

DISTRICT COURT OF PRISHTINE/PRISTINA

P Nr. 516/08

Date 16 March 2009

IN THE NAME OF THE PEOPLE

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

- 1) EULEX Judge, Mr. Francesco FLORIT, as Presiding Judge,
- 2) EULEX Judge, Mr. Andrea CRUCIANI, as panel member,
- 3) Local Judge, Mr. Sylejman NUREDINI, as panel member,

assisted by court recorders Valentina GASHI and Liz Bateman,

in the criminal case against:

Burim BERISHA, son of the Rrahim and Hasime (maiden name Rexha), born on 12.04.1981 in Skopje, Republic of Macedonia, residing in Ferizaj, street "13 Qershori", married, father of two children, Albanian, citizen of the Republic of Kosovo, currently in detention; indicted for the criminal act of organized crime, contrary to article 274 paragraph 1 of CCK in conjunction with criminal act of robbery pursuant to article 255 paragraph 2 in conjunction with paragraph 1 of CCK; and charged also with the criminal act of unauthorized possession of weapon contrary to article 328 paragraph 2 of CCK;

Haki ISUFI, son of the Nazif and Zyrije (maiden name Shallti), born on 12.04.1963 in the village of Tërpeza, municipality of Vitia, where he resides, father of the three children, Albanian, citizen of the Republic of Kosovo, currently in detention; indicted for the criminal act of organized crime contrary to article 274 paragraph 1 of CCK in conjunction with criminal act of robbery, contrary to article 255 paragraph 2 in conjunction with paragraph 1 of CCK;

Fikret MURATI, son of the Ramadan and Sevdije (maiden name Sherifi), born on 24.04.1983 in the village of the Tërpeza, municipality of Vitia, where he resides, married, father of the one child, Albanian, citizen of the Republic of Kosovo, currently in detention; indicted for criminal act of organized crime contrary to article 274 paragraph 1 of CCK in conjunction with criminal act of robbery pursuant to article 255 paragraph 2 in conjunction with paragraph 1 of CCK;

Fatos AZIZI, son of Jaha and Bahrije (maiden name Azemi), born on 06.10.1977 in the village Kabash, municipality of Vitia, where he resides, married father of five children, Albanian, citizen of the Republic of Kosovo, currently in detention; indicted for criminal act of organized crime contrary to article 274 paragraph 1 of CCK in conjunction with criminal act of robbery pursuant to article 255 paragraph 2 in conjunction with paragraph 1 of CCK;

Selami BEQIRI, son of Dalip and Taibe (maiden name Ademi), born on 20.11.1968 in the village of Upper Sllatina municipality of Vitia, where he resides, married, father of four children, has finished the elementary school, Albanian, citizen of the Republic of Kosovo, currently in detention; indicted for criminal act of organized crime contrary to article 274 paragraph 1 of CCK in conjunction with criminal act of robbery pursuant to article 255 paragraph 2 in conjunction with paragraph 1 of CCK;

Faruk ADEMI, son of the Mahmut and Nevrije (maiden name Hoxha), born on 07.06.1974, in Gjilan, resides at the village of Kabash, municipality of Vitia, married, father of the three children, Albanian, citizen of the Republic of Kosovo, currently in detention; indicted for criminal act of organized crime contrary to article 274 paragraph 1 of CCK in conjunction with criminal act of robbery pursuant to article 255 paragraph 2 in conjunction with paragraph 1 of CCK;

after having held the main trial hearings in public on 15 and 26 January 2009, 6 and 24 February 2009, and on 09, 10 and 13 March 2009, in the presence of the accused mentioned above, their defense counsels and the Public Prosecutor Sevdije MORINA;

taken in account the amendments of the indictment proposed by the Public Prosecutor on 10 March 2009;

after the panel's deliberation held on 16 March 2009;

based on the Article 391 (1) KCCP;

pronounced in public and in the presence of the accused, their defense lawyers and the Public Prosecutor the following:

VERDICT

1) All the above mentioned accused

are acquitted

from the charge of "organized crime" as defined in article 274 (1) CCK;

2) All the above mentioned accused

are found guilty

of the criminal act of "robbery" contrary to article 255 (2) in relation to (1) CCK in co-perpetration pursuant to article 23 CCK for the accused Burim BERISHA, Haki ISUFI, Fikret MURATI, Fatos AZIZI and Faruk ADEMI and with the assistance of Selami BEQIRI, pursuant to article 25 CCK;

3) The accused Burim BERISHA

is found guilty

of the criminal act of “unauthorized possession and use of weapon” contrary to article 328 (2) CCK;

SENTENCE

Burim BERISHA

Pursuant to article 38 CCK and article 255 (1) (2) and 23 CCK is sentenced to imprisonment of 5 years and 6 months;

Pursuant to article 38 CCK and article 328 (2) CCK is sentenced to imprisonment of 1 year;

Pursuant to article 71 CCK the aggregated sentence is imprisonment of 6 years.

Haki ISUFI

Pursuant to article 38 CCK and article 255 (1) (2) and 23 CCK is sentenced to imprisonment of 5 years.

Fikret MURATI

Pursuant to article 38 CCK and article 255 (1) (2) and 23 CCK is sentenced to imprisonment of 2 years.

Fatos AZIZI

Pursuant to article 38 CCK and article 255 (1) (2) and 23 CCK is sentenced to imprisonment of 4 years and 6 months.

Selami BEQIRI

Pursuant to article 38 CCK and article 255 (1) (2) and 25 CCK is sentenced to imprisonment of 2 years and 6 months.

Faruk ADEMI

Pursuant to article 38 CCK and article 255 (1) (2) and 23 CCK is sentenced to imprisonment of 4 years and 6 months.

For all the accused, the time spent in detention on remand is included in the amount of the punishment imposed on all the defendants.

PROPERTY CLAIM

The accused, cumulatively and jointly, shall compensate the injured party (Pro Credit bank), for the damages caused which are determined, following the request, in euro 44.742,11 and \$ 4.900.

CONFISCATION

Pursuant to article 60 CCP and 489 KCCP the revolver brand Ceska Zbrojevka, model VZOR 50, caliber 7,65 x 17 mm, serial number D-30238 of Czeck production; 15 bullets caliber 15 mm; the vehicle Volkswagen model Golf number plate 202 KS 943 and the vehicle Opel model Vectra number plate 344 KS 315 are confiscated.

COST

The defendants, Burim BERISHA, Haki ISUFI, Fikret MURATI, Fatos AZIZI, Selami BEQIRI and Faruk ADEMI must reimburse the costs of the criminal proceedings according to a list of the costs which will be determined in due time.

The defendants are obliged to compensate the general costs of the proceedings, which are determined in euro 500,00.

REASONING

PROCEDURAL HISTORY

On the 12th of June 2008, detention on remand has been imposed on all defendants by force of a decision of the Pre-trial Judge of the District Court of Pristina, PPH nr.192/08. The detention on remand for all the defendants has been then lawfully extended during the investigation and the confirmation phases.

On the 25th August 2008, the Public Prosecutor has filed the indictment, PP nr. 456-6/2008, with the District Court of Pristina against the above mentioned defendants for the following criminal offences:

I. Defendants: Burim Berisha, Haki Isufi, Fikret Murati, Fatos Azizi, Selami Beqiri and Faruk Ademi.

Have committed aggravated crime as a part of the criminal organized group for the purpose of direct financial and material profit, in that manner that the defendants Burim Berisha and Haki Isufi beforehand have made a plan to rob the branch of the "Pro Credit Bank" in Ferizaj and after making the plan they have contacted defendant Fikret Murati by whom they have requested to find a trusted person who will enter the bank together with the defendant Burim, therefore defendant Fikret have contacted the defendant

Xhelal Abazi, who is at large. After himself have accepted his proposal, all four of them have met each other in the cafeteria "Road 66", in Ferizaj, where they have divided roles for each one having included and other defendants to whom they have divided roles and been informed for the time of the commission of the criminal act, therefore, on the 09th of June 2008, at 08.06 minutes, with the car "Golf 2", green color with the registration number 202 – KS - 943, property of the defendant Selami Beqiri, who after the agreement with the defendants Haki Isufi and Selami Beqiri, left the car at the yard of his house, opened, with the keys inside. Defendants Burim Berisha and Xhelal Abazi, went in the front of the bank, which is located on the street "Vëllezërit Gërvalla", in Ferizaj, stopped the car, came out of the car, masked, with the working gloves and armed with the revolver, holding on the hand. Fast, they have entered inside where the defendant Xhelal have point it the revolver towards the security guards at the entrance of the building forcing them to lay down on the floor, threatening them if they move would get killed, while the defendant Burim Berisha, with the revolver went to the office of the cashier having threatening them with the revolver, from the drawer took all money, put it in the empty bag of the bank, he took and other bag closed it and filled it with money, then after, both of them went out of the bank, and left very fast with the same car, in which occasion they took the money with the sum of 111.182,91 euro's, 196.889 USD and 40 CHF. When they have arrived at the regional Medical Center, in Ferizaj, as previously have agreed the defendant Faruk Ademi was waiting for them with its car cherry color "Opel Vectra", with registration number 344 - KS – 315, as previously agreed with defendant Fatos Azizi. The defendant Haki Isufi for this have promised him 10.000 euro's, of which 1.000 euro's will gave to the car owner. They have placed the bags with money in the car, the defendant Xhelal Azizi entered and very fast drove towards the Gjilan, while the defendant Burim Berisha took a taxi and went to the restaurant "Buca Petrol", on the main road Ferizaj - Kacanik, where he had a coffee. He did made few phone calls from the waiters telephones and at the end he threw it away the revolver in the rubbish bin in the toilets corridor. On the other side, the defendants Xhelal and Faruk by car have continued to the forest, near the village of Zllatar. They took the bags with money and walked out until near by the village of Tërpeze, where they have placed the money on the sport bag, cherry color. A quantity of money took it the defendant Xhelal and after the earlier promise 3.000 euro's and 5.100 \$ gave it to the defendant Faruk and here they separated. After the separation the defendant Xhelal Azizi did met the defendants Fikret and Haki, in which occasion the defendant Fikret the bag filled with money did hid it on the ceiling of the indwelled house of his uncle, in meantime, the defendants Burim Berisha, Haki Isufi and Fatos Azizi, have met in the cafeteria "Energji", where have been arrested by the police. Later on have been arrested and others, while the defendant Xhelal Azizi, escaped and with himself took it 40.000. euro's.

- *With this they would have (in handwriting on top of would did) committed a organized criminal act, from the article 274, paragraph 1 of PCKK, related to criminal act from the article 255, paragraph 2 related to paragraph 1 of PCKK.*

II. Defendant: Burim Berisha

Since unverified date until on the 11.06.2008, did hold without authorization hold a revolver of the unknown brand, used during the commission of criminal act, robbery, on the 09.06.2008, and after he did committed criminal act he went to the cafeteria "Buca - Petrol" who is located at the main road Ferizaj - Kacanik. The revolver he threw it in the rubbish bin, in the corridor of the toilet, which police did found it and confiscated, on the 11.09.2008.

- *with this would committed (in hand writing on top of on top of would did) criminal act, unauthorized ownership, possession or unauthorized use of weapons, from the article 328, paragraph 2 of PCKK of Kosovo.*

The indictment has then been confirmed on the 20th of October 2008 by a ruling of the Confirmation Judge of the Pristina District Court, KA.nr.495/2008.

On the 15th of January 2009, the main trial has started. Present were the Panel members as specified above; the defendants: Burim BERISHA and his defense counsel

Avni IBRAHIMI; Haki ISUFI and his defense counsel Ahmet AHMETI; Fikret MURATI and his defense counsel Aziz REXHA; Fatos AZIZI and his defense counsel Shemsedin PIRAJ; Selami BEQIRI and his defence counsel Bajram KRASNIQI; Faruk ADEMI and his defense counsel Sahit MUSA. Also present was Jakup HOTI, representative of the Pro Credit Bank.

The Presiding Judge has confirmed that the trial panel has been constituted in accordance with the law. The jurisdiction of the EULEX Judges on this case is based on the provisions of Article 3 of the Law No. 03/L-053 on the Jurisdiction, Case Selection and Case Allocation of EULEX Judges and Prosecutors in Kosovo and Article 5 of the Law No. 03/L-052 on the Special Prosecution Office of the Republic of Kosovo, which respectively provide that "*EULEX Judges assigned to criminal proceedings will have the jurisdiction and competence over any case investigated or prosecuted by the SPRK*" and that the "*SPRK will have exclusive competence to investigate and prosecute the following crimes, also in the form of attempt, and the various forms of collaboration to the crimes of:.....n) organized crime (Art. 274, PCCK)*". No objections have been raised by the parties as to the composition of the Panel.

During the same session, after each count of the indictment has been read by the Public Prosecutor, the defendants have been asked to plead guilty or not guilty. All the accused have pleaded not guilty on all counts.

On the motions of the defense counsels the panel has decided that there are no reasons to assume that the mental state of the two accused Y and Z was impeding the accused to follow the course of the criminal proceeding, as the documents provided by the defense counsels on that matter do not show any serious challenges or deficiencies of the mental state of the accused.

On the issue, also raised by the defense counsels, of the failure to disclose the whole documentation by the Prosecutor, the exception has been rejected as it had not been raised at the hearing of the confirmation of the indictment and it falls that the parties were satisfied with the documentation which was provided by the Public Prosecutor.

The Court has also found that the witnesses and the other evidence offered by the Public Prosecutor and the defense counsels are admissible.

On the same date, the witness QJ has been examined.

On the 26th of January 2009, the witnesses AA, DP, NH, HA have been examined.

The CD containing the records of the bank robbery which took place at the Pro Credit Bank on the 9th of June 2008 was played in court and viewed by all present in the court room.

On the 6 February 2009, the witnesses SR, BR have been examined.

On the 24th of February 2009 the witness IH has been examined.

The Public Prosecutor has offered to the panel a document entitled: Form of examination of the Laboratory of Forensic Science, No. 456-6/08 of 6 September 2008.

The examination of the defendants Burim BERISHA, Haki ISUFI and Fatos AZIZI has taken place, while Fikret MURATI has decided to remain silent.

On the 9th of March 2009 the examination of the other defendants Selami BEQIRI and Faruk ADEMI has taken place.

On the 10th of March 2009, after the Presiding Judge has provided a summary of the declarations of all the accused, a confrontation between the two accused Haki ISUFI and Fatos AZIZI has followed. The documents to be considered as admissible evidence have been listed. The Public Prosecutor has proceeded with amendments to the indictment as follows: *"Firstly, on the personal details about the accused, Burim Berisha, I omit the words: "a procedure due to criminal act of Fraud is on progress against him", for the accused, Fikret Murati and Fatos Azizi I also omit the words: "suspected for other criminal acts". In the provisions of the indictment instead the name Xhelal Abazi it must be Xhelal Azizi. Then, the words "as per the agreement with the defendants, Haki Isufi and Selami Beqiri" it must be "as per the agreement with the defendant, Haki Isufi", and in the end, regarding this provision on the last lines, where it is written about the arrest of the defendants, the name of Haki Isufi must be replaced with the name of the accused, Fikret Murati. In the provision no. II instead of words: "revolver of unknown brand" it must be "revolver of Ceska Zbrojevka brand, model VZOR 50 of 7, 65 x 17 mm caliber, with serial number D- 30238, Czechoslovak production", whereas in the end of the said description I add the words: "and after the check up of his "Alfa Romeo" car there were found and confiscated also 15 pieces of bullets of 15 mm caliber, that he was keeping without authorization as well".*

The closing statements of the Public Prosecutor, the authorized representative of injured party Pro Credit Bank, and the defense counsel of Selami BEQIRI have been presented.

On the 13th of March 2009, the closing statements of the remaining parties have been presented.

On the 16th of March 2009, the Court has withdrawn for deliberation. After deliberation and voting, the Court has announced the above written enacting clause of this judgment.

MERITS OF THE CASE

1. Acquittal of all the defendants for the charge of organized crime.

All the defendants have been charged in the indictment with the criminal offence of organized crime. The Public Prosecutor has affirmed that all the defendants have been active members of a criminal organization. Nevertheless, the Public Prosecutor, upon

which is the burden of the proof, according to Article 10, Paragraph 3, of the KCCP, has failed to support with any piece of evidence the existence of such criminal organization.

Article 274, Paragraphs 1 and 2, of the CCK respectively incriminate “*whoever commits a serious crime as part of an organized criminal group*” (Paragraph 1) and “*whoever actively participates in the criminal or other activities of an organized criminal group, knowing that his or her participation will contribute to the commission of serious crimes by the organized criminal group*” (Paragraph 2). Article 274, at Paragraph 7, continues by providing the legal definitions of the relevant terms mentioned in the previous Paragraphs. In particular, the term “*organized crime*” means a serious crime committed by a structured group in order to obtain, directly or indirectly, a financial or other material benefit; the term “*organized criminal group*” means a structured group existing for a period of time and acting in concert with the aim of committing one or more serious crimes in order to obtain, directly or indirectly, a financial or other material benefit; the term “*serious crime*” means an offence punishable by imprisonment of at least four years; the term “*structured group*” means a group of three or more persons that is not randomly formed for the immediate commission of an offence and does not need to have formally defined roles for its members, continuity of its membership or a developed structure.

Now, based on the legal provisions of Article 274 of the CCK, it is safe to affirm that to commit an organized crime the following elements are necessary: 1) the material element (*actus rei*), that is the commission of a serious crime (punishable by imprisonment of at least four years) as part of an organized criminal group or the participation in the criminal or other activities of an organized criminal group, knowing that his or her participation will contribute to the commission of serious crimes by the organized criminal group; 2) the existence of an organized criminal group, that is to say a structured group - a group of three or more persons that is not randomly formed for the immediate commission of an offence and does not need to have formally defined roles for its members, continuity of its membership or a developed structure - existing for a period of time and acting in concert with the aim of committing one or more serious crimes in order to obtain, directly or indirectly, a financial or other material benefit; 3) the psychological element (*mens rea*) in the form of a qualified intent (*dolus specialis*), that is to say the knowledge that the commission of a serious crime (*id est*, the underlying offence) or the participation in an organized criminal group is made in concert with the other members of the said group with the aim of committing one or more serious crimes in order to obtain, directly or indirectly, a financial or other material benefit.

The Court deems that the Public Prosecutor has not provided the Court with sufficient information with regard to the existence of the said elements and in particular that no evidence has been brought to the attention of this Court suggesting that the defendants have been part of an organized criminal group. Indeed, no evidence has been produced as to the structure of the criminal group, the time when it has constituted and for how long it has been active, the profits of the criminal activities and so on. On the contrary, it appears clear from the collection of the evidence during the main trial that the group that committed the bank robbery was one randomly formed for the immediate commission of

this specific crime, which did not constitute a structured group falling under the definition of Article 274, Paragraph 4), of the KCCP. Sufficient is to say that not all the defendants knew each other prior to the commission of the crime and the bank robbery, and the bank robbery was prepared not long before it actually took place.

In conclusion, having taken notice of the complete lack of evidence as to the charge of "Organized crime" as per Article 274 of the PCCK, all the defendants shall be acquitted with regard to this charge.

2. The criminal responsibility of Burim BERISHA.

After perusal of the court file, this Court has satisfied itself beyond any reasonable doubt of the criminal responsibility of the defendant Burim BERISHA in relation to the criminal offence of "Robbery", contrary to Article 255 (1) and (2) of the CCK, in co-perpetration pursuant to article 23 CCK and "Unauthorized Ownership, Control, Possession or Use of weapons" contrary to Article 328 (2) of the CCK.

2.1. Robbery, contrary to Articles 255 (1) and (2) of the CCK.

With regard to the charge of "Robbery", the criminal responsibility of the Burim BERISHA stems out from all the evidence collected in the main trial, namely from the material evidence and the metering of the phone calls.

The police officers, Investigator BR and the Regional Commander of Ferizaj IH, who have been called to testify in Court, have explained the dynamic of the investigation which led to the individuation of the defendants. In late February 2008, the police received intelligence information that the defendant Burim BERISHA, who was at the time working as a security supervisor for a company providing the security assistance for the Pro-Credit Bank, together with other unknown persons, was about to commit a bank robbery. The police activated for one week a system of surveillance, but no criminal event was registered during that period of time. On the 9th of June 2009, when a bank robbery took place in ProCredit Bank in V. Gervalla, Ferizaj, the immediate attention of the police investigators was focused on the person of Burim BERISHA. Two investigative activities immediately followed. The car Alfa Romeo 471-KS-901, property of Burim BERISHA, was searched and fifteen (15) bullets were found inside that car. Moreover, the investigators soon contacted the defendant at the restaurant Buca Petrol, where two days later, on the 11th of June 2009, a revolver was found in the trash bin located in the toilet of the restaurant. The police officers then followed the movements of the defendant Burim BERISHA and when he met in a bar in Viti with the other defendants Fikret MURATI and Fatos AZIZI, they arrested them all. Fikret MURATI was very collaborative since the beginning by providing the investigators with important statements which revealed the dynamic of all the events. Based on this information from the co-accused, the police went to search Fikret MURATI's house in Terpeze Village and identified also Selami BEQIRI and Faruk ADEMI, while Xhelal AZIZI fled before he could be arrested.

This is an excerpt from the minutes of the examination of the witness, investigator BR:

Presiding Judge: We refer to the event that happened on the 9th of June, in the morning, in Ferizaj. A bank robbery took place in Ferizaj. Can you tell me which involvement did you have in these investigations?

BR: I was involved but a large number of police officers were involved as well.

Presiding Judge: Which was your activity?

BR: On the 9th of June 2008, at 8.00 a.m. we usually have our morning meeting. After the meeting, which concluded at approximately 8.20 a.m. all of the investigation unit were called by the Commander and the Chief.

Presiding Judge: The name of Commander is?

BR: Isa Hyseni. And we were told that in Vllezerit Gervalla Street, in the branch of Pro Credit Bank, there was an armed robbery. Then, we made an operation plan, as a standard police procedure. I, together with my 2 colleagues, was assigned to this duty. Together with the Forensic Unit, we went to contact the bank manager, who told us that in the morning, at 8.05a.m. 2 persons with masks entered the bank, armed. One of them stopped just inside the entrance of the bank and made the two guards lie on the floor and went to the location where the money was taken. Two bags of money were taken and they left the bank.

Presiding Judge: At that moment, did you receive any indication that immediately allowed you to lead the search towards the accused?

BR: This incident is connected to another incident, which occurred on the 23rd of February 2008. From police sources, the police, had received information that the robbery was being planned and it would take place in Pro Credit Bank branch, in Ferizaj. We received the name of the Chief of Security of the bank, Burim Berisha.

Presiding Judge: 23rd of February?

BR: Yes. At that time, we were summoned by Regional Commander, that then was General Chief of Investigations and we prepared an operational plan - I am sure there is still a copy of that plan - we conducted the surveillance in Vllezerit Gervalla Street, for a week in Pro Credit Bank in Ferizaj.

Presiding Judge: One week when? In February or in March?

BR: In February. There was surveillance for a week but nothing happened, so that operational plan was postponed. So let's return now to the month of June. Based on my interview of the manager and the cashier, from whom the money was taken, they both told us that the first masked person, who stopped in the corridor, whereas the second person went straight to the office, were the money is kept. This made us realise that an insider is involved that knows the terrain very well. Then, the security officer told us the number plates of the vehicle and we went out to look for it. A number of them went to look for the vehicle and others went to search Burim Berisha's house, in street '12th Qershori'. Burim Berisha was not in his apartment and I was not there so I can't say much regarding that search. We searched the database, to find out who the owner is. We contacted other Units in the station because a large number of police officer were involved such as Murder Unit, Economic Crime Unit, Vehicle Unit and therefore we had many contacts with each other to decide in investigative actions. Then we understood that Burim Berisha was going to meet with other persons that robbed the bank.

Presiding Judge: What indication was given to you, how did you come to this conclusion?

BR: Burim Berisha was arrested earlier that day from a patrol from Kaqanik, which means that Kaqanik Unit was involved as well. We received information that he was going to meet with those persons. The regional officers in civilian clothing went in Viti and they checked those premises and Burim Berisha was sitting alone in the table and other investigators were sitting in another table. At the moment that other two people joined Burim Berisha, the investigators inside the building, together with the other officers, arrested all of them.

Presiding Judge: Do you know the other two names?

BR: Fikret Murati and Fatos Azizi.

Presiding Judge: Are you sure that the third one is Fikret Murati?

BR: Yes. In the cafeteria in Viti.

Presiding Judge: You remember the name of this coffee shop?

BR: No, I can't remember, it has been a while ago. After they were arrested, then we went to search Fikret Murati's house in Terpeze Village.....(omissis)....

Presiding Judge: About Xhelal Abazi?

BR: It's Xhelal Azizi.

Presiding Judge: How did you come to the conclusion that he was involved?

BR: While in Terpez, somebody from the police must have spoken to Fikret and Haki, so after the search of these two houses, we went straight to Xhelal Azizi's house to search it. I do not know how the information was received, but I was present in the search and Xhelal was not present. I believe that his wife and sister were there. When we asked 'when did he leave', they said 'early in the morning and he did not return since'.

Presiding Judge: Did you know, before all these events, any of the accused, not as friends but just having knowledge about them?

BR: No, I didn't know any of them. I told you before that we have received some information in February about Burim Berisha but not until the moment of arrest.

Presiding Judge: This information about Burim Berisha in February, was there anyone else mentioned?

BR: Yes, there were two other persons. They were, I think, from Macedonia but we had only names, not the last names but we had precise information about Burim Berisha, such as name and the surname.....(omissis)....

Presiding Judge: Does the witness know anything about the way that the revolver was found in the restaurant Buca Petrol?

BR: Yes. As far as I remember, it was 11th of June, while Burim Berisha was in the detention centre in Kaqanik. Me and the Sergeant Seladin Shahini, were instructed by the Chief of Investigations Unit to go and question Burim Berisha about the incident. There, we waited for a while until his attorney arrived. I was not directly involved, because there were other two investigators questioning the owner of Opel Vectra, in an office near by.

Presiding Judge: No, let's concentrate on Burim Berisha.

BR: So, I moved a lot from one office to another. So, Burim Berisha rejected the allegations that he entered the bank but he admitted that he threw the gun in the trash can, on Buca Petrol.

Presiding Judge: This happened in the presence of the lawyer?

BR: No, this happened while we were waiting for him to arrive.

This reconstruction of the investigations is also consistent with the one provided by XXX IH, and the police officer of the XXX SR, which is not reported in the present judgment to avoid mere repetitions.

The dvd containing the video-records of the event captured by the security video cameras positioned outside and inside the premises of the branch of Pro-Credit Bank in Ferizaj has been played in Court during the course of the main trial. The video shows that the bank robbery took place on the 9th of June 2008, lasting one (1) minute and a half, exactly from 08:06:07 until 08:07:47, from the time of the entrance of the first perpetrator to the end of the exit of the last perpetrator. A green Golf car approached the bank and parked just in front of the entrance. Soon after, the first perpetrator, with black clothes, stepped out of the car and entered the bank, while wearing a mask and yellow gloves and holding a gun. The person positioned himself just inside the entrance of the bank, warning all the present not to move and pointing a gun in their direction. Then the second person, with a red jumper and also wearing yellow gloves and holding a gun, entered and went just straight to the office where the money was located, took two bags containing the money and exited the bank. Finally, the first person also went out of the bank and they drove fast the car away from the crime scene.

It shall be noticed that the second person entering the bank went straight to the office where the money was located and demonstrated a complete sense of orientation inside the premises of the bank, which only an insider who had previously worked there could have. The perpetrator did not even have to look around for a second when entering the bank but

just proceeded running in the direction of the office where the money was. As a matter of fact, Burim BERISHA had been working in this exact premise as Security Supervisor, thus allowing him to get acquainted with the exact location of the offices and of the money therein. It shall be stressed once again that the all robbery, from the time of the entrance in the bank of the first perpetrator to the exit from the bank of the second perpetrator, took only one (1) minute and a half, exactly from 08:06:07 until 08:07:47, thus being an extremely fast action.

The car Alfa Romeo, red colour, property of Burim BERISHA, was later searched by the investigators and beneath the pedals of the driver's seat, covered by a metal mat, 15 bullets were found, as it is shown in the pictures 57-70 of the forensic police report VN#46-08 of the 9th of June 2008.

The Golf II, green colour, 202-KS-943, property of Selami BEQIRI, used for the bank robbery, was also found, as it is shown in the pictures 71-71 of the forensic police report VN#46-08 of the 9th of June 2008. Furthermore, the yellow gloves and the black mask with holes were found inside the car Golf II, property of Selami BEQIRI, as it is shown in the pictures 87-108 of the forensic police report VN#46-08 of the 9th of June 2008. Selami BEQIRI, on the same day of the event, went to the police station to report that his car had been stolen. In reality, as it will be illustrated later on, Selami BEQIRI had provided assistance to the perpetrators of the robbery by providing them with his car in order to commit the robbery.

The other pair of yellow gloves were later also found, as it is shown in the pictures 109-120 of the forensic police report VN#46-08 of the 9th of June 2008.

As already mentioned, the pistol which was used by Burim BERISHA for the bank robbery was later found by the investigators in the trash bin situated in the restaurant "Busa Petrol", as it is shown in the pictures 121-135 of the forensic police report VN#46-08 of the 9th of June 2008. It is a VZOR 50 Pistol of Chech Republic production n. D-30238, with 3 bullets caliber 7.65x17mm, as it is reported in the criminal report of the scientific police 2008-1141 of the 25th of August 2008. It is notable to remark that Burim BERISHA had been present in this restaurant on the day of the event, 9th of June 2008, sometime between 08:00 and 09:00 hrs, according to the testimony of the XX QJ. The witness further stated in court that Burim BERISHA arrived that day with a taxi, wearing sport clothes and snicker shoes. The defendant asked QJ to use his mobile telephone, claiming that his personal one had run out of credit. Burim BERISHA stayed there for approximately one hour, until he got arrested by the police. The time of his presence at the restaurant is thus consistent with his involvement in the robbery, as the robbery was over at 08:07:47 and he had enough time to reach the "Busa Petrol" around 08:30.

The relevant passages from the minutes of the examination of the witness QJ are hereby reported:

Public Prosecutor: What did you work during June last year?

QJ: As a waiter in a restaurant 'Buca Petrol' and I still work there.

Public Prosecutor: What were your working hours?

QJ: From 0700am until 03:30pm.

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Public Prosecutor: Do you know the accused, Burim Berisha?

QJ: Yes.

Public Prosecutor: Do you remember if Burim Berisha, came to 'Buca Petrol' on 09th of June 2008?

QJ: It was approximately 0800, 0830 or 0900.

Public Prosecutor: How did he get there?

QJ: As far as I remember, he arrived by taxi.

Public Prosecutor: Did he immediately enter the restaurant?

QJ: I know that he entered in the restaurant but I do not know when.

Public Prosecutor: Where did he sit in the restaurant?

QJ: At the table where costumers have coffee.

Public Prosecutor: Was he alone or with someone else?

QJ: Alone.

Public Prosecutor: He was sitting alone but did he speak to the employers of the restaurant?

QJ: There was kitchen personnel, named Jeton.

Public Prosecutor: Did you talk to him?

QJ: Yes

Public Prosecutor: Was Burim's behaviour as usual or was it different somehow?

QJ: It was normal, as usual.

Public Prosecutor: Did he make any phone calls at that time?

QJ: Yes, he used my phone.

Public Prosecutor: Did he ask you for your phone and why?

QJ: He did but I do not know the reason.

Public Prosecutor: How many phone calls did he make?

QJ: As far as I know, he made only one phone call from my telephone.

Public Prosecutor: how much time did he spend at the restaurant?

QJ: Somewhere around one hour. I do not know exactly because I was working.

Public Prosecutor: Were you able to know if he had a weapon with him?

QJ: No.

Public Prosecutor: During this time, did he ever stand up?

QJ: I do not know.

Public Prosecutor: What happened next? Did he leave on his own?

QJ: No. A police officer came in and picked him up.....*(omissis)*....

Avni Ibrahim: Do you remember what was he wearing that day?

QJ: As far as I can remember, he was wearing track suit and sneakers. Sport clothing.

Avni Ibrahim: Do you remember the colour?

QJ: I am not sure about the colour. It was a while ago.....*(omissis)*....

Andrea Cruciani: Maybe you have already mentioned but I have to ask. When he asked you for your phone, did you ask him why, or was he a close friend that you never asked him why?

QJ: He asked to use my phone because he said that he did not have any credit on his phone.

Moreover, during the search at the Fikrit MURATI's uncle house the money robbed in the bank were also found, inside the cherry coloured sport bag, as it is shown in the pictures 75-84 of the forensic police report VN#46-08 of the 9th of June 2008. The two brown coloured bags robbed in the bank were indeed found empty in the forest, as it is shown in the pictures 144-151 of the forensic police report VN#46-08 of the 9th of June 2008.

During his examination, the defendant was not able to provide a justification regarding the culpatory pieces of evidence, neither was he able to present any alibi. This is an excerpt from the minutes of the examination of the defendant:

Public Prosecutor: You used to work in Pro Credit Bank?

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Burim Berisha: Yes.

Public Prosecutor: What did you do there?

Burim Berisha: My function in the bank was to work as a security supervisor for the region of Ferizaj which means the branches in the town of Shtime and three other branches in Ferizaj, one in Kacanik and one in Hani I Elezit.

.....(*omissis*).....

Public Prosecutor: Did you know the other accused from before?

Burim Berisha: Except for Fatos Azizi and Haki Isufi, I did not know the others.

Public Prosecutor: How did you know Haki Isufi?

Burim Berisha: I was acquainted with Haki Isufi a year before because he was interested in getting a job in the same company where I was working and the purpose of knowing him was this.

Public Prosecutor: Can you tell us about the second person that you knew before?

Burim Berisha: Fatos Azizi. I knew him through my other colleague who is working in Viti. I met him and the purpose of knowing him was the same, to get a job.

Public Prosecutor: Did you know Fikret Murati?

Burim Berisha: No.

Public Prosecutor: You said that you knew Fatos Azizi and Haki Isufi regarding employment, which kind of employment?

Burim Berisha: To get the job in the same company where I was working.

... ..(*omissis*)... ..

Public Prosecutor: Do you remember 9 June 2008? Was it your day off or were you supposed to work that day?

Burim Berisha: It was my day off.

Public Prosecutor: What did you do on that day?

Burim Berisha: I woke up early as though it was a working day. Before 7 a.m.

Public Prosecutor: Where did you go?

Burim Berisha: On that day, I went in front of my flat, took a taxi and I went to the cafeteria Buca Petrol and the purpose of going there was to meet two of my relatives since, in the previous week, there had been an advertisement to take on new employees and I informed them that they had the possibility to apply for the job and they might be lucky.

Public Prosecutor: Whom did you inform?

Burim Berisha: I informed Avni Berisha and Ahmet Berisha.

Public Prosecutor: How long did you stay? When did you go there and when did you leave?

Burim Berisha: I cannot remember the exact time because it is has been about a year now. It was about 8 o'clock.

Public Prosecutor: You went there at that time?

Burim Berisha: Yes. It was about 8.

Public Prosecutor: Were you accompanied by someone?

Burim Berisha: I sat alone at the table. The owner of the restaurant Buca Petrol I had known from before since we worked together in a restaurant from 2000 to 2005 which is located along the Ferizaj/Kacanik highway and which is called Europa 92.

Public Prosecutor: What is his name?

Burim Berisha: Qerim Jaha. We did not sit together because he was working and serving the other clients.

Public Prosecutor: Did you speak to someone on the phone?

Burim Berisha: Yes, I did.

Public Prosecutor: With which phone?

Burim Berisha: I used the phone of the owner Qerim Jaha. I called my wife and told her that I needed to go to Pristina.

Public Prosecutor: Did you have a telephone with you?

Burim Berisha: Yes, I did.

Public Prosecutor: Why did you not use yours?

Burim Berisha: I had no credit.

Public Prosecutor: What happened after this?

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Burim Berisha: A few minutes later, I received a call from the police unit of Kacanik and since I come from the same municipality, I know all of the police in Kacanik and I was asked where I was. I told them where I was and was having a coffee and was waiting for some relatives.

.....(omissis).....

Public Prosecutor: The vehicle was searched; the bullets were discovered, did you then go to the police station or what happened?

Burim Berisha: After the search of the vehicle, my flat was searched and I was then escorted to the police station in Ferizaj.

.....(omissis).....*examination continues with regard to the meeting in the cafeteria in Viti.*

Public Prosecutor: Were you alone or did you meet Haki Isufi?

Burim Berisha: I met Fatos Azizi.

Public Prosecutor: Where?

Burim Berisha: A café bar in Viti.

Public Prosecutor: Why did you go there?

Burim Berisha: I went with one of the taxis that stay along the Ferizaj road.

Public Prosecutor: Do you live in Ferizaj?

Burim Berisha: Yes.

Presiding Judge: She asked not in which vehicle, but why?

Burim Berisha: The Public Prosecutor asked me why I went and with what.

Presiding Judge: Why then?

Burim Berisha: I went there to take the documents as I told them about the new documents.

Public Prosecutor: Why did you have to go there with the documents since it was them that wanted the job?

Burim Berisha: I was off and I felt it was my obligation to help them since they had been waiting for a long time. I thought I should go and take them.

Public Prosecutor: How did you contact Fatos Aziz?

Burim Berisha: By coincidence.

Public Prosecutor: How by coincidence?

Burim Berisha: We just met by coincidence.

Public Prosecutor: What about Fikret Murati, did you see him that day? Have you met Fikret Murati in Viti?

Burim Berisha: I met him but never seen him before.

Public Prosecutor: Did you speak to him on the phone that day?

Burim Berisha: Yes, I called him on the phone and told him I would come to Viti and if he wants we can meet somewhere and can discuss the issue of his employment.

.....(omissis).....

Public Prosecutor: A weapon has been found in the trash bin inside Buca Petrol. It is Czech made, is it yours?

Burim Berisha: It is not mine.

Another relevant inculpatory piece of evidence is constituted by the results of the metering of phone calls, which have demonstrated that Burim BERISHA got in contact with Haki ISUFI on the afternoon and night before the critical day and the same day of the 9th of June 2008:

On 09.06.2008 at 15:15:47 from 44746xxx called Haki Isufi at phone no. 4434xxx

On 08.06.2008 at 14:53:22 from 049 659xxx a sms was sent to Haki Isufi at 864944xxxx

On 08.06.2008 at 20:25:44 from 049 659xxx a sms was sent to Haki Isufi at 37744346xxx

On 09.06.2008 at 19:08:39 from 049 659xxx a call was made to Fikret Murati at 37744534xxx

On 09.06.2008 at 19:18:35 from 049 659xxx a call was made to Haki Isufi at 3864944xxx

On 08.06.2008 at 15:29:14 from 049 659xxx a sms was sent to Haki Isufi at 3864944xxxx

On 08.06.2008 at 20:58:43 from 049 659xxx a sms was sent to Haki Isufi at 3864944xxxx

In that respect Burim BERISHA has claimed during the examination that he already knew Haki ISUFI because the latter was interested in getting a job in the same company for which Burim BERISHA used to work. That might also be true. Nevertheless, it is interesting to notice that the contacts between Burim BERISHA and Haki ISUFI were completely interrupted during the all morning of the 9th of June 2008. Indeed, Burim BERISHA had been extremely careful to limit the phone contacts with the other defendants as much as possible. Also in the “Busa Petrol” he asked to use the phone of the waiter, not to use his own.

Most importantly, the involvement of the defendant Burim BERISHA in the bank robbery has been clearly demonstrated by the statements of the co-accused Fikret MURATI, who has provided detailed information about the all event of the bank robbery. Of crucial importance for the present case are the declarations that the defendant Fikret MURATI has given to the police on the 10th of June 2008, while he was assisted by the defense counsel Nexhat QORROLLI, and which shall be considered as admissible evidence in accordance with Article 156 and 157 of the KCCP:

“I, Fikret Murati declare that on Wednesday I have met with Haki in Terpeze village and he told me: “If you can find someone that can enter the Bank to take money, and for this you will have a reward if you find somebody”. I told him that I cannot do that myself, but I will try to find someone else for this. After 1 or 2 days I and Haki came to Ferizaj with Haki’s “rover” car. Haki has talked to Burim and I got involved in the conversation after 10 minutes, and Haki told me that “If you find the person, he (Burim) is ready to conduct the operation in the bank on Monday”. After we went home, I met my villager (neighbor), Xhelal, and I asked him: “Do you think you can enter the Bank to take money from there, and Xhelal told me that “I will enter”. On Saturday, I and Xhelal came to Ferizaj in a café bar in Gjilani road we met with Burim. There Burim during talking with Xhelal, among others, told him: “If you betray me, you better don’t enter at all, because then you will be the one I will kill first, then the others, because I don’t surrender alive to the police without spending all bullets I have”. Xhelal told him: “I don’t betray you”. Then Burim told Xhelal that “You will stand to the door of the Bank, while me, I will take the money in the cashbox, because I know exactly the place where it is”. There Xhelal and Burim fixed the time that on Monday at 07:30 hrs they shall meet each other at Burim’s apartment in Ferizaj.

On Monday, on 09/06/2008 I came to Ferizaj with my Mercedes car, and Xhelal came with Selami’s Golf and we met with Burim at his apartment. Immediately I came back home, while I left the two of them at Burim’s apartment.

At 08:15 hrs Burim called me on phone and told me: “Will you come to take me in at the Catholics Church in Ferizaj?”, and I told him: “No, I will not come”.

Around 12:15 hrs somebody called me on my phone and told me: “Go to the hill, because Xhelal will come now and he will bring the money”. I went to the hill which is next to my house, there was Xhelal with a sports bag of a dark cherry color, after a while Haki arrived, Xhelal has opened the bag, and the three of us have seen the money, and Haki said that nobody dares to touch the money until Burim comes here, otherwise that who touches will be killed”. I took the bag and sent it to my uncle’s (Brother of my father’s) house and I put it above the ceiling (the space under the roof) and went out in the village. Burim called me on phone and said: “Where shall we meet?’ but Haki had told me

earlier that: "I will lock my phone, and if Burim calls you tell him that we shall meet at the café bar opposite Mosque in Viti". And I told Burim to meet there. I went to the arranged place, I met Burim and Fatos there and at the same café bar three of us were arrested by the police.

Questions and answers:

-How did you know Burim, Fatos, Haki, Selami and Xhelal?

-Haki and Xhelal are my villagers (we live in the same village), I was introduced to Burim by Haki 4 or 5 days ago, and Fatos is brother in law (husband of sister) of Haki and I was introduced to him 3 days ago, and I know Selami, because he is married to a cousin of my mother.

-What was the amount of money that Haki had promised to give you if you would find the person who will enter the bank?

-He didn't fix a price, but he said that I will get a reward.

-With whom did Selami agree to give the car to the bank robbers?

-Haki told me to call Selami with my phone, to go to Terpeze and to reach an agreement about the car.

-Have you been present at the time Selami arrived there and what was discussed there?

-Selami came in Terpeze on Sunday, and me, Haki and Selami met in the village, there those two agreed that Selami will leave the car at the yard of the house unlocked and also will leave the keys into the car for Xhelal to come and get it in the morning. And that is how it was decided, that Selami leave the car as they agreed.

-Was there discussed with Selami what to do about the vehicle?

-Yes, Haki told Selami that: "Around 09:30 hrs you go to the Police and report as your car has been stolen", and Selami accepted.

-To what extent Fatos is involved in this case?

-As far as I know, Fatos has found the person whose task was to take them away from Ferizaj and for this he would get 10000 euro, and out of this money Fatos was supposed to pay the person with Vectra vehicle.-

-Do you know where does the person with Vectra come from?

-As far as I know he was from Kabash village, Viti, but I don't know his name.

-Who has entered the bank inside to take the money?

-Xhelal and Burim entered the bank.

-Are you sure of what you are saying?

-I am completely sure of this.

-Do you have anything to add about this declaration?

-No, I don't."

All the said elements demonstrate beyond any reasonable doubt the involvement of Burim BERISHA in the bank robbery, as the main responsible perpetrator. The defendant has committed a criminal act, which shall be rightly qualified as robbery, contrary to Article 255 (1)-(3) of the CCK, by fulfilling both the material element (*actus rei*) and psychological element (*dolus*) of such crime. He has been the one that has provided directions to all the other defendants and that, together with the defendant at large Xhelal AZIZI, has entered the bank holding a gun and taking the money from the bank. He has taken advantage of his privileged position as a supervisor of the security guards of the

bank, with all the confidential information that he was entrusted with, and abused his position for criminal activities with the intent to obtain a material benefit for himself.

2.2. Unauthorized possession of weapons, contrary to Article 328 (2) of the CCK.

As demonstrated in the previous paragraph, Burim BERISHA was found in possession of fifteen (15) bullets which were recovered inside his red Alfa Romeo and of the gun used for the bank robbery, which was found inside the trash bin of the restaurant “Busa Petrol”, where he got arrested.

The justifications that the defendant has provided during his examination at the main trial are obviously not able to discharge him from the accuse, as the possession of those weapons and ammunitions is a fact which is proven by the reports of the police officers who have conducted the searches in the above mentioned car and restaurant:

Public Prosecutor: Did someone from the police come?

Burim Berisha: About 10 minutes later a police patrol came and told me that an arrest warrant had been issued and that they had been directly authorized to come from the same municipality as I did, they told me that I had to go with them to the police station in Ferizaj.

Public Prosecutor: Did you go with them?

Burim Berisha: While we were travelling from Buca Petrol to the city on the radio they received an order from a KPS unit that they should immediately go and search his house and vehicle.

Public Prosecutor: They were speaking about you?

Burim Berisha: Yes, they were. We then went to the vehicle.

Public Prosecutor: Which vehicle?

Burim Berisha: Red Alfa Romeo. Whilst searching it, they came across 15 bullets which I stated at the office of the Public Prosecutor, belong to a relative of mine named Bajram Zeneli who manoeuvred a lot with weapons.

Public Prosecutor: How did they get your vehicle?

Burim Berisha: They came to my vehicle about two or three weeks earlier because this relative came once to Ferizaj to sell some bullets and what happened to the remaining bullets he did not sell I do not know and he asked me to keep them for him for about a day or two. I told him I cannot allow you to bring these bullets inside my flat but I can make it possible for you to leave them in the vehicle since the vehicle was not being used since it had been broken down for about a month.

.....(omissis).....

Public Prosecutor: A weapon has been found in the trash bin inside Buca Petrol. It is Czech made, is it yours?

Burim Berisha: It is not mine.

Thus, the material element (*actus rei*) is proved by the factual circumstance that the pistol used during the robbery and the fifteen (15) bullets were found respectively in the trash bin of the restaurant “Busa Petrol” and in his vehicle, the red Alfa Romeo, following a lawful search and confiscation activity by the police.

The psychological element (*mens rea*) is demonstrated by the knowledge to detain the mentioned material without a valid permission.

As for the legal qualification of the criminal offence, correct reference is made to Article 328, paragraphs (2) of CCK, which criminalizes the “Unauthorized Ownership, Control, Possession or Use of weapons”.

The items found are surely to be classified as weapons. Indeed, according to Article 107, Paragraph 28), of the KCC, the term “weapon” means “an instrument designed, used or usable for inflicting bodily harm. It shall include, but not be limited to, all forms of ammunition, crossbows, bows and arrows, pepper sprays, CS gas, blank firing weapons, replica weapons, stun guns, lasers and all categories of weapons set out in Schedule A annexed to UNMIK Regulation No. 2001/7 on the Authorization of Possession of Weapons in Kosovo or similar weapons.”

3. The criminal responsibility of Haki ISUFI.

It stems out from all the evidence gathered in the course of the trial that the involvement of Haki ISUFI in the bank robbery has consisted in a pivotal activity of support of the actions of Burim BERISHA and Xhelal AZIZI. In particular, Haki ISUFI has asked to Fikret MURATI to find another person together with whom Burim BERISHA would have robbed the bank and has then he provided all the further necessary support to Burim BERISHA after the bank robbery was realized in order to secure the money. Indeed, Haki ISUFI also went to the uncles’house of Fikret MURATI to check whether the bag with the money had been safely kept there. Furthermore he contacted his brother in law Selami BEQIRI to provide the car that has been used for the bank robbery.

During the examination the defendant Haki ISUFI has rejected all the charges against him. These are the relevant passages from the minutes of the examination:

Public Prosecutor: On the day that the event occurred and for which we are here today, can you tell us what happened in that day?

Presiding Judge: In the morning.

Public Prosecutor: Yes.

Haki Isufi: On the 9th of June, I woke up at 0745a.m. or 0750a.m. and as usual I had a coffee. I remained at home at 1100a.m. or 1115a.m. afterwards I went to Viti.

Public Prosecutor: By which means?

Haki Isufi: By car.

Public Prosecutor: Which village are you from?

Haki Isufi: Terpez Village.

Public Prosecutor: How long does it take to go from Terpez to Viti?

Haki Isufi: 15, 20 or 25 minutes, depending on how you drive.

Public Prosecutor: Why did you go there?

Haki Isufi: To have a coffee.

Public Prosecutor: On your own?

Haki Isufi: I left on my own and while driving there, I met a person from the same village where I come from.

Public Prosecutor: With whom did you go with?

Haki Isufi: I met AL and I picked her up.

Public Prosecutor: Where did you go?

Haki Isufi: We had a coffee together.

Public Prosecutor: What did she tell you, where did she want to go?

Haki Isufi: She said that she was going to Viti because she participates in dancing activities.

Public Prosecutor: You said that you had a coffee, in which cafeteria?

Haki Isufi: Before it was called Kalaja and now it’s Loni.

Public Prosecutor: Until what time did you stay with AL?

Haki Isufi: I stayed until 1.45 or 1.30.

Public Prosecutor: After that, did you go somewhere?

Haki Isufi: After that, I went to another cafeteria called Morena.

Public Prosecutor: Where is that cafeteria?

Haki Isufi: About 200 to 300 meters away from cafeteria Kalaja.

Public Prosecutor: Did you walk or drive to there?

Haki Isufi: I think I went by car, I am not sure.

Public Prosecutor: Did you go there on your own or with someone else.

Haki Isufi: On my own.

Public Prosecutor: How long did you stay there?

Haki Isufi: About one hour, after two.

Public Prosecutor: On your own or accompanied by someone?

Haki Isufi: I met a friend there.

Public Prosecutor: His name?

Haki Isufi: DP.

Public Prosecutor: Until what time you stayed with him?

Haki Isufi: I have been with him until 2.00 or 2.15.

Public Prosecutor: Where did you go then?

Haki Isufi: Home.

Public Prosecutor: On your own or with someone else?

Haki Isufi: On my own.

Public Prosecutor: Do you know other persons who are accused?

Haki Isufi: I do not know only Faruk, all the others I know.

Public Prosecutor: Starting from Burim Berisha, how come you know the others, are you in family relation with them?

Haki Isufi: I met Burim Berisha sometimes in August 2007. As I said, I met Burim Berisha because he was sitting with Fatos. I joined them and they have been having a conversation regarding employment because I was interested as well. I met him there and I was in need for job. I asked him if he can do something. I was interested. Afterwards, he told me which kind of documents I needed to provide. I prepared them and handed them over to Burim Berisha, in his house in Ferizaj and on top of that I gave him 2,000.00 Euro, so I could get the job.

Public Prosecutor: Did Burim Berisha tell you that you have to give 2,000.00 Euro?

Haki Isufi: Yes.

Public Prosecutor: Did you get a job?

Haki Isufi: I got training and I have been interviewed and it was in a primary school in Iliria. And the interview has been conducted near the headquarters of a political party Ora, somewhere in that part of the town. It was month of Ramadan when we had training and been interviewed. After one week we went for that training.

Public Prosecutor: Except agricultural work, have you ever worked something else?

Haki Isufi: No.

Public Prosecutor: Do you know Xhelal?

Haki Isufi: He is from the same village as I am.

Public Prosecutor: Did you meet him before?

Haki Isufi: Before the incident, I did not meet him before.

Public Prosecutor: Do you know Fikret?

Haki Isufi: He is from the same village.

Public Prosecutor: What about Fatos?

Haki Isufi: He is my son-in-law.

Public Prosecutor: What about Selami Beqiri?

Haki Isufi: He is my brother-in-law.

.....(omissis).....

The circumstances that on the 9th of June 2008, Haki ISUFI went by car from the village of Terpez to the village of Viti, where he spent sometime, from approximately 11:00 until 12:30, in the cafeteria Kalaja together with a person of name AL, and then

later, from 12:30 to 14:00, in the cafeteria Morena, together with DP have been also confirmed by the witnesses.

This is a relevant extract from the minutes of the testimony of AL:

Ahmet Ahmeti: Thank you. Since when do you know Haki?

AL: I know him long time ago because we live in the same village.

Ahmet Ahmeti: Have you been in the company of Haki often?

AL: Yes quite often.

Presiding Judge: Can we specify this question?

Ahmet Ahmeti: How often have you been in the company of Haki?

AL: Yes I have been in the company of Haki often, but recently I have socialised with him more often because he has helped me with organising the celebration of the independence.

Ahmet Ahmeti: Do you recall the last meeting with Haki?

AL: It was on the 9th of June, precisely.

Ahmet Ahmeti: Can you recall where did this meeting take place?

AL: I was in my own village and because I was on my way for that concert for the independence and because there are only three time buses running to the concert and on my way to catch a bus, because it's quite a long way to catch a bus, and he saw me and stopped the car.

Ahmet Ahmeti: Does the witness recall where did they go?

AL: I was on my way to Vitia and Haki took me and we went to Vitia.

Ahmet Ahmeti: Did you go in any bar or can you recall where did you go together?

AL: After we arrived in Vitia, we went for a coffee in a bar and we had a coffee together.

Presiding Judge: What time?

AL: I left my house at 1045 and afterwards I met Haki and I think it was between 10 and 11 and after we arrived in Vitia we had a coffee with Haki and we have been there until 12:30.

Ahmet Ahmeti: According to your answer, you have been in the company of Haki between 10 and 12, correct?

AL: Yes.

Presiding Judge: 10 or 1045.

AL: At 1045 I left my house and I have met him around 11. I have been in his company until 12.....(*omissis*)....

Sylejman Nuredini: Do you recall the name of the place where you had coffee?

AL: Yes I do, it was called Kalaja, Castle in English.

This is a relevant passage from the minutes of DP:

Ahmet Ahmeti: Does the witness remember the last time he met the defendant Haki before the latter was arrested?

DP: I met the latter on the 9th of June, at noon.

Ahmet Ahmeti: Where did this meeting take place?

DP: the meeting took place in the cafeteria Morena.

Presiding Judge: Where is cafeteria Morena?

DP: In Viti, Tirana Street.

Ahmet Ahmeti: You said at noon. Do you remember the time, was it before noon or after noon?

DP: I think it was before 12 and 2 o'clock in the afternoon.

The Court has no reason to doubt about the reliability of the witnesses L and P as their testimonies have been fully consistent. Nevertheless, the circumstance that Haki ISUFI did spend some time from 11:00 until 14:00 in their company does not constitute an alibi

with respect to the charges against him. The Court finds the defendant guilty not for having entered the bank but for having organized and supported the robbery.

After perusal of the court file, the Court has found that defendant Haki ISUFI has contacted the other defendants in relation to the bank robbery. It is worthy to notice that, as the defendant has also stated during his examination, Haki ISUFI already knew Fatos AZIZI for him being his son in law, and Selami BEQIRI, who is his brother in law. Haki ISUFI has also stated that he knew Burim BERISHA from before as the latter was supposed to support him in finding a job as security guard. On the other hand, Haki ISUFI has stated that he did not know Xhelal AZIZI and Fikret MURATI.

Now, it shall be emphasized that, from the metering of the phone calls, numerous phone contacts of Haki ISUFI with the other defendants during the critical days were reported.

In particular, from the metering of the phone calls:

On 04.06.2008 at 12:54:41 from 44346xxx called Fikret Murati at 44534xxx
On 04.06.2008 at 14:59:12 from 44346xxx called Fikret Murati at 44534xxx
On 04.06.2008 at 15:13:08 from 44346xxx called Fikret Murati at 44534xxx
On 05.06.2008 at 10:39:27 from 44346xxx called Fikret Murati at 44534xxx
On 05.06.2008 at 11:14:03 from 44346xxx called Fikret Murati at 44534xxx
On 05.06.2008 at 11:19:14 from 44346xxx called Fikret Murati at 44534xxx
On 05.06.2008 at 12:45:31 from 44346xxx called Fikret Murati at 44534xxx
On 05.06.2008 at 12:45:43 from 44346xxx called Fikret Murati at 44534xxx
On 05.06.2008 at 13:14:39 from 44346xxx called Fikret Murati at 44534xxx
On 05.06.2008 at 17:09:07 from 44346xxx called Fikret Murati at 44534xxx
On 05.06.2008 at 17:18:30 from 44346xxx called Fikret Murati at 44534xxx
On 05.06.2008 at 18:01:41 from 44346xxx called Fikret Murati at 44534xxx
On 07.06.2008 at 19:57:38 from 44346xxx called Fikret Murati at 44534xxx
On 07.06.2008 at 20:01:12 from 44346xxx called Fikret Murati at 44534xxx
On 08.06.2008 at 12:31:23 from 44346xxx called Selami Beqiri at 44121xxx
On 08.06.2008 at 14:06:37 from 44346xxx called Fikret Murati at 44534xxx
On 08.06.2008 at 14:07:18 from 44346xxx called Fikret Murati at 44534xxx
On 08.06.2008 at 15:57:27 from 44346xxx called Selami Beqiri at 44121xxx
On 08.06.2008 at 19:44:59 from 44346xxx called Fikret Murati at 44534xxx
On 08.06.2008 at 19:47:42 from 44346xxx called Fikret Murati at 44534xxx
On 08.06.2008 at 21:38:11 from 44346xxx called Selami Beqiri at 44121xxx
On 08.06.2008 at 21:50:50 from 44346xxx called Selami Beqiri at 44121xxx
On 08.06.2008 at 21:59:30 from 44346xxx called Selami Beqiri at 44121xxx
On 08.06.2008 at 22:02:57 from 44346xxx called Selami Beqiri at 44121xxx
On 08.06.2008 at 22:03:39 from 44346xxx called Selami Beqiri at 44121xxx
On 08.06.2008 at 22:14:19 from 44346xxx called Fikret Murati at 44534xxx

SMS

07.06.2008 19:57: Originator 44346xxx Haki Isufi, Destination 44534xxx Fikret Murati, Status Delivered, Message: E din ai (he knows);

On 03.06.2008 at 20:16:28 the 44346xxx was called by Fikret Murati from 44534xxx
On 03.06.2008 at 21:00:34 the 44346xxx was called by Fikret Murati from 44534xxx
On 04.06.2008 at 12:51:17 the 44346xxx was called by Fikret Murati from 44534xxx
On 04.06.2008 at 14:57:36 the 44346xxx was called by Fikret Murati from 44534xxx
On 04.06.2008 at 15:00:20 the 44346xxx was called by Fikret Murati from 44534xxx

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On 05.06.2008 at 10:38:27 the 44346xxx was called by Fikret Murati from 44534xxx
On 05.06.2008 at 10:41:16 the 44346xxx was called by Fikret Murati from 44534xxx
On 05.06.2008 at 11:15:06 the 44346xxx was called by Fikret Murati from 44534xxx
On 05.06.2008 at 20:16:42 the 44346xxx was called by Fikret Murati from 44534xxx
On 07.06.2008 at 13:16:59 the 44346xxx was called by Fikret Murati from 44534xxx
On 07.06.2008 at 13:30:26 the 44346xxx was called by Fikret Murati from 44534xxx
On 07.06.2008 at 16:22:02 the 44346xxx was called by Fikret Murati from 44534xxx
On 07.06.2008 at 16:25:23 the 44346xxx was called by Fikret Murati from 44534xxx
On 07.06.2008 at 16:34:32 the 44346xxx was called by Fikret Murati from 44534xxx
On 07.06.2008 at 16:39:33 the 44346xxx was called by Fikret Murati from 44534xxx
On 07.06.2008 at 16:51:23 the 44346xxx was called by Fikret Murati from 44534xxx
On 07.06.2008 at 16:53:44 the 44346xxx was called by Fikret Murati from 44534xxx
On 07.06.2008 at 16:57:05 the 44346xxx was called by Fikret Murati from 44534xxx
On 07.06.2008 at 17:04:06 the 44346xxx was called by Fikret Murati from 44534xxx
On 07.06.2008 at 17:09:21 the 44346xxx was called by Fikret Murati from 44534xxx
On 07.06.2008 at 17:20:15 the 44346xxx was called by Fikret Murati from 44534xxx
On 07.06.2008 at 18:52:31 the 44346xxx was called by Fikret Murati from 44534xxx
On 07.06.2008 at 19:58:38 the 44346xxx was called by Fikret Murati from 44534xxx
On 07.06.2008 at 20:45:54 the 44346xxx was called by Fikret Murati from 44534xxx
On 08.06.2008 at 13:30:44 the 44346xxx was called by Selami Beqiri from 44121xxx
On 08.06.2008 at 14:06:47 the 44346xxx was called by Fikret Murati from 44534xxx
On 08.06.2008 at 16:00:32 the 44346xxx was called by Selami Beqiri from 44121xxx
On 08.06.2008 at 16:01:51 the 44346xxx was called by Selami Beqiri from 44121xxx
On 08.06.2008 at 19:48:03 the 44346xxx was called by Fikret Murati from 44534xxx
On 08.06.2008 at 19:48:16 the 44346xxx was called by Fikret Murati from 44534xxx
On 08.06.2008 at 19:48:37 the 44346xxx was called by Fikret Murati from 44534xxx
On 08.06.2008 at 19:49:14 the 44346xxx was called by Fikret Murati from 44534xxx
On 08.06.2008 at 21:18:19 the 44346xxx was called by Fikret Murati from 44534xxx
On 08.06.2008 at 22:07:32 the 44346xxx was called by Selami Beqiri from 44121xxx
On 08.06.2008 at 22:13:32 the 44346xxx was called by Fikret Murati from 44534xxx
On 08.06.2008 at 22:14:56 the 44346xxx was called by Fikret Murati from 44534xxx
On 08.06.2008 at 22:16:14 the 44346xxx was called by Fikret Murati from 44534xxx
On 09.06.2008 at 15:15:47, the 44346xxx was called by Burim Berisha from 44746xxx

SMS

07.06.2008 18:52: Originator 44534xxx Fikret Murati, Destination 44346xxx Haki Isufi, Status Delivered, Message: Hej thuj ati shokit qi mosta pormen emnin ty (hey tell your friend do not mention your name).

In relation to these extremely frequent contacts with the defendants, especially with Fikret MURATI, who he claimed not to know at all, he could not provide any logical and credible explanation, as it clearly stems out from this passage of the examination:

Andrea Cruciani: Do you recall if you phoned to Selami Beqiri on the 8th of June 2008?

Haki Isufi: I do not know, I can not recall it.

Andrea Cruciani: From the metering of the phone, is it your phone number 044 34 6xxx?

Haki Isufi: Yes.

Andrea Cruciani: From the metering of the telephone calls, I can notice that on the 8th of June 2008, from 21.30 to 22.00, there were five attempted calls to a number 044 12 1xxx, which is the number belonging to Selami Beqiri, is this possible?

Haki Isufi: We are family related and sometimes the children play with the phone. I can not remember.

Andrea Cruciani: From 9.30 to 10.00 in the evening, are you trying to tell the court that your children took your phone and attempted to call Selami Beqiri?

Haki Isufi: Sometimes children play with the phone.

Ahmet Ahmeti: Is it attempted calls or phone calls?

Andrea Cruciani: I said attempted calls.

The Court finds that the illustrated defensive statements of the accused are blatantly not credible. The defendant has attempted to convince this Panel of exculpatory arguments, which are clearly made up. It is absolutely illogical and implausible that the the children of the defendants have used the telephone of the father late at night and that they had called several times the other defendant Selami BEQIRI. It is clear, on the contrary, that the phone calls which took place during the evening of the 8th of June 2009 between Haki ISUFI and Selami BEQIRI were related to the car to be provided by the latter for the bank robbery of the following day.

Neither, Haki ISUFI could in any way whatsoever explain the messages received from Fikret MURATI:

Andrea Cruciani: On the 7th of June 2008, we have a report here, a message which was delivered to your phone number, from the telephone number of Fikret Murati, which was, I quote: 'Hey tell your friend, not to mention your name.' Can you explain this?

Haki Isufi: I do not know.

Andrea Cruciani: On the 8th of June, at 10.00 o'clock at night, you received another message, still coming from Fikret Murati, I quote: 'Hey man, I am too tired, I can't stand it anymore.' Do you remember receiving this message?

Haki Isufi: I can not remember.

Andrea Cruciani: Do you recall that you received three messages on the 8th of June from Fikret Murati?

Haki Isufi: I can not remember.

Moreover and most importantly the criminal responsibility of the defendant Haki ISUFI clearly stems out from the statements of the co-accused Fikret MURATI the police of the 10th of June 2008, while he was assisted by the defense counsel Nexhat QORROLLI, and which shall be considered as admissible evidence in accordance with Article 156 and 157 of the KCCP. The said statements have been already entirely reported above, so that now only a relevant passage follows:

"I, Fikret Murati declare that on Wednesday I have met with Haki in Terpeze village and he told me: "If you can find someone that can enter the Bank to take money, and for this you will have a reward if you find somebody". I told him that I cannot do that myself, but I will try to find someone else for this. After 1 or 2 days I and Haki came to Ferizaj with Haki's "rover" car. Haki has talked to Burim and I got involved in the conversation after 10 minutes, and Haki told me that "If you find the person, he (Burim) is ready to conduct the operation in the bank on Monday"....(omissis)....

Around 12:15 hrs somebody called me on my phone and told me: "Go to the hill, because Xhelal will come now and he will bring the money". I went to the hill which is next to my house, there was Xhelal with a sports bag of a dark cherry color, after a while Haki arrived, Xhelal has opened the bag, and the three of us have seen the money, and Haki said that nobody dares to touch the money until Burim comes here, otherwise that who touches will be killed". I took the bag and sent it to my uncle's (Brother of my father's) house and I put it above the ceiling (the space under the roof) and went out in the village. Burim called me on phone and said: "Where shall we meet?' but Haki had told me earlier that: "I will lock my phone, and if Burim calls you tell him that we shall meet at the café bar opposite Mosque in Viti". And I told Burim to meet there. I went to the

arranged place, I met Burim and Fatos there and at the same café bar three of us were arrested by the police.

Questions and answers:

-How did you know Burim, Fatos, Haki, Selami and Xhelal?

-Haki and Xhelal are my villagers (we live in the same village), I was introduced to Burim by Haki 4 or 5 days ago, and Fatos is brother in law (husband of sister) of Haki and I was introduced to him 3 days ago, and I know Selami, because he is married to a cousin of my mother.

-What was the amount of money that Haki had promised to give you if you would find the person who will enter the bank?

-He didn't fix a price, but he said that I will get a reward.

-With whom did Selami agree to give the car to the bank robbers?

-Haki told me to call Selami with my phone, to go to Terpeze and to reach an agreement about the car.

-Have you been present at the time Selami arrived there and what was discussed there?

-Selami came in Terpeze on Sunday, and me, Haki and Selami met in the village, there those two agreed that Selami will leave the car at the yard of the house unlocked and also will leave the keys into the car for Xhelal to come and get it in the morning. And that is how it was decided, that Selami leave the car as they agreed.

-Was there discussed with Selami what to do about the vehicle?

-Yes, Haki told Selami that: "Around 09:30 hrs you go to the Police and report as your car has been stolen", and Selami accepted....(omissis)...

All the said elements demonstrate beyond any reasonable doubt the involvement of Haki ISUFI in the bank robbery, as the main responsible perpetrator, together with Burim BERISHA and Xhelal AZIZI. The defendant has committed a criminal act, which shall be rightly qualified as robbery, contrary to Article 255 (1)-(3) of the CCK, by fulfilling both the material element (*actus rei*) and psychological element (*dolus*) of such crime. In particular, Haki ISUFI has asked to Fikret MURATI to find another person together with whom Burim BERISHA would have robbed the bank and has then he provided all the further necessary support to Burim BERISHA after the bank robbery was realized in order to secure the money. Indeed, Haki ISUFI also went to the uncles'house of Fikret MURATI to check whether the bag with the money had been safely kept there. Furthermore he contacted his brother in law Selami BEQIRI to provide the car that has been used for the bank robbery.

4. The criminal responsibility of Fikret MURATI.

Fikret MURATI got arrested by the police while he was sitting in the cafeteria in Viti, together with Burim BERISHA and Fatos AZIZI. After his arrest, Fikret MURATI has been very cooperative with the police and his declarations made in the aftermath of the event had been of pivotal importance to shed light on the investigation, to individuate the other defendants and to make clear the role and the responsibility of each of them in the bank robbery.

The relevance of the cooperation of Fikret MURATI during the investigations has been also acknowledged by the XXX BR during his testimony:

Aziz Rexha: Was Fikret Murati cooperative during his questioning? Did he contribute to shedding light on this criminal case?

BR: Yes, Fikret Murati was very cooperative. Everything he said was of great assistance to us.

Of crucial importance for the present case are the statements that the defendant Fikret MURATI gave to the police on the 10th of June 2008, while he was assisted by the defense counsel Nexhat QORROLI:

"I, Fikret Murati declare that on Wednesday I have met with Haki in Terpeze village and he told me: "If you can find someone that can enter the Bank to take money, and for this you will have a reward if you find somebody". I told him that I cannot do that myself, but I will try to find someone else for this. After 1 or 2 days I and Haki came to Ferizaj with Haki's "rover" car. Haki has talked to Burim and I got involved in the conversation after 10 minutes, and Haki told me that "If you find the person, he (Burim) is ready to conduct the operation in the bank on Monday". After we went home, I met my villager (neighbor), Xhelal, and I asked him: "Do you think you can enter the Bank to take money from there, and Xhelal told me that "I will enter". On Saturday, I and Xhelal came to Ferizaj in a café bar in Gjilani road we met with Burim. There Burim during talking with Xhelal, among others, told him: "If you betray me, you better don't enter at all, because then you will be the one I will kill first, then the others, because I don't surrender alive to the police without spending all bullets I have". Xhelal told him: "I don't betray you". Then Burim told Xhelal that "You will stand to the door of the Bank, while me, I will take the money in the cashbox, because I know exactly the place where it is". There Xhelal and Burim fixed the time that on Monday at 07:30 hrs they shall meet each other at Burim's apartment in Ferizaj.

On Monday, on 09/06/2008 I came to Ferizaj with my Mercedes car, and Xhelal came with Selami's Golf and we met with Burim at his apartment. Immediately I came back home, while I left the two of them at Burim's apartment.

At 08:15 hrs Burim called me on phone and told me: "Will you come to take me in at the Catholics Church in Ferizaj?", and I told him: "No, I will not come".

Around 12:15 hrs somebody called me on my phone and told me: "Go to the hill, because Xhelal will come now and he will bring the money". I went to the hill which is next to my house, there was Xhelal with a sports bag of a dark cherry color, after a while Haki arrived, Xhelal has opened the bag, and the three of us have seen the money, and Haki said that nobody dares to touch the money until Burim comes here, otherwise that who touches will be killed". I took the bag and sent it to my uncle's (Brother of my father's) house and I put it above the ceiling (the space under the roof) and went out in the village. Burim called me on phone and said: "Where shall we meet?" but Haki had told me earlier that: "I will lock my phone, and if Burim calls you tell him that we shall meet at the café bar opposite Mosque in Viti". And I told Burim to meet there. I went to the arranged place, I met Burim and Fatos there and at the same café bar three of us were arrested by the police.

Questions and answers:

-How did you know Burim, Fatos, Haki, Selami and Xhelal?

-Haki and Xhelal are my villagers (we live in the same village), I was introduced to Burim by Haki 4 or 5 days ago, and Fatos is brother in law (husband of sister) of Haki and I was introduced to him 3 days ago, and I know Selami, because he is married to a cousin of my mother.

-What was the amount of money that Haki had promised to give you if you would find the person who will enter the bank?

-He didn't fix a price, but he said that I will get a reward.

-With whom did Selami agree to give the car to the bank robbers?

-Haki told me to call Selami with my phone, to go to Terpeze and to reach an agreement about the car.

-Have you been present at the time Selami arrived there and what was discussed there?

-Selami came in Terpeze on Sunday, and me, Haki and Selami met in the village, there those two agreed that Selami will leave the car at the yard of the house unlocked and also will leave the keys into the car for Xhelal to come and get it in the morning. And that is how it was decided, that Selami leave the car as they agreed.

-Was there discussed with Selami what to do about the vehicle?

-Yes, Haki told Selami that: "Around 09:30 hrs you go to the Police and report as your car has been stolen", and Selami accepted.

-To what extent Fatos is involved in this case?

-As far as I know, Fatos has found the person whose task was to take them away from Ferizaj and for this he would get 10000 euro, and out of this money Fatos was supposed to pay the person with Vectra vehicle.-

-Do you know where does the person with Vectra come from?

-As far as I know he was from Kabash village, Viti, but I don't know his name.

-Who has entered the bank inside to take the money?

-Xhelal and Burim entered the bank.

-Are you sure of what you are saying?

-I am completely sure of this.

-Do you have anything to add about this declaration?

-No, I don't."

On the 17th of July 2008, in front of the Public Prosecutor Sevdije MORINA, with the assistance of the defence counsel of his choice Aziz REXHA, the defendant gave other statements which completely differed from the previous ones. These are the statements given by the defendant on that occasion:

"On the 09.06 2008, at around 06.50 minutes, I left my home in village Tërpeza, to go to Ferizaj, because I had to go at my uncles to take some bee hives. On my way, while I was in the village of Tërpeze, I have been stopped by Xhelal, my fellow - countryman asking me to give him a lift at the village of Sllatina. He told me that he will collect a car there. I was with my red color car Mercedes. I gave a lift to Xhelal to Sllatina then after I did continued my way to Ferizaj. After I did what I had to do in Ferizaj, at around 08.15 min, I went back home and I went to sleep.

At 12.00 hours, Xhelal came at my home and called me. When I went out I saw Xhelal with a bag, sportive bag, cherry color. He requested from me bag to send and hid at the indwelling house of my uncle. I took the bag and together with Xhelal we sent it at the

house ceiling. I did not ask Xhelal what was in the bag, and he never told me. After we left the bag, we went at the house doors and we saw there Haki Isufi, who is also from the village of Tërpeze. I do not know why Haki came at my doors. He said nothing.

After this Xhelal and Haki left while I went back home, I dressed myself, took my car and went to Vitia. From my village to Vitia takes around 8 km. When I have separated from Haki and Xhelal, I have never told them that I am going to Vitia. They never asked me. I went to the cafeteria "Pikaso", which is located at the market house. I have stayed there only with the owner of the cafeteria.

In the evening Burim Berish phoned me, asking me where to meet each other. Himself have proposed to meet each other opposed of the mosque, in Vitia. This conversation I did it while I was at the "Pikaso". I never knew Burim before, and I do not know how comes himself to phone me. After 10 - 15 minutes, I went at the cafeteria, where Burim told me to go, and accept Burim I have meet a person Fatos Azizi, whom also I have never meet previously. As soon we met each other, police have surrounded and arrested us. In the evening when police asked about money, I told them about the bag that Xhelal brought it to me, and told them the place where I did hid it.

On the question, the defendant answers: I know Selami Beqiri. He is from the village of Upper Sllatina. He is married with the cousin of my mother. Accept greetings, I have not any friendship with him and rarely met him. I do not know who Faruk Ademi is. Defendant remember his statement given at the police station and asked for the changes that he did made today. He declared: what I said in the police station, it is not true. I was forced because police officers bit me up. I did signed the procedure in the police station but I did not read before. Nothing what I have said in the police station about the previous agreements and promises for bribe, after the end of work, is true.

On the question of defense council, defendant answers: Ferizaj from the village of Tërpeze is 23 km. From the village of Sllatinë, where I left Xhelal, up to Ferizaj, takes 16 km. The car that I have used that day was bough it by my father in Germany, some time after New Year. Since the month of October 2007, I am ill and I have been operated in Albania, ... (not printed full line).

This is my statement. Nothing else I have to declare. It has been read to me and the same one I have sign it with no objection."

These statements shall be considered as not credible. It is contrary to the logic that the defendant did meet the co-villager, Xhelal AZIZI, so early in the morning, while the former was allegedly directed to his uncle's house to take some bee hives and he gave him a lift to another village without even asking why he was going there. Similarly, it is even less credible that the defendant did hide the bag at his uncle's house upon the request of Xhelal AZIZI without asking him why and what was in the bag. Equally, not credible is that Haki ISUFI came to his uncle's house for no apparent reason and that he did not ask the reason for this visit. Furthermore, it is not credible that the defendant Burim BERISHA, whom Fikret MURATI claims that he did not know from before, had his phone number and called him on the phone to arrange a meeting in the cafeteria in Viti for no apparent reasons. Finally, the justification for the consistent changes with respect to the statements previously made in front of the police is not reliable. The defendant claimed that the police would have beaten him up during the first statements, thus forcing him to sign them. In that respect, suffice it to say that the defense counsel

was present at the time when the statements were taken and that there is not a single piece of evidence supporting the latest version of the events, which was blatantly made up by the defendant. Moreover, Fikret MURATI has decided to remain silent during the trial, thus not allowing the Court to request an explanation for the said changes.

On the contrary, the statements made in front of the police on the 10th of June 2008, in the aftermath of the events, are extremely detailed and consistent. They do not present any incongruous elements and they perfectly match with all the other evidences which have been collected during the investigations.

It shall also be emphasised that the statements of Fikret MURATI of the 10th of June 2008 are not the only pieces of evidence against him. Indeed, the metering of the phone calls have undisputably demonstrated that Fikret MURATI had an impressive number of phone contacts with the other defendants for the organization of the bank robbery. In particular, many calls and attempted calls have been metered between Fikret MURATI, with his phone number 044534xxx, Xhelal AZIZI and Haki ISUFI during the days preceeding the 9th of June 2009. Notably, Fikret MURATI has remained in contact with Haki ISUFI in the evening before the bank robbery until late and with Faruk ADEMI - whom he claims not to know in the statements given in front of the Public Prosecutor - in the early morning of the 9th of June 2009 just a few minutes after the bank robbery took place.

In particular, from the metering of the phone calls:

On 03.06.2008 at 18:39:07 from 044534xxx called Xhelal Azizi at phone number: 044323xxx.
On 03.06.2008 at 19:22:51 from 044534xxx called Xhelal Azizi at phone number: 044323xxx.
On 03.06.2008 at 20:16:28 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 03.06.2008 at 21:00:34 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 04.06.2008 at 12:51:17 form 044534xxx called Haki Isufi at phone number: 044346xxx.
On 04.06.2008 at 14:57:36 form 044534xxx called Haki Isufi at phone number: 044346xxx.
On 04.06.2008 at 15:00:20 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 05.06.2008 at 10:38:27 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 05.06.2008 at 10:41:16 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 05.06.2008 at 11:15:06 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 05.06.2008 at 20:16:42 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 05.06.2008 at 20:43:01 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 05.06.2008 at 21:39:18 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 05.06.2008 at 21:39:59 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 05.06.2008 at 21:40:24 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 05.06.2008 at 21:41:25 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 05.06.2008 at 21:43:40 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 05.06.2008 at 22:03:10 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.

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On 06.06.2008 at 09:34:56 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 06.06.2008 at 09:35:57 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 06.06.2008 at 09:36:32 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 06.06.2008 at 09:37:48 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 06.06.2008 at 09:44:22 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 06.06.2008 at 09:52:03 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 06.06.2008 at 09:52:33 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 06.06.2008 at 10:24:57 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 06.06.2008 at 11:18:49 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 06.06.2008 at 16:39:45 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 06.06.2008 at 20:51:42 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 06.06.2008 at 20:59:58 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 06.06.2008 at 21:41:55 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 06.06.2008 at 21:42:28 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 06.06.2008 at 21:58:29 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 06.06.2008 at 21:59:43 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 07.06.2008 at 11:18:52 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 07.06.2008 at 12:37:18 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 07.06.2008 at 13:16:59 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 07.06.2008 at 13:30:26 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 07.06.2008 at 16:22:02 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 07.06.2008 at 16:25:23 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 07.06.2008 at 16:34:32 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 07.06.2008 at 16:39:33 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 07.06.2008 at 16:51:23 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 07.06.2008 at 16:52:51 from 044534xxx called Haki Isufi at phone number: 049443xxx.
On 07.06.2008 at 16:53:44 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 07.06.2008 at 16:57:05 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 07.06.2008 at 16:57:17 from 044534xxx called Haki Isufi at phone number: 049443xxx.
On 07.06.2008 at 17:04:06 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 07.06.2008 at 17:07:28 from 044534xxx called Haki Isufi at phone number: 0444430xxx.
On 07.06.2008 at 17:09:21 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 07.06.2008 at 17:20:15 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 07.06.2008 at 17:48:20 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 07.06.2008 at 18:52:31 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 07.06.2008 at 19:58:38 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 07.06.2008 at 20:45:54 from 044534xxx called Haki Isufi at phone number: 044346xxx.

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On 08.06.2008 at 09:46:03 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 08.06.2008 at 14:06:47 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 08.06.2008 at 15:08:40 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 08.06.2008 at 15:10:47 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 08.06.2008 at 15:12:13 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 08.06.2008 at 15:15:14 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 08.06.2008 at 15:15:40 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 08.06.2008 at 15:16:21 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 08.06.2008 at 15:17:19 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 08.06.2008 at 16:27:13 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 08.06.2008 at 19:48:03 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 08.06.2008 at 19:48:16 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 08.06.2008 at 19:48:37 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 08.06.2008 at 19:49:14 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 08.06.2008 at 20:10:43 from 044534xxx called Selami Beqiri at phone number: 044121xxx.
On 08.06.2008 at 20:49:55 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 08.06.2008 at 20:52:24 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 08.06.2008 at 21:17:49 from 044534xxx called Haki Isufi at phone number: 049443xxx.
On 08.06.2008 at 21:18:19 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 08.06.2008 at 21:18:50 from 044534xxx called Haki Isufi at phone number: 049443xxx.
On 08.06.2008 at 21:52:02 from 044534xxx called Haki Isufi at phone number: 049443xxx.
On 08.06.2008 at 21:53:13 from 044534xxx called Haki Isufi at phone number: 049443xxx.
On 08.06.2008 at 22:11:58 from 044534xxx called Haki Isufi at phone number: 049443xxx.
On 08.06.2008 at 22:13:32 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 08.06.2008 at 22:14:56 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 08.06.2008 at 22:15:33 from 044534xxx called Haki Isufi at phone number: 049443xxx.
On 08.06.2008 at 22:16:14 from 044534xxx called Haki Isufi at phone number: 044346xxx.
On 08.06.2008 at 23:21:47 from 044534xxx called Xhelal Azizi, at phone number: 044323xxx.
On 09.06.2008 at 08:19:52 from 044534xxx called Faruk Ademi, at phone number: 044783xxx.
On 09.06.2008 at 08:19:56 from 044534xxx called Fatos Azizi, at phone number: 049668xxx.
On 09.06.2008 at 08:31:44 from 044534xxx called Faruk Ademi, at phone number: 044783xxx.
On 09.06.2008 at 08:46:10 from 044534xxx called Faruk Ademi, at phone number: 044783xxx.
On 09.06.2008 at 09:46:10 from 044534xxx called Faruk Ademi, at phone number: 044783xxx.
On 09.06.2008 at 09:51:08 from 044534xxx called Faruk Ademi, at phone number: 044783xxx.
On 09.06.2008 at 10:01:15 from 044534xxx called Faruk Ademi, at phone number: 044783xxx.
On 09.06.2008 at 10:12:29 from 044534xxx called Faruk Ademi, at phone number: 044783xxx.
On 09.06.2008 at 10:16:22 from 044534xxx called Faruk Ademi, at phone number: 044783xxx.

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Received calls on Fikret Murati Phone number: 044534xxx

On 04.06.2008 at 12:54:41 Haki Isufi from 044346xxx called at phone number: 044534xxx.
On 04.06.2008 at 14:59:12 Haki Isufi from 044346xxx called at phone number: 044534xxx.
On 04.06.2008 at 15:13:08 Haki Isufi from 044346xxx called at phone number: 044534xxx.
On 05.06.2008 at 10:39:27 Haki Isufi from 044346xxx called at phone number: 044534xxx.
On 05.06.2008 at 11:14:03 Haki Isufi from 044346xxx called at phone number: 044534xxx.
On 05.06.2008 at 11:19:14 Haki Isufi from 044346xxx called at phone number: 044534xxx.
On 05.06.2008 at 12:24:15 Haki Isufi from 044346xxx called at phone number: 044534xxx.
On 05.06.2008 at 12:45:31 Haki Isufi from 044346xxx called at phone number: 044534xxx.
On 05.06.2008 at 12:45:43 Haki Isufi from 044346xxx called at phone number: 044534xxx.
On 05.06.2008 at 13:14:39 Haki Isufi from 044346xxx called at phone number: 044534xxx.
On 05.06.2008 at 17:09:07 Haki Isufi from 044346xxx called at phone number: 044534xxx.
On 05.06.2008 at 17:18:30 Haki Isufi from 044346xxx called at phone number: 044534xxx.
On 05.06.2008 at 18:01:41 Haki Isufi from 044346xxx called at phone number: 044534xxx.
On 07.06.2008 at 19:57:38 Haki Isufi from 044346xxx called at phone number: 044534xxx.
On 07.06.2008 at 20:01:12 Haki Isufi from 044346xxx called at phone number: 044534xxx.
On 07.06.2008 at 20:22:24 Haki Isufi from 044650xxx called at phone number: 044534xxx.
On 07.06.2008 at 20:24:24 Haki Isufi from 044650xxx called at phone number: 044534xxx.
On 07.06.2008 at 20:26:07 Haki Isufi from 044650xxx called at phone number: 044534xxx.
On 07.06.2008 at 20:29:06 Haki Isufi from 044650xxx called at phone number: 044534xxx.
On 07.06.2008 at 20:30:21 Haki Isufi from 044650xxx called at phone number: 044534xxx.
On 07.06.2008 at 20:35:19 Haki Isufi from 044650xxx called at phone number: 044534xxx.
On 08.06.2008 at 14:06:37 Haki Isufi from 044346xxx called at phone number: 044534xxx.
On 08.06.2008 at 14:07:18 Haki Isufi from 044346xxx called at phone number: 044534xxx.
On 08.06.2008 at 19:44:59 Haki Isufi from 044346xxx called at phone number: 044534xxx.
On 08.06.2008 at 19:47:42 Haki Isufi from 044346xxx called at phone number: 044534xxx.
On 08.06.2008 at 20:46:06 Haki Isufi from 044346xxx called at phone number: 044534xxx.
On 08.06.2008 at 22:14:19 Haki Isufi from 044346xxx called at phone number: 044534xxx.
On 08.06.2008 at 22:14:19 Haki Isufi from 044346xxx called at phone number: 044534xxx.
On 08.06.2008 at 22:17:43 Selami Beqiri from 044121xxx called at phone number: 044534xxx.
On 09.06.2008 at 10:11:58 Faruk Ademi from 044783xxx called at phone number: 044534xxx.
On 09.06.2008 at 10:13:56 Faruk Ademi from 044783xxx called at phone number: 044534xxx.
On 09.06.2008 at 21:23:37 Faruk Ademi from 044783xxx called at phone number: 044534xxx.

Finally, there is the police report of the search of the defendant's uncle house, which shows that in the ceiling of the house the cherry coloured bag with the money has been found.

From all the above mentioned pieces of evidence the Court considered to have been proved beyond any reasonable doubt the criminal responsibility of the defendant Fikret MURATI. The defendant has committed a criminal act, which shall be rightly qualified as robbery, contrary to Article 255 (1)-(3) of the CCK, by fulfilling both the material element (*actus rei*) and psychological element (*dolus*) of such crime. He has been the one to contact, upon the request of Haki ISUFI, the co-villager Xhelal AZIZI to enter the bank and he has been the one to hide the cherry coloured bag with the money in his uncle's house.

5. The criminal responsibility of Fatos AZIZI.

After perusal of the case file, the Panel has concluded that the defendant Fatos AZIZI, who is the son in law of Haki ISUFI, is also responsible for the bank robbery of the 9th of June 2008.

During his examination, the defendant has rejected all the charges against him:

Public Prosecutor: What do you know about the bank robbery in Ferizaj, what do you know about this? When were you informed of this?

Fatos Azizi: After the police arrested me.

Public Prosecutor: Do you know Burim Berisha?

Fatos Azizi: Yes.

Public Prosecutor: How?

Fatos Azizi: I know him since 2007.

Public Prosecutor: Who introduced you to him?

Fatos Azizi: A relative.

Public Prosecutor: Have you met him often?

Fatos Azizi: Yes I have.

Public Prosecutor: Were the meetings of a social nature?

Fatos Azizi: For the purpose of employment.

Public Prosecutor: What type of employment?

Fatos Azizi: Security.

Public Prosecutor: Where?

Fatos Azizi: At the bank.

... ..(omissis).....

Public Prosecutor: Do you know Haki Isufi?

Fatos Azizi: Yes.

Public Prosecutor: Did you meet him on the day of the incident?

Fatos Azizi: Yes, I was at his place before.

Public Prosecutor: At what time?

Fatos Azizi: At one o'clock.

Public Prosecutor: Where were you?

Fatos Azizi: At Haki's.

Public Prosecutor: At his house?

Fatos Azizi: Yes.

Public Prosecutor: Did you spend time with him?

Fatos Azizi: Yes because he is my son-in-law.

...(omissis).....

Shemsedin Piraj: Before the day of the arrest, have you worked with Faruk Ademi?

Fatos Azizi: Yes.

Shemsedin Piraj: What did you do together?

Fatos Azizi: I worked with tiles.

.....(omissis).....

Bajram Krasniqi: You say that Haki Isufi is a family friend, do you know Selami Beqiri?

Fatos Azizi: Yes.

Bajram Krasniqi: Do you know him as a friend of Haki Isufi?

Fatos Azizi: Only as Haki Isufi's friend.

Once again, the most important evidences against the defendant Fatos AZIZI are the statements of the co-accused Fikret MURATI given to the police on the 10th of June 2008. The said statements have been already entirely reported above, so that now only a relevant passage follows:

-To what extent Fatos is involved in this case?

-As far as I know, Fatos has found the person whose task was to take them away from Ferizaj and for this he would get 10000 euro, and out of this money Fatos was supposed to pay the person with Vectra vehicle.-

Indeed, this circumstance has been also corroborated by other pieces of evidence in the case file. In particular, the defendant Fatos AZIZI has been the one to contact a co-worker, Faruk ADEMI, asking him to join Xhelal AZIZI to the forest to leave the Pro-Credit bags and put the money in the sport cherry coloured bag.

In particular, these are the received phone calls resulting from the metering of the telephone number of Faruk ADEMI:

On 09.06.2008 at 10:26:04 from 44783xxx called Fatos Azizi at 49668xxx.
On 09.06.2008 at 11:10:15 from 44783xxx called Fatos Azizi at 49668xxx.
On 09.06.2008 at 11:38:02 from 44783xxx called Fatos Azizi at 49668xxx.
On 09.06.2008 at 20:52:37 from 44783xxx called Fatos Azizi at 49668xxx.
On 09.06.2008 at 20:59:51 from 44783xxx called Fatos Azizi at 49668xxx.
On 09.06.2008 at 21:06:24 from 44783xxx called Fatos Azizi at 49668xxx.
On 09.06.2008 at 21:07:48 from 44783xxx called Fatos Azizi at 49668xxx.
On 09.06.2008 at 21:09:27 from 44783xxx called Fatos Azizi at 49668xxx.
On 09.06.2008 at 21:10:39 from 44783xxx called Fatos Azizi at 49668xxx.

Moreover, the metering of the phone calls has proven that, on the 9th of June 2008, at 08:19:56, approximately ten (10) minutes after the bank robbery took place in Ferizaj, the defendant Fikret MURATI, from the number 04453xxx, called Fatos AZIZI, at his phone number 049668xxx.

Finally, Fatos AZIZI got arrested by the police while he was sitting in the coffee bar in Viti together with Burim BERISHA and Fikret MURATI.

From all the above mentioned pieces of evidence the Court considered to have been proved beyond any reasonable doubt the criminal responsibility of the defendant Fatos AZIZI. The defendant has committed a criminal act, which shall be rightly qualified as robbery, contrary to Article 255 (1)-(3) of the CCK, by fulfilling both the material element (*actus rei*) and psychological element (*dolus*) of such crime. He has been the one

to contact, upon the request of Haki ISUFI, the co-worker Faruk ADEMI to join Xhelal AZIZI to the forest to leave the Pro-Credit bags and put the money in the sport cherry coloured bag.

6. The criminal responsibility of Selami BEQIRI.

The defendant Selami BEQIRI shall also be considered responsible for the bank robbery of the 9th of June 2008, as he had provided assistance to the other perpetrators. In particular, the defendant, who is the brother in law of Haki ISUFI, had provided to Xhelal AZIZI the car, the green coloured Golf, plate number 202-KS-943, which had been used during the bank robbery with the previous agreement that on the same day he would later on report the case to the police for the theft of the car.

Selami BEQIRI has chosen to be examined in Court and the relevant passages of the examination hereby follow:

....(omissis)...

Public Prosecutor: Do you have a car?

Selami Beqiri: Yes.

Public Prosecutor: What type?

Selami Beqiri: Golf, colour green.

Public Prosecutor: Who drives this car?

Selami Beqiri: I do, and my son from time to time.

.....(omissis)....

Public Prosecutor: Can you tell us what happened with your vehicles on the 9th June?

Selami Beqiri: My car was stolen.

Public Prosecutor: Did you come to understand who stole it?

Selami Beqiri: No.

Public Prosecutor: When did you find out you were missing it?

Selami Beqiri: In the afternoon.

Public Prosecutor: What did you do until then?

Selami Beqiri: I was working in the fields.

Public Prosecutor: What time did you leave your house?

Selami Beqiri: As far as I remember, it was 7.30, I don't remember well.

Public Prosecutor: When you went to the fields at 7.30, did you see the car in your yard?

Selami Beqiri: I did not.

Public Prosecutor: When did you find out it was stolen?

Selami Beqiri: In the afternoon.

Public Prosecutor: When you went to the fields, was the car there?

Selami Beqiri: No.

Public Prosecutor: Did you then try to find out where it was?

Selami Beqiri: No, because my son very often takes it to school.

Public Prosecutor: What did you do when you found out you were missing it?

Selami Beqiri: I went to the police and reported it missing.

... (omissis) ...

Public Prosecutor: Do you know Fikret Marati?

Selami Beqiri: I know him, but never had any conversation with him.

....(omissis)...

Public Prosecutor: Haki Isufi?

Selami Beqiri: He is my brother in law.

.....(omissis).....

Andrea Cruciani: Can you repeat to us what was the exact time when you left your house on 9 June 2008?

Selami Beqiri: It must have been about 7.30am.

Andrea Cruciani: What time does you son's school start?

Selami Beqiri: I know that they leave from 7.30am.

Andrea Cruciani: How far is the school?

Selami Beqiri: About one and a half kilometres.

Andrea Cruciani: So does he need to take the car to school?

Selami Beqiri: He sometimes takes it.

Andrea Cruciani: Was your son thirteen at the time of the event.

Selami Beqiri: I think so.

Andrea Cruciani: Does he drive a car at thirteen?

Selami Beqiri: Yes.

Andrea Cruciani: Does he have a license?

Selami Beqiri: No.

Andrea Cruciani: Does he take it often to school at thirteen?

Selami Beqiri: Yes, because he has drove a tractor since he was little.

Andrea Cruciani: You said before you did not take the tractor as it is expensive to move one kilometre to go the fields; is it not expensive to take the car to the school from one kilometre too?

Selami Beqiri: Yes, but he is child and does not understand.

Andrea Cruciani: Who pays the fuel?

Selami Beqiri: I do.

Andrea Cruciani: What time does school finish?

Selami Beqiri: Sometime in the afternoon.

Andrea Cruciani: Did he take it back after school?

Selami Beqiri: You mean that day?

Andrea Cruciani: Yes.

Selami Beqiri: I said I thought that my son had taken it to school that day, but he had not.

Andrea Cruciani: When did you come back from the field?

Selami Beqiri: Afternoon, but don't know exact time.

Andrea Cruciani: How did you find out it was stolen.

Selami Beqiri: When I returned I thought it was my son, but he said he did not take it.

.....(omissis).....

Presiding Judge: Maybe you already told us this, but do you leave the car keys in the car?

Selami Beqiri: Yes, and it's inside my yard.

Presiding Judge: The car door is left unlocked?

Selami Beqiri: The keys are in the car.

Selami BEQIRI has claimed that, on the 9th of June 2008, his car, a green coloured Golf, with plate number 202-KS-943, got stolen. He stated that he realized that only in the afternoon after he had returned from the fields, when his son, who he thought had taken the car in the morning, told him that he did not use it that day. It is the conviction of this Court that the declarations of BEQIRI are not credible and they do not match the reality of the events. It would be contrary to the logic and not realistic that the perpetrators of a bank robbery to take place in Ferizaj would go to steal the car to be used for the robbery in the village of Upper Sllatina which is more than ten (10) kilometers away from Ferizaj. In reality, Selami BEQIRI, who is the brother in law of Haki ISUFI, had been previously contacted by Fikret MURATI and had agreed to make available for the perpetrators his car, with the agreement that later in the afternoon he would have gone to the police station to report the theft. Moreover, it is not credible that the defendant's son, who was thirteen (13) years old, had taken the car in the morning at 07:30 to go to school, which is distant only one kilometer and a half from the family house. Especially as the father has also affirmed that he did not use the tractor the same day to go to the fields, which are also distant a couple of kilometers, because it would have been cheaper to go on foot. In that respect, also the witnesses HA and NH have stated that they had

seen the defendant's son driving the tractor sometimes but never the car. Finally, as to what the credibility of the defendant's statements concern, it is very difficult to imagine that somebody would always leave the car, even at night time, with the doors open and the keys inserted, especially inside a courtyard with the gates left open as well.

The witnesses called by the defence have not made statements which are to be considered of great relevance as well.

In particular, the witness NH, a farmer of the same village of Selami BEQIRI, has recalled to have been working with him in the fields from 08:30 to 14:00, one day in June. The witness has not been able to remember which day of June.

This is the relevant passage of the testimony:

Bajram Krasniqi: Not going into details because of the condition of the witness but does he remembers picking up Selami with your tractor, which day?

NH: I can't remember.

Bajram Krasniqi: Do you remember if you picked up Mr Selami some times?

NH: Yes.

Bajram Krasniqi: That day you picked him up, do you remember whether he was accompanied with someone else? Who was Selami with on that day?

NH: He was accompanied by his wife.

Bajram Krasniqi: After you picked them up, where did you go?

NH: We went together to work on the land.

Bajram Krasniqi: Did Selami say where he was going when you picked him up with his wife,

NH: I just took him to the field where he was supposed to work.

Bajram Krasniqi: What was the time when you picked him up?

NH: 8.30.

Bajram Krasniqi: How long did you stay on the field working?

NH: We worked until 0200 pm and then it started raining. That's why we left the field.

The witness HA has only referred that in one occasion in June Selami BEQIRI had bought some material from his shop. Also in this case, the witness has not been able to remember which day of June:

Bajram Krasniqi: Has Selami ever come into your shop to buy something?

HA: Sometimes when he passes by he buys things.

Bajram Krasniqi: Can you recall the last time he bought at your shop?

HA: The last time was in June when we were working the fields. It is a special activity that takes place.

Bajram Krasniqi: The last time that he was at your shop what did he buy?

HA: He brought two juices, two cakes and a packet of cigarettes.

The statements of the co-accused Fikret MURATI given to the police on the 10th of June 2008, clarify the role of Selami BEQIRI in the event. The said statements have been already entirely reported above, so that now only a relevant passage follows:

With whom did Selami agree to give the car to the bank robbers?

-Haki told me to call Selami with my phone, to go to Terpeze and to reach an agreement about the car.

-Have you been present at the time Selami arrived there and what was discussed there?

-Selami came in Terpeze on Sunday, and me, Haki and Selami met in the village, there those two agreed that Selami will leave the car at the yard of the house unlocked and also

will leave the keys into the car for Xhelal to come and get it in the morning. And that is how it was decided, that Selami leave the car as they agreed.

-Was there discussed with Selami what to do about the vehicle?

-Yes, Haki told Selami that: "Around 09:30 hrs you go to the Police and report as your car has been stolen", and Selami accepted.

As a matter of fact, it stems out from the metering of the phone calls that the defendant Selami BEQIRI had phone contacts, in the night of the 8th of June 2008, with both Faruk ADEMI and Fikret MURATI.

From all the above mentioned pieces of evidence, the Court considered to have been proved beyond any reasonable doubt the criminal responsibility of the defendant Selami BEQIRI. The defendant has provided assistance, pursuant to Article 25 of the CKK, to the perpetrators of a criminal act, which shall be rightly qualified as robbery, contrary to Article 255 (1)-(3) of the CCK, by fulfilling both the material element (*actus rei*) and psychological element (*dolus*) of such crime. He has been the one to provide the perpetrator Xhelal AZIZI, with the car, a green coloured Golf, plate number 202-KS-943, which has been used during the bank robbery, with the previous agreement that on the same day he would later on report the case to the police for the theft of the car.

7. The criminal responsibility of Faruk ADEMI.

The defendant Faruk ADEMI is also responsible for the Pro Credit bank robbery of the 9th of June 2008. Indeed, on the request of the co-worker, Fatos AZIZI, he joined the co-perpetrator Xhelal AZIZI to the forest, with his car, an Opel Vectra, in order to hide the two Pro-Credit bags there and to put the money in a sport cherry coloured bag.

On the 7th of July 2008, the defendant Faruk ADEMI, at the presence of the defense counsel of his choice, Sahit MUSA, gave the following statements:

"Fatos Azizi is my friend. The day that the bank robbery in Ferizaj happened, he asked me to go with him in Ferizaj, because someone owe some money to him. At around 07.00 am myself with my own car "Opell Vectra" cherry color and Fatos with his car "Golf", white color, left for Ferizaj. Both of us are living in the village of Kabash, municipality of Vitia. When we have arrived in Ferizaj, Fatos told me that I have to wait near hospital, at the Medical Center, which is located at the Gjilani street. Fatos since the moment that we left told me that I have to wait at that place.

Accept myself and Fatos that we have traveled by our own cars was and another car "Mercedes". Some of the Fatos friends whom I did not know. I went at the place where Fatos asked me to go, but they went somewhere else. I don't know where. I have been waited for around half-hour. When they came, there were some other man, but Fatos was not with them. These two persons came with a green color "Golf". There were two people that I did not know them. At the beginning they have opened the car boot of my car and put it two bags, while I was staying inside the car. One of them entered my car and on the hand had a revolver, while the other person remained in the "Golf". As soon as he entered the car this person have ordered me with the loud voice "Leave quickly".

We left for Vitia and when we have arrived at the village of Zllatar, he told me to stop the car. The place where we have stopped was a forest. After we have stopped there this person have pulled two bags from the car boot, forcibly he opened the bags, took the money out and placed in other bag, which he took with himself. He did not counted the money, but immediately we walked away. After a while. Again we have stopped at a nearby other forest, he opened the bag and took a quantity of money and put it in the pocket. He gave it money and to myself. He gave me 3.000 euro's and some dollars. I don't know how much. These money I have put it in my pocket.

After this, again this person have ordered me to walk with him, therefore I carried on and we walked until near the village of Tërpeze. In reality, this person took me by force. I was scared by him because he had a revolver with him. During the journey few times I told him that I am returning, and at once he told me to go. I went to the road of Sllakovci, jumped on one tractor, and then with the car of the unknown person and I went home. After the conversation, Fatos came to me with a car. There Fatos called me and after the conversation, he took me and with its own car we went to the village of Zllatar to take my car. During the journey I told him everything what has happened having blame him for this.

In the beginning, Fatos did not promised me any money and never told me about the bank robbery, but now Fatos gave me 1000 euro's. After two hours Fatos have brought it these money at home. Also I told to Fatos that I did took other money from that person with whom I have traveled.

Day after, I went at my friends, at the village of Mirosal. Police called me and then I have gave myself up, handed money and accompanied the police officers at the scene where the bank bags were left.

On the questions, the defendant answers: when Fatos gave me 1000 euro's, did not told me where he took that money. Accept Fatos I do not know non of the people against whom investigations are taking place, including and myself. At the moment the person entered my car did not had any gloves or mask. During the journey this person told me that he have forgot it some gloves in other car, he asked me for the telephone to speak with someone, but when he took the phone told me that does not know his telephone number.

On the question of its defense lawyer, defendant answers: If I would know that that day was planned the bank robbery, I would never agreed to go with them. Two people with "Golf" did came very fast, even they did overtook my car because did not knew that I am the person waiting for them. In the village of Zllatar he moved money from two bags in other bag. After we left he returned again and covered the bags with the oak. Since the beginning this person came shouting, because it looked like both of them have planned to enter my car, but at the end one of them separated. The person who traveled with me, since he entered the car he kept the revolver on his hand. Since the moment that I have understood what had happened, I regret it for what I have done.

This is my statement. I have nothing else what to declare. It has been read to me and the same one I sign it with no objection."

The defendant Faruk ADEMI has also been examined in Court. This is an excerpt from the minutes of his examination:

Public Prosecutor: Where do you live?

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Faruk Ademi: In the village of Kabash.

Public Prosecutor: Do you know Fatos Azizi?

Faruk Ademi: Yes.

Public Prosecutor: Where is he from?

Faruk Ademi: The same village.

Public Prosecutor: On the day of the event, when did you leave your home?

Faruk Ademi: Not sure, about 7.30.

Public Prosecutor: Who did you leave with?

Faruk Ademi: I was on my home.

Public Prosecutor: Why did you go to Ferizaj?

Faruk Ademi: To buy a few tiles.

.....(omissis).....

Public Prosecutor: What car were you driving when you left for Ferizaj?

Faruk Ademi: My car, an Opel Vectra, which is burgundy.

Public Prosecutor: Was anyone else with you?

Faruk Ademi: No, I left alone.

Public Prosecutor: During the investigation you stated that Fatos Azizi also left in his own vehicle.

Faruk Ademi: I have made this statement at the police because they forced me and I stated what they told me to say. As far as the prosecution is concerned, I did not know how this business develops nor that I had the right to defend myself.

Public Prosecutor: Did you go to Ferizaj?

Faruk Ademi: Yes.

Public Prosecutor: What did you do there?

Faruk Ademi: I was looking for tiles that I was missing.

Public Prosecutor: Did you park your car somewhere?

Faruk Ademi: Yes.

Public Prosecutor: Where?

Faruk Ademi: In front of a tile shop.

Public Prosecutor: During the investigation, you stated that Fatos Azizi told you to wait for him in front of the health centre in Ferizaj.

Faruk Ademi: I previously told you that I did not know I could change my statement as they could have taken me back to the police and beat me up again.

Public Prosecutor: When you made this statement did you have Defence Counsel present or not?

Faruk Ademi: The Defence Counsel did not tell me I could change my statement.

Public Prosecutor: Did you choose this Defence Counsel, or was he appointed as official duty?

Faruk Ademi: My wife found him.

Public Prosecutor: You are saying today that you stopped outside a shop, then what happened?

Faruk Ademi: At the moment I tried to get in the car, a car came behind and blocked me.

Public Prosecutor: What kind of car?

Faruk Ademi: A yellow one.

Public Prosecutor: What do you mean by yellow?

Faruk Ademi: I am sorry, I meant blue.

Public Prosecutor: What kind of car?

Faruk Ademi: I don't know.

Public Prosecutor: What happened?

Faruk Ademi: A person in that car got out and got into the back of mine.

Public Prosecutor: Did you know them?

Faruk Ademi: No.

Public Prosecutor: What happened when he entered your car?

Faruk Ademi: He just opened the back and got in.

Public Prosecutor: Did he have something with him?

Faruk Ademi: Yes, he had two bags and when he got in he told me to drive.

Public Prosecutor: What did he do with the bags?

Faruk Ademi: He put them in the back seat and he had a revolver in his hand.

Public Prosecutor: Did he say something?

Faruk Ademi: He told me not to turn my head, but just to drive.

Public Prosecutor: Did he tell you where to drive to?

Faruk Ademi: He told me to follow the Gjilan road.

Public Prosecutor: Where did you go?

Faruk Ademi: When we arrived at Village Dardania, previously Tankosic, he told me to take a turn on the left on an unpaved road.

Public Prosecutor: How did he order you?

Faruk Ademi: He told me, "Turn left here."

Public Prosecutor: And you went where?

Faruk Ademi: We continued for a kilometre and there was a mountain on the side of the road; there he told me to stop.

Public Prosecutor: What did he do?

Faruk Ademi: Picked up the bags and got out of the car.

Public Prosecutor: What did he do with the bags?

Faruk Ademi: He picked them up and continued walking the mountain and I went with my car back home. When I arrived home I looked at the back of my car to see if he had left anything, like a weapon or something. I saw there was no weapon, but there was some money under the seat I was sitting in.

Presiding Judge: How much money?

Faruk Ademi: I don't know.

Public Prosecutor: How did you get back home that day?

Faruk Ademi: With my own car.

Public Prosecutor: I can only say to you that you have given a completely different statement to that you gave to the prosecution, dated 7 July 2008. If the court would allow me, I can remind the defendant of his statement on that day.

Presiding Judge: Yes.

.....(omissis).....

Public Prosecutor: Apart from Fatos, do you know the rest of the people here?

Faruk Ademi: I have never seen them before.

.....(omissis).....

Sulejman Nuredini: You mentioned that someone gave you some money?

Faruk Ademi: No.

Sulejman Nuredini: What is the truth. Did someone give you it or leave it?

Faruk Ademi: When I went back home, I saw the money stuck in the back of my car seat.

Sulejman Nuredini: Where was the money put? What was it inside?

Faruk Ademi: The money was located in the foot compartment of the other seat, in the back.

Sulejman Nuredini: Was this money put inside a bag, inside something like that?

Faruk Ademi: No, the money was just on the floor.

Sulejman Nuredini: As you said, you then hid this money?

Faruk Ademi: I thought this person would come back and ask me for the money.

Sulejman Nuredini: Is that why you hid it in that yard?

Faruk Ademi: I took the money out of my pocket and hid the money not far from the place I was working.

It is the conviction of this Court that the statements of Faruk ADEMI given in Court are not credible and they do not match the reality of the events. The story of his car being stopped by an unknown armed man and of this man forcing him to go to the forest is blatantly not credible. It would be contrary to the logic and not realistic that the perpetrators of a bank robbery would not organize the needed mean of transportation and they would instead take the risk to stop a car on the public street. Even less credible is that the perpetrator would leave the amount of 3.000 (three thousands) euros behind the driver's seat of the car. Finally, no reasonable explanation has been provided by the defendant for the changes of the statements taken by the public prosecutor. The defendant has claimed that he was not informed that he could have changed his statements at a later stage and that he was forced to sign the statements, fearing that he could be beaten up by

the police. In that respect, suffice it to say that the defense counsel of his choice was present at the time when the statements were taken in front of the Public Prosecutor.

In reality, Faruk ADEMI, who is a co-worker of Fatos AZIZI, had been previously contacted by the latter and had agreed to join Xhelal AZIZI to the forest, with his car, an Opel Vectra, in order to dig the two Pro-Credit bags there and put the money in a sport cherry coloured bag. As a reward, he was given the sum of 3.000 EURO and some US dollars. This money were later recovered and confiscated as a result of a search implemented by the police, as it is shown in the pictures 136-143, 152 of the forensic police report VN#46-08 of the 9th of June 2008.

Moreover, the statements of Fikret MURATI given to the police on the 10th of June 2008 do also shed light on the on the role and responsibility of Faruk ADEMI in the bank robbery: These statements have been already entirely reported above, so that now only a relevant passage follows:

-To what extent Fatos is involved in this case?

-As far as I know, Fatos has found the person whose task was to take them away from Ferizaj and for this he would get 10000 euro, and out of this money Fatos was supposed to pay the person with Vectra vehicle.-

-Do you know where does the person with Vectra come from?

-As far as I know he was from Kabash village, Viti, but I don't know his name.

Finally, the results of the metering of the phone calls showed a number of phone contacts between Faruk ADEMI and the co-perpetrators, Fikret MURATI and Fatos AZIZI, on the 9th of June 2009, starting from 08:19, approximately ten (10) minutes after the bank robbery occurred.

In particular, from the metering of the phone calls:

On 09.06.2008 at 08:19:52 the 44783xxx was called by Fikret Murati 44534xxx.
On 09.06.2008 at 08:31:44 the 44783xxx was called by Fikret Murati 44534xxx.
On 09.06.2008 at 08:46:10 the 44783xxx was called by Fikret Murati 44534xxx.
On 09.06.2008 at 09:46:10 the 44783xxx was called by Fikret Murati 44534xxx.
On 09.06.2008 at 09:51:08 the 44783xxx was called by Fikret Murati 44534xxx.
On 09.06.2008 at 10:01:15 the 44783xxx was called by Fikret Murati 44534xxx.
On 09.06.2008 at 10:12:29 the 44783xxx was called by Fikret Murati 44534xxx.
On 09.06.2008 at 10:16:22 the 44783xxx was called by Fikret Murati 44534xxx.
On 09.06.2008 at 10:11:58 from 44783xxx called Fikret Murati at 44534xxx.
On 09.06.2008 at 10:13:56 from 44783xxx called Fikret Murati at 44534xxx.
On 09.06.2008 at 10:26:04 from 44783xxx called Fatos Azizi at 49668xxx.
On 09.06.2008 at 11:10:15 from 44783xxx called Fatos Azizi at 49668xxx.
On 09.06.2008 at 11:38:02 from 44783xxx called Fatos Azizi at 49668xxx.
On 09.06.2008 at 20:52:37 from 44783xxx called Fatos Azizi at 49668xxx.
On 09.06.2008 at 20:59:51 from 44783xxx called Fatos Azizi at 49668xxx.
On 09.06.2008 at 21:06:24 from 44783xxx called Fatos Azizi at 49668xxx.
On 09.06.2008 at 21:07:48 from 44783xxx called Fatos Azizi at 49668xxx.
On 09.06.2008 at 21:09:27 from 44783xxx called Fatos Azizi at 49668xxx.
On 09.06.2008 at 21:10:39 from 44783xxx called Fatos Azizi at 49668xxx.
On 09.06.2008 at 21:23:37 from 44783xxx called Fikret Murati at 44534xxx.

The defendant, examined in Court, was not able to provide any reasonable explanation whatsoever of the phone contacts with Fikret MURATI, firstly denying that such calls did ever take place and later, when confronted with the results of the metering of the phone calls, claiming that the kids would sometime play with his phone.

An excerpt from the minutes of the examination follows:

.....(omissis).....

Andrea Cruciani: Do you know Fikret Marati?

Faruk Ademi: No.

Andrea Cruciani: Did you ever call him on the phone?

Faruk Ademi: No, I have not called him.

Andrea Cruciani: What is your telephone number?

Faruk Ademi: I can not remember, it has been 9 months now.

Andrea Cruciani: If I tell you the number, would you recognise it?

Faruk Ademi: Maybe.

Andrea Cruciani: The number is 044 783 xxx.

Faruk Ademi: Yes, that is my number.

Andrea Cruciani: Your number was subject to telephone metering. You had telephone contact with Fikret Marati on the 9th June 2008 for around 8 times. Can you explain these calls to the court?

Faruk Ademi: While this person got in my car, he asked me whether I had a phone. I gave him my phone.

Andrea Cruciani: Which day are you talking about?

Faruk Ademi: I refer to the day this person got in my car.

Andrea Cruciani: Which day?

Faruk Ademi: I can't remember.

Presiding Judge: The day of the robbery?

Andrea Cruciani: At what time did this event take place, when the person got in your car?

Faruk Ademi: It was in the morning, around 9 o'clock. I cannot remember. It was perhaps 8 or 9.

Andrea Cruciani: The first call is at 8.19. That is 10 minutes after the bank robbery took place. The last call as at 10.16.

Presiding Judge: That is a period of two hours.

Faruk Ademi: Can I then have the right to know what number I have called in these times?

Andrea Cruciani: The number of a person Fikret Marati. The number is 044 53 4xxx.

Faruk Ademi: I do not recognise his number. I have not got this phone number in my contact book as a contact of mine.

Andrea Cruciani: You say then that your telephone was taken by the person who got in your car?

Faruk Ademi: Yes.

Andrea Cruciani: On the same day you received some SMS message on your phone. From Fikret Marati. The same number. How is that possible?

Faruk Ademi: I do not know Fikret Marati. As far as I remember a message came to my phone. I cannot remember its content.

Andrea Cruciani: Its content was "where are you?"

Faruk Ademi: I cannot remember the content of this message.

Presiding Judge: All this happened in the morning of the 9th June of last year. How long did it last, this driving to the forest and all from Ferizaj? How long? How long did you stay together with this bad guy?

Faruk Ademi: I must have been with him for 30 minutes. I cannot remember. This is an estimate.

Presiding Judge: Apparently the telephone calls to Fikret Marati lasted 2 hours. How is it possible? Not the messages, the telephone calls themselves.

Faruk Ademi: The person who got in my car had the telephone, but I do not know who he called. I did not speak to anyone.

Presiding Judge: But for 2 hours? He called Fikret Marati for 2 hours, not 30 minutes.

Faruk Ademi: Who has called him? Have I called him or has he called me?

Presiding Judge: Your telephone. To the telephone of Fikret Marati.

Faruk Ademi: When I came home my kids could have picked it up. They often play with it.

From all the above mentioned pieces of evidence, the Court considers to have been proved beyond any reasonable doubt the criminal responsibility of the defendant Faruk ADEMI. The defendant has taken part in a criminal act, which shall be rightly qualified as robbery, contrary to Article 255 (1)-(3) of the CCK, by fulfilling both the material element (*actus rei*) and psychological element (*dolus*) of such crime. He has been the one to join the co-perpetrator Xhelal AZIZI to the forest, with his car, an Opel Vectra, in order to hide the two Pro-Credit bags there and to put the money in a sport cherry coloured bag. As a reward, he was given the sum of 3.000 EURO and some US dollars.

8. The sentencing

8.1. The sentence for Burim BERISHA.

As to what concerns the sentence imposed on the defendant Burim BERISHA, the Court has taken into due consideration, in relation to all the charges, the circumstances mentioned in Article 64 of the CCK and specifically the high degree of criminal responsibility, emerging from the his outstanding and pivotal role in the bank robbery. He has been the one that has provided directions to all the other defendants and that, together with the defendant at large Xhelal AZIZI, has entered the bank holding a gun and taking the money from the bank. He has taken advantage of his privileged position as a supervisor of the security guards of the bank, with all the confidential information that he was entrusted with, and abused his position for criminal activities with the intent to obtain a material benefit for himself.

The defendant never admitted the criminal responsibility at any stage of the criminal proceeding and never showed any sign of regret for the crime committed.

Therefore, pursuant to articles 38 and of the 71 CCK, the punishment shall be equitably determined as follows:

- imprisonment of five (5) years and six (6) months for the charge of robbery contrary to article 255 (1) (2) and 23 CCK;
- imprisonment of one (1) year for the charge of unauthorized possession and use of weapons contrary to article 328 (2) CCK;
- imprisonment of six (6) years, as the final aggregated punishment, pursuant to article 71 CCK.

The time spent by the accused in detention on remand shall be included in the amount of the punishment.

8.2. The sentence for Haki ISUFI.

As for the accused Haki ISUFI, the Court has taken also into due consideration all the circumstances mentioned in Article 64 of the CCK and specifically the high degree of his criminal responsibility, emerging from his pivotal activity of support of the actions of

Burim BERISHA and Xhelal AZIZI. In particular, Haki ISUFI has asked to Fikret MURATI to find another person together with whom Burim BERISHA would have robbed the bank and has then he provided all the further necessary support to Burim BERISHA after the bank robbery was realized in order to secure the money. Indeed, Haki ISUFI also went to the uncles'house of Fikret MURATI to check whether the bag with the money had been safely kept there. Furthermore, he contacted his brother in law Selami BEQIRI to provide the car that has been used for the bank robbery.

The defendant never admitted the criminal responsibility at any stage of the criminal proceeding and never showed any sign of regret for the crime committed.

Pursuant to Article 38 CCK, the punishment for the charge of robbery, contrary to article 255 (1) (2) and 23 CCK, shall be equitably determined in imprisonment of five (5) years.

The time spent by the accused in detention on remand shall be included in the amount of the punishment.

8.3. The sentence for Fikret MURATI

Concerning the position of the accused Fikret MURATI, the Court has taken into due consideration all the circumstances mentioned in Article 64 of the CCK, with particular reference to the cooperative attitude of the defendant during the all course of investigations and the criminal proceeding. The defendant's statements during the investigations have been of crucial importance to shed light on the role and responsibilities of the other defendants, thus facilitating the course of justice.

Pursuant to Article 38 CCK, the punishment for the charge of robbery, contrary to article 255 (1) (2) and 23 CCK shall be equitably determined in imprisonment of two (2) years.

The time spent by the accused in detention on remand shall be included in the amount of the punishment.

8.4. The sentence for Fatos AZIZI

Concerning the position of the accused Fatos AZIZI, the Court takes into due consideration all the circumstances mentioned in Article 64 of the CCK and specifically his significant role in the bank robbery, being the one, upon the request of Haki ISUFI, to contact the co-worker Faruk ADEMI for the latter to join Xhelal AZIZI to the forest to leave the Pro-Credit bags and put the money in the sport cherry coloured bag.

The defendant never admitted the criminal responsibility at any stage of the criminal proceeding and never showed any sign of regret for the crime committed.

Pursuant to Article 38 CCK, the punishment for the charge of robbery, contrary to article 255 (1) (2) and 23 CCK shall be equitably determined in imprisonment of four (4) years and six (6) months.

The time spent by the accused in detention on remand and shall be included in the amount of the punishment.

8.5. The sentence for Selami BEQIRI

Concerning the position of the accused Selami BEQIRI, the Court has taken into due consideration all the circumstances mentioned in Article 64 of the CCK and in particular his quite limited role played in the bank robbery, which mainly consisted in providing assistance to the perpetrators by making available to them his car to be used for the robbery.

The defendant never admitted the criminal responsibility at any stage of the criminal proceeding and never showed any sign of regret for the crime committed.

Pursuant to Article 38 CCK, the punishment for the charge of robbery, contrary to article 255 (1) (2) and 25 CCK shall be equitably determined in imprisonment of two (2) years and six (6) months.

The time spent by the accused in detention on remand shall be included in the amount of the punishment.

8.6. The sentence for Faruk ADEMI

Concerning the position of the accused Faruk ADEMI, the Court has taken into due consideration all the circumstances mentioned in Article 64 of the CCK and specifically his significant role in the bank robbery, being the one, upon the request of Fatos AZIZI, to join Xhelal AZIZI to the forest to hide the Pro-Credit bags there and to put the money in the sport cherry coloured bag.

The defendant never admitted the criminal responsibility at any stage of the criminal proceeding and never showed any sign of regret for the crime committed.

Pursuant to Article 38 CCK, the punishment for the charge of robbery, contrary to article 255 (1) (2) and 23 CCK shall be equitably determined in imprisonment of four (4) years and six (6) months.

The time spent by the accused in detention on remand shall be included in the amount of the punishment.

9. Property Claim

The accused, cumulatively and jointly, shall compensate the injured party (Pro Credit bank), for all the caused damages, which are determined, following the request of the injured party, in EURO 44.742,11 and US DOLLARS 4.900. The exact amount of the money which have not been recovered and which have been taken by the defendant at large Xhalil AZIZI has been determined in the police report 2008-CF-1336 of the 17th of June 2008 and the documentation of the Pro-Credit Bank of the 17th of June 2008. From this reports it stems out that the amount of money stolen from the bank was of: 54.896,00 EURO (cash box 03), 56.222,35 EURO (cash box 04), for a total of 111.182,91 EURO; 158.993,00 USD (cash box 03), 37.896,00 USD (cash box 04), for a total of 196.889,00 USD; 40,00 CHF (cash box 03); the money recovered by the police was of 66.450,80 EURO; 191.989,00 USD; 40,00 CHF; thus, the amount of money still missing is 44.742,11 EURO and 4.900,00 USD.

10. Confiscation

Pursuant to article 60 CCK and 489 KCCP, the revolver brand Ceska Zbrojevka, model VZOR 50, caliber 7,65 x 17 mm, serial number D-30238 of Check production; 15 bullets caliber 15 mm; the vehicle Volkswagen model Golf number plate 202 KS 943 and the vehicle Opel model Vectra number plate 344 KS 315 are confiscated, as they had all been used by the defendants to realize the bank robbery in Ferizaj.

11. The costs of the criminal proceeding.

Pursuant to Articles 102, Paragraphs 1 and 3, and 391, Paragraph 1 item 6), of the KCCP, all the defendants are jointly and severally liable for the costs of the criminal proceeding and must reimburse them according to a list of the costs which will be determined in due time.

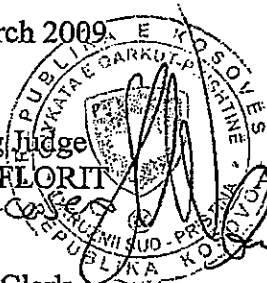
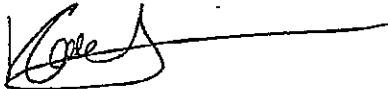
Pursuant to Article 100, Paragraph 2, of the KCCP, since the data of the amount of the costs is lacking a separate ruling on the amount of the costs shall be rendered.

The defendants are obliged to compensate the general costs of the proceedings, which are determined in EURO 500,00.

16th of March 2009.

Presiding Judge
Francesco FLORIT

Recording Clerk
Liz BATEMAN



Panel Member
Andrea CRUCIANI



Panel Member
Sylejman NUREDI



Legal remedy

Pursuant to article 400 (1) KCCP, an appeal must be announced within 8 days from the announcement of this verdict and, according to article 398(1) KCCP, the appeal shall be filed with this Court within 15 days from the date the copy of the judgment has been served to the parties.