

IN THE NAME OF THE PEOPLE

DISTRICT COURT OF MITROVICA

P. nr. 06/2011

1 March 2012

The Trial Panel of the District Court of Mitrovicë/a, composed of EULEX Judge Nikolay Entchev, acting as Presiding Judge, Judge Beqir Halili and EULEX Judge Katja Dominik, as panel members, in criminal case against:

Samedin Ismajli, charged with Attempted Aggravated Murder, contrary to Article 147 Items 4 and 11, as read with Articles 20 and 23 of the CCK, and with Unauthorized Ownership, Control, Possession, or Use of Weapon, contrary to Article 328, Paragraph 2 of the CCK;

Avdyl Ismajli, charged with Attempted Aggravated Murder, contrary to Article 147 Items 4 and 11, as read with Articles 20 and 23 of the CCK, and with Unauthorized Ownership, Control, Possession, or Use of Weapon, contrary to Article 328, Paragraph 2 of the CCK; and

Januz Ismajli, charged with Assistance in commission of criminal offence of Attempted Aggravated Murder, contrary to Article 147 Items 4 and 11, in conjunction with Article 25, paragraph 1 and 2 of CCK,

After having held the main trial hearings open to the public on 8, 9, 10, 27, 28, 29 February and 1 March 2012, all in the presence of the three Accused, the defence counsel Pashe Kuci for Samedin Ismajli, Isa Osdautaj for Avdyl Ismajli and Gani Rexha for Januz Ismajli, EULEX Public Prosecutors Nancy Casas on 8 February and Adebayo Kareem on the other hearings, the injured parties Fadil Xani, Adnan Koci and Jusuf Hoti on 8, 9 and 10 February; after the trial panel's deliberation and voting held on 1 March 2012, on the same day pursuant to Article 392, Paragraph (1) of the Criminal Procedure Code of Kosovo (CPCCK), pronounced in public and in the presence of the above-mentioned Accused, their Defence Counsel and EULEX Public Prosecutor, the following

VERDICT

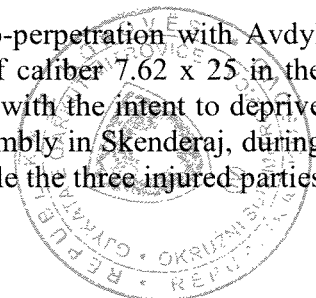
I) Samedin Ismajli, son of Mehmet Ismajli and Elifije Gllareva, born on 18 May 1984 in Skenderaj, with permanent residence in Klina e Poshtme, Municipality of Skenderaj,

is

FOUND GUILTY

(A)

Because on 24 June 2010 at about 08.40 hours, the defendant, in co-perpetration with Avdyl Ismajli, shot several times with a fire weapon of an unknown type of caliber 7.62 x 25 in the direction of the injured parties Fadil Xani, Adnan Koca and Isuf Hoti with the intent to deprive them of their lives. The shooting took place inside the Municipal Assembly in Skenderaj, during working hours, in the corridor where the entrance of office no.4 is, while the three injured parties



were approaching the entrance of that office with a view to get a certificate on transfer of real property. Other persons were present in the proximity of the place where the shooting took place.

As a result of the shooting, the three injured party were wounded as following: Isuf Hoti received two wounds: on the head and on the chest which seriously injured him and endangered his life; the wound on the head resulted in the permanent of loss of his left eye; Adnan Koca received three wounds, one the chest, one on the lumbar area and one on the right knee area which seriously injured him and endangered his life; Fadil Xani received one wound on his left leg.

The motive of the criminal conduct of the defendant is a dispute with the injured parties regarding the ownership of the above-mentioned real property. After the shooting the defendant left the crime scene and fled in an unknown direction.

By doing so the defendant, in co-perpetration with Avdyl Ismajli, committed and he is criminally liable for the criminal offence of Attempted Aggravated Murder contrary to Article 147 item 4 and 11 in conjunction with Article 20 and 23 of CCK.

Furthermore, the defendant

is

FOUND GUILTY

(B)

Because on the same day, place and hour as indicated in count A of the enacting clause, the defendant has used in the above-mentioned manner a fire weapon of an unknown type of caliber 7.62 x 25 without having a valid permission,

By doing so, the defendant committed and he is criminally liable for the criminal act of **Unauthorized Ownership, Control, Possession or Use of Weapons**, contrary to Article 328, Paragraph (2) of the CCK;

II)

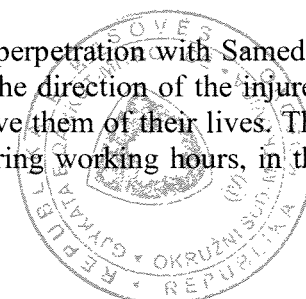
Avdyl Ismajli, son of Muhamet Ismajli and Hasime Maksuti, born on 13 July 1987, in Skenderaj, with permanent residence in Klina e Poshtme, Municipality of Skenderaj,

is

FOUND GUILTY

(A)

Because on 24 June 2010 at about 08.40 hours, the defendant, in co-perpetration with Samedin Ismajli, shot several times with a fire weapon caliber 7.62 x 25 in the direction of the injured parties Fadil Xani, Adnan Koca and Isuf Hoti with the intent to deprive them of their lives. The shooting took place inside the Municipal Assembly in Skenderaj, during working hours, in the



corridor where the entrance of office no.4 is, while the three injured parties were approaching the entrance of that office with a view to get a certificate on transfer of real property. Other persons were present in the proximity of the place where the shooting took place.

As a result of the shooting, the three injured parties were wounded as following: Isuf Hoti received two wounds: on the head and on the chest which seriously injured him and endangered his life; the wound on the head resulted in the permanent loss of his left eye; Adnan Koca received three wounds, one on the chest, one on the lumbar area and one on the right knee area which seriously injured him and endangered his life; Fadil Xani received one wound on his left leg.

The motive of the criminal conduct of the defendant is a dispute with the injured parties regarding the ownership of the above-mentioned real property. After the shooting, the defendant left the crime scene and fled in an unknown direction.

By doing so the defendant, in co-perpetration with Samedin Ismajli, committed and he is criminally liable for the criminal offence of Attempted Aggravated Murder contrary to Article 147 item 4 and 11 in conjunction with Article 20 and 23 of CCK.

Furthermore, the defendant
is

FOUND GUILTY

(B)

Because during an unknown period of time until 24 June 2010, without authorization, he was in possession of a pistol type "CZ model 52" with serial number "M 09385", caliber 7.62 x 25; and on the same day, place and hour as indicated in count A of the enacting clause, the defendant has used in the above-mentioned manner the same weapon.

By doing so, the defendant committed and he is criminally liable for the criminal act of **Unauthorized Ownership, Control, Possession or Use of Weapons**, contrary to Article 328, Paragraph (2) of the CCK;

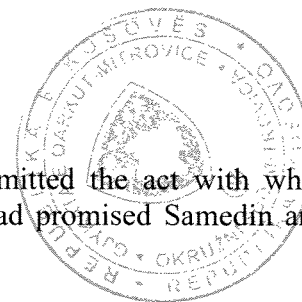
(III)

Januz Ismajli, son of Syle Ismajli and Zoja Ibrahim, born on 1 May 1950 in village Klina e Poshtme where he resides

is

FOUND NOT GUILTY

because it has not been proven that the defendant has committed the act with which he is charged. Namely it has not been proven that the defendant had promised Samedin and Avdyl



Ismajli to assist them by hiding the tool of the commission of the crime and the identity of the perpetrators, or to ensure their escape for the crime scene, nor has it been proven that he assisted them to escape from the crime scene by letting them jump through the window of his office in the Municipal Assembly of Skenderaj, using a Mercedes car to leave the proximity of the Municipality building and hiding the traces of the crime from the clothes of Samedin and Avdyl Ismajli.

Therefore, pursuant to Article 390 Item 3 CPCK, the Accused is acquitted of the charge of Assistance in commission of criminal offence of Attempted Aggravated Murder, contrary to Article 147 Items 4 and 11, in conjunction with Article 25, paragraph 1 and 2 of CCK.

PUNISHMENT

Samedin Ismajli is

SENTENCED

- to nine (9) years of imprisonment for the criminal act of Attempted Aggravated Murder
- to one (1) year and six (6) months of imprisonment for the criminal act of Unauthorized Ownership, Control, Possession or Use of Weapons

The aggregate punishment is determined in nine (9) years and nine (9) months of imprisonment pursuant to Article 71 Paragraph (1) and Paragraph (2) Item 2 of the CCK.

The time spent in detention on remand since 09 July 2010 is to be credited pursuant to Article 73 Paragraph (1) of the CCK.

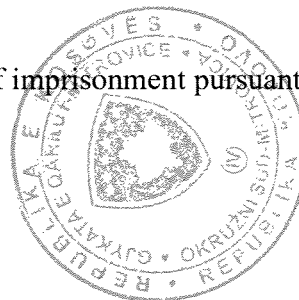
The defendant shall reimburse 261 Euros as his part of the costs of criminal proceedings, including the expert witness fee and excluding the costs of interpretation and translation, pursuant to Article 102 Paragraph (1) of the CPCK.

Avdyl Ismajli is

SENTENCED

- to nine (9) years of imprisonment for the criminal act of attempted Aggravated Murder
- to two years (2) of imprisonment for the criminal act of Unauthorized Ownership, Control, Possession or Use of Weapons

The aggregate punishment is determined in ten (10) years of imprisonment pursuant to Article 71 Paragraph (1) and Paragraph (2) Item 2 of the CCK.



The time spent in detention on remand since 09 July 2010 is to be credited pursuant to Article 73 Paragraph (1) of the CCK.

The pistol type "CZ model 52" with serial number "M 09385", caliber 7.62 x 25 is hereby confiscated pursuant to Article 60 Paragraph (1) and Article 328 Paragraph (5) of the CCK.

The defendant shall reimburse 261 Euros as his part of the costs of criminal proceedings, including the expert witness fee and excluding the costs of interpretation and translation, pursuant to Article 102 Paragraph (1) of the CPCK.

Januz Ismajli is relieved from paying any cost related to the proceedings since he has been acquitted of all charges.

Pursuant to art. 112 para. 2 of the CPCK, the injured parties are instructed that they may pursue claims for compensation in civil litigation.



Recording Officer
Francesco de Sanctis



Presiding Judge
Nikolay Entchev

