

**DISTRICT COURT OF MITROVICË/MITROVICA**

**P. nr. 22/2010**

**8 November 2011**

**IN THE NAME OF THE PEOPLE**

**THE DISTRICT COURT OF MITROVICË/MITROVICA**, in the trial panel composed of EULEX Judge Caroline Charpentier, as presiding judge, EULEX Judge Nikolay Entchev and Criminal Judge Ali Kutllovci, as panel members, with the participation of EULEX Legal Officer Anu Juho, as recording officer, in the criminal case against:

**Safet Goxhuli**, father's name Ramadan, mother's name and maiden name Miradije Doka, born on 05.02.1972 in the village of Makermal in Skenderaj, residing in the same permanent residence, industrial machines operator at KEK, married with three children, secondary technical school, monthly incomes 400 Euros per month,

**Agron Goxhuli**, father's name Hetem, mother's name and maiden name Raba Olluri, born on 05.07.1979 in the village of Makermal in Skenderaj, residing in the same permanent residence, secondary technical school, car mechanic, married with three children, monthly income 300 Euros per month;

**Ahmet Goxhuli**, father's name Adem, mother's name and maiden name Ziza Mehmeti, born 01.03.1972 in the village of Makermal in Skenderaj, residing in the same permanent residence, secondary technical school, electrician, unemployed, married with three children;

charged with two criminal offences, Aggravated Murder from Article 147 Paragraph (1), Item 4), and one criminal offence Aggravated Murder in Attempt from Article 147, Item 4) as read with Article 20 of the CCK and all these punishable pursuant to item 11 of Article 147 as read with Article 23 of CCK

and with Unauthorized Ownership, Control, Possession or Use of Weapons in violation of Article 328, Paragraph (2) of the Criminal Code of Kosovo (CCK) in real joinder with the criminal offences described above.

**Bashkim Igrishta**, father's name Isa, mother's name and maiden name Fata Zeqiri, born on 30.11.1977 in Mitrovica, residing in Str. "Ulqini" in Mitrovica,



primary school, continues professional mechanical school, not finished, unemployed, married with three children, no income;

charged with Attempted Murder in violation of Article 146 in conjunction with Article 20 of the CCK;

**Xhemë Igrishta**, father's name Isa, mother's name and maiden name Fata Zeqiri, born on 10.01.1980, in Mitrovica, residing in Str. "Ulqini" in Mitrovica, Kosovo Albanian, secondary school, single, no income;

charged with Threat in violation of Article 161 Paragraph 4 in conjunction with Paragraph 2 of the CCK;

After the issuance of the decision on change of the venue by EULEX Head of Justice on 11 October 2011;

After having held the main trial hearings open to the public in the court room at Dubrava Detention Center on 17, 18, 19 October and 01, 02, 03 November 2011 and the crime scene visit not open to the public on 20 October 2011, in the presence of the Accused Safet Goxhuli, Agron Goxhuli, Ahmet Goxhuli, Bashkim Igrista and Xhemë Igrista (except 20 October 2011), their Defence Counsels Bajram Kaitazi, Bashkim Mehana, Haxhi Millaku, Agim Lushta, Nexhat Beqiri (except on 20 October 2011), EULEX Public Prosecutor Adebayo Kareem, the Injured Parties Fata Igrishta (except on 20 October 2011), Jashar Sadiku, who was present only on 17 October 2011 and Ramadan Goxhuli, who was present on 18 October 2011 and 02 November 2011;

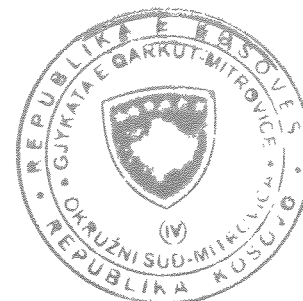
After the trial panel's deliberation and voting held on 04 November 2011, pursuant to Article 392 Paragraph (1) of the Criminal Procedure Code of Kosovo (the CPCK), pronounced on 08 November 2011, in public and in the presence of the Accused persons, their Defence Counsels, EULEX Public Prosecutor Adebayo Kareem and Injured Party Fata Igrishta, the following:

## JUDGMENT

I **Xhemë Igrishta**, father's name Isa, mother's name and maiden name Fata Zeqiri, born on 10.01.1980, in Mitrovica, residing in Str. "Ulqini" in Mitrovica, Kosovo Albanian, secondary school, single, no income;

Is

**FOUND NOT GUILTY**



- **because** there is no evidence that Xhemë Igrishta has threatened Ramadan Goxhuli or Musa Goxhuli on 03 December 2009.

Therefore, pursuant to Article 390 Item 3) of the Criminal Procedure Code of Kosovo (CPCK) the accused Xhemë Igrishta is acquitted of the charges of **Threat**, contrary to Article 161 Paragraph 4 as read with Paragraph 2 of the CCK (Count 3).

Pursuant to art. 102 of the Criminal Procedural Code of Kosovo (CPCK), the accused is relieved from the duty to reimburse the costs.

**II Safet Goxhuli**, father's name Ramadan, mother's name and maiden name Miradije Doka, born on 05.02.1972 in the village of Makermal in Skenderaj, residing in the same permanent residence, industrial machines operator at KEK, married with three children, secondary technical school, monthly incomes 400 Euros per month;

Is

### **FOUND GUILTY**

**A. - because** on 04 December 2009 at around 12:30 in the junction of the streets Sylë Vokshi and Ulqini in Mitrovicë/a, with the pistol type TT, black in colour with serial number 967473766-1964, Safet Goxhuli shot at Isa Igrishta and at Makfire Igrishta, hitting them with bullets and thereby causing their death.

By doing so the accused Safet Goxhuli committed and is criminally liable for the criminal act of

**Aggravated Murder**, contrary to Article 147 § 11 of the CCK (Count 1).

The Accused Safet Goxhuli

Is

### **FOUND NOT GUILTY**

**B. - because** it was not proven that on 04 December 2009 at around 12:30 in the junction of the streets Sylë Vokshi and Ulqini in Mitrovicë/a, Safet Goxhuli tried to



kill Bashkim Igrishta by shooting at him with pistol type TT, black in colour with serial number 967473766-1964, as a coperpetrator with Agron Goxhuli and Ahmet Goxhuli.

Therefore, pursuant to Article 390 Item 3) of the CCK the accused Safet Goxhuli is acquitted of the charge of **Attempted Aggravated Murder**, contrary to Article 147 Item 4 in conjunction with Article 20 of the CCK.

The Accused Safet Goxhuli

Is

### FOUND GUILTY

**C. –because** on 4 December 2009 Safet Goxhuli had a weapon, pistol type TT, black in colour with serial number 967473766-1964 containing bullets, without authorization with him in the junction of the streets Sylë Vokshi and Ulqini in Mitrovicë/a.

By doing so, the Accused Safet Goxhuli committed and is criminal liable for the criminal offence of

**Unauthorized Ownership, Control, Possession or Use of weapons**, contrary to Article 328 Paragraph 2 of the CCK.

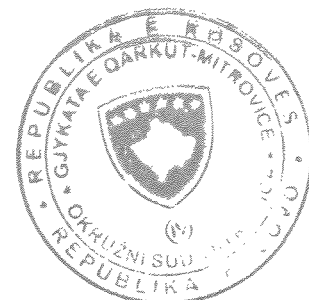
THEREFORE, the Accused Safet Goxhuli is

### SENTENCED

**A.** To fourteen (14) years of imprisonment for the criminal act of **Aggravated Murder**, under Article 147 item 11 of the CCK (Count I);

**B.** To one (1) year of imprisonment for the criminal act of **Unauthorized Ownership, Control, Possession or Use of Weapons**, under Article 328 Paragraph (2) of the CCK (Count II).

The aggregate punishment is determined as fourteen (14) years and six (6) months of imprisonment, pursuant to Article 71 Paragraph (1) and Paragraph (2) item 2 of the CCK.



The time spent in detention on remand from 04 December 2009 is to be credited pursuant to Article 73 Paragraph (1) of the CCK.

The weapon – pistol type TT, black in colour with serial number 967473766-1964 containing bullets is hereby confiscated pursuant to Article 60 Paragraph (1) and Article 328 Paragraph (5) of the CCK.

The Accused Safet Goxhuli shall reimburse 300 Euros as of his part of the costs of criminal proceedings pursuant to Article 102 Paragraph (1) of the CPCK with the exception of the costs of interpretation and translation.

**III Agron Goxhuli**, father's name Hetem, mother's name and maiden name Raba Olluri, born on 05.07.1979 in the village of Makermal in Skenderaj, residing in the same permanent residence, secondary technical school, car mechanic, married with three children, monthly income 300 Euros per month;

Is

#### **FOUND NOT GUILTY**

**A. - because** it was not proven that on the 04 December 2009 at around 12:30 in the junction of the streets Sylë Vokshi and Ulqini in Mitrovicë/a, Agron Goxhuli with his weapon, pistol type TT, white in colour, serial number 160982, shot at Isa Igrishta and Makfire Igrishta and by doing so caused their death, as a coperpetrator with Safet Goxhuli and Ahmet Goxhuli.

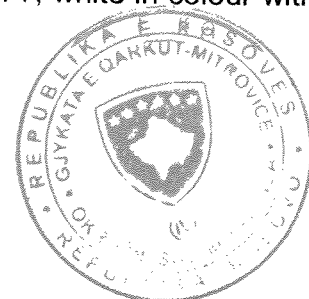
Therefore, pursuant to Article 390 Item 3) of the CPCK the accused Agron Goxhuli is **acquitted** of the charges of Aggravated Murder, contrary to 147 Paragraph 1 item 4.

The Accused Agron Goxhuli

Is

#### **FOUND NOT GUILTY**

**B. - because** it was not proven that on 04 December 2009 at around 12:30 in the junction of the streets Sylë Vokshi and Ulqini in Mitrovicë/a, Agron Goxhuli tried to kill Bashkim Igrishta by shooting at him with pistol type TT, white in colour with



serial number 160982, as a cop perpetrator with Safet Goxhuli and Ahmet Goxhuli.

Therefore, pursuant to Article 390 Item 3) of the CPCK the accused Agron Goxhuli is acquitted of the charge of **Attempted Aggravated Murder**, contrary to Article 147 Paragraph 4 read in conjunction with Article 20 of the CCK.

The Accused Agron Goxhuli

Is

### **FOUND GUILTY**

**C. - because** on 4 December 2009 Agron Goxhuli had a weapon, pistol type TT, white in colour, serial number 160982, containing bullets, without authorization with him in the junction of the streets Sylë Vokshi and Ulqini in Mitrovicë/a.

By doing so, the Accused Agron Goxhuli committed and is criminal liable for the criminal offence of

**Unauthorized ownership, Control, Possession or Use of Weapon** contrary to Article 328 Paragraph (2) of the CCK.

THEREFORE, the Accused AGRON GOXHULI is

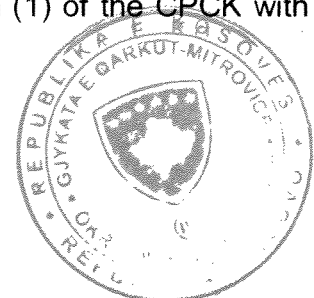
### **SENTENCED**

**A.** To one (1) year of imprisonment for the criminal act of **Unauthorized Ownership, Control, Possession or Use of Weapons**, under Article 328 Paragraph (2) of the CCK (Count II).

The time spent in detention on remand from 04 December 2009 is to be credited pursuant to Article 73 Paragraph (1) of the CCK.

The weapon - pistol type TT, white in colour, serial number 160982, containing bullets, is hereby confiscated pursuant to Article 60 Paragraph (1) and Article 328 Paragraph (5) of the CCK.

The Accused Agron Goxhuli shall reimburse 100 Euros as of his part of the costs of criminal proceedings pursuant to Article 102 Paragraph (1) of the CPCK with the exception of the costs of interpretation and translation.



**IV Ahmet Goxhuli**, father's name Adem, mother's name and maiden name Ziza Mehmeti, born 01.03.1972 in the village of Makermal in Skenderaj, residing in the same permanent residence, secondary technical school, electrician, unemployed, married with three children;

*is*

**FOUND GUILTY**

**A - because** on 04 December 2009 at around 12:30 in the junction of the streets Sylë Vokshi and Ulqini in Mitrovicë/a, with the pistol type M57 with serial number 132205, Ahmet Goxhuli shot into direction of Makfire Igrishta, hitting her with a bullet and thereby causing her death.

By doing so, the Accused Ahmet Goxhuli committed and is criminally liable for the criminal act of

**Murder**, contrary to Article 146 of the CCK.

The Accused Ahmet Goxhuli

*Is*

**FOUND NOT GUILTY**

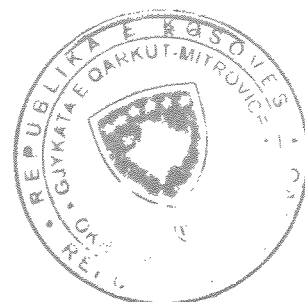
**B. - because** it was not proven that on 04 December 2009 at around 12:30 in the junction of the streets Sylë Vokshi and Ulqini in Mitrovicë/a, Ahmet Goxhuli tried to kill Bashkim Igrishta by shooting at him with pistol type M57 serial number 132205, as a coperpetrator with Safet Goxhuli and Agron Goxhuli.

Therefore, pursuant to Article 390 Item 3) of the CCK the accused Ahmet Goxhuli is **acquitted** of the charge of Attempted Murder, contrary to Article 146 of the CCK read in conjunction with Article 20 of the CCK.

The Accused Ahmet Goxhuli

*is*

**FOUND GUILTY**



**C. - because** on 4 December 2009 Ahmet Goxhuli had a weapon, pistol type M57 with serial number 132205, containing bullets, with him without authorization in the junction of the streets Sylë Vokshi and Ulqini in Mitrovicë/a.

By doing so, the Accused Ahmet Goxhuli committed and is criminally liable for the criminal act of

**Unauthorized ownership, Control, Possession or Use of Weapon** contrary to Article 328 Paragraph (2) of the CCK.

THEREFORE, The Accused Ahmet Goxhuli is

### SENTENCED

**A.** To four (4) years of imprisonment for the criminal act of **Murder**, under Article 146 of the CCK (Count I);

**C.** To one thousand (1.000) Euros fine for the criminal act of **Unauthorized Ownership, Control, Possession or Use of Weapons**, under Article 328 Paragraph (2) of the CCK (Count II).

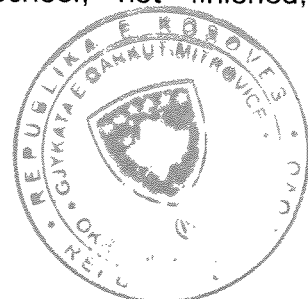
The aggregate punishment is determined four (4) years of imprisonment and one thousand (1.000) Euros fine, pursuant to Article 71 Paragraph (1) and Paragraph (2) item 2 of the CCK.

The time spent in detention on remand from 04 December 2009 is to be credited pursuant to Article 73 Paragraph (1) of the CCK.

The weapon - pistol type M57 with serial number 132205, is hereby confiscated pursuant to Article 60 Paragraph (1) and Article 328 Paragraph (5) of the CCK.

The Accused Ahmet Goxhuli shall reimburse his part 300 Euros of the costs of criminal proceedings pursuant to Article 102 Paragraph (1) of the CPCK with the exception of the costs of interpretation and translation.

**V. Bashkim Igrishta**, father's name Isa, mother's name and maiden name Fata Zeqiri, born on 30.11.1977 in Mitrovica, residing in Str. "Ulqini" in Mitrovica, primary school, continues professional mechanical school, not finished, unemployed, married with three children, no income;



/s

## FOUND GUILTY

**A. - because** on 04 December 2009 in the junction of the streets Sylë Vokshi and Ulqini in Mitrovicë/a, he speeds up his vehicle, type BMW, and drives it in the direction of the victim Ahmet Goxhulli, with the intention to deprive him of his life, and manages to run him over, knock him in the leg and force him to the wall. As a consequence, Ahmet Goxhulli fell over the vehicle's hood. His action remained an attempt since he had to leave the crime scene after having heard gunshots and having realized that he hit the victim.

By doing so, the accused Bashkim Igrishta committed and is criminally liable for the criminal act of

**Attempted Murder** against Ahmet Goxhuli, contrary to Article 146 read in conjunction with Article 20 of the CCK.

THEREFORE, the Accused Bashkim Igrishta is

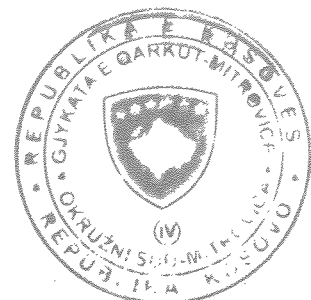
## SENTENCED

**A.** To seven (7) years of imprisonment for the criminal Act of Attempted Murder, under Article 146 in conjunction with Article 20 of the CCK.

The time spent in detention on remand from 04.12.2009 is to be credited pursuant to Article 73 Paragraph (1) of the CCK.

The vehicle BMW is hereby confiscated pursuant to Article 54 Paragraph 2 and Article 60 Paragraph (1) of the CCK.

The Accused Bashkim Igrishta shall reimburse 300 Euros as of his part of the costs of criminal proceedings pursuant to Article 102 Paragraph (1) of the CPCK with the exception of the costs of interpretation and translation.



## REASONING

### A. Procedural Background

The District Prosecutor of Mitrovica in the Indictment PP nr. 405/09 filed on 26 May 2010, charged Safet Goxhuli, Agron Goxhuli and Ahmet Goxhuli with the criminal offences of Aggravated Murder, in violation of Article 147 Paragraph 1, Item 4) and 11) and with Aggravated Attempted Murder in violation of Article 147, Paragraph 1, Item 4) and 11) read in conjunction with Articles 20 of the Criminal Code of Kosovo and with Article 23 of the Criminal Code of Kosovo (CCK) and charged also with Unauthorized Ownership, Control, Possession or Use of Weapons in violation of Article 328 Paragraph (2) of the Criminal Code of Kosovo in real joinder with the criminal offences described above. Bashkim Igrishta was charged with Attempted Murder in violation of Article 146 read in conjunction with Article 20 of the CCK. Xhemë Igrishta was charged with Threat in violation of Article 161 Paragraph (4) read in conjunction with Paragraph 2 of the CCK.

The Indictment was confirmed on 14 June 2010. On 02 December 2010, the President of the Assembly of EULEX Judges assigned the case to EULEX judges based on Article 3.3 of Law on Jurisdiction, Case Selection and Case Allocation of EULEX Judges and Prosecutors.

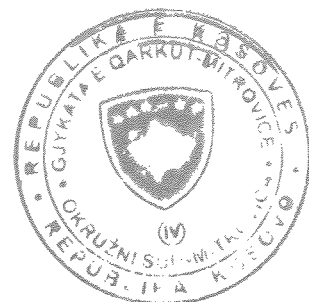
Main trial hearings were held on 17, 18, 19 October and 01, 02, 03 November 2011 at Dubrava Detention Center and a site visit was held on 20 October 2011. Closing arguments were heard from EULEX Public Prosecutor Adebayo Kareem and Defence Counsels on 03 November 2011.

The verdict was orally rendered on 08 November 2011.

### B. Competence of the Court

Under Article 23 Item 1 i) of the CPCK, district courts are competent to hear criminal cases involving charges for which the law allows the imposition of a penal sentence of at least five years. Pursuant to Article 27 Paragraph (1) of the CPCK, territorial jurisdiction is proper with the court in the district where a crime is alleged to have been committed.

The Accused persons are charged with as follows:



- Safet Goxhuli, Agron Goxhuli and Ahmet Goxhuli with the criminal offences of with Aggravated Murder, in violation of Article 147 Paragraph (1), Item 4) and Item 11) which allows the imposition of a penal sentence of at least ten years imprisonment, with Aggravated Attempted Murder in violation of Article 147, Paragraph (1), Item 4) and 11) read in conjunction with Articles 20 and 23 of the CCK, which allows the imposition of a penal sentence of three-quarters of at least ten years imprisonment and with Unauthorized Ownership, Control, Possession or Use of Weapons, in violation of Article 328, Paragraph (2) of the Criminal Code of Kosovo (CCK) in real joinder with the criminal offences described above, which allows the imposition of a fine of up to 7500 Euros or by imprisonment of one to eight years,
- Bashkim Igrishta with Attempted Murder in violation of Article 146 of the CCK read in conjunction with Article 20 of the CCK, which allows the imposition of a penal sentence of three-quarter of at least five years imprisonment and
- Xhemë Igrishta with Threat in violation of Article 161 Paragraph (4) in conjunction with Paragraph (2) of the CCK, which allows the imposition of a fine or by imprisonment of up to two years.

The Indictment alleged that the Accused committed the criminal acts in Mitrovica that lies within Mitrovica District.

Therefore, the District Court of Mitrovica is the competent judicial body to conduct this criminal proceeding.

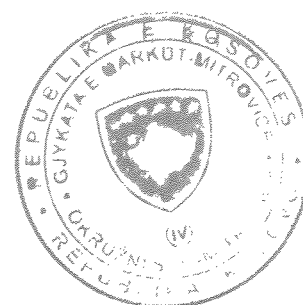
### **C. Legal Qualification – Law applied**

Pursuant to Article 2 Paragraphs (1) and (2) of the CCK, the law in effect at the time of the commission of the criminal offence shall be applied to the perpetrator unless a new law is more favourable for the accused. The criminal acts were committed on 04 December 2009 under the new Criminal Code of Kosovo (CCK) that entered into force on 06 January 2009.

### **D. Evidence**

During the course of the main trial, the following witnesses were heard:

- 1) Fata Igrishta
- 2) Jashar Sadiku
- 3) Ramadan Goxhuli



- 4) Faik Kajtazi
- 5) Rafet Ibrahimimi
- 6) Selim Meholli
- 7) Visar Meholli
- 8) Miradije Goxhuli

During the course of the main trial, a site visit was conducted on 20 October 2011 on Ulqini Street in Mitrovica in the presence of EULEX Public Prosecutor Adebayo Kareem, the Accused persons Safet Goxhuli, Agron Goxhuli, Ahmet Goxhuli and Bashkim Igrishta, their Defence Councils Bajram Kajtazi, Bashkim Mehana, Haxhi Millaku and Agim Lushta and witnesses Faik Kajtazi and Rafet Ibrahimimi.

During the course of the main trial, the following documents were read and entered into evidence:

- 1) Forensics Laboratory, Firearms and Tool Marks Sector: Expert report (pages 50 – 56 in volume I)
- 2) GSR report dated 17 May 2010 (pages 64 – 67 in volume I)
- 3) The Autopsy report of Makfire Sadiku (pages 95 – 105 in volume I)
- 4) Police criminal report (page 9 in volume II)
- 5) Photo album (pages 23 – 109 in volume II)
- 6) Police official note (page 165 in volume II)
- 7) Police officer's report (page 169 in volume II)
- 8) Police officer report (page 171 in volume II)
- 9) Application for ballistic report (page 185 in volume II)
- 10) Laboratory reports (page 193, 199 – 206 in volume II)
- 11) The Court Order pertaining to the ballistic report (page 208 in volume II)
- 12) Initial report of Police Officers Rafet Ibrahimimi and Faik Kajtazi (page 239 in volume II)
- 13) Police Officer report (page 247 in volume II)
- 14) List of seized weapons of Agron Goxhuli (page 304 in volume II)
- 15) List of seized weapons of Safet Goxhuli (page 308 in volume II)
- 16) List of seized weapons of Ahmet Goxhuli (page 310 in volume II)
- 17) Medical description form of Ahmet Goxhuli (page 326 in volume II)
- 18) Medical report relating to the treatment of Bashkim Igrishta (page 8 in volume III)
- 19) Photo of the injuries of Bashkim Igrishta (page 10 in volume III)
- 20) Investigator's report (page 14 – 15 in volume III)
- 21) Crime Scene examination report (page 20 – 27 in volume III)
- 22) List of evidence (pages 28 – 33 in volume III)



- 23) Drawing of the crime scene (pages 34 – 36 in volume III)
- 24) List of evidence (page 78 in volume III)
- 25) Pictures of the defendants (pages 90 – 93 in volume III)
- 26) Preliminary autopsy report of Isa Igrishta (pages 94 – 95 in volume III)
- 27) Pictures relating to the autopsy of Isa Igrishta (pages 99 – 193 in volume III)
- 28) Preliminary autopsy report of Makfire Sadiku (pages 193 – 194 in volume III)
- 29) Photo album relating to Makfire Sadiku (pages 198 – 280 in volume III)
- 30) Administration of evidence issued by the medical centre in Vushtri (court binder III)
- 31) Medical file of Ahmet Goxhuli from Gjilan and Dubrava Detention Centers (court binder III)

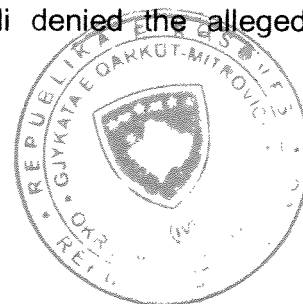
During the trial session, the accused Bashkim Igrishta on 01 November 2011 and the accused Safet Goxhuli on 02 November 2011 gave their statements and answered questions. Xhemë Igrishta, Agron Goxhuli and Ahmed Goxhuli remained silent during the trial.

#### **E. Summary of the Presented Evidence/Factual findings**

The background of the incident that happened on Ulqini Street in Mitrovicë/a on 04 December 2009 is due to an alleged sexual relationship between two neighbours Makfire Igrishta and Musa Goxhuli. According to Ramadan Goxhuli, neighbour of the Igrishta's family for 12 years, there was no incident between the two families so far. Goxhuli and Igrishta families were not used to socialize together except for important celebrations. During the trial, it has been confirmed that the tensions started when Xhemë Igrishta told his brother Bashkim Igrishta, released from prison that during this time his wife Makfire Igrishta had sexual intercourse with Ramadan Goxhuli's son, Musa Goxhuli.

**Xhemë Igrishta** remained silent during the police investigation when interviewed on 04 December 2009 as he did during the main trial.

**Ramadan Goxhuli** stated that in the morning after Bajram 2009, Bashkim Igrishta came to his house and forced him to go to his house in Bajr. Once in his house, Bashkim Igrishta pulled out a gun from his waist and put it on the table. He informed Ramadan Goxhuli about the alleged sexual relationship between Makfire Igrishta and Musa Goxhuli. Makfire Igrishta was present and she looked like as if she has been beaten up. Ramadan Goxhuli denied the alleged

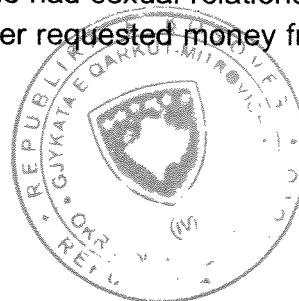


relationship. Bashkim Igrishta requested 25,000 Euros to solve the problem. Bashkim Igrishta promised to fix a date for the payment and told Ramadan Goxhuli that *"you have to give me the money, if not you will have to move outside your house. You will have to move."* As soon as Ramadan Goxhuli arrived home, he called his son Safet Goxhuli. No one else was aware of the problem. Later on, Ramadan Goxhuli and Safet Goxhuli met with Jashar Sadiku, the father of the deceased Makfire Igrishta. They invite him to the *"oda"* where later on Bashkim Igrishta went. Ramadan Goxhuli told the Igrishta's that he doesn't owe them anything. Since the situation escalated, Ramadan Goxhuli went together with Safet Goxhuli and Jashar Sadiku to the police in order to report the Igrishta's. The police recommended to Ramadan Goxhuli to find a mediator in order to solve the dispute.

**Selim Meholli** acted as a mediator, upon the request of Ramadan Goxhuli, between the Goxhuli and Igrishta families the week after Bajram 2009. He visited Isa Igrishta two or three times. Although they were about to solve the matter, the Igrishta family kept distancing themselves from the Goxhuli family. Selim Meholli met with Isa Igrishta. He tried to persuade him in saying, *"let him swear along with twenty-four wise men that there is no trick to this"*. At first, Isa Igrishta suggested that Ramadan Goxhuli should take the oath to which he replied that *"if needed I will bring 150 old wise men. I swear to this along 150 wise old men"*. According to Selim Meholli, they managed to set a date to go to the mosque and take the oath but it failed. Then Isa Igrishta suggested that if the Goxhuli family left the house, they would be able to come to an agreement. Ramadan Goxhuli responded to this offer by stating, *"if needed, I will leave, because I don't want any problem. He can pick out three people, who can assess the value of the house. Isa can give the money and I will leave."* Isa Igrishta refused. A day or two later Isa Igrishta together with a couple of other people and his son came to Selim Meholli's house and told him that *"this matter cannot be resolved the way you think it should be"*. As a consequence Selim Meholli replied that the mediation failed and ended on that day by informing Ramadan Goxhuli.

**Witness Visar Meholli** indicated that he was with his father at Isa Igrishta's house but he didn't hear the discussion between the mediator and the others.

**Bashkim Igrishta** stated on 30 December 2009 that he went to Ramadan Goxhuli's house in order to discuss about the dispute between the two families. There, he got to know Safet, Agron and Ahmet Goxhuli. He denied that he beat up his wife in order to pressure her on admitting that she had sexual relationship with Musa Goxhuli. Bashkim Igrishta stated that he never requested money from



Ramadan Goxhuli or asked the Goxhulis to leave their residence since the issue was not by coercion but was based on free will of his wife and Musa Goxhuli.

**Witness Jashar Sadiku** stated that there were discussions regarding Xhemë Igrishta's alleged violent behaviour and sexual abuse of Makfire Igrishta before the incident on 04 December 2009. He heard for the first time about the alleged relationship between his daughter Makfire and Musa Goxhuli one month before his daughter died. He indicated that he visited Ramadan Goxhuli and his son Musa in order to ask them if the allegations were true which they denied. On Monday, after Bajram, Ramadan Goxhuli came with a young man to pick him up to go to his daughter's home in Bajr where twelve people were gathered. Selim Meholli was there as mediator. He informed him about Isa Igrishta wishes that the Goxhuli should "*leave the house in order to reconcile*". According to Jashar Sadiku, his daughter told him the following day that she had a sexual relationship with Musa Goxhuli. However Jashar Sadiku indicated that she was lying because she was shocked and she didn't know what she was saying. He was not present on Ulqini Street in Mitrovica on 04 December 2009

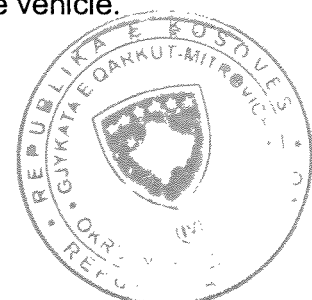
**Witness Miradije Goxhuli**, Ramadan Goxhuli's wife stated that one day Bashkim Igrishta visited their house and asked Ramadan Goxhuli to follow him in order to discuss about the dispute. Miradije Goxhuli didn't follow his husband. Ramadan Goxhuli told her afterwards that Bashkim Igrishta asked him 25,000 Euros. She quoted her husbands' words "*If you are not going to give me that money, I will throw you out of the house.*" She said that after the meeting with Bashkim Igrishta, Ramadan Goxhuli met with Jashar Sadiku. She remembered that Ramadan Goxhuli reported the incident to the police and sent Selim Meholli to reconcile. Miradije Goxhuli did not see anything that have a direct link with the reconciliation or with the incident that took place on 04 December 2009.

**Ramadan Goxhuli** stated that on 04 December 2009 at around 11:30 hrs, his son Safet Goxhuli came to his place with Agron Goxhuli. Ahmet Goxhuli was there already. When they left the house, he walked in front of his son Safet and Isa Igrishta was waiting for them at the gate. Ramadan Goxhuli stated that as soon as Safet Goxhuli went out Isa Igrishta grabbed his arm and asked him if he would have something to tell. Ramadan Goxhuli couldn't hear what they were discussing about but meanwhile Bashkim Igrishta and his wife Makfire Igrishta drove by. Both of them came out of the car, Makfire Igrishta was screaming. They jumped on his son's back and hit him. Ramadan Goxhuli asked them to leave. Bashkim Igrishta left with his wife but Safet Goxhuli continued scuffling with Isa Igrishta. Ramadan Goxhuli slapped his son Safet **three times** and



ordered him to stop. Three or four minutes later Bashkim Igrishta drove back his BMW, with high speed. Ramadan Goxhuli quoted the warnings he heard "*Be careful because he is going to hit you!*" According to him, Agron and Ahmet Goxhuli moved away by jumping on the side of the road. Bashkim Igrishta drove towards Ahmet Goxhuli who got stuck on the wall and fell down underneath the car. Ramadan Goxhuli grabbed his head when he heard Ahmet screaming "*What are you doing?*" and he couldn't see what happened afterwards. He indicated that he didn't hear any gun shot although when he came around he saw Isa Igrishta lying on the ground at approximately ten meters away from him. Ramadan Goxhuli mentioned that Xhemë Igrishta didn't threaten him the day before the 04 December 2009.

**Witness Faik Kajtazi**, traffic police officer, stated that he was on duty in Mitrovica with Rafet Ibrahim on 04 December 2009 at around 12:25. He saw a man driving a red BMW with a female as a passenger. They stopped and told them "*There are some people killing one another, while you are just standing here. What are you doing here?*" The driver of the BMW made a u-turn very aggressively at the junction and drove towards Shipol area on the highway of Ulqini in the direction of Zhabar village. Faik Kajtazi and his colleague followed him at a distance of approximately 150 to 200 meters. They could see the red BMW all the time. Faik Kajtazi stated that he saw the BMW going from the right to the left side of the road entering a small dirt road, going upwards a gravel street, lowering his speed. Faik Kajtazi stated that he saw five or six people standing on the upper street when the red BMW arrived and hit a man with a beard. The driver hit the person with the front part of the vehicle. The man had to lean on his left side towards a wall next to him. Meanwhile Faik Kajtazi, after stopping the police car on the right side of the highway, heard gunshots and realized that one person was on the ground. Afterwards, he heard other gunshots. Faik Kajtazi stated that after the agreement with his colleague, he took the right side of the road and his colleague took the left side. He ran while bending over and went by the wall higher than the highway where he took his position. He saw two people standing in front of him, one of them holding a gun. He shouted verbal orders "*Stop, this is the police. Throw away your weapon.*" The man with a gun threw his gun away without any resistance, he ordered him to lie down on the ground and handcuffed him. The other one lied down as well. From his place, he saw the red BMW parked and another person with a weapon at about fifteen to twenty meters away from him. He gave him the same verbal order. He also saw a woman lying on the ground next to the vehicle.

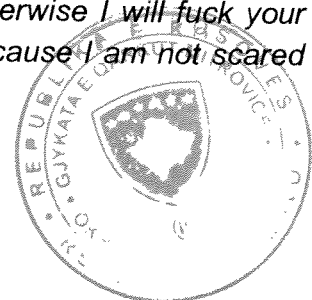


Questioned about distance between people on the crime scene, Faik Kajtazi stated that the person with the beard who was hit by the car was at about seven to eight meters away from the one who fell on the ground after the shot.

**Witness Rafet Ibrahim**, police officer, stated that a man in a red BMW accompanied by a female stopped in front of them and asked them to follow him which they did from distance since the red BMW was very fast and dangerous. They were still close enough to keep in their sight the vehicle. At some point, the red BMW left the highway and turned left in a narrow street. Rafet Ibrahim parked the police car on the right side of the highway. Meanwhile he saw a group of people standing in a circle and the BMW hitting a bearded man, pushing him against a wall with the front left side. The victim managed to put his hands on the hood but remained underneath the car. He realized that something serious was happening. While opening the door, he heard gunshots. Rafet Ibrahim continued on foot along the secondary gravel road. He saw the red BMW turning left behind an electric pylon, where it parked. Rafet Ibrahim went to the corner of the road while his colleague approached the line of fire. Rafet Ibrahim quoted Faik Kajtazi warning people "*This is the police, stop*". Rafet Ibrahim repeated the same order from a distance of five to six meters from where two people were standing. An armed man threw his weapon away. Rafet Ibrahim stated that he handcuffed the armed person and took control over the other one by hand gripping him. Rafet Ibrahim described the armed person, he was bigger than him, chubby, not fat but stocky, blond and fair type. He saw a female lying on the ground next to the red BMW by the front seat passenger's door.

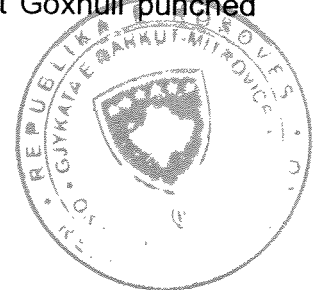
Both police officers stated that they saw two people coming towards them after giving their identification as police officers and offering them help. Rafet Ibrahim also stated that he arrested two other people, who were neighbours. One of them was an elder person wearing a black beret and the other was younger. He couldn't see the driver of the red BMW until the other police unit went and took him outside the house where he escaped. Rafet Ibrahim stated that when the additional police unit came on the crime scene they found a weapon on the bearded man. He noticed some damages on the bumper of the red BMW.

**Bashkim Igrish** stated that on 04 December 2009 at around 11:00 A.M he was driving with his wife Makfire Igrish to his father's house. When he arrived, he saw Safet Goxhuli first, then Agron Goxhuli and then Ahmet Goxhuli coming towards his vehicle. Ramadan Goxhuli was following them. Bashkim Igrish indicated that Safet Goxhuli told him "*Do not move or otherwise I will fuck your mother and blow your head off*" and he replied, "*shoot because I am not scared*"



at all” and after that Safet Goxhuli would have punched him on his nose. Then Agron Goxhuli pushed Bashkim Igrishta against the wall. Isa Igrishta tried to separate them but Safet Goxhuli hit Isa Igrishta with the handle of his gun. Bashkim Igrishta stated that he couldn't find the police number so he drove towards the city center. He stopped by a police patrol and told them that three persons were endangering the life of his father with weapons. The police followed him at a distance of approximately fifty meters. Before arrival where the incident took place, still on the asphalted road, Bashkim Igrishta heard a gun shot but hasn't seen anything. He stated that once he got to his father, he lost control of his vehicle and noticed that Ahmet Goxhuli was shooting in his direction, three times whilst his father was on the ground. Bashkim Igrishta stated that he couldn't stop his vehicle because he was too close from where the people were standing. Therefore, he drove away and saw Ahmet Goxhuli shooting at him on his left wrist. Then he lost control and he wasn't any longer aware of the situation. He acknowledged that his vehicle hit someone. He said that when he went out of his vehicle Safet, Agron and Ahmet Goxhuli ran towards him and shoot at him. Bashkim Igrishta jumped over the wall of his yard and hid there. He heard the door of his vehicle opening and his wife screaming *“let off my hair”* and then an undetermined voice yelling *“not the wife”*. Then he heard three gunshots but hasn't seen anything. The police found him and took him to the University Clinic of Prishtina. Bashkim Igrishta stated that neither his father nor his wife had a weapon the critical day.

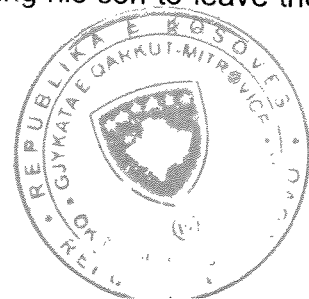
**Safet Goxhuli** stated that he knew Bashkim Igrishta since he is his neighbour's son but he never socialized with him. On 04 December 2009 he came back from work at 8:30 A.M and brought his car to the mechanic. Since he needed money he called Agron Goxhuli to get a ride to Ahmet Goxhuli's place in order to ask for money. Since Ahmet Goxhuli was not at his place, they went to Ramadan Goxhuli's place where Ahmet was waiting for the prayer time. They left Ramadan's place all together and saw Isa Igrishta by the door of their house who told them *“Why did you come here? You have to leave this house, get your family and get out of here.”* Safet Goxhuli replied, *“My father sent you a mediator. Regarding your request to leave our house, I have sent people and I will answer by anyway you want.”* Isa answered: *“I asked you to leave the house and I am not interested in these people. I will show you in two minutes that I will force you out of the house.”* During the discussion, Ramadan Goxhuli slapped his son who was disrespectful to Isa Igrishta. Meanwhile, Bashkim Igrishta and Makfire Igrishta drove by and Isa Igrishta told his son, *“Fucking kill him, run him over with the car.”* Bashkim Igrishta and Makfire Igrishta exited the car, grabbed his jacket, took him by the throat and removed him from the gate. Safet Goxhuli punched



him back in self-defence. He mentioned that Agron and Ahmet Goxhuli didn't know what it was all about since they didn't know the neighbours. Safet Goxhuli got separated from Isa Igrishta; they continued the conversation. Bashkim and Makfire Igrishta drove away. They returned with the police five minutes later. Safet Goxhuli stated that Bashkim Igrishta speed up his car on the gravel road towards the group. They fled sideways except Ahmet Goxhuli who was pushed to the wall. Safet Goxhuli heard shots and saw Ahmet Goxhuli dragged, fallen down and hanging on the car mirror. He also saw Isa Igrishta firing at the car that had the passenger window open. Then, Isa Igrishta turned the gun towards Safet Goxhuli. By the time Isa Igrishta cocked his weapon and chambered another bullet, Safet Goxhuli in self-defence fired back without control. He doesn't remember how many times he shot at him but he insisted on that fact that he didn't want to kill him. When Isa Igrishta fell on the ground his gun fell next to Ahmet Goxhuli. Safet Goxhuli indicated that he kicked the gun away from Isa Igrishta towards Ahmet who took it. Safet Goxhuli stated that the red BMW stopped by a small door. He saw Makfire Igrishta sitting on her two knees. At the time Xhemë Igrishta was at the door with a weapon; meanwhile his mother Fata Igrishta grabbed him and told him *"Go away, now the police arrives!"* In Safet Goxhuli's point of view Xhemë Igrishta or Isa Igrishta shot at Makfire Igrishta.

Safet Goxhuli stated that he brought his gun from Albania as a relic after the war and he carried it to protect himself from dogs, wild animals and people. He was working on shifts at KEK and he had to walk through the woods to get to the bus stop. He recognised that he doesn't have any gun licence.

**Agron Goxhuli** indicated to the prosecutor on 14 December 2009 that he left his home on the 04 December 2009 when Safet Goxhuli asked him to visit Ramadan Goxhuli in Mitrovica. They drove to Ahmet Goxhuli's place first to ask for some money for Safet Goxhuli but he had already left to Ramadan Goxhuli's place. At Ramadan's place were present Ramadan Goxhuli, his wife Miradije Goxhuli, Arton Goxhuli, his wife and Ahmet Goxhuli. They didn't discuss about the dispute between Ramadan Goxhuli's and Isa Igrishta's families. He was inside the yard when he saw Safet Goxhuli dicussing with Isa Igrishta but he didn't hear the conversation. When he reached the yard's door he saw Bashkim Igrishta driving towards Safet Goxhuli. Agron Goxhuli heard Isa Igrishta and Bashkim Igrishta telling them *"I told you that I don't want to see you around, you have to leave your house because you ashamed us"*. Safet Goxhuli replied that *"I don't have anything in this, we do not owe you at all in this matter"*. Straight after, Isa Igrishta, Bashkim Igrishta and Makfire Igrishta started punching Safet Goxhuli. They hit each other. Agron Goxhuli heard Isa Igrishta telling his son to leave the



place. Safet Goxhuli continued discussing with his father and his neighbour outside the gate. Ahmet Goxhuli and himself were standing approximately fifteen meters away from Isa Igrishta, Ramadan and Safet Goxhuli. Agron Goxhuli saw Bashkim Igrishta driving over Ahmet Goxhuli, squeezing him on the wall. At the same moment he heard gunshots and thought that Isa Igrishta fired at Ahmet Goxhuli. Agron Goxhuli said that as a reaction, he pulled out his gun and shot in the air four to five times without specifying the direction. He stated that he had thirteen bullets with him and he has five bullets in his weapon. When police officer ordered him to drop off his gun, he complied with the order.

Agron Goxhuli indicated to the police that the driver of the BMW was bold but he didn't recognize him. Agron Goxhuli stated that he had with him his gun, a Zastava TT, white. He said that he always carries it with him as a war souvenir. He didn't see weapons with any other persons. He doesn't know if Ahmet Goxhuli is used to have a gun.

**Ahmet Goxhuli** stated to the prosecutor on 19 February 2010 that on 04 December 2009 he visited Ramadan Goxhuli before going to the Friday prayer. He stayed there approximately one hour. During the visit Ramadan Goxhuli told him about the dispute with Isa Igrishta. When he left, Ramadan Goxhuli, Agron Goxhuli and Safet Goxhuli escorted him to the door. Isa Igrishta was by the door. Safet Goxhuli told him *"Isa my neighbour, I have sent my people in order to get reconciled"*. Bashkim Igrishta and Makfire Igrista went out of the car and Bashkim told Safet Goxhuli *"I have to divorce this woman because of you."* Makfire Igrishta asked after Safet's brother. Safet replied *"If you would have face, you would not go out and make a shame to yourself."* At this moment they started to push each other. Bashkim Igrishta has told Safet that it will not remain like this. Isa Igrishta, Ramadan Goxhuli and Safet Goxhuli continued discussing. Apparently Bashkim Igrishta entered the road driving the red BMW fast and hit him with the front part of his car. Ahmet Goxhuli couldn't remember whether he rolled over the car hood or whether he was pushed against the wall. He lost conscience. He tried to get up but he couldn't and he slumped again. He heard some gunshots but he didn't know where they come from. After he regained conscience he found a weapon very close to him, took it and put it on his waist. Ahmet stated that when the car hit him, Isa Igrishta was standing approximately two meters away. The police arrived and he handed over the weapon. Ahmet Goxhuli indicated that he sustained bodily injuries in both of his legs, under and above his knees, in the left hand side of his pelvis, compression in the chest and shock in the head. He had also vomited. He was under therapy and took medicament after the incident.



Ahmet Goxhuli denied that he shot at anyone. He also stated that he didn't see anybody else with weapons.

## **F. Assessment of the presented evidence**

### *I. Concerning the facts on 03 December 2009*

#### Evidence regarding **Xhemë Igrishta** on the charge of threat against Ramadan Goxhuli and Musa Goxhuli on 03 December 2009.

During the course of the main trial, nor the injured party Ramadan Goxhuli or the witnesses from the Goxhuli's family have reported that Xhemë Igrishta have committed threat on the 03 december 2009 towards Ramadan or Musa Goxhuli. To the contrary, Ramadan Goxhuli formally denied having suffered of any threat made by Xhemë Igrishta. As per Musa Goxhuli, absent at the main trial (living abroad), there is no evidence in the case file, or element brought by the witnesses during the hearing to support the allegation of threat towards him. The only statement of Musa Goxhuli available in the case file is dated 30 November 2009, three days previous the alleged threat. Afterwards there is no more statement from Musa Goxhuli who is currently leaving abroad.

Due to the lack of evidence against Xhemë Igrishta to support the allegations that he would have threatened Ramadan Goxhuli and Musa Goxhuli on 03 December 2009, pursuant to Article 390 Item 3) of the CPCK, the court acquits Xhemë Igrishta of the charges of threat, contrary to Article 161 Paragraph 4 as read with Paragraph 2 of the CCK.

### II. Concerning the facts on 04 December 2009

Upon the evidence presented during the course of the main trial, the Court considers the following facts as proven:

On 04 December 2009 at about 12.30, in the alley of the Goxhuli and Igrishta's families, in Mitrovica, an altercation due to an alleged sexual relationship between two neighbours Makfire Igrishta and Musa Goxhuli started between Safet Goxhuli on one side and Isa Igrishta on the other side, where were also present Ramadan Goxhuli, Ahmet Goxhuli and Agron Goxhuli. Soon after, Bashkim Igrishta and his wife Makfire Igrishta arrived by car. The last two left quickly in order to seek for the police support since the discussion was



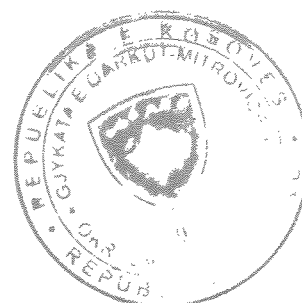
vehement. Once they come back, the situation escalated. The consistent and invariable statements from the witnesses, the defendants and the police officers presents at the crime scene, support the facts that gunshots were heard when Bashkim Igrishta approaches the crowd of people in his red BMW followed by a car of two police officers and that the situation escalated when Ahmet Goxhuli go hit by Bashkim Igrishta's car. It is also uncontested that as soon as the police officers Faik Kajtazi and Rafet Ibrahimimi arrived and requested from Agron, Ahmet and Safet Goxhuli to drop off their weapon they did it without any resistance. Bashkim Igrishta got injured by a bullet in his left hand and was arrested in his house. Isa Igrishta was lying on the ground, found dead when the police arrived. Makfire Igrishta was transported to the hospital alive but didn't survive because of her wounds.

1. Evidence regarding **Bashkim Igrishta**. On the charge of attempted murder against Ahmet Goxhuli

It is not contested that on 04 December 2009 Bashkim Igrishta was in Mitrovica with his wife Makfire Igrishta driving his vehicle a red BMW, plate number 590-KS-858 and hit Ahmet Goxhuli against a wall. Ramadan Goxhuli on his statement at the main trial said that people were screaming and warning that the red BMW was too fast and may kill someone. After this, Ramadan Goxhuli said that he covered his eyes and didn't see anything else until the arrival of the police. Safet, Agron and Ahmet Goxhuli confirmed Ramadan Goxhuli's version. They also indicated that the fast arrival of Bashkim Igrishta triggered the rest of the incident since they got scared and started shouting. They all declare that when Bashkim Igrishta arrived with his red BMW, he was driving really fast and he drove over Ahmet Goxhuli by pushing him against a brick wall with the front left side of his car. This is corroborated by the pictures of the car that clearly show the front left side of the vehicle destroyed after a an impact with some hard object (see photo album dated 09 December 2009, pictures number and 4 and 15).

Ahmet Goxhuli indicated in his statement to the public prosecutor on the 19 February 2010 that he was the only one not able to escape. After being hit by the car, he rolled over the car hood and lost conscience before picking up Isa Igrishta's weapon.

Bashkim Igrishta acknowledges that he drove over Ahmet Goxhuli but he explains that he did it after he lost control of his vehicle.



The Court rejects the argument of losing control of the car. The material evidences contain in the case file and the testimonies of the witnesses, police officers included, exclude this possibility. In addition, from the site inspection done on 20 October 2011, the panel is of the opinion that if Bashkim Igrishta would have lost control of his car, he would not have been able to manage to take the curve, in the L shape at the end of the dirt road, he would have had to stop his car earlier and not right in front of this house door.

Although, it is not proven that Bashkim Igrishta has a direct intent to kill Ahmet Goxhuli with his car, he was nevertheless conscious of the risk of causing death of some of the people while speeding up his car in a group of people as it was. Therefore, from the different elements, it is proven that Bashkim Igrishta speeded up his vehicle, drove it where Ahmet Goxhuli was, managed to drive him over; knocked him in the legs and force him to the wall. As a consequence, Ahmet Goxhuli fell over the vehicle's hood.

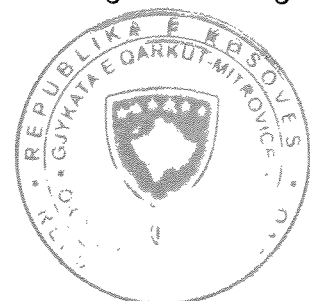
The action remained unfinished since Bashkim Igrishta had to leave the crime scene after having heard gunshots and having realized that he hit the victim.

Therefore, the Court declares Bashkim Igrishta guilty of the criminal act of Attempted Murder against Ahmet Goxhuli, contrary to Article 146 in conjunction with Article 20 of the CCK.

## 2. Evidence regarding Safet Goxhuli

### *2.a) On the charge of aggravated murder of Isa Igrishta and Makfire Igrishta*

It is undisputable that on 04 December 2009 Safet Goxhuli was present at his father's house with Agron Goxhuli and Ahmet Goxhuli. On their way out they met with Isa Igrishta who was waiting outside. A verbal argument started. Ramadan Goxhuli indicated during the trial that he slapped his son Safet who was being disrespectful towards Isa Igrishta. When Bashkim Igrishta and his wife arrived by car, the situation worsened. Therefore, following Isa Igrishta advices, they left to call the police. When they come back, shortly followed by the police car, Bashkim Igrishta said that he heard gunshots. This was confirmed at the main trial by the two police officers that were following the red BMW. Besides, they also said that they haven't seen any gun shot fired from the red car. After the gunshots were heard Bashkim Igrishta and the two police officers witnessed Isa Igrishta falling on the ground. This was never contested.



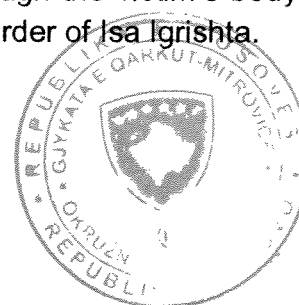
Ramadan Goxhuli is the only witness who denied that Safet Goxhuli and Isa Igrishta had a gun in their hand. His statement is not corroborated by the declaration of Safet Goxhuli himself who acknowledged several times during the investigation and at the main trial that he had a gun (reference number pistol seized on the crime scene: type TT of caliber 7.62X25mm, black, serial number 967473766- 1964, exhibit D#9) and that he shot at Isa Igrishta. While he recognized in his interview with the Prosecutor dated 22 January 2010 that he shot five times at the victim, he couldn't remember during the main trial how many times he shot at him. Agron Goxhuli confirmed Safet Goxhuli's shots in his statement to the public prosecutor on the 14 April 2010 however he didn't mention in which direction he shot.

The autopsy report of Isa Igrishta, dated 07 December 2009 indicates that during the X-ray examination of the entire body of the victim, neither bullet nor metal fragment was detected. The ballistic report dated 9 August 2010 doesn't identify either any empty cartridges matching with any of the defendants weapon next to the body. However, it doesn't exclude any of those since the report indicates for instance that as per the delivered exhibit D#4.1 (one jacket and three metallic fragment) found next to Isa Igrishta's body, they don't have ballistic characteristic for examination. Despite the lack of ballistic evidence, from the autopsy report, that concludes that the victim died from multiple gunshot injuries, it has been clearly established that Isa Igrishta has eight holes caused by gunshots in his body, four holes of entrance and four holes of exit wounds. This material evidences corroborates Safet Goxhuli's statement who indicates that he shot several times at the victim.

As per the possession of the weapon by Isa Igrishta, Safet and Ahmet Goxhuli constantly indicated that Ahmet picked up Isa Igrishta's weapon after he fell on the ground. This excludes Ahmet Goxhuli of having shot at Isa Igrishta.

As per the possibility of Agron Goxhuli to shot at Isa Igrishta, it is detailed below but due to lack of evidence, even though he had a gun and fired it, it is not proven that he killed Isa Igrishta.

Therefore, from the statement of Safet Goxhuli acknowledging shooting at the victims several times, shots confirmed by other witnesses and the autopsy report indicating that four projectiles caused death by going through the victim's body, the Court is convinced that Safet Goxhuli is guilty of the murder of Isa Igrishta.



Self-defense should be excluded in this case since no evidence support this version except Safet Goxhuli's statement as developed above. Despite the shooting, Safet Goxhuli indicated during the main trial that he had no intention to kill Isa Igrishta. It is undisputable that although he had a gun, he didn't pull it out from the beginning of the argument but waited that the tension reached its climax when Bashkim Igrishta came back driving dangerously fast with his car. Safet Goxhuli indicated that he pulled out his gun only when Isa Igrishta started shooting at the BMW in the direction of his cousins Ahmet and Agron Goxhuli.

Makfire Igrishta, 23 years old, was found lying on the ground outside of her husband's car, parked in front of the Igrishta's house gate, on the passenger side. At the main trial, Bashkim Igrishta indicated that he did not notice her being hit by a bullet while they still were in the car. However, he mentioned that he heard her screaming " *let go off my hair*".

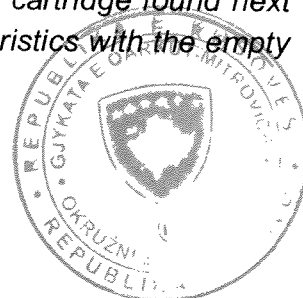
Makfire Igrishta's autopsy report dated 04 December 2009 indicates that she has nine holes caused by gunshots in her body, four holes of entrance, four holes of exit wounds and one bullet found on her left chest. It concludes that she died from a hemorrhagic shock from gunshot injuries.

None of the defendant acknowledged having shot at her.

However, from the ballistic report dated 09 August 2010 (ref 2010- 0123), two findings are linked with Makfire Igrishta's death.

First finding is related to the bullet found in her left chest. The bullet is identified as being shot from Ahmet Goxhuli pistol (see ballistic report (ref 2010- 0123) page 5 "*based on the microscopic comparisons it results that one bullet from exhibit D#33 (projectile taken from the body of Makfire Igrishta) has the same individual ballistic characteristics with the bullets fired during the test shooting by the pistol C. ZASTAVA of caliber 7.62X25mm from exhibit F6 (pistol seized from Ahmet Goxhuli's hands on the crime scene), this means that one bullet from exhibit D#33 was fired from the pistol C. ZASTAVA of caliber 7.62X25mm with the serial number C-132205.*")

Second finding is about the empty cartridge found next to her body (reference to exhibit D#17). The conclusion of the ballistic report indicates that only one empty cartridge was identified and match with one of the defendant's pistol "*based on the conducted microscopic comparisons it results that one empty cartridge of caliber 7.62X25mm from exhibit D#17 (picture of the empty cartridge found next to the victim body) has the same individual ballistic characteristics with the empty*



*cartridges fired during the test shooting by pistol from exhibit D#9 (picture of Safet Goxhuli's pistol seized on the crime scene) which means that only one empty cartridge from exhibit D#17 was fired from pistol Type 54 of caliber 7.62X25mm with serial number 9674737 66."*

From this second finding, taken into consideration the location of the empty cartridge and the body of the victim, both next to each other, it is established that Safet Goxhuli shot at Makfire Igrishta at least once. Moreover, taken into account the nature and the place of the injuries suffered by the victim, it appears that it matches with the position where Safet Goxhuli was arrested.

Therefore, the Court declares Safet Goxhuli guilty for the murder of Makfire Igrishta.

As per the qualification of the crimes, Safet Goxhuli was initially charged with aggravated murder under Article 147 item 4 and 11 of the CCK "*deprives another person of his or her life and in doing so intentionally endangers the life of one or more persons*". However, from the debate during the trial and from the material evidences in the case file, the Court only considers the charges under Article 147 Para (11) of the CCK taken into consideration these two murders "*intentionally commits two or more murders (...)*" since Safet Goxhuli, by shooting with his weapon towards the victims intentionally intent to deprive their lives.

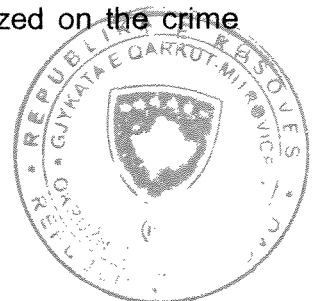
*1.b) On the charge of Attempted Aggravated Murder of Bashkim Igrishta*

Due to the absence of evidence gathered in the case file or evoked during the trial, the panel found the accused Safet Goxhuli not guilty of the criminal act of attempted murder against Bashkim Igrishta, contrary to Article 147 Paragraph (1) item 4 and 11 as read with Article 20 of the CCK.

Therefore, the panel acquits Safet Goxhuli of the charge of attempt of aggravated murder of Bashkim Igrishta.

*2.c) On the charge of Unauthorized Ownership, Control, Possession or Use of Weapons*

The Court acknowledges the guilty plea of the accused during the investigation, reiterated during the main trial and declares Safet Goxhuli guilty of unauthorized ownership, control, possession or use of weapon, namely a pistol type TT, black, serial number no. 967473766-1964 of calibre 7.62X25mm seized on the crime



scene on 04 December 2009 in Mitrovica contrary to Article 328 Paragraph (2) of the CCK.

### 3. Evidence regarding Agron Goxhuli

#### *3.a) On the charge of Aggravated Murder of Isa Igrishta and Makfire Igrishta*

It is an undisputed fact, although Agron Goxhuli remained silent during the main trial that he previously acknowledged to the police in his statement dated 04 December 2009 and confirmed to the Public Prosecutor on the 14 April 2010 that on the 04 December 2009, in Mitrovica, once the first shots were fired, he pulled out his gun and shot in the air four or five times.

Bashkim Igrishta indicated at the main trial that he saw Agron Goxhuli shooting at his father three times, whilst he was lying on the ground.

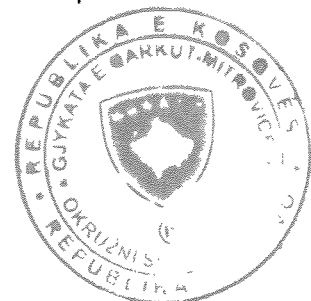
The ballistic report dated 09 August 2010 (ref 2010- 0123) confirms Agron Goxhuli's statement since it indicates that the empty cartridge fired from Agron Goxhuli's pistol is the one indentified under exhibit D#20 (see crime scene photo album dated 04 December 2009). From the photo album dated 04 December 2009, it appears that the empty cartridge of Agron Goxhuli's weapon is found pretty far from where Isa Igrishta's body was. No other empty cartridge or bullet of Agron Goxhuli weapon was found next to the victim body. Therefore, there is no evidence to support the allegation of murder.

The Court is of the opinion that the statement of Bashkim Igrishta against Agron Goxhuli and the sole empty cartridge from Agron Goxhuli's weapon found on the ground are not sufficient to characterize the murder.

Therefore, the Court declares Agron Goxhuli not guilty of the murder of Isa Igrishta.

As per the charge concerning Makfire Igrishta's murder, there is no evidence (no empty cartridge, no empty shell, no bullets, no testimony) to support the allegation that Agron Goxhuli would have shot at her.

Therefore, due to lack of evidence, the Court declares Agron Goxhuli not guilty of the charges of aggravated murder contrary to Article 147 Paragraph (1) Item 4 and 11 read in conjunction with Article 20 of the CCK and acquits him of this charge



*3.b) On the charge of Attempted Aggravated Murder of Bashkim Igrishta*

Due to the lack of evidence gathered in the case file or evoked during the trial, the panel found the accused Agron Goxhuli not guilty of the criminal act of attempted murder against Bashkim Igrishta, contrary to Article 147 Paragraph (1) item 4 and 11 as read with Article 20 of the CCK.

Therefore, the panel acquits Agron Goxhuli of the charge of attempt of aggravated murder of Bashkim Igrishta.

*3.c) On the charge of Unauthorized Ownership, Control, Possession or Use of Weapons*

The Court acknowledges the guilty plea of Agron Goxhuli who during the investigation (police interview dated 04 December 2009, public prosecutor interview dated 14 April 2010) and at the main trial explicitly recognized that owns and carries his weapon since the war. His statement was confirmed by Safet Goxhuli who indicates to the public prosecutor on 22 January 2010 “Agron always carried his weapon with him since after the war”.

Therefore, the Court declares Agron Goxhuli guilty of unauthorized ownership, control, possession or use of weapon, namely a pistol C.ZASTAVA of calibre 7.62X25mm with serial number C-160982 seized on the crime scene on 04 December 2009 in Mitrovica contrary to Article 328 Paragraph (2) of the CCK.

**4. Evidence regarding Ahmet Goxhuli**

*4.a) On the charge of Aggravated Murder of Isa Igrishta and Makfire Igrishta*

It is undisputable that Ahmet Goxhuli when he got arrested on 04 December 2009 in Mitrovica had a gun (reference pistol seized: M57-TT of caliber 7.62X25mm, serial number C-132205). The two police officers that arrived on the crime scene asked him to stop and he gave himself up with no resistance. Ahmet Goxhuli explains the possession of this gun by saying that he picked it up on the ground when Isa Igrishta fell down, hit by bullets. His statements are invariable since his interview by the Public Prosecutor on 19 February 2010. The



statements of Safet Goxhuli corroborate it during the investigation and at the main trial when he said, *"the gun Isa had in his arm fell next to Ahmet when Isa fell (...) the biggest mistake was that Ahmet took his gun"*.

From the different evidence in the file, it is not contestable to draw the conclusion that Ahmet Goxhuli took the weapon he had in his possession from Isa Igrishta after the latter fell on the ground, hit by bullets shot by Safet Goxhuli, as proven with the above details, then it is not possible that he committed Isa Igrishta's murder. Besides, no material evidence supports either this possibility.

The sole possession of a weapon by Ahmet Goxhuli is not enough to support the charge against Ahmet Goxhuli of murder of Isa Igrishta. Therefore, the court declares Ahmet Goxhuli not guilty for the murder of Isa Igrishta.

As per the death of Makfire Igrishta, the court is convinced that Ahmet Goxhuli shot at the victim from distance with a handgun C ZASTAVA M-57 of calibre 7.62X25mm, serial number C-132205 since one of his bullet found on her left chest (see autopsy report 07 December 2009 MA 09 329) contributes to her death.

As material evidence, the ballistic report dated 09 August 2010 (ref 2010- 0123) indicates that a projectile taken from the body of the victim Makfire Igrishta (D#33) has the same individual characteristics with the bullets fired during the test shooting by the pistol of caliber 7.62X25mm identified as being Ahmet Goxhuli pistol. That means that one bullet from exhibit D#33 was fired from the pistol with serial number C- 132205.

It has been indicated that both Isa Igrishta and Ahmet Goxhuli were temporary in possession of the pistol with serial number C- 132205. However, it has to be excluded that Isa Igrishta shot at Makfire Igrishta since he was at the right-hand side of the car and it was not possible for him to shoot and hit Makfire from that position since no traces, bullet holes, etc... are found at that side of the car, nor there is blood inside the car. Besides, the late was already lying on the ground, hit by bullets when Bashkim Igrishta parked his car in front of his house and when his wife when out of his car. It is at this moment that she got shot at.

From the different statements of the case file, reiterate at the main trial, it is clear that Ahmet Goxhuli got disorientated after being driven over by Bashkim Igrishta's car. Although Ahmet Goxhuli remained silent at the main trial, he nevertheless indicated in front of the public prosecutor on the 19 February 2010



that “when the BMW hit me and I got hurt, I fell down and lied in prone position on the ground and lost conscience (...) when I regained conscience, I tried to stand up, but I couldn’t so I slumped again. In this moment, I saw the gun, which was a pistol, and put it on my waist (...)”. Ahmet Goxhuli always denied that he used the gun. Safet Goxhuli and Agron Goxhuli statements support his statement. However, their versions are contradicted by Bashkim Igrishtha’s statements who all over the investigation and at the main trial, constantly indicated that Ahmet Goxhuli shot at him when he was in his car and afterwards. He mentioned that once he managed to enter his yard, after he parked, he heard people screaming “Not the woman” and then he heard a gunshot (see police interview dated 04 December 2009 and public prosecutor interview dated 14 April 2010). The bullet found in Makfire Igrishtha’s body corroborates Bashkim Igrishtha’s version.

Undoubtedly, Ahmet Goxhuli, soon after having being driven over Bashkim Igrishtha’s car, took the weapon that was on the ground and used it although he was completely under a high state of mental distress and disorientated by the shock he got. It is not proven that he intentionally shot at Makfire Igrishtha however, it is certain that one of his bullet contribute to her murder.

Therefore, the Court found Ahmet Goxhuli guilty of the murder of Makfire Igrishtha. Only guilty of a murder, the Court modifies the initial charges against Ahmet Goxhuli from Aggravated Murder to Murder in violation of Article 146 of the CCK.

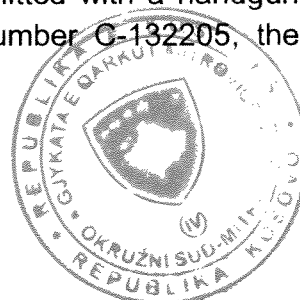
#### *4.b) on the charge of Attempted Aggravated Murder of Bashkim Igrishtha*

Due to the lack of evidence gathered in the case file or evoked during the trial, the panel found the accused Ahmet Goxhuli not guilty of the criminal act of Attempted Murder against Bashkim Igrishtha, contrary to Article 147 Paragraph (1) item 4 and 11 as read with Article 20 of the CCK.

Therefore, the panel acquits Ahmet Goxhuli of the charge of attempt of aggravated murder of Bashkim Igrishtha contrary to Article 147 Paragraph (1) item 4 and 11 as read with Article 20 of the CCK.

#### *4. c) On the charge of Unauthorized Ownership, Control, Possession or Use of Weapons*

Being found guilty of the murder of Makfire Igrishtha committed with a handgun type C ZASTAVA M-57 of calibre 7.62X25mm, serial number C-132205, the



Court declares Ahmet Goxhuli guilty of Unauthorized Ownership, Control, Possession or Use of Weapons, contrary to Article 328 Paragraph (2) of the CCK.

### **G. Determination of Punishment**

When imposing the criminal sanction, the Court bears in mind the general purpose of punishment – to suppress socially dangerous activities by deterring others from committing similar criminal acts – and the specific purpose – to prevent the offender from re-offending.

In determining the duration of punishment, the Court must evaluate all mitigating and aggravating factors, pursuant to Article 64 Paragraph (1) of the CCK while remaining within the sentencing limits provided by law.

#### **Bashkim Igrishta**

The Court considered as aggravating circumstances the fact that Bashkim Igrishta endangered the health of more than one person by fast driving in a narrow street where a group of people was standing and that he had previous convictions. The Court deemed that there were no mitigating circumstances.

For the criminal act of Attempted Murder in violation of Article 146 as read in conjunction with Article 20 of the CCK, the law foresees imprisonment of at least five years. The Court imposes a punishment of 7 years of imprisonment to Bashkim Igrishta for this criminal offence.

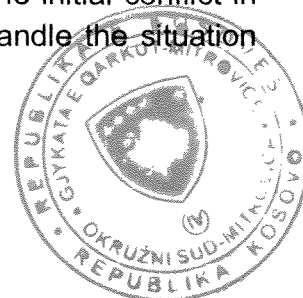
Bashkim Igrishta has been in detention on remand since 04 December 2009. Detention on remand is to be credited in the imposed punishment of imprisonment pursuant to Article 73 Paragraph (1) of the CCK.

#### **Safet Goxhuli**

##### *Regarding Aggravated Murder*

The Court considered as aggravating circumstances the fact that Safet Goxhuli shot at vulnerable and defenceless victims.

The Court considered as mitigating circumstances that after the initial conflict in front of the gate the Goxhulis and Isa Igrishta managed to handle the situation



peacefully. It is also well noticed that although Safet Goxhuli underwent a high level of stress, he didn't use his weapon since the beginning of the dispute. It is only after he was provoked since few days and finally by the fast arrival of Bashkim Igrishta that in a reaction of one committing a criminal offence and witnessing his family in a life danger that he reacted violently. Safet Goxhuli didn't have any previous convictions.

For the criminal act of Aggravated Murder in violation of Article 147 Paragraph (1) item 11 of the CCK, the law foresees a punishment of imprisonment of at least ten years or of long-term imprisonment. The Court imposes a sentence of fourteen (14) years of imprisonment to Safet Goxhuli for this criminal offence.

*Regarding Unauthorized Ownership, Control, Possession or Use of Weapons*

The Court considered as aggravating circumstances the fact that Safet Goxhuli had the weapon in his possession for many years.

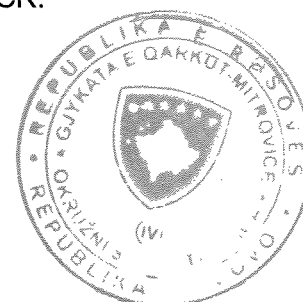
The Court considered as mitigating circumstances that Safet Goxhuli didn't use the weapon from the beginning of the dispute despite the fact that he was attacked. He only used it when he was seriously provoked.

For the criminal act of Unauthorized Ownership, Control, Possession or Use of Weapons in violation of Article 328 Paragraph (2) of the CCK, the law foresees a punishment of a fine of up to 10.000 Euros or imprisonment of one to ten years. The Court imposes a sentence of one (1) year of imprisonment to Safet Goxhuli for this criminal offence.

The Accused Safet Goxhuli committed two criminal acts. Pursuant to the rules of calculation of compounded sentence, the aggregate punishment must be higher than each individual punishment, but not as high as the sum of the prescribed punishment. The panel imposed an integrated punishment of 14 years and 6 months imprisonment pursuant to Article 71 Paragraph (1) and (2) item ii) of the CCK.

Safet Goxhuli has been in detention on remand since 04 December 2009. Detention on remand is to be credited in the imposed punishment of imprisonment pursuant to Article 73 Paragraph (1) of the CCK.

**Agron Goxhuli**



The Court considered as aggravating circumstances the fact that Agron Goxhuli was in possession of a weapon for a long time, since the end of the war and used it.

The Court considered as mitigating circumstances the fact that Agron Goxhuli didn't have previous convictions.

For the criminal act of Unauthorized Ownership, Control, Possession or Use of Weapons in violation of Article 328 Paragraph (2) of the CCK, the law foresees a punishment of a fine of up to 10.000 Euros or imprisonment of one to ten years. The Court imposes a sentence of one year of imprisonment to Agron Goxhuli for this criminal offence.

Agron Goxhuli has been in detention on remand from 04 December 2009 until 08 November 2011, when released by this Court. Detention on remand is to be credited in the imposed punishment of imprisonment pursuant to Article 73 Paragraph (1) of the CCK.

## **Ahmet Goxhuli**

### *Regarding Murder*

The Court deemed that there were no aggravating circumstances in the case whereas the Court considered as mitigating circumstances the commission of infraction under high mental distress, namely after being run over by a car. Ahmet Goxhuli didn't have any previous convictions.

For the criminal act of Murder in violation of Article 146 of the CCK, the law foresees punishment of imprisonment of at least five years. But the Court imposes a punishment of four years of imprisonment to Ahmet Goxhuli for this criminal offence due to the condition in which the crime was committed, namely the high level of disorientation of the defendant at the time of the crime.

### *Regarding Unauthorized Ownership, Control, Possession and Use of Weapon*

The Court considered as aggravating circumstances the fact that Ahmet Goxhuli grabbed and used the weapon. As mitigating circumstances the Court considered that he was in a state of mental distress. It was not proven that he



was possessing weapon before 04 December 2009. Ahmet Goxhuli didn't have previous convictions.

For the criminal act of Unauthorized Ownership, Control, Possession or Use of Weapons in violation of Article 328 Paragraph (2) of the CCK, the law foresees a punishment of a fine of up to 10.000 Euros or imprisonment of one to ten years. The Court imposes a sentence of 1.000 Euros fine to Ahmet Goxhuli for this criminal offence.

Ahmet Goxhuli has been in detention on remand from 04 December 2009 until 08 November 2011 and under house arrest from the moment of pronouncement of the verdict on 08 November 2011. Detention on remand and house arrest are to be credited in the imposed punishment of imprisonment pursuant to Article 73 Paragraph (1) of the CCK.

#### **H. Confiscation**

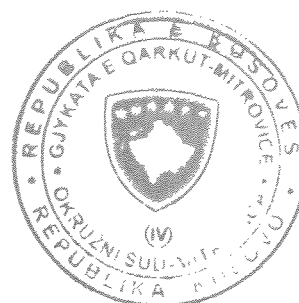
Pursuant to Article 328 Paragraph (5) of the CCK, the Court orders the confiscation as follows:

The weapon used to commit the criminal offence (Safet Goxhuli) – pistol type TT, black in colour with serial number 967473766-1964 containing bullets is confiscated pursuant to Article 60 Paragraph (1) and Article 328 Paragraph (5) of the CCK.

The weapon used to commit the criminal offence (Agron Goxhuli) - pistol type TT, white in colour, serial number 160982, containing bullets, is confiscated pursuant to Article 60 Paragraph (1) and Article 328 Paragraph (5) of the CCK.

The weapon used to commit the criminal offence (Ahmet Goxhuli) - pistol type M57 with serial number 132205, is confiscated pursuant to Article 60 Paragraph (1) and Article 328 Paragraph (5) of the CCK.

The vehicle used to commit the criminal offence – BMW plate number 590-KS-858 is confiscated pursuant to Article 328 Paragraph (5) of the CCK.



## I. Costs

Safet Goxhuli, Agron Goxhuli, Ahmet Goxhuli and Bashkim Igrishta were found guilty, therefore, they must reimburse the costs of criminal proceedings as follows:

- Safet Goxhluli shall reimburse 300 Euros as of his part of the costs of criminal proceedings,
- Agron Goxhuli shall reimburse 100 Euros as of his part of the costs of criminal proceedings,
- Ahmet Goxhuli shall reimburse 300 Euros as of his part of the costs of criminal proceedings,
- Bashkim Igrishta shall reimburse 300 Euros as of his part of the costs of the criminal proceedings,

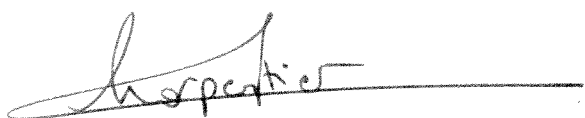
pursuant to Article 102 Paragraph (1) of the CPCK with the exception of the costs of interpretation and translation.

When found not guilty Xhemë Igrishta is relieved from the duty to reimburse the costs of criminal proceedings.

### District Court of Mitrovica

P. nr. 22/10

Prepared in English, an authorized language.



Presiding Judge  
Caroline Charpentier

Panel Member  
Nikolay Entchev

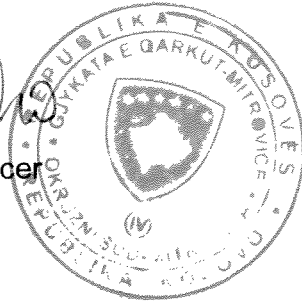


Panel Member  
Ali Kutllovci

*Anu Juho*

Recording Officer

Anu Juho



**Legal remedy:**

Authorized persons may file an appeal in written form against this verdict through the District Court of Mitrovica to the Supreme Court of Kosovo within fifteen days from the date the copy of the judgment has been served.