

District court of Prishtinë/Priština
P no. 371/10
23rd November 2011

IN THE NAME OF THE PEOPLE

The District court of Prishtinë/Priština, in a panel composed of EULEX Judge Dr. Horst Proetel as presiding judge, EULEX Judge Tore Thomassen and Kosovo Judge Rafet Haxhaj as panel members, assisted by court recorder Robert Abercrombie in the criminal case against

Fahredin Gashi, known as Faruk, father's name Hajredin, born on 8th December 1969, in village Shtime/Štimlje, Shtime/Štimlje Municipality, last known residence in Prishtinë/Priština, "Halim Orana" street, no 6/33, Kosovar, married, father of arrested on 13th July 2010, placed in house detention from 14th July to the 19th August 2010, in detention on remand since 19th August 2010,

Charged as per in the Indictment PPS no. 460/09 and 09/10 dated 5th November 2010 with the criminal offence of *War crime against the civilian population*, contrary to Articles 22 and 142 of the Criminal Code of the Socialist Federal Republic of Yugoslavia (CC SFRY), still criminalized under Articles 23 and 120 of the Criminal Code of Kosovo (CCK), in violation of Article 3 common to the four Geneva Conventions of 12 August 1949, and of Article 4 of Protocol II of 8th June 1977, Additional to the 1949 Geneva Conventions; and

Hysri Rama, known as Hys, father's name Asllan, born on 5th June 1973 in village Sankovc, Drenas Gllgovc/Glogovac Municipality, Kosovar, married, at liberty,

Charged as per in the Indictment PPS no. 460/09 and no. 09/10 dated 5th November 2010 with the criminal offence of *Providing assistance to perpetrators after the commission of criminal offences*, contrary to Article 305, paragraph 2 of the CCK,

After having held trial sessions on:

- 15th, 17th, 22nd, 29th, 30th March 2011;
- 12th, 13th and 14th April 2011;
- 17th, 24th and 31st May 2011;
- 7th, 22nd, 23rd and 24th June 2011;
- 5th and 6th July 2011;
- 22nd and 23rd August 2011;
- 6th, 7th, 8th, 28th, 29th and 30th September 2011;
- 17th, 21st and 26th October 2011; and
- 21st, 22nd and 23rd November 2011,

In the presence of the Defendant Fahredin Gashi and his Defence counsels, Kolë Krasniqi and Tahir Rrecaj, the Defendant Hysri Rama, Prosecutor Maurizio Salustro from the

Office of Special Prosecution of Kosovo (SPRK) and the Injured Parties Mirishahe Gashi, Hyrije Gashi, Afrim Gashi and Myrvete Hisenaj,¹

After having deliberated and voted on 23rd November 2011, pursuant to Article 392 of the Kosovo Criminal Code of Procedure (KCCP), pronounces in public and in the presence of the parties the following,

JUDGMENT

The Accused Fahredin Gashi, personal data above, is

FOUND GUILTY

Of the criminal offence of *War crime against the civilian population*, contrary to Articles 22 and 142 of the CC SFRY, in violation of Article 3 common to the four Geneva Conventions of 12 August 1949, and of Article 4 of Protocol II of 8th June 1977, Additional to the 1949 Geneva Conventions,

Because on 15th June 1999, at around 21.30, during the internal armed conflict in Kosovo, the Accused, in his capacity of Kosovo Liberation Army (KLA) member, and in co-perpetration with Nazim Bllaca, both wearing black clothes and masks, entered the house of the civilian Sali Gashi in Varigovc/Varigovce, Lipjan/Lipljane Municipality and killed him using a fire arm.

The Accused Hysri Rama, personal data above, is

FOUND GUILTY

Of the criminal offence of *Providing assistance to perpetrators after the commission of criminal offences*, contrary to Article 305, paragraphs 1 and 2 of the CCK,

Because he intentionally aids Fahredin Gashi to elude discovery by: on 27th January 2010, before the police, Hysri Rama stated that Nazim Bllaca did not tell him why he wanted to speak with Sali Gashi's family when they went together to Varigovc/Varigovce in June 2009; on 29th October 2010, before the public prosecutor, he confirmed what he stated in a letter given to Fahredin Gashi's father, in which he falsely declared, that when he and Nazim Bllaca went to Varigovc/Varigovce in 2009, Nazim Bllaca stated that Fahredin Gashi had nothing to do with the murder, and Bllaca was reporting Fahredin Gashi to the victim's relatives only to extort money from the latter.

Therefore, the **Accused Fahredin Gashi, is**

SENTENCED

¹ The four injured parties did not attend all the trial sessions. At least one injured party attended the trial sessions.

To eighteen (18) years of imprisonment for the criminal offence of *War crime against the civilian population*, contrary to Articles 22 and 142 of the CC SFRY.

The time spent by the Accused Fahredin Gashi in house detention from 14th July 2010 until 18th August 2010 and in detention on remand since 19th August 2010, is to be credited in the amount of the punishment, pursuant to Article 50 Paragraph 1 of the CC SFRY.

Therefore **the Accused Hysri Rama**, is

SENTENCED

To six (6) months of imprisonment from the criminal offence of *Providing assistance to perpetrators after the commission of criminal offences*, contrary to Article 305, paragraphs 1 and 2 of the CCK.

The present sentence is suspended as the punishment shall not be executed if the convicted person does not commit another criminal offence for the period of one (1) year pursuant to Article 43 of the CCK.

PROPERTY CLAIM

The District Court of Prishtinë/Priština instructs the injured parties to pursue their property claim in civil litigation pursuant to Article 112 Paragraph 2 of the KCCP, as the data provided in the criminal proceedings does not afford a reliable basis for either a complete or partial award.

COSTS OF THE CRIMINAL PROCEEDING

Pursuant to Article 102 Paragraphs 1 and 3 of the KCCP, the Defendants shall pay the costs of the proceedings. Pursuant to Article 100 of the KCCP, since the data is lacking to calculate the costs of the criminal proceeding, a separate ruling on the amount of the costs will be issued later on.

Presiding Judge

Judge Dr. Horst Proetel

Panel member

Judge Tore Thomassen

Panel member

Judge Rafet Haxhaj

Recording clerk

Robert Abercrombie

Legal remedy

Pursuant to Article 400 of the KCCP, the parties must announce the appeal immediately after the announcement of the judgment or after the instruction on the right to appeal, but no later than eight days after the announcement of the judgement. The parties have the right to file an appeal against the judgment within fifteen (15) days of the day the copy of

the judgment has been served to the Supreme Court of Kosovo through the District Court of Prishtinë/Priština, pursuant to Article 398 Paragraph 1 of the KCCP.