentence, the court shall take into account the nature and seriousness of the facts and the criminal history and personality of the defendant.

The defendant was convicted once in 2019 and twice in 2022 for traffic-related offences”....

The 2 offences mentioned in 2022 are exactly the offences current appeal is pending... I was convicted and I am paying them off!

10.02.2022

The court takes into account the fact that the defendant is being supervised by the MSOC Vlaams Brabant

VS

27.02.2023

Drugs are harmful to public health. In addition, drugs create insecurity in society because drug users commit crimes to finance their drug use, or because they are more likely to commit crimes when under the influence of drugs.

10.02.2022

compensation must be reduced to 50 euros.

The decision regarding the contribution to the Fund for Secondary Legal Aid should also be reviewed, as this is not due. Taking into account the fact that the defendant benefits from second-line aid and a lawyer has been appointed from BJB

*The contested judgment is confirmed, within the limits of the appeal, but the fine is **suspended for a period of 3 years, for the amount of €150, increased by 70 decimals to €1,200.***

*The court states that the fixed compensation currently amounts to 50 euros and that the defendant should be **exempted from paying the contribution of 20 euros for secondary assistance.***

The costs of the appeal, estimated at EUR 83.71, will be borne half by the defendant and the other half by the state.”...

VS

27.02.2023

a main prison sentence of 5 months and

*a fine of 8,000.00 euros, being 1,000.00 euros increased by 70 surcharges (x 8). If this fine is not paid within the statutory period, it may be replaced by a prison sentence of 2 months.
a contribution of 3 times 200.00 euros, being the sum of 3 times 25.00 euros increased by 70 additional decimals, to finance the Fund to assist victims of deliberate acts of violence and occasional rescuers;*

a fixed allowance of 58.24 euros for administrative costs in criminal cases; the costs of criminal proceedings, to date estimated at 32.96 euros.

The facts under charge A2 concern different facts than those for which the defendant was convicted by judgment of chamber C7 of the Leuven criminal court of 10 February

2022 and it has not been demonstrated that there would be a unity of intent. The condition for the application of Article 65, paragraph 2 of the Criminal Code has not been met. "...

According to the verdict from **27.02.2023** it has been said that concerns different facts and hasn't been demonstrated that there would be an unity of intent

And yet on the police files and on the 3 verdicts in total for **A2 and A3** as well on the 4th verdict on **27.02.23** concerns **the same dates the same place, the same person and even the same facts** .

The events are inseparably linked in space, time and object. **The legal qualification of the crimes plays no role**, so it is not required that the crimes must also contain the same moral or intentional elements.

"non bis in idem"

*The "non bis in idem" element does not only apply to identical facts but also to other facts that form an inseparable whole with the facts already punished, through **coherence in time, space and object**, by which is meant: **"a set of concrete factual circumstances relating to the same suspect that are inseparably linked in time and space"***

The Court of Cassation states that the general legal principle of "non bis in idem" has the same scope as the provisions of Article 14.7 ICCPR and Article 4.1 of Protocol No. 7 ECHR: (Cass. May 20, 2014, AR no. P.13.0026.N, Arr. Cass 2014, no. 357; Cass. June 24, 2014, AR No. P.13.1747.N),...

- *Article 14.7 of the International Covenant on Civil and Political Rights:*

- *“no one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.”*

“non bis in idem”

*The "non bis in idem" element does not only apply to identical facts but also to other facts that form an inseparable whole with the facts already punished, through coherence in time, space and object, by which is meant: "a set of concrete factual circumstances relating to the same suspect that are inseparably linked in time and space" (cf. Cass. 17 June 2014, P.13.1747.N, www.cass.be). The legal qualification of the crimes plays no role, so it is not required that the crimes must also contain the same moral or intentional elements before it can be decided that the 'non bis in idem' principle applies. **It is sufficient that the facts are inseparably linked in space, time and/or object.***

Article 65, paragraph 2 of the Criminal Code – Principal:

Since **these facts form part of a unity of intent** with the facts on which the conviction by the Police Court followed by Appealing to the Criminal court and considerably reduced sentence was based, I request, pursuant to , Article 65, §2 of the Criminal Code that it be ruled that the sentence imposed by the Police Court is already sufficient and that therefore **no additional sentence may be imposed**.

The same rule applies to change **A2** as well since the unity of intended is proven. **It concerns the same facts that are inseparably link in time, space and/or object!**

In main Order I Requesting acquittal for charges A2 and A3 based on double jeopardy:

Non bis in idem and art. 65. §2 of CC. Since unity of intent has been proven

Subordinately, I would like to points, it concerns an not measurable quantity of amphetamines on A2 was less then 0.00 grams as well the 0.26 grams A3. So here too, one cannot speak of "possession" let alone over an year of prison sentence, and once again thousands of euros fines, as an additional to the fines I am paying already for A2 and A3.

FOR THESE REASONS, AND ALL OTHERS TO BE MENTIONED IN THE COURSE OF THE PROCEEDINGS, AND HEREBY EXPRESSLY RESERVED,
PLEASE IT THE COURT,

For acquittal me of charges A1, A2, A3, C and D.

With regard to charge B: to make a lenient application of the criminal law,
given the circumstances.

AND YOU SHALL DELIVER JUSTICE

With respect.
Gayanovich Diana

29.September 2024
Wezemaal



INVENTORY PIECES

- a. Police Reports for A2 A3**
- b. Verdict Charge A2 Police Court**
- c. Verdict Charge A2 Criminal Court**
- d. Verdict Charge A3 Police Court**
- e. Police reports for Charges A1 B C D**
- f. Verdict from the Criminal Court Leuven 27.02.2023**
- g. Testimony Jessie Verboomen from her personal email**
- h. Pictures of my injuries made immediately after my arrest on 15.08.2019. made by Jessie send through her**
- i. Pictures taken by me directly from her phone with the date and the time.**
- j. Certificate for my GP**
- k. Conversation on messenger asking the pictures from Jessie, and conversation with her about the accusations against me.**
- l. Access DENIED by my former attorney to the recent added pieces the conclusions for the civil party, or anything else that can be helpful for me.**
- m. Audio recording GayanovichPelgrims**
- n. Email request for legal aid, pro bono**