

DISTRICT COURT OF PRISTINA

P. Nr. 281/07

Date: 14 June 2010

IN THE NAME OF THE PEOPLE

The District Court of Pristina, in the trial panel composed of:

- 1) EULEX Judge, Mr. Ferdinando BUATIER DE MONGEOT, as presiding Judge,
- 2) EULEX Judge, Mr. Vladimir KANEV, as panel member
- 3) Kosovo Judge, Mr. Fëllanzë KADIU, as panel member,

assisted by the court clerk undersigned, in the criminal case against:

Albin Kurti, born in Pristina on 24 March 1975, son of Zaim Kurti and Arife Tahiri, Kosovo Albanian, residing at 76 Kroni I Bardhe Street in Pristina, unmarried, university graduate, of average economic status, Charged pursuant to the indictment PP-KT No. 5714/07 filed on 04 June 2007 by the International Public Prosecutor Andrew Mayes with the criminal offences of

Count 1: Participation in a Crowd committing a criminal offence as defined and penalized under art. 320, para 2, of the KCC

Count 2: Participating in a group obstructing official persons in performing official duties as defined and penalized under art. 318 para 1 and 2 of the KCC

Count 3: call to resistance as defined and penalized under art. 319 para 1 KCC.

After having held the main trial in public on the 14th of June 2010, in the presence of the Special Prosecutor Ali Rexha, and of the accused;

Having noted the withdrawal of counts 1 and 3 of the indictment made by the Public Prosecutor during the hearing of 14 June 2010;

after the panel deliberation held on 14 June 2010, based on the article 391 (1) and article 389 of the Kosovo Code of Criminal procedure (KCCP), issues the following

VERDICT

Counts 1 and 3:

The charges raised against the defendant **Albin Kurti** in counts 1 (“Participation in a Crowd committing a criminal offence” according to art. 320, paragraph 2, of the KCC) and 3 (“Call to resistance” as defined and penalized under art. 319 paragraph 1 KCC) of the indictment are

REJECTED

pursuant to art. 389 paragraph 1 n. 1) KCCP

Count 2:

The accused **Albin Kurti** is

FOUND GUILTY

of the criminal offence of “Participating in a group obstructing official persons in performing official duties”, as defined and penalized under art. 318 paragraph 1 and paragraph 2, because: on 10 February 2007 between 14.00 and 17.00 in Pristina, as the leader of a large crowd assembled near the National Theatre as part of a march of protest, by common action obstructed official persons (KPS Police and UNMIK police) in performing their official duty of preventing the crowd from trespassing the police cordon, doing this personally and by having other participants in the crowd push through the same police cordon in violation of the contrary orders from the public officials.

Therefore, pursuant to art. 318 paragraph 1 and paragraph 2 and 66 paragraph 1 n. 2) CCK, **Albin Kurti** is

SENTENCED

to 9 months of imprisonment.

Pursuant to art. 391 KCCP and 73 CCK the time spent by the accused in detention on remand and in house detention shall be included as part of the prison sentence

Pursuant to art. 112 KCCP the injured parties are instructed that they may pursue the property claim in civil litigation

The accused shall reimburse the costs of criminal proceedings pursuant to article 102 paragraph (1) of the KCCP with the exception of the costs of interpretation and translation. A separate ruling on the amount of the costs shall be rendered by the court when such data is obtained pursuant to article 100 paragraph (2) of the KCCP.

REASONING

1. Procedural History

On 13 February 2007, the investigation against the defendant was initiated.

On 4 June 2007, the International Prosecutor, Andrew Mayes, filed an indictment against the accused for the criminal offences above reported.

On 6 July 2007, the pre-trial judge of the District Court of Pristina confirmed the indictment as amended during the confirmation hearing held on 6 June 2007.

On 6 September 2007, the competent Presiding Judge issued an order to establish the main trial, scheduled to start on 19 September 2007.

On 7 February 2008, after several postponements, the main trial was suspended with a ruling of the trial panel, which suspended the proceedings because of the de facto impossibility to have a defence counsel representing the defendant in the proceedings which, pursuant to article 73 PCPCK, was foreseen as compulsory by the PCPCK.

On 25 December 2008, pursuant to the decision n. JC/EJU/OPEJ/0038/gvc/09, issued by the Acting President of the Assembly of EULEX judges, the case was taken over by EULEX.

On 19 January 2010, pursuant to the internal rules on case allocation of the EULEX Judges component of the District court of Pristina, Judge Ferdinando Buatier de Mongeot was appointed as presiding Judge for the main trial. Other members of the trial panel were EULEX Judge Vladimir Kanev and Kosovo Judge Flanza Kadiu.

On 21 January 2010, the competent Presiding Judge issued the order to establish the main trial.

On the 15th of February 2010, the main-trial started again but the court, acknowledging that the notice given to the defendant of the commencement of the main trial was shorter than the deadline of 8 days prescribed by law, acknowledging that the defendant was not present, decided to adjourn the trial in order to allow a proper amount of time for the defence.

On the 22nd of February 2010, the defendant again failed to appear and the trial panel issued an order for the defendant to be compelled to appear before the District Court of Pristina. Having failed the competent authorities to coactively accompany him before the district court of Pristina, the main trial had to be postponed several times, namely: 23rd of February 2010, 2nd of March 2010; 13th of April 2010; 15th of April 2010; 19th of April 2010; 18 of April 2010; and the 4th of May 2010.

On Saturday 12th of June 2010, the defendant was eventually arrested by Kosovo Police. On Monday the 14th of June the main trial was held.

2. Detention History

On 10 February 2007 the defendant Albin Kurti was arrested and detention on remand was ordered;

On 10 May 2007 detention on remand was replaced with house arrest;

On 11 May 2007, due to a violation of the court ruling, detention on remand was ordered again against the defendant;

On 6 June 2007 House arrest is again ordered to replace detention on remand;

On 13 June 2007 detention on remand is ordered again to replace house arrest;

On 11 July 2007 house arrest replaces detention on remand;

On 19 December 2007 the accused is released;

On 30 January, detention on remand is ordered again against the defendant;

On 7 February 2008 the accused is released again and the main trial suspended.

On 12 June 2010, the defendant was arrested by police and compelled to appear before the district court of Pristina on 14 June 2010, and on the same day he was released.

3. Applicable law, jurisdiction of the Court and composition of the Panel

In accordance with article 23 paragraph 1 of the Kosovo Code of Criminal Procedure (henceforth: KCCP), District Courts have jurisdiction to adjudicate at first instance criminal offences punishable by imprisonment of at least five years or by long-term imprisonment, therefore the criminal charges pleaded against the accused fall under the jurisdiction of the District Court. The District Court has jurisdiction also for count 3 of the indictment (*medio tempore* withdrawn by the Prosecutor), pursuant to art. 33 paragraph 6 KCCP.

The District Court of Pristina has territorial jurisdiction since the incidents described in the charges occurred in Pristina.

The criminal proceeding falls under the jurisdiction of EULEX pursuant to article 16.2 of the Law on Jurisdiction, Case Selection and Case Allocation of EULEX judges and prosecutors in Kosovo (3 – L053/2008), pursuant to which

[omissis] the President of the Assembly of EULEX Judges will decide in accordance with this law which of the cases handed over pursuant to Section 16(1) fall within the jurisdiction and competence of the EULEX judges or prosecutors, respectively, and

which other cases, for grounded reasons, will have to remain under the authority of EULEX judges and prosecutors after having been under the authority of UNMIK International Judges [omissis].

A Kosovo judge has been part of the Panel throughout the trial pursuant to article 4.7 of Law on Jurisdiction.

4. The main trial

On the 14th of June 2010 at 10:20 the District Court of Pristina, in the presence of the Defendant, of the Public Prosecutor and of the injured party Ismet Hajdini, declared open the main trial. No other injured party was present.

The defendant was asked whether he wanted to be assisted by a defence counsel and he refused.

Before the commencement of the main trial, the defendant submitted an autograph motion interpreted by the panel as a motion for the disqualification of the trial panel which was therefore immediately forwarded to the President of the District Court of Pristina – competent for deciding on the disqualification of Kosovo Judge Kadiu - and the President of the Assembly the Assembly of EULEX Judges – competent for deciding on the disqualification of the two EULEX Judges assigned to the case.

The main trial was resumed on the same day at 12:40 and, after the Presiding Judge announced that the motion for disqualification had been rejected by the two competent bodies, the public prosecutor announced that he would withdraw counts 1) and 3) of the indictment dated 31 May 2007. After reading the indictment he confirmed such withdrawal. No objection thereto was raised by the present injured party.

The main trial therefore continued with exclusive regard to count 2) of the indictment. Such charge (art. 318 paragraphs 1 and 2 CCK) is punished by maximum penalty of five years of imprisonment, thus falling outside the scope of application of art. 73 KCCP (which foresees the mandatory appointment of an *ex officio* defence counsel only for crimes punished with at least eight years).

Subsequently, in the light of the express refusal of Mr Kurti to be assisted by any defence counsel, the Panel proceeded with the defendant representing himself before the court.

The accused was addressed the legal warnings and stayed silent at the guilty plea (this amounting to a plea of not guilty pursuant to art. 358 KCCP), and the evidentiary proceeding was opened.

Upon proposal of the prosecution, three witnesses were examined.

The extract from video CDs corresponding to the time before and after the incidents of 10 February 2007, entailing some sequences of the actual clash, was shown to the witnesses.

The defendant cross-examined them.

The Public Prosecutor provided the Panel with an additional copy of a CD already existing in the case file.

Its contents were summarised by the Public Prosecutor during the main trial pursuant to art. 367 KCCP.

The material evidence listed in the indictment was admitted at the end of the evidentiary proceedings.

Eventually, the defendant refused to undergo examination.

Both parties held final speeches and at 20:10 hours, the trial panel, after deliberating, publicly announced the verdict in the presence of all the parties.

5. Legal findings

5.1. Counts 1) and 3)

Preliminary, the panel acknowledges that the Public Prosecutor, in accordance with article 52 of the CCPK, withdrew from prosecution with regard to counts 1 ("Participation in a Crowd committing a criminal offence" according to art. 320, paragraph 2, of the KCC) and 3 ("Call to resistance" as defined and penalized under art. 319 paragraph 1 KCC) of the indictment.

Pursuant to article 389 paragraph 1 KCC, therefore, the criminal charges of Participation in a Crowd committing a criminal offence as described in count 1), and the charge of Call to resistance, described in count three must be rejected.

5.2. Count 2)

The defendant was accused, pursuant to count 2) of the indictment, of participating in a group obstructing official persons in performing official duties. In particular, the Prosecution alleged that, as the leader of a group of several thousand persons

assembled near the National Theatre during a protest march, he obstructed the Kosovo Police officers and UNMIK police in performing their official duty of protecting the property of the Government and Assembly of Kosovo and UNMIK, by personally and having others push through an organized police cordon, as penalized by article 318 of the CCK.

Such article states as follows:

(1) Whoever participates in a group of persons which by common action obstructs or attempts to obstruct an official person in performing official duties or in a similar way forces him or her to execute official duties shall be punished for participation by a fine or by imprisonment of up to three years.

(2) The leader of the group which commits the offence provided for in paragraph 1 of the present article shall be punished by imprisonment of one to five years.

The following are, therefore, the constituting elements of the offence:

1. The defendant was participating in (or leading, in the case of paragraph 2) a group of persons;
2. The group acted by common action;
3. Official person(s) were performing official duties;
4. They were obstructed in doing so by the result of such common action.

All such elements, together with the *mens rea*, must be proved by the Prosecution in order for the defendant to be convicted.

A general preliminary remark: the Kosovo Police Service and the UNMIK Police were closely monitoring the demonstration since its very beginning, in consideration of the fact that an analogous demonstration organized by Vetëvendosje some months before had ended with disorders and with material damage to public premises, which were targeted by a launch of red paint.

For this reason the case file is particularly rich with documentary evidence (photographs and videos) which provide a clear picture of the events.

5.2.1. The defendant was leading a group of persons, which acted by common actions;

There is ample evidence that on the 10 February a large march of protest gathered in the center of Pristina under the auspices of the Vetëvendosje movement in order to demonstrate against the "Ahtisaari plan" negotiations which were being held at that time at the UN level.

Such evidence consists of:

- the two CDs¹ which were shown and described in the main trial and the numerous pictures present in the case file, taken by the police officers which were following the march. Other CDs in the case file provide additional visual description of the scenes of 10 February. The demonstration from its beginning in Pejton until the chaotic epilogue in front of the National Theatre is widely portrayed. The case file contains also the police reports of the officials who were operating and who took the pictures and videos.
- The statements of the three witnesses examined during the main trial², who were all personally involved in the monitoring and maintenance of public order during the march of protest. They, besides providing additional information as highlighted below, confirmed that the contents of the CDs which were shown to them, contained in the case file, correspond to the events of 10 February 2007.
- The statements of the defendant himself during the detention hearing.
- The documentation contained in binder 6 of the case file, regarding the demonstrations of November 2006 and February 2007.

The above provides the following description of the developments of the 10 February 2007:

- the Vetëvendosje movement was the organizer of the march of protest, in line with its political stand against the initiatives of the UNMIK, of the Government and of other international actors.
- The march developed from the premises of Vetëvendosje in Pejton towards and along Mother Teresa Street.
- The demonstration was supposed to follow the same itinerary of the previous march which had taken place in November 2006, again organized by Vetëvendosje;
- It is impossible to give a precise estimate of the number of participants in the march. The indictment speaks of thousands of persons. What is made sure by the videos and pictures attached to the case file is that when the march reached the National Theatre it was composed of at least of several hundred people;

¹ See Binder 7, DVD 6 beginning from min. 7:00 ss; DVD 8, min. 9:50 ss

² Besart Ahmeti, Kriste Gjokaj, Ismet Hajdini.

- Albin Kurti was, among the leaders of Vetëvendosje, the main character of the march of the 10 February 2010. He (see, among others, CD video n. 8 of the case binder 7) was with the march until it reached the police cordon which had been set up in front of the National Theatre³. He held the final speech from the podium which had been prepared on top of a truck which was with the crowd.
- The truck/podium was covered with Vetëvendosje signs⁴. A great number of Vetëvendosje activists, all dressed with white shirts like the defendant himself, were directing the crowd.
- His speech, which lasted several minutes, contained in its final part the words which the Public Prosecutor recalled in the indictment: *"We will continue with our protesting march, while I will come down and we will proceed according to our scenario towards the institutions and this time we will take a turn as on November 28th, to the other side. So let us "park ourselves⁵" towards self determination, let us park ourselves⁶".*
- after the end of the speech, and in execution of the order given in the speech, the Vetëvendosje activists who were in the front of the crowd started simultaneously and speedily to remove the metal barriers which formed the police cordon, thus eliminating the first line of the barrier which was blocking the march;
- the same activists, forming a cordon facing the police cordon, prevented the crowd from walking towards the police cordon too early, i.e. before Albin Kurti had reached the front of the march⁷; when he reached the head of the march, he placed himself right in the middle of the line of activists which was facing the police cordon;
- after that, simultaneously the crowd moved against the police cordon, following Albin Kurti (who was the first to move) and eventually breaking the police cordon in the middle (the circumstance is particularly evident in the

³ The police barrier was composed by a first line of metal fences, behind which there was a human cordon composed of Kosovo Police officials. Behind the cordon of police officers a number of other police forces were scattered, ready to intervene in case the police cordon had been broken by the demonstrators.

⁴ See the pictures contained in binder 7.

⁵ This expression remains unclear.

⁶ DVD 8 at min. 30 ff. contains the relevant part of the speech.

⁷ See Binder 7, DVD 6 beginning to min. 15:40; DVD 8, min. 31 ss. See also the CD which was provided and explained by the Public Prosecutor during the hearing of 14 June 2010.

images contained in the DVD provided and summarized by the Public Prosecutor by him during the main trial)⁸.

The general leading role of Albin Kurti within the Vetëvendosje movement can be regarded as common knowledge.

The leading role of Albin Kurti in the demonstration of 10 February 2010 appears clearly from the above description, in particular by examining the evidence related to the epilogue of the march, in front of the National Theatre.

Indeed:

- the march was organized in detail and Albin Kurti was the main character during the speeches delivered to the crowd;
- the last part of the speech of the defendant was a clear exhortation to the crowd to proceed with the march according to the plan (i.e. along Mother Theresa Street) regardless of the presence of the police barrier. It was, in other words, an invitation to break the police cordon.
- The subsequent behaviour of Albin Kurti was the actualization of his previous exhortation. The defendant passed from words to acts in leading the crowd, conducting it against the police cordon.
- The crowd, in fact, eventually moved forward in a coordinated manner when the head (Albin Kurti) started walking and pushed against the police cordon, backed up by the rest of the crowd, which gave it strength.
- There was, thus, a clear cause-effect relationship between the orders-actions of Albin Kurti and the behaviour of the crowd against the Police.

5.2.2. The common actions of the group obstructed official persons in the exercise of official duties

5.2.2.1. Official persons were called to perform an official duty

The qualification of official person is provided for by the PCKK in article 107 paragraph 1) n. 3, defining it (among others) as “*A person who exercises specific official duties, based on authorization provided for by law*”.

⁸ See Binder 7, DVD 8, min. 34 ff, DVD 5 min 52 ff. See on this also the statements made by witnesses Ahmeti and Gjokaj during the main trial. Significantly Besart Ahmeti states that “*when the barriers were removed an angle was formed in order to penetrate more easily*”.

The term “official duty” refers to activities exercised by the official person(s) within the scope of its/their function or delegated power.

In the specific case, the KPS as well as the UNMIK Police are clearly to be regarded as official persons according to such definition.

They were assigned by their superiors the task (i.e. the official duty) to form a police barrier⁹ in order to prevent the crowd from continuing the march along Mother Teresa Street, thus reaching the government buildings and possibly damaging them by throwing paint (as it had happened on the occasion of another similar Vetëvendosje - organized protest on 28 November 2006: see, among the documents, the newspapers documenting the material damages caused during the demonstration of Autumn 2006, as well as the Vetëvendosje press conferences and newsletters contained in binder 6).

More precisely, the duty of the police officers forming the barrier was to keep the demonstrators *behind* the line formed by the barrier itself.

The defendant seemed to affirm during the main trial that the action of the demonstrators in trying to force the police cordon was justified, in that the police did not have the authority - by setting up such cordon - to limit the right of the citizens to demonstrate.

Such defence is evidently ungrounded, not only on the basis of the legislation of Kosovo, but also in the light of the principles enshrined in the European Convention on Human Rights.

Such international instrument, in fact, while affirming (in its art. 11¹⁰) the right of citizens to assembly, at the same time provides for the necessary counterbalance against the risk of a possible abuse of such right (or, using the words of art. 11 of the convention, “*in order to prevent disorders*”).

Thus it is clear that State administrations have the power to impose limitations on the freedom of assembly and demonstration when this is justified by the need to prevent disorders, or to prevent the grounded risk of violations of other rights similarly protected by the European Convention on Human Rights.

This is exactly what happened in the instant case. Indeed:

⁹ See trial transcripts, English version, testimony of Besart Ahmeti, pag. 5; Kriste Giokaj, pag. 14.

¹⁰ 1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, ... 2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.

- the Police did not prevent the march of protest *tout court*: the march – though, apparently, not authorised - could take place and actually developed itself peacefully for most part of the itinerary;
- the Police simply prevented the protesters from approaching too closely the buildings of the Government (which were, anyway, at sight's distance), in the light of the fact that in the previous march organized by Vetëvendosje on 28 November 2006 the demonstrators had damaged public buildings by launching paint at them¹¹.

This is sufficient in order to affirm that imposing such a cordon in the proximity of the government buildings was a reasonable and lawful security measure, striking a fair balance between the right of citizens to demonstrate and the duty of the Police to protect public property and to prevent disorders¹².

It would be weird to think otherwise, and to accept the peculiar notion of “freedom of demonstration” endorsed by the defendant, according to whom the Police should allow protests which, on the basis of a reasonable assessment, are aiming at damaging public premises¹³.

Nobody is above the law and the same applies to Albin Kurti, who cannot impose to the population (and to the Police) his personal view on public demonstrations and about the alleged right to damage public premises as a form of political protest.

In conclusion, considering that the official duty of the police consisted in keeping the demonstrators behind the line marked by the fences and by the first line of Kosovo Police officers, the facts described above indicate that the material element of the offence described by art. 318 CCK is fulfilled¹⁴.

¹¹ See the documentation contained in binder 6 of the case file and the statements made by Albin Kurti at the detention hearing.

¹² This does not mean that the subsequent reaction of the Police and the modalities in which rubber bullets were used were appropriate and proportionate. Such assessment, though, falls out of the scope of this trial.

¹³ It is the case to add that the police seized in the truck which was following the demonstration more than one hundred bottles of red paint: see the police report contained in binder n. 5 and the photographic documentation of the seized materials. The case file contains also a chemical expertise performed on the paint which was seized on the truck and on the bottle of paint which was seized inside the premises of Vetëvendosje: such expertise confirmed that all bottles of paint had the same chemical composition.

And, finally, it is the case to remind here that not only the freedom of demonstration, but also property is one of the rights protected by the same European Convention on Human Rights.

¹⁴ The thin line of Kosovo policemen had been utterly overwhelmed by the huge crowd which was following Albin Kurti, as is made clear by the examination of the CDs which were already mentioned above, by the witness statements in the main trial and by the police reports contained in the case file (see e.g. the officer's report in binder 6, page 1845).

5.2.2.2. The group knowingly obstructed the official person(s) in the exercise of the official duty.

The *mens rea* of the defendant is proven as well, regarding:

- his knowledge of the quality of official persons of the policemen who composed the police cordon;
- the fact that they were acting in execution of an official duty;
- his will to move against the police cordon.

In the specific case, the videos and the pictures contained in the case file and the testimonies of witnesses Besart Ahmeti and Kriste Giokaj make it clear:

- that it was clearly visible that the cordon was composed of official persons;
- that such cordon was meant to keep the demonstrators behind the line formed by it. This in consideration of the physical layout of the structure itself (which was placed across the street for its whole width). It must be added that the defendant and the protesters were warned by the Police with megaphones that the Police barrier should not be trespassed and that not obeying to such order amounted to a criminal offence¹⁵.

The contents of the speech of the defendant (inciting the crowd to proceed with the march regardless of the presence of the police cordon) *in re ipsa* confirms the knowledge of the defendant of the nature of the obstacle which was stopping him and of his will to break through it. His actions immediately after his speech confirm the words he spoke and his firm determination to pursue his aim.

6. Conclusions and sentencing policy

Both the material and the mental element of the crime of which Albin Kurti is accused have been proven.

The Panel could not find any relevant exculpatory evidence in the case file, sufficient to exclude the liability of Albin Kurti.

The statute of limitations has not elapsed.

Albin Kurti must, therefore, be declared guilty of the crime of which he is accused.

When deciding on the penalty the court must keep in consideration the modalities of the commission of the offence and the personality of the defendant. The punishment

¹⁵ See on this, for example, the statements of witness Besart Ahmenti at page 10, hearing of 14 June 2010.

must also be a proper deterrent against further crimes and a proportionate sanction for the offence which was committed.

Preliminarily it must be borne in mind that the Prosecutor has withdrawn count 1) of the indictment, which contained the most serious charge (participating, with leading role, in a group committing a criminal offence) and count 3).

The panel deems that the punishment must be in the lower threshold foreseen by art. 318 CCK, and that the circumstances of art. 66 CCK must find application.

Indeed, with regard to the motives for (and the circumstances in) which the crime was committed, the panel considered that the actions of the defendant took place in the framework of a demonstration of political protest.

The participation in such kind of manifestations and their organization, even if it is not *per se* sufficient as a cause of justification as explained above, must anyway in principle be regarded (in so far as the message conveyed is not contrary to the law, which is not the case here) as a positive element, most of all in the framework of a transitional society, such as Kosovo.

The demonstration was planned as a peaceful one, and had been held peacefully until it was faced with the police cordon.

The same act of forcing the cordon in the middle, though technically amounting to physical pressure (because it consisted in physically pushing through the police cordon, pressing against the policemen in the middle of the cordon), was made by the simple fact of continuing to walk, with the videos showing that the demonstrators were not hitting or battering the police officers.

This indicates that the intention of the demonstrators was not that to harm the physical integrity of the policemen.

This means, as well, that the amount of physical pressure against persons was being held by the demonstrators at the minimum possible amount enabling them to overcome the barrier.

The above elements indicate that the intensity of danger or injury to the protected value caused by the action of the defendant (which is among the evaluation criteria listed in art. 64 CCK) was low.

This also reflects on the intensity of the mental element of the defendant, which must be regarded as low.

It is true that after the police cordon was broken there was an escalation of violence: this, though, falls out of the scope of this trial and does not appear, in any event, to have been part of the original plan of the organizers.

It must be added that the overall policy of the Vetëvendosje movement (at least in the declarations of its leaders, as they appear in the documents contained in the case file) seems to confirm this approach contrary to the recourse to violence against persons.

The conduct of the defendant prior and after the commission of the crime does not contain elements which add to the calculation of the penalty.

The fact that the defendant (in line with his personal political convictions) affirmed that he did not recognize the court questioning the composition of the panel, cannot be *ipso facto* considered as a negative element for the calculation of the punishment.

Considering jointly the above circumstances, the panel deems it appropriate to apply the punishment of nine months of imprisonment.

The time already spent in detention by the accused is to be counted as part of the prison sentence pursuant to Article 391 paragraph (1) subparagraph 5 of the KCCP. This entails that the punishment against the accused has already been carried out.

7. Costs

The accused shall reimburse the costs of criminal proceedings pursuant to Article 102 Paragraph (1) of the KCCP with the exception of the costs of interpretation and translation. A separate ruling on the amount of the costs shall be rendered by the court when such data is obtained pursuant to Article 100 Paragraph (2) of the KCCP.

For the foregoing, it is decided as in the enacting clause.

Prepared in English, an authorized language.

Pristina, 14 June 2010

Presiding Judge

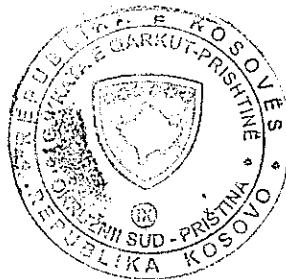
Ferdinando Buatier de Mongeot
Ferdinando Buatier de Mongeot
EULEX Judge

Recording Officer

Francesco Caruso
Francesco Caruso
EULEX Legal Officer

Members of the Panel

Vladimir Kanev
Vladimir Kanev
EULEX Judge



Felleza Kadriu
Felleza Kadriu
Kosovo Judge

Legal remedy

Pursuant to Article 400 par. 1) KCCP, An appeal against this verdict shall be announced immediately and in no case later than 8 days from the date of this public announcement. Pursuant to article 398 KCCP, par. 1), authorized persons may file an appeal against a judgment rendered at first instance within fifteen days of the day the copy of the judgment has been serve