

District Court of Prishtinë/Priština

P. Nr. 605/2008

4 August 2010

IN THE NAME OF THE PEOPLE

The District Court of Prishtinë/Priština panel composed of presiding judge of the trial panel, Arkadiusz Sedek, EULEX judge, Judges Malcolm Simmons, EULEX judge and Hamdi Ibrahim, Kosovo Judge as panel members, assisted by court recorder Svetoslava Savova in the criminal case against the defendant:

Hasan Beqiri son of Behram and Ajmone, maiden name Meholli, born on 20 March 1942 in the village of Bajgora, Municipality of Mitrovica, permanent resident of the village of Babimost, Municipality of Obiliq, merchant, married, father of 11 children, completed four years of school, of average economic status, Kosovo Albanian, in detention from 10 May 2006,

Charged with criminal acts as in the indictment of the Public Prosecutor, filed with the court on 3 August 2006 and amended orally on 3 August 2010;

- 1) Aggravated murder pursuant to article 147, paragraph 1, item 11 of the CCK and
- 2) Unauthorized ownership, control possession or use of weapons pursuant to article 328, paragraph 2 of the CCK.

After the public trial held on 3, 10 and 14 December 2009, 10 February 2010, 31 March 2010, 8 and 23 April 2010, 21 May 2010, 15 June 2010 (reconstruction of the crime scene), 3 and 4 August 2010 in the presence of the District Public Prosecutor Mr. Lulzim Sylejmani, the Accused and the Defence Counsels Shahin Bajgora and Xhafer Maliqi, publicly announced the following:

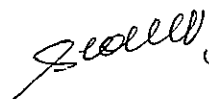
JUDGMENT

The defendant Hasan Beqiri with personal details as above **is found guilty** of the criminal offence of **Aggravated murder** pursuant to article 147, paragraph 1 item 11 of the Criminal Code of Kosovo.

Because

On 10 October 2005, around 16:00 hrs, in the village of Babinmost, Municipality of Obiliq, in the parcel of the land located on the main road Prishtinë/Priština – Mitrovicë/a, willingly after an instantaneous quarrel murdered Ardian Leci and Dritan Leci.

On the day in question the defendant was ploughing and planting wheat with the help of the tractor driver Aleksandar Trajkovic. A verbal disagreement started between Ardian, Dritan



and Artan Leci and the defendant Hasan Beqiri regarding ownership of the land the defendant was working. After the verbal disagreement the defendant was dragged by the victims out of the field to the side road. At no time during the altercation was either victim armed with a weapon of any description. The victims then walked away from the defendant. Having been removed from the land by the victims the defendant was humiliated and angry. He retaliated by using his handgun "TT" of caliber 7,62 x 25mm, without a valid permit, and from a distance of approximately 6-7 meters, fired three (3) times in the direction of the late Ardian Leci as a consequence the bullets (2) caused him hemorrhagic injuries, termination of aorta functions, perforated penetration of a bullet on the chest and abdomen as a consequence of which he died on 11 October 2005 at 03.05 hrs, and in direction of Dritan Leci to whom with a single bullet the accused has caused injuries to the head and chest and as a consequence of shock, hemorrhagic and penetrating wound Dritan Leci died on 10 October 2005 at around 17.30 hrs.

The defendant Hasan Beqiri is **guilty** of the criminal offence of **unauthorized ownership, control, possession or use of weapons** pursuant to article 328, paragraph 2 of the Criminal Code of Kosovo.

Because

For an indefinite time until the 10th of October 2005, the defendant Hasan Beqiri has possessed, the handgun, "TT" of caliber 7, 62 x 25mm, without a valid license for its possession and use.

For the above mentioned reasons the Panel issues the following

SENTENCE

Pursuant to article 37 of the Criminal Code of Kosovo and article 147 paragraph 1 item 11 is sentenced to imprisonment of twenty two (22) years;

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

Pursuant to Article 71 paragraph 1 and 2, item 1 of the Criminal Code of Kosovo the defendant Hasan Beqiri **shall serve an aggregate term of imprisonment of twenty two (22) years.**

The time Hasan Beqiri spent in detention on remand from 10 May 2006 until the judgment becomes final will be counted as part of the imprisonment sentence pursuant to Article 73 of the CCK.

REASONING

Procedural History

The defendant Hasan Beqiri was arrested on 10 May 2006.

District Public Prosecutor of Prishtinë/Priština, filed an indictment PP. Nr. 770-1/2005, and dated of 3 August 2006, against the defendant Hasan Beqiri for the above criminal acts.

The previous (first) main trial commenced on 12 January 2007 before a panel composed of five (5) judges with presiding judge Raif Emini. The main trial then continued on 1 March 2007, 20 April 2007, 1 June 2007, 20 June 2007 and 22 June 2007.

On 22 July 2007 the panel of the District Court of Prishtinë/Priština found the defendant guilty of two counts of murder and unauthorized ownership, control possession or use of weapons. The panel sentenced him to long term imprisonment of 22 (twenty two) years.

On 27 August 2008 the Supreme Court of Kosovo ordered a retrial, acting upon the appeals of defence and prosecution. In addition the Supreme Court of Kosovo ruled that the defendant remains in detention without setting a time frame for its review.

On 3 July 2009, upon the request of the defence attorney of the defendant Shahin Bajgora, the President of the Assembly of EULEX judges assigned the case to the EULEX judges of the District Court of Prishtinë/Priština.

On 17 November 2009 the presiding judge conducted a hearing on detention on remand pursuant to article 287 paragraph 2 of the KCCP and the principles of article 5 of the European Convention of Human Rights (ECHR). The parties were heard; the defence requested house detention and declared the ability to pay bail in the amount as set by the court. The public prosecutor reiterated the need for detention on remand pursuant to the law. The presiding judge ruled that the defendant shall remain in detention for further two (2) months.

The retrial against Hasan Beqiri commenced on 3 December 2009. The trial panel heard the reading of the indictment and the defendant pleaded not guilty to the charge of aggregated murder and guilty to the charge of unlawful possession of weapon.

The retrial continued on 10 December 2009. The trial panel heard the testimony of witnesses: Rahman Leci, Artan Leci and Aleksander Trajkovič.

The retrial continued on 14 December 2009. The trial panel heard the testimony of expert witnesses Dr Tefik Gashi and Hazir Kelmendi.

The retrial continued on 10 February 2010. The trial panel heard the parties for their views to supplement the evidentiary proceedings and decided to summon the following persons: Remzi Halimi, Blerim Gashi, Bekim Gashi and Burim Osmanaj, all Kosovo Police officers.

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The retrial continued on 31 March 2010. The trial session had to be postponed due to the appointment of the new Public Prosecutor who need time to prepare for the trial.

The retrial continued on 8 April 2010. The trial panel heard the testimony of witnesses Remzi Halimi, Blerim Gashi, Bekim Gashi and Burim Osmanaj in their capacity as investigating police officers.

The retrial continued on 23 April 2010. The trial panel recalled Burim Osmanaj and heard his testimony in relation to the vehicle Golf II that was confiscated, the clothes of the deceased and whether a screwdriver was recovered. The panel in addition ruled to administer the following documents as evidence:

- Forensic and Ballistic expertise by Dr Tefik Gashi and Hazir Kelmendi dated 1 June 2007 and sketch;
- Explanatory/supplementary report of ballistic expert Mr Hazir Kelmendi dated 16 December 2009 and sketch with additional explanations;
- Autopsy report with OMPF ref no. MA 05-174 regarding Driton Leci dated 30 October 2005 by Dr Ananda Samarasekera;
- Autopsy report with OMPF ref no. MA 05-175 regarding Ardian Leci dated 10 November 2005 by Dr Ananda Samarasekera;
- Laboratory report no. 2010-0321 dated 9 April 2010 with reference no. 511-01-115/1-2545/10.VN from Republic of Croatia, Forensic Science Centre, "Ivan Vučetić", Traseology Department by Head of Department Vedran Nuić, B.Sc.

Police reports:

- Forensic report/ Crime Scene Sector dated 14 October 2005 with ref no. MHQF 05-2288 signed by Remzi Halimi (dated 15.10.05) and Rifadije Vrajolli (dated 21/10/05), sketch and the description of the photographs, labelled 1 to 15, report dated 18 October 2005 by police officer Bekim Gashi.

First main trial minutes:

12 January 2007
1 March 2007
20 April 2007
1 June 2007
20 June 2007
22 June 2007.

- Statement of Artan Leci dated 23 May 2006.
- Statement of Aleksander Trajkovic dated 1 August 2006.
- Statement of Dragoljub Laziq dated 11 October 2005.
- Statement of Miladen Laziq dated 11 October 2005.
- Statement Hajzer Mustafa dated 22 October 2005.
- Contract on purchase of property between Dragoljub Lazic as seller and Behxhet Latifi as buyer; 2 pages conducted on 20 September 2005 at the Municipal Court of Prishtinë/Priština, bearing VRNR 7435/2005 reference number.

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The retrial continued on 21 May 2010. The trial panel heard the partial testimony of the defendant Hasan Beqiri. The panel ruled that there was a need for reconstruction of the crime scene and ordered such event.

On 15 June 2010 the reconstruction of the crime scene took place. The event of 10 October 2005 was recounted by the defendant and then the police marked the crime scene according to the testimony of the defendant. The second markings were done according to the police report and sketch.

The retrial continued on 3 August 2010. The trial panel heard the testimony of the defendant and the closing speeches of Public Prosecutor, representative of injured party, defence attorneys and the defendant. The trial panel ruled that the **police report** prepared by police officer Rexhepi Xhemail on 14th October 2005 and statement of the witness Dragoljub Lazic and statement of the witness Hazir Mustafa are **read into the record and admitted as evidence**. The indictment was lastly orally amended during the main trial on 3 August 2010 to include the words: **“after having an instantaneous argument among the defendant and the now two deceased Ardian Leci and Dritan Leci, and Artan Leci”**...

The retrial concluded on 4 August 2010 with announcement of judgment by the presiding judge alone.

Factual findings

The court established the following facts:

The defendant Hasan Beqiri lived in Germany since the year 1984 and returned to Kosovo in the year 2002.

The defendant Hasan Beqiri went to the land in issue at 08.30 am on 10 October 2005 with Aleksander (Aca) Trajkovič who came with his tractor to plough the land so Hasan Beqiri can plant wheat.

The land is located in the Prishtinë/Priština – Mitrovicë/a highway in the village of Babinmost.

Hasan Beqiri and Aleksander Trajkovič worked the land uninterrupted, with occasional trips to collect tools and materials, until around 16.00 hrs when the three Leci brothers arrived, namely Driton Leci, Artan Leci and Ardian Leci. The Leci brother arrived with the vehicle VW Golf II, white in colour with registration plate 125-KS-143.

The defendant Hasan Beqiri possessed his handgun “TT” of calibre 7,62x25mm at all times during the events in question, without a valid licence. Hasan Beqiri had his mobile phone on him at all times.

The ownership of the land was uncertain at the time of the event in question. The land was considered by the Leci family as their property after they had negotiated its purchase around 17 January 2001 but later on that failed, instead the parties had agreed on a lease of 5 years with the Leci family having the first option to buy once the owner Dragoljub Lazič wanted

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to sell. The land was later on bought from Draguljub Lazič by Behxhet Latifi on 20 September 2005.

Hasan Beqiri worked the land with the agreement of Behxhet Latifi.

On 10 October 2005 at around 16:00 hrs, in the village of Babinmost, Municipality of Obiliq, Ardian Leci and Dritan Leci were murdered. At this time the defendant was ploughing and planting wheat with the help of the tractor driver Aleksandar Trajkovic. A verbal disagreement started between Ardian, Dritan and Artan Leci and the defendant Hasan Beqiri regarding ownership of the land in question.

After the verbal disagreement the defendant was dragged by the victims out of the field to the side of the road. The defendant was angry towards the Leci brothers and used his handgun "TT" of caliber 7,62 x 25mm, without a valid permit, and from a distance of approximately 6-7 meters, fired three (3) times in the direction of the late Ardian Leci and in direction of Dritan Leci. The third brother Artan Leci fortunately escaped unharmed from these events.

Ardian Leci was hit by two (2) bullets which caused him hemorrhagic injuries, termination of aorta functions, perforated penetration of a bullet on the chest and abdomen as a consequence of which he died on 11 October 2005 at 03.05 hrs.

Dritan Leci was hit by a single bullet which caused injuries to the head and chest and as a consequence of shock, hemorrhagic and penetrating wound Dritan Leci died on 10 October 2005 at around 17.30 hrs.

Artan Leci during the event had taken shelter in a ditch and did not suffer any physical injuries.

The tractor driver Aleksander Trajkovic having noticed that there were some disagreements and fearing for his own safety had driven his tractor from the field and made his way home. He did not want to get involved; he was the paid help that day.

It was the defendant's case he acted in self defence. He said that one of the Leci brothers had come at him with a large screwdriver. There is no evidence in the case file to suggest that there was a screwdriver in the car or found in the field.

The defendant Hasan Beqiri after having shot the two victims left the field and went to his home in Babinmost, where he changed his clothing, took a shower. He then made arrangements to go to Tirana airport in Albania and from there to escape to Germany. On his way to Albania he disposed of his gun, after he had gone through the border and passed all security checks at the border.

The defendant sent two photographs to his lawyer, Shahin Bajgora, for the attention of the Public Prosecutor, Lulëzim Sylejmani, bearing postal stamps of Norway and stamped by a stamp of Prishtina TPC (PTK) with date 11 November 2005.

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The defendant Hasan Beqiri decided to hand himself over to Kosovo Police and travelled to Kosovo and was arrested at the Prishtinë/Priština Airport on 10 May 2006.

Legal Assessment

The panel found that the defendant Hasan Beqiri did not act in necessary defence when he committed the murders of Ardian and Dritan Leci. The panel found no elements of necessary defence in the actions of the defendant pursuant to article 8 of the CCK. The victims were not armed. The defendant Hasan Beqiri went to the land with his gun on his waist.

The panel found that even if the brothers Leci used force to remove the defendant from the land in question, the defendant's life was never at risk. Defendant did not undertake any action to avoid using his gun and committing the murders, even so he had the possibility to leave the land, could have called for help by using his mobile phone. The panel did not find any evidence that a screwdriver was used as alleged by the defendant. In the opinion of the panel there was no evidence to suggest that the defendant was beaten by the Leci brothers. The only force used by the Leci brothers was in their removing the defendant from the land in issue.

The photographs produced as evidence of violence used on the defendant were found by the panel not to be credible and therefore not reliable.

The panel found that elements of necessary defence do not exist from the objective point of view due to the fact that the defendant went to work the land armed and the panel considered that even if he feared for his life by shooting Adrian Leci (the first victim) the element of imminent danger to his life would have either ceased or diminished considerably. The defendant continued and shot the second victim (Dritan Leci). The crime scene was near to a main road, frequented by cars and people, close by there was a restaurant where he could have sought assistance or help.

Furthermore the defendant openly in court admitted that he was not scared of anyone but God which concludes that he could not have feared the Leci brothers to an extent of the necessary defence provisions.

The panel is convinced beyond any doubts that facts established in these criminal proceedings cannot be considered as **necessary defence** as per Article 8 of the Criminal Code of Kosovo that reads: ".... *An act committed in necessary defence is not a criminal offence*". Further on the legal definition necessary defence is described: "...*An act is committed in necessary defence when a person commits the act to avert unlawful, real and imminent attack from himself, herself or other person and the nature of the act is proportionate to the degree of danger posed by the attack.*"

The legal term of necessary defence requires two basis and necessary components assault-attack and resistance to assault. Both elements have to be realized under certain conditions. As for attack this is the first and initial phase of necessary defence. This is an action taken by the person through whom legally protected values of another person are harmed or jeopardized. Therefore, the objective consequence, that is to say, injury or jeopardizing of

some values need to occur. In order for such an attack could be considered as relevant in the sense of necessary defence, it needs to be realized under following conditions.

Attack should be **real** and this condition should be assessed on objective-subjective criteria. From the subjective criteria the attack is real when the attacker is aware of undertaking the activity by which legally protected assets are endangered, and in objective sense the attack is real that activity may really cause the stated consequences. It implies that the attack should be directed towards some legally protected values to name just the most significant ones- life, health and body integrity.

Additionally, the attack has to be **unlawful** and that means that the perpetrator who undertakes actions by which other person's legally protected values are being infringed or endangered did not have the legal authority for such behaviour.

Moreover, the attack has to be **imminent** in the meaning that the behaviour of the attacker resulted in his intention to attack, when he assumes a certain behaviour, that objectively assessed indicates that the attack is imminent.

Averting the attack, that is, the **defence**, is the second component of necessary defence. This is the action taken by the attacked person that is directed against the attacker in order to avert the attack and protect the endangered value, namely life and bodily integrity. It is essential that defence have to be conducted in line with following conditions:

The defence needs to be directed against the assaulter and its basic purpose should be **neutralizing** the attack. While doing it certain category of legally protected values belonging to the attacker (life, bodily integrity) should be violated and by this act the essence of some criminal act fulfilled, for example the attacker was killed or bodily injuries were inflicted. It is only then that necessary defence generates its effects as the concept of substantive criminal law.

Secondly the defence should be **simultaneous** with the attack. In this sense, it is possible to differentiate two situations: when the assault started and is imminent to start in other words the attack is about to take place. In the first case, the right to defence arises from the moment when the assault started and as long as it lasts. Whether the assault started or is still lasting is a factual question which is being resolved differently for each specific case, bearing in mind the general term of an attack as an activity (action or inaction), which is intended to harm someone's assets. It is not possible to invoke simultaneity of defence with the attack after the attack was stopped and ended. **Additionally there is no room for claiming necessary defence in the case when the attacked person harms the attacker because**

Thirdly, defence should be indispensable in the meaning that it is necessary to resist simultaneous illegal attack. The idea of this legal provision is that when resisting illegal attack the most restrained defence possible should be used and that the attacker's assets are harmed no more than necessary in other words the defence should be of the least severe character, namely the attacker's legally protected values are violated only to the extend as necessarily needed. However it is impossible to give a general definition when the defence was absolutely needed. This issue must be assessed on case by case basis. Therefore in order to properly assess if the necessary defence exists all the circumstances

in which the attack and the defence took place should be taken into consideration and then logical and reasonable conclusion has to be drawn on whether the attacked person acted in a manner and under conditions that fit the provision of necessary defence.

Lastly, in this case there are no grounds to establish that so-called excess of the limits of necessary defence exists, as per Article 8, paragraph 3 and 4 of the Criminal Code of Kosovo. The excess of the limits of necessary defence requires **all conditions for necessary defence to be present**. In such situation the perpetrator is held responsible for the criminal act, but punishment may be reduced. When the excess of limits has been taken place due to strong trauma or fear caused by the attack, the punishment may be waived. While deciding on this legal issue the problem comes down to one circumstance, which was legally expressed in Article 8 paragraph 3. That is the existence of certain proportionality between attack and defence. Resisting attack should be not only indispensable, but also **proportionate** to it. It could be said that the limits of necessary defence are exceeded in cases where there exists a significant disproportion between attack and defence, whereby three circumstances have special significance: the relation between the assets that were harmed or jeopardized during the assault or defence, both in their nature and value; the means used in the attack and the resistance to attack; the personality of the attacker and the personality of the assaulted, primarily in the sense of their age, physical condition and mental health; their personal and kinship relations etc.

Perpetrator will be held responsible for having perpetrated while exceeding the limits of the necessity of the defence; if the excess was premeditated, he will be held responsible for each and every act committed.

Having taken into consideration all abovementioned legal analysis after careful assessment of all evidence gathered during the main trial the panel came to the conclusion that the defendant Hasan Beqiri did not act in necessary defence when he committed aggravated murder of Ardian and Dritan Leci. Moreover there are no grounds to assume that the defendant exceeded the limits of necessary defence.

The most important evidence that had to be evaluated in order to determine that necessary defence did not exist and the defendant did not exceed the limits of necessary defence in this case was the statements given by the defendant Hasan Beqiri.

During the questioning on 21 May and 3 August 2010 Hasan Beqiri testified and presented his version of the events on critical day. Referring to circumstances prior to the murders he stated that Hasan Beqiri went to the land at 08.30 am with Aca Trajkovic who came with a tractor. He knew that land was bought by Behxhet Latifi (sometimes referred to as Sallahu too) who bought it from Dragoljub Lazic. Part of the land was cultivated with cabbage and leeks. Aca was working the land with the tractor and Hasan Beqiri was taking care that is done properly. At one point Aca and Hasan had gone back to get machinery for the seeds. When Hasan was watching the planting of the seeds a car stopped around 25-30 meters away from the road and three (3) people come out. An exchange of rude words occurred. The person speaking these words was not known to Hasan. After Hasan explained to them that the land was bought by Behxhet Latifi, the oldest one (of the victims) grabbed the defendant by the throat. Hasan did not see if they were carrying something in their hands. When they approached the defendant, he was 5 meters into the land. According to the defendant the

second one was fat and he was the person that grabbed him by the throat, and the other two put the hood on his head and then they also put a coat on his head and he could not see anymore because they started punching and hitting him. Due to this, he had bruises all over his body. They dragged him along for 5-6 meters and he knew that they were taking him somewhere but he could not see where they were taking him because they put a coat over his head. They left Hasan facing down and the assailants (victims) started going toward Aca. Aca was approx 40 meters away from defendant. Hasan Beqiri had his weapon and mobile phone on him at the time of the assault. They went towards Aca Trajkovic and when Aca Trajkovic left, the eldest of them, using a short cut coming onto the land and picked up the screwdriver. The distance between the car and the place where they went towards Aca Trajkovic was approx. 70 meters. Later on Hasan Beqiri stated that the eldest one was swearing and the second grabbed him by the throat. Hasan Beqiri even so he had his mobile phone could not call the police as the assailants did not given him time for anything and **could not** estimate the time from the moment when the assailants left the car and when back to get the screwdriver. They were walking slowly but the person that went to pick the screwdriver was running whilst the other two were walking slowly. Answering the question posed by public prosecutor whether the three (3) of them met at some point because you said that the other two were walking slowly, Hasan Beqiri replayed "When they came to attack me at both sides we all met there." In explanation of the circumstances he used the gun, the defendant explained that he did not shoot immediately; he warned the assailants that he could not stand the beating. They were apart about 7 meters when Hasan Beqiri shot in the air, the person carrying the screwdriver came from the right side and the two persons were not carrying anything in their hands but the other person was carrying the screwdriver then the second shot was fired in the air, he warned that if they would not stop the beating defendant was going to shoot at them. At a distance of 4 meters away Hasan fired in front of the feet of the eldest one and at 2 meters Hasan fired directly at him from the position of belly down, the victim came as near as a meter and Hasan fired at him again and then one of the assailants stopped and fell on the ground. The other two were not even 30 centimetres away form Hasan and he fired one single shot and the victim fell, and the youngest of them just put his hands up.

The defendant in his testimony also provided the panel with the information on the course of the events after shooting on this critical day. He related that he immediately returned and went to the main road. According to the defendant he tried to see if he could stop a car passing by in order to send the victims to the hospital. But at that very moment, no car was to be seen. He waited for a minute and a half or two minutes, again nobody to be seen. Later on he returned to the place and had a second look at them. He saw that the youngest brother was trying to help the brothers that have been shot. When he saw it, he felt very sorry. It was as if his sons were lying there. Although the defendant had the mobile on him, he did not call for help as he did not even think of this possibility. Also he did not think to bring the injured victims to the hospital with their car, as the defendant does not have a driving licence and he even does not know how to drive a car. Afterwards he went some forty metres further in the field. At that moment he saw cars arriving and then at that moment he went to his house.

After he reached the house he went to clean himself and changed his clothes. As for this matter of significant importance he testified: "*My clothing, I left it at home except for my jacket.*"

I took it with me, since it was quite cold. When I went to Rinas, I forgot it in the vehicle of the person from Durrës, and I never had the chance to recover my jacket."

He had no idea of any possible injuries in his own body because he was injured in his throat. Only when he felt the water in his body he realised because of the pain he felt in what a bad state he was. In explanation to the question why he did not seek any medical help, the defendant boldly underlined that he did not want to ask for help from anyone as his family was in Germany. He wanted to go there to receive medical assistance and get better. Hasan Beqiri took the passport and the money, and he went in a taxi. He told the driver that they had to go to Prizren as he wanted to go to Albania, since his wife was ill and she was in Germany. He did not want the taxi driver to know the real story. When they reached Prizren the defendant explained to the taxi driver that he had to go to Rinas - the airport in Albania, because he had to go to Germany. The defendant had to change the taxi, since the taxi driver did not have his passport with him. Hasan Beqiri continued on his way to Morina with the second taxi driver.

Referring to the issue of a gun, he explained the following: *"When we arrived at the place called Fushë Arëz, where the students from Malishevo got killed. He told me, "Here is the place where that happened." I told him, "Please stop the car as I have some personal needs." I went first to urinate, then I threw my revolver down. It's like 150 to 200 metres deep. That is the place where I threw it. Additionally, he confirmed that the gun he used on critical day was the same one he had for the last 45 years.*

According to the defendant at the border he was stopped, his passport was checked and he was allowed to enter Albania. From the coffee bar in Albania Hasan Beqiri called his brother and confessed to committing this crime. He told his brother *"I don't even know them; they just cursed me and the only thing I know is that they are from the Leci family"*. He also added *"Go to Osman Shala and tell him everything, because I don't want people to say this and this and this happened and then he left everything and everyone behind."* The taxi driver from Kukës asked me, *"Do you want to continue the way with the other guy as he is from Durrës so we don't continue our way in two vehicles?"* Then he continued his way with the other taxi driver and went directly to Rinas airport. At 6 o'clock a.m. he entered the coffee bar waiting for the airport to be opened at 8 o'clock. The defendant bought the ticket to Stuttgart. There was a place free for the 11.30 hrs flight. In Germany he went to his family, and there: *"I cured myself with medication, because I was ashamed to go to the doctors as everyone knew me at that place and I had done so many good things, so to go to the doctors at that state and tell him what happened, I was feeling very ashamed to do so. For 45 days I was able only to eat soup and bread in milk and could use only a plastic spoon to eat, the same that we have here in prison. I was not able to use a normal spoon and eat normal food."* There was no need in the opinion of the defendant to visit the doctor, for the simple reason that his wife works in a pharmacy and she provided the medication that he needed, including antibiotics and a medicine for blood pressure.

As for the photographs that allegedly depict his injuries he sustained after the battering, the defendant explained that they have been taken by his son, the next day when he arrived in Germany. Further questioned about the reasons why these pictures don not portray his face, he explained that the reason for this was that he did not want to report himself at this time. Additionally the defendant was asked to explain why the on the back side of these photos there is date 3.11.2005 meanwhile according to his statement the date should be 12.10.2005,

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by the way of explanation he related that his son developed the photos through the computer and then these photographs were photocopied.

Regarding the arguable issue of land ownership claimed by Leci family, the defendant related that he was middleman during the negotiations. According to him, he was only informed that in the meantime someone was working the fields, growing leeks and cabbages, and that was all he told him and the buyer. Hasan Beqiri additionally underlined that he did not know anything about dispute over the land ownership.

Having scrutinized the statements given by the defendant and having taken into consideration all evidence gathered during the main trial, the panel concluded that they are not credible; they are illogical, isolated and not corroborating with other evidence except the fact when the defendant admitted he killed Leci brothers. It must be stressed that even if the defendant claims that this case is of necessary defense pursuant to the legal provision on Criminal Code of Kosovo, this does not mean that we should be satisfied only with his explanations, but rather have to take into consideration; *"each item of evidence separately and in relation to other items of evidence and on the basis of such assessment to reach a conclusion whether or not a particular fact has been established"* (Article 387, paragraph 2 of PCCK).

In the process of reconstructing the chain of events and establishing whether the defendant acted in the specific situation in necessary defence, the most important evidence is the expert's opinion given by expert witnesses prof. Hazir Kelmendi- expert of the Forensic Ballistics and Dr. Tefik Gashi Expert of Forensic Pathology. The expert witness delivered the opinion, after having analyzed the case files and participated in the reconstruction of the events that took place on 5 June 2010. The experts came to the inescapable conclusions on the position of the defendant, on the spot and the distance from which he fired shots at the victims. It was clearly explained by the experts that: *"It is established that fire shots on the critical day, from the weapon of the Cal. 7,62 x 25mm, which was with the accused, were shot from the mount of the earth - side of the road, but not from the position which the accused is claiming, but further down, closer to the road for 2,5 meters."* Additionally prof. Hazir Kelmendi and dr.Tefik Gashi confirmed that: *"It is established that the late persons were deprived from their life when the accused fired from his weapon from the position without moving the weapon, but moving only the hand."* Regarding the distance from which the defendant fired shots at the victims, the expert witnesses stated: *"(...), we come to conclusion that on the critical day, according to the sketch of the scene, photo documentation, the report of the observation of the scene, in the critical day, the accused was in the ploughed field near the hill which divides the ploughed field with secondary road of the village and shot with the fire arm towards now late in the front of them in the distance of 6.30 - 7 meters. The shell cases were ejected on the right hand side as is seen in the sketch and photo documentation close to each other."*

The opinion is of crucial significance for establishing that in this case there are no elements of necessary defense. As it was beforehand elaborated, the defendant claimed that he was attacked by Leci brothers, who beaten him up and threw him on the side of the road, where he remained laying on the road and later he got up on his knees. He remained in the same place, according to him the attackers tried to get at, in order to continue beating him. Whereas according to the experts the defendant was dragged even further down, closer to the road for 2.5 meters. It must be underlined that the opinion of the experts witnesses corroborates with the statement of witness Aleksander Trajkovic (the tractor driver) who

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stated on 10 December 2009: "Aleksander Trajkovic: First time I turned around I realised that there was debate going on and then next few times I saw that debate was getting heated. After that I saw 3 persons, one a little apart from the other two, and two persons were dragging a third one across the field." This evidence shows clearly and beyond any doubt that the intention of the Leci brothers was to get Hasan Beqiri out of the field, whom they considered an intruder. The further course of events clearly indicates that later on they wanted also to expel the tractor driver from the land that they considered as property of their family. The clear and logical line of reasoning leads to one possible conclusion that if Leci brothers would have had this homicidal intend to kill the defendant they wouldn't have killed the defendant in front of the eye-witness- **Aleksander Trajkovic**.

If the defendant claims that Leci wanted to kill him he does for one reason- this is only the excuse, by saying that he wants ineptly to justify the use of his weapon. That is the reason he introduced into the crime scene, the alleged screwdriver that in his opinion might have justified the element of real and imminent attack needed to establish the necessary defense. It did not escaped the notice of this panel that the defendant had enough time to prepare his line of defense as he simply escaped from the crime scene, without even trying to help the victims, and he evaded the legal system of Kosovo. Due to his misconduct after the murders, he just cannot enjoy the benefits of this situation and present implausible course of events, but on the contrary it imposes on the panel the obligation to conduct minutely analysis of all pieces of evidence gathered during the main trial.

Another issue that arises from the opinion of the experts, that is crucial from the point of view of necessary defense, is the way the defendant used the weapon. The defendant unsuccessfully tried to give his eye-witness account and by the way of explanation he substantiated that when they approached him at the distance of 5 meters he fired up in the air but to no avail, as the attackers did not stop. In the face of imminent attack when the person with the screwdriver approached him at the distance of 2 meters, he fired at his body and he fell on the ground beside him. At the same time the other two attackers approached him at the distance of 30 cm and according to the defendant they wanted to hit him. Hasan Beqiri fired at the chest of the second assailant and he fell on his back.

As it was pointed out beforehand, the expert witnesses presented objective findings that are in contradiction with the statement given by the defendant. It arises from the opinion of the experts that the victims were further away from Hasan Beqiri at the time he shot at them. Based on this opinion and the statement given by Artan Leci, the panel drew inference that Leci brothers did not intend to attack Hasan Beqiri again, but they were attacked by the defendant with a weapon on their way to the car. Having taken into consideration the distance between victims and the defendant Beqiri there were no reasons to believe that real and imminent attack should have been undertaken against Hasan Beqiri, on the contrary it was the defendant who caused danger to the Leci brothers. Panel has made that unambiguous inference on careful consideration not only the opinion of the experts but most notably the statement given by Hasan Beqiri himself. During the questioning on 21 May 2010 before the panel he related as follows: "*I was always carrying the weapon for 45 years because I dealt with trade and in my pocket you could find 5-6 millions. I was never afraid of anyone apart from God.*" Such an attitude presented by the defendant indicates that having the weapon on him on that critical day, he was not afraid of Leci brothers at all and only out of surprise he was dragged away from the field. Just after he recovered from shock, he decided

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to take revenge on Leci brothers for the way he was treated. In fact the way the defendant used his weapon "***without moving the weapon, but moving only the hand***" and taking into account that the element of imminent attack did not exist at all, the actions undertaken by the defendant have to be considered as a cold blooded murder, not as a case of necessary defense.

Additionally there are not reasonable grounds to believe that the defendant Beqiri has exceeded the limits of necessary defense since the requirements as per Article 8, paragraph 3 and 4 of Criminal Code of Kosovo are not met.

Regarding the opinion delivered by the expert witnesses, this panel considered it as clear and plausible since the experts presented a clear reasoning, after having taken into account all the evidence administered during the main trial. The panel is of the opinion that expert witnesses are to be considered as highly experienced professionals who possess not only long professional experience and a long history of court experts, but also indisputable knowledge in scope of their specialization.

Evidence that has been of fundamental relevance to establishing factual background were statements given by eye-witnesses **Aleksander Trajkovic** and **Artan Leci**.

Aleksander Trajkovic was present on the spot on the critical day since the defendant asked him to plough the field with a tractor. This witness substantiated that three men came by car from main road that stopped by the field. They went into direction of Hasan Beqiri and the row between them and the defendant had broken out. The reason for argument was ownership of the land. When this witness observed this situation he decided to leave since he was there as paid help and the field was not his, so he did not want to run any risks regarding this dispute. Before he left, Aleksander Trajkovic noticed that: "*debate was getting heated. After that I saw 3 persons, one a little apart from the other two, and two persons were dragging a third one across the field.*". Further on during questioning of this witness on 10 December 2010, it was clear to the panel that Aleksander Trajkovic, five (5) years after the incident took place did not remember all the details, and for this reason his previous statements given on 1 August 2006 were read into the record. Confronted with these statements, witness confirmed them and added that questioned on 1 August 2006 he remembered the details better. During the examination on 1 August 2006 Aleksander Trajkovic presented remarkable testimony concerning this deadly row. He stated as follows: "*We returned to the field around 16:00 hrs, I started harrowing from the main road in the direction of cabbage, down from the village path, and I was close to finishing the first drill. I turned around in order to check the harrow, I saw three persons approaching Hasan, and I noticed that there was a discussion for a minute or two, and at that moment I noticed a car next to the main road, and, at that moment, one of the three of them headed toward the car. I turned the tractor around and headed toward the village on the old village path, and I turned around several times. I drove for 20 more meters and then I stopped for a moment, but I did not turn off the tractor's engine, and at that moment I noticed one of them heading in my direction. I noticed that Hasan was telling him something and he lifted his hand, and from his gestures, I think that Hasan was telling him not to touch me, because I am not to blame. The one who had headed in my direction returned toward Hasan and they continued the discussion and then one of them headed toward the main road. The other two caught Hasan and dragged him as if they wanted to drag him from the field to the village path, but at that moment, I did not see the third one near.*" In addition he stated: "*When I saw that Hasan fell to the ground, into the channel, I*

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immediately headed home, because I was afraid for my safety, and after a short time, about 2-3 minutes, in the vicinity of Selište (name of place), I heard three shots being fired without a long pause, one immediately after the other. After the shooting, I turned around again briefly, I saw that two men were lying on the ground, while the third one was standing.”

This testimony presented by witness Aleksander Trajkovic is of remarkable significance, as he was present on the spot and he had optimum conditions to closely observe the course of events. At this time of the day-around 16.00 hrs- visibility was good and the witness was at the distance between 50 and 100 meters, according to his statement, so all in all he saw the incident and he was able to present first-hand and comprehensive account of the events. The testimony of Aleksander Trajkovic was considered by the panel as highly credible not only because he was an eye-witness but also because his statement is clear, unambiguous and impartial. Although Aleksander Trajkovic described his relation with his neighbour Hasan Beqiri as good, he did not give testimony that would be in line with defense line of Hasan Beqiri. In particular he did not state that he saw any of the Leci brothers approaching the defendant with the screwdriver that could be important for Hasan Beqiri's attempts to try to prove that he acted under conditions of necessary defense.

On the contrary, during main trial examination conducted on 12 January 2007 the witness stated explicitly to the question of the representative of the injured party, if he noticed that these three persons had any weapon, cold weapon or any other device, that he did not see that they had anything in their hands. Questioned about the course of the event he furthermore explained saying that he noticed two out of the three persons pushed or maybe pulled the accused, *I don't know which*, but one of these actions were taken by them **in order to take the accused away from the arable land onto the road**. This detailed and accurate account clearly demonstrates that Aleksander Trajkovic presented testimony that is fully plausible since the panel has not noticed any discrepancy between his statements given during the course of the trial and the investigation. As Aleksander Trajkovic is related neither to the defendant nor to the injured party he had no personal interest to offer the testimony the way he did. Although Aleksander Trajkovic during re-trial questioning did not remember all the details with accuracy, but it is completely normal that his memory would have been effected due to the time that has elapsed.. This circumstance does not undermine the value of the statement offered by Aleksander Trajkovic even if in series of events he stayed in the tractor, since it is obvious that he could see the ensuing situation.

The statement given by **Artan Leci** was also of great importance for establishing the factual background of this case. Artan Leci is the brother of deceased and he came together with them to the contested field on the critical day. During the evaluation of his testimony the panel exercised due caution since the witness as an injured party and a participant in this tragic incident could have had a reason to hide the truth. After careful consideration, the panel came to the conclusion that the testimony of Artan Leci is plausible only in the scope that he came to the field with his brothers on the critical day and the his brothers had been shot by the defendant. Insofar as the sequence of events is concerned, the panel came to the conclusion that the testimony of Artan Leci is not plausible at all. In the respect they are in contradictions with explicit evidence to wit testimony of Aleksander Trajkovic and opinion presented by the expert witnesses. Additionally, panel perceived serious discrepancies between statements presented by this witness during the course of these criminal proceedings. By way of explanation one situation should be mentioned. On 10 December

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2009 **Artan Leci** gave the statement before the panel concerning events of the critical day. In his testimony he stated that they came to the field to pick up 90 kg of leek. As soon as they arrived in the field, they got out of the car and the tractor driver left the land. At the time, unexpectedly a man came out from the grass. He approached Leci brothers to a distance of 4-5 meters without any reason; he pulled the gun from his waist and started shooting. According to this witness this man did not say anything before he started to shoot and Leci brothers did not have a chance to speak to him either. He also stated that at the time this man started to shoot; the Leci brothers did not have any weapon in their hands. He and his brother were at the distance of 1-2 meters from each other, they were in line walking towards the field with leeks. Artan Leci denied that this man had fired in the air. After Ardian and Dritan Leci fall to the ground, the defendant left in the direction of the asphalt road and then he was picked up in a red car. Next Artan Leci organized the transport of his wounded brothers to the hospital.

The statement given before the court was in contradiction with two testimonies this witness presented during the investigation and the first main trial. Questioned during the investigation on 23 May 2006 he stated: "I remember that on 10.10.2005, sometimes around 16:00 hrs, my brothers Ardian and Dritan and I went from our house in Barileva with the vehicle white Golf 2 to this parcel in the village of Babimost in order to get some leek to sell them at the market. When we arrived at the arable land at Babimost, which is far from our village some 5 kilometers, and I believe it could be reach in 20 minutes driving, all three of us got out of the vehicle and noticed a driver of a tractor who was on the land, so we went to him and **Dritan asked him what was he doing here**, but he did not answer at all, he just got out of the arable land with his tractor and went away." The same version of events, as questioned during the investigation he presented during examination on 12th January 2007 before the first trial panel, as he explained: "The distance between the place we stopped the vehicle and the tractor was 60 meters. My two brothers and I went towards the driver of the tractor to see who that was. When we approached 10 meters from the tractor, and in the meantime my brother was asking the tractor driver what was he doing here, the tractor went away on the filed road at the direction of the village Babimost"

In the face of this evident contradiction when asked to explain, he stood by the testimony he presented during the main trial and added that the testimony before prosecutor regarding this detail is the result of a mistake, caused by the computer's failure. This panel could not have considered this explanation as convincing, since they are too vague. Artan Leci had a possibility to read this testimony, objects the content and ask to add amendments in accordance with his original statement. Since he failed to do it, he can not effectively invoke such an argument.

Lastly, it has to be underline that Artan Leci as the brother of the deceased and eye witness of this tragic event wants to present brothers in a favourable light. This is the reason why he has hidden the true chain of events. He did not bear out the fact that Hasan Beqiri was dragged away from the field since he thought could have been used as an argument against his deceased brothers.

Moreover, the testimony delivered by Artan Leci is in contradiction not only with statement of Aleksander Trajkovic who as a complete stranger had no personal reason to provide implausible statement, but also with the opinion of the expert witnesses.

Having taken into account a testimony of witness **Rrahman Leci**, this panel observed that he was not present during the incident and all information he got had been passed on to him by Artan Leci, so all reservations expressed in relation to latter also apply to him. The Rrahman Leci's testimony was of great importance in terms of ownership of this contested field. Rrahman Leci recounted namely that on 17th January 2001 he took out a lease on that land for 5 years with annual charge of 100 DM. At one point his sons changed the agreement with the owner of this land and they paid him 40.000 DM and the remaining part of the payment was to be paid during 5 years and the then land would have been the property of the Leci family. They came to this agreement verbally without signing written contract. Rrahman Leci considered his family as the only owners of this land. In 2005 Leci family twice put the board with the information that the land is for sale, as they wanted to sell part of it and from the income to cover the remaining part of the payment. Rrahman Leci admitted the issue that was of great importance for assessments in this case to wit he admitted that the ownership of the field in question was disputable since there was another person, named Hajzer Mustafa who was also interested in purchasing this land. According to this witness some time before this tragic incident took place, Hajzer Mustafa informed him that he also bought this land from Dragoljub Lazic. The latter has withdrawn from this contract, since he realized that Leci family claims that they are the owners of this land.

After having taken into account all the circumstances regarding the contested ownership of this parcel, this panel came to the only logical conclusion that Leci brothers appeared on the spot driven by the desire to expel the intruders from their land. The explanation used by Artan Leci and confirmed by Rrahman Leci is that they wanted to pick up leeks and due to Ramadan time they went there in three to speed up the picking, is not credible at all. Leek harvest is not so time consuming and does not demand the presence of three young and healthy men. This is evident that it was used as an argument to justify the presence of Leci brothers on the spot at this time.

The testimonies presented by the following witnesses **Mladen Lazic, Dragoljub Lazic and Hajzer Mustafa** were considered by this panel as credible since they are logical, reasonable and detailed. These statements were of great importance since they corroborate the factual findings regarding the contested property, namely the land. From these testimonies it is evident that the Leci family was also interested in purchasing this field. Taking into account these circumstances the only possible and logical reason why the Leci brothers appeared on this field on critical day, is that they wanted to expel the intruders from their land.

Since the defense claimed that necessary defense should be considered, the panel decided to admit as evidence the testimony of following police officers involved during the investigation, namely **Remzi Halimi, Bekim Gashi, Blerim Gashi and Burim Osmanaj**.

Remzi Halimi was present on the spot after 18.00 hrs and he prepared and signed the forensic report/ Crime Scene Sector dated 14 October 2005 with ref no. MHQF 05-2288. During questioning on 8 April 2010, he stated that when he came out at the crime scene it was dark and it was difficult to see the crime scene. He noticed only blood stains and further investigative actions were postponed until the following day. The following day he went there together with Bekim Gashi and they continued to collect evidence for this case. This witness declared that during collection of evidence, he did not see or find a screwdriver of 35 or 45 cm length with a red handle.

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Witness **Bekim Gashi** was also present at the crime scene and talked about the investigative actions he undertook together with the other police officers. He explained in details how the evidence was collected and stated that he did not find on the spot a screwdriver or anything else that caught his attention. Additionally he testified that the crime scene was guarded during the night by the police officers from the Obiliq police station. Witness **Blerim Gashi** explained very important circumstances concerning seizure and examination of victims' car to wit he stated that police officer Ekrem Mirena was responsible for performing these duties. According to Blerim Gashi he did not hear that any dangerous object like a screwdriver was found in this car. **Burim Osmanaj** had prepared the criminal report in this case, he delivered some information regarding the actions taken by the investigators.

The panel came to the conclusion that Remzi Halimi, Bekim Gashi, Blerim Gashi and Burim Osmanaj are reliable, since they are clear, logical and correspond mutually. Additionally, this panel did not notice any discrepancies between them. The witnesses serve as police officers and as officials they were aware of the criminal responsibility in case of false testimony. The testimonies of above-mentioned witnesses allowed this panel to establish beyond any reasonable doubt that neither on the crime scene nor in the victims' car any screwdriver had been found. This situation undermines defendant's testimony that he has been faced with life threatening situation since allegedly the screwdriver would have been used as deadly weapon against him. The testimonies of these police officers clearly demonstrate that the defendant prepared the defense with a screwdriver as an important part of it only for one obvious reason- he wanted to avoid his criminal responsibility for the deadly deeds he committed.

The defense tried to draw the attention of this panel to the distance from which the defendant shoot at the victims, by indicating the necessity of further examination of the gunpowder samples collected from hands of the victims and clothes the victims had on them on critical day. The court admitted as evidence listed as the Laboratory report no. 2010-0321 dated 9 April 2010 with reference no. 511-01-115/1-2545/10.VN from Republic of Croatia, Forensic Science Centre, "Ivan Vučić", Traseology Department by Head of Department Vedran Nuić, B.Sc. but to no avail. It was not an obstacle for the panel to make unambiguous factual findings as the expert witness Hazir Kelmendi managed to come to convincing conclusion in this respect.

This panel paid special attention to the photographs submitted by the defense with the aim to illustrate the injuries the defendant allegedly sustained during this tragic incident. The panel came to the conclusion that these pictures cannot be taken into consideration as credible evidence. First of all, it must be underlined that none of the photographs do not depict the face of the defendant, his face is not visible, secondly the pictures are of bad quality and fuzzy, lastly on the back the date "3.11.2005" appears, so that they were developed one month after the incident. The only possible conclusion is that these photographs are totally fabricated with clear aim to use them as evidence that the defendant was seriously beaten, to support his claim of necessary defence that would allow him the claim that in order to avoid another attack he had to use his weapon. The panel does not want to limit the right of the defendant to prepare his defense in the way he think is the best for him, but he cannot expect that every piece of evidence he presents would be taken as credible. This panel had the obligation to minutely consider all pieces of evidence gathered during the main trial, in the light of logical reasoning and to deliver proper judgment, but

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unfortunately for the defendant the evidence he presented has not reached the level of indisputable reliability.

Calculation of punishment

Having perused the above mentioned exhibits and having examined the witnesses called during court proceedings, the Court found that Hasan Beqiri is guilty beyond any reasonable doubt of the criminal offences as charged in the indictment.

It is clear that the defendant has committed the criminal offence as per article 147, paragraph 1 item 11 of the Criminal Code of Kosovo, and that on 10 October 2005, around 16:00 hrs, in the village of Babinmost, Municipality of Obiliq, in the parcel of the land located on the main road Prishtinë/Priština – Mitrovicë/a, willingly after an instantaneous quarrel murdered Ardian Leci and Dritan Leci. On the day in question the defendant was ploughing and planting wheat with the help of the tractor driver Aleksandar Trajkovic. A verbal disagreement started between Ardian, Dritan and Artan Leci and the defendant Hasan Beqiri regarding ownership of the land in question. After the verbal disagreement the defendant was dragged by the victims out of the field to the side road. The defendant having felt dishonoured used his handgun "TT" of caliber 7,62 x 25mm, without a valid permit, in the distance of approximately 6-7 meters, fired three (3) times in the direction of the late Ardian Leci as a consequence the bullets (2) caused him hemorrhagic injuries, termination of aorta functions, perforated penetration of a bullet on the chest and abdomen as a consequence of which he died on 11 October 2005 at 03.05 hrs, and in direction of Dritan Leci to whom with a single bullet the accused has caused injuries to the head and chest and as a consequence of shock, hemorrhagic and penetrating wound Dritan Leci died on 10 October 2005 at around 17.30 hrs.

Pursuant to article 147, paragraph 1 item 11 of the Criminal Code of Kosovo, a punishment of imprisonment of at least ten years or long-term imprisonment shall be imposed on a perpetrator of such criminal offence.

Additionally, the defendant Hasan Beqiri has also committed the criminal offence of unauthorized ownership, control, possession or use of weapons, since for an indefinite time until the 10th of October 2005, has possessed, the handgun, "TT" of caliber 7, 62 x 25mm, without a valid license for its possession and use.

Pursuant to article 328, paragraph 2 of the Criminal Code of Kosovo, a punishment shall be imposed on such an offender of a fine of up to 7.500 EUR or imprisonment of one to eight years.

Pursuant to Article 64 (1) of the CCK the court when rendering a judgment has to take into the consideration the purpose of punishment, all the circumstances that are relevant to the mitigation or aggravation of the punishment in particular the degree of criminal liability, the motives of committing the act, the intensity of danger to the protected value, the circumstances in which the act was committed, the past conduct of the perpetrator, the personal circumstances and his behavior after committing the criminal offence. The

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punishment shall be proportionate to the gravity of the offence and the conduct and circumstances of the offender.

1. As mitigating circumstances:

- The accused expressed grief over the deaths of two victims;
- The defendant is 68 years old.

2. As aggravating circumstances:

- High intensity of danger to the protected values to wit: life of another human beings, in consequence of criminal act Ardian Leci and Dritan have lost lives, they orphaned children;

Taking all these circumstances into careful consideration this panel found that imprisonment of twenty two (22) years will be appropriate and necessary to serve all purposes of punishment mentioned in Article 64 (1) of the CCK regarding the count of aggravated murder.

Taking into the considerations above mentioned circumstances the panel was of the opinion that the perpetrator did not deserve to be treated leniently. This kind of conduct as the defended presented must be strongly condemned. In this case only the punishment of imprisonment without suspension will guarantee that the purpose of the penalty against the offender will be achieved, and in particular he will not relapse into crime. This punishment will persuade the defendant that law must be respected.

As to criminal offence of unauthorized ownership, control, possession or use of weapons this panel was of the opinion imprisonment of 1 year will be appropriate and necessary to serve all purposes of punishment mentioned in Article 64 (1) of the CCK.

Pursuant to Article 71 paragraph 1 and 2, item 1 of the Criminal Code of Kosovo this panel came to the conclusion that Hasan Beqiri shall serve an aggregate term of imprisonment of twenty two (22) years.

Pursuant to Article 73 of the Criminal Code of Kosovo the time Hasan Beqiri spent in detention on remand from 10 May 2006 until the judgement becomes final shall be counted as part of the imprisonment sentence.

Property Claim

The accused shall compensate the injured parties Rrahman and Artan Leci for the damages caused. The data provided in the criminal proceedings does not afford a reliable basis for either a complete or partial award; the Court therefore instructs the injured party to file a civil suit for the entire claim pursuant to article 112 (2) of the KCCP.

Costs

Pursuant to Article 102 paragraph 1 of the Kosovo Code of Criminal Procedure (KCCP) the convicted person shall pay the costs of the proceedings. The provisions of Article 100 paragraph 1 of the KCCP the defendant must reimburse the costs of the criminal proceedings in the amount of three hundred (300) Euros for the criminal offences of Aggravated murder pursuant to article 147 paragraph 1 item 11 of the CCK and Unauthorized ownership, control possession or use of weapons pursuant to article 328 paragraph 2 of the CCK.

Thus, it is decided as in the enacting clause.

Presiding Judge

Arkadiusz Sedekw

Panel member

Hamdi Ibrahim

Panel member

Malcolm Simmons

Court recorder:

Svetoslava Savova

LEGAL REMEDY:

The parties have the right to appeal this judgment within fifteen (15) days from the day the copy of the judgment has been served, pursuant to Article 398 Paragraph 1 of the Kosovo Criminal Procedure Code (KCPC), to the Supreme Court of Kosovo through the District Court of Prishtinë/Priština.

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