

DISTRICT COURT OF PRISHTINE/PRISTINA

P. No. 514/08

23 January 2009

IN THE NAME OF THE PEOPLE

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

- 1) EULEX Judge, Mr. Tron GUNDERSEN, 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 Jacqueline RYAN, Valentina GASHI and Vlora JOHNSTON;

in the criminal case against:

- 1 **Mehdi LIMANI**, with nickname "Gadafi", born from parents Gani (his father) and Fatime (his mother, her maiden name was Rexhaj) on 01/02/1960 in Balince village, Shtime Municipality, in which place he resides, Albanian ethnicity, citizen of Kosovo, married, father of six children, has finished elementary school, having a middle financial state, never being charged before, and there is no other penal procedure against him except the current one, currently in detention; indicted for the criminal act "**Organized Crime**" as per the **Article 274, paragraph (1) and (2)** related to **Article 327, paragraph (1)** of **PCCK**; "**Keeping in unauthorized possession of weapons**" as per the **Article 328, paragraph (3)** related to **paragraph (2)** of **PCCK**;
- 2 **Skender MAHMUTI**, born from parents Rame (his father) and Shahe (his mother, her maiden name was Kalanica) on 20/05/1983 in Godance village, Shtime Municipality, the place where he resides, Albanian ethnicity, citizen of Kosovo, his marital status - single, has finished secondary school, having a middle financial state, never being charged before, and there is no other penal procedure against him except the current one, currently in house detention; indicted for the criminal act "**Organized Crime**" as per the **Article 274, paragraph (2)** related to **Article 23** of **PCCK**, related to **Article 327, paragraph (2)** of **PCCK**;
- 3 **Ramush KUTLESHI**, born from parents Sabri (his father) and Hanife (his mother, her maiden name was Arifi) on 02/10/1972 in Dumosh village, Podujeva Municipality, in which place he resides, Albanian ethnicity, citizen of Kosovo, marital statute single, has finished secondary school, having a middle financial state never being charged before, currently in house detention; indicted for criminal act "**Organized Crime**" as per the **Article 274, paragraph (2)** related

to **Article 23**, related to **Article 328, paragraph (3) and paragraph (2)** of **PCCK**, and **Article 327 PCCK**;

- 4 **Sami KUTLESHI**, born from parents Sabri (his father) and Hanife (his mother, her maiden name was Arifi) on 06/06/1977 in Dumosh village, Podujeva Municipality, in which place he resides, Albanian ethnicity, citizen of Kosovo, marital statute married, father of three children, has finished elementary school, having a middle financial state, never being charged before, and there is no other penal procedure against him except the current one, currently in house detention; indicted for the criminal act "**Organized Crime**" as per the **Article 274, paragraph (2)** related to **Article 23**, related to **Article 328, paragraph (3) and paragraph (2)** of **PCCK**;

after having held the main trial hearings in public on 13, 20, 21, 22 and 23 January 2009 all in the presence of all the accused mentioned above, their defense counsels, the Public Prosecutor Feti Tunuzliu;

after the panel's deliberation and voting held on 23 January 2009;

based on the Article 391 (1) PCPCK;

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

VERDICT

the accused **Mehdi LIMANI**, with all the details above:

IS AQUITTED

for the criminal act of "**Organized crime**" as per **article 274 (1) and (2) PCCK**;

IS CONVICTED

for the criminal act of attempt of "**Unauthorized Supply, Transport, Production, Exchange or Sale of Weapons**" as per **article 327 (1) PCCK** and **article 20 PCCK**;

since

- on 6 March 2008 he attempted to sell a "M 48" gun to a person "Faton";
- on 6 March 2008 he attempted to sell a "TT" pistol to a person "Albert";
- on 6 March 2008 he attempted to sell a silent gun and war equipment to a person "Luli";
- on 7 March 2008 he attempted to sell a "Scorpion" gun for the price of 500 EURO to an unknown person;
- on 9 March 2008 he attempted to buy from a unknown person 4 packs of bullets for a "TT" pistol;

- on 9 March 2008 he attempted to sell a fire weapon of 357 type, priced EURO 600 to a person "Genc";
- on 9 March 2008 he attempted to sell 100 pieces of bullets of a gun "Kallash" to an unknown person;
- on 10 March 2008 he attempted to sell a fire weapon of type "Scorpion" and 6 pistol cartridges to a person "Dulla";
- on 14 March 2008 he attempted to sell two silent gun to a person "Luli";
- on 15 April 2008 he attempted to sell 70 bullets of unknown caliber to a person "Bea";
- on 20 April 2008 he attempted to sell 40 bullets of unknown caliber to a person "Ismet";
- on 2 May 2008 he attempted to sell 10 bullets to an unknown person;
- on 22 May 2008 he attempted to sell a pistol of Italian production at price of EURO 330 to an unknown person;
- on 3 June 2008 he attempted to sell 6 pistol guns to a person "Rifa";
- on 29 June he attempted to buy 20 packs of ammunition;
- on 29 July 2008 he attempted to sell 20 bullets to Skender Mahmuti at the petrol station "Migroll" along the Pristhina-Ferizaj road;

IS AQUITTED

for the remaining acts of section I paragraph 1 of the indictment;

IS CONVICTED

for the criminal act of "**Unauthorized Ownership, Control, Possession or Use of weapons**" as per **article 328 (2) and (3) PCCK**;

since:

-on 29 July 2008 he has kept without valid weapon permission the following at his house premises and garage :

- 1 a pistol of "Zastava" type bearing serial number 9243J;
- 2 1.423 (onethousandfourhundredandtwentythree) bullets of different calibers;

the accused **Skender MAHMUTI**, with all the details above:

IS AQUITTED

For the criminal act of "**Organized Crime**", as per **article 274 (1) and (2) PCCK**;

IS CONVICTED

for the criminal act of attempt of “Unauthorized Supply, Transport, Production, Exchange or Sale of Weapons” as per article 327 (1) PCCK and article 20 PCCK;

since:

-on 29 July 2008 at “Migroll” petrol station located along the Pristhina-Ferizaj road he attempted to buy 20 bullets from Mehdi Limani, but was caught by the police before the actual hand-over;

the accused Ramush KUTLESHI, with all the details above,

IS AQUITTED

for the criminal act of “Organized Crime”, as per article 274 (1) and (2) PCCK;

IS AQUITTED

for the criminal act of “Unauthorized Supply, Transport, Production, Exchange or Sale of Weapons” as per article 327 PCCK;

IS CONVICTED

for the criminal act of “Unauthorized Ownership, Control, Possession or Use of weapons” as per article 328 (2) and (3) PCCK;

since:

-on the 30 July 2008 at his house in Dumosh village he kept the following weapons and ammunition:

- 2 a “Beretta” pistol;
- 3 a “Zastava” pistol, serial number ET834037;
- 4 8526 (eightthousandfivehundredandtwentysix) bullets of different calibers;

the accused Sami KUTLESHI, with all the details above,

IS AQUITTED

for the criminal act of “Organized Crime”, as per article 274 (1) and (2) PCCK;

IS AQUITTED

for the criminal act of “Unauthorized Ownership, Control, Possession or Use of weapons” as per article 328 (2) and (3) PCCK;

SENTENCE

Mehdi LIMANI:

Pursuant to article 38 PCCK and article 327 (1) and 20 PCCK Mehdi Limani is sentenced to imprisonment of 2 years and 6 months.

Pursuant to article 38 PCCK and article 328 (2) and (3) PCCK Mehdi Limani is sentenced to imprisonment of 1 year and 6 months.

Pursuant to article 71 PCCK the aggregated sentence for Mehdi Limani is **imprisonment of 3 years and 6 months.**

Skender MAHMUTI:

Pursuant to article 38 and 327 (1) and 20 PCCK Skender Mahmuti is sentenced to **imprisonment of 6 months.**

Ramush KUTLESHI:

Pursuant to article 38 and 328 (1) and (2) PCCK Ramush Kutleshi is sentenced to **imprisonment of 1 year.**

The time spent in detention on remand or house detention, as applicable, is included in the amount of the punishment imposed on all the defendants.

COSTS

The defendants, Mehdi LIMANI, Skender MAHMUTI and Ramush KUTLESHI must reimburse all the costs of the criminal proceedings.

Since the data of the amount of the costs is lacking a separate ruling on the amount of the costs shall be rendered.

REASONING

PROCEDURAL HISTORY

On 29th of July 2008 the defendants Mehdi LIMANI and Skender MAHMUTI have been arrested and detention on remand have been imposed on them for an initial period of one month by force of a decision of the Pre-trial Judge of the District Court of Pristina, while Ramush KUTLESHI and Sami KUTLESHI have been arrested on the 30th of July

2008 and detention on remand have also been imposed on them for an initial period of one month by force of a decision of the Pre-trial Judge of the District Court of Pristina. The detention on remand for all the defendants has been then lawfully extended during the investigation and the confirmation phases.

On the 25th of August 2008 the Public Prosecutor has filed the indictment PP Nr. 549-1/2008 with the District Court of Pristina against the defendants Mehdi LIMANI, Skender MAHMUTI, Ramush KUTLESHI and Sami KUTLESHI for the following criminal offences:

I. Mehdi LIMANI:

1) Has committed an aggravated crime as a part of the criminal organized group in that way that he has committed such criminal acts for which he may be sentenced up to 4 years imprisonment. This group has existed for a certain time and it has co-acted in order to conduct aggravated crimes in order to have profit directly or indirectly, and it has continuously conducted the criminal acts such as: Supply, transport, exchange and illegal sell of weapons (Article 327, paragraph (1) of CPPK for which he may be sentenced from 1 to 8 years imprisonment, thus selling the followings:

- On 05/ 03/ 2008 he sold 30 bullets to Shaban Buja
- On 05/ 03/ 2008 he sold an amount of bullets priced 100 € to unknown person
- On 06/ 03/ 2008 he sold a "TT" pistol to Albert N from Koshare village,
- On 06/ 03/ 2008 he sold a "M 48" gun to Faton Qarri of "IPKO" Company,
- On 06/ 03/ 2008 he sold a silent gun and war equipments to Luli N,
- On 07/ 03/ 2008 he sold a "Scorpion" gun priced 500 € to an unknown person who called from mob. number 044 662 808,
- On 07/ 03/ 2008 he sold some weapons and an amount of unknown munitions to Faton N from Dremnjak village,
- On 09/ 03/ 2008 he sold to an unknown person with mobile no. 044 239-473 4 packs of bullets of "TT" pistol,
- On 09/ 03/ 2008 he sold a fire weapon of 357 type, priced 600 € to Genc N from Albania with mob.no 044 433-522
- On 09/ 03/ 2008 he sold 100 pieces of bullets of "Kallash" gun to an unknown person with mob.no. 044 662-808,
- On 10/ 03/ 2008 he sold a fire weapon of "Scorpion" type and 6 pistol cartridges to the caller bearing nickname "Dulla" from mob.no.044527 969,
- On 14/ 03/ 2008 he sold two silent guns to caller "Luli" with mob. no 044 497 811
- On 15/ 04/ 2008 he sold 70 bullets of unknown caliber to a person with nickname "Bea"
- On 16/ 04/ 2008 he sold a pistol of "Beretta" type, priced 300 € to a caller named Naser N, with mob. no. 044 664 800,

- On 20/ 04/ 2008 he sold 40 bullets of unknown caliber to Ismet N from Greme village,
- On 02/ 05/ 2008 he sold 10 bullets of “7th” to an unknown person,
- On 19/ 05/ 2008 he sold a pack with bullets for “TT” pistol,
- On 22/ 05/ 2008 he sold a pack of gun powder for M-48 gun to “Emin’s son”,
- On 22/ 05/ 2008 he sold 50 bullets for M-48 gun to an unknown person
- On 22/ 05/ 2008 he sold a pistol of Italian production to, priced 330 € to an unknown person,
- On 23/ 05/ 2008 he sold a gun to an unknown person without a certified price
- On 25/ 05/ 2008 he sold an amount of bullets, priced 50 € to Kasim N
- On 01/ 06/ 2008 he sold 25 bullets for pistol gun to an unknown person
- On 03/ 06/ 2008 he sold 6 pistol guns to a person with nickname “Rifa”
- On 08/ 06/ 2008 he sold 16 bullets to an unknown person,
- On 08/ 06/ 2008 he sold 40 bullets for “TT” pistol to Agim N,
- On 15/ 06/ 2008 he sold two “TT” pistol guns to unknown person,
- On 21/ 06/ 2008 he sold 20 bullets of “TT” pistol gun to Rrahman N,
- On 23/ 06/ 2008 he sold a pistol, priced 300 € to a person with nickname “Ceni”

and on 29/ 06/ 2008 he has been provided with 40 packs of weapon munitions, within the group consisted of the abovementioned persons and which was established for the purpose of weapon trade, the defendant Mehdi Selmani through selling weapons and munitions, while other members of the group through buying from him have continued smuggling with weapons in order to have material profit.

- through which he has committed the criminal act “Organized Crime” as per the Article 274, paragraph (1) related to Article 327, paragraph (1) of PCCK.

2) Until 29/ 07/ 2008 he has kept without valid weapon permission a big amount of weapons, thus he has kept at his house premises a pistol of “Zastava” type, bearing serial no. 9243J, whereas in his garage he has kept a total number of 1.423 bullets of 7.62mm caliber; 7.62 mm with scripture II 65; bullets with gas; of 7.62mm caliber; of 9mm caliber; of caliber 7.62 mm, of caliber 7./62mm with scripture II 64 and of caliber 6.35mm.

- through which he has committed the criminal act of “Keeping in unauthorized possession of weapons as per the Article 328, paragraph (3) related to paragraph (2) of PCCK.

II. Mehdi LIMANI and Skender MAHMUTI

-Having a previous agreement between each other, they have taken part actively in the criminal acts of the criminal organized group, being aware that their participation will contribute to committing aggravated crimes by implementing the reached agreement, which was as follows: On 29/ 07/ 2008 Skender Mahmuti, through his free will, left his house in Godance village, Shtime Municipality and went to “Migroll

Petroll” Petrol Station located along Prishtina- Ferizaj road, and at 16:00 hrs together with Ramadan N have contacted the co-defendant, Mehdi Limani, who was previously called by Ramadan N to transport without authorization 37 bullets of 7.65 mm caliber to that place since they had a (purchase) order from Liridon Gashi from Godance village, Shtime Municipality, then to transport without authorization, those bullets to his house in Godance village with “Gjeep- Opel Frontera”, thus continuing smuggling, through which they have committed the criminal act “Unauthorized supplying, transporting and selling of weapons” as per the Article 327, paragraph (2) of PCCK, and through which they can be punished from 1 to 8 years imprisonment.

- through which in cooperation they have committed the criminal act “Organized Crime” as per the Article 274, paragraph (2) related to Article 23 of PCCK, related to Article 327, paragraph (2) of PCCK.

III. Mehdi LIMANI and Ramush KUTLESHI

On 27/ 07/ 2008 the defendant Ramush Kutleshi has transported without authorization 10 packs of bullets of 9mm caliber, 10 packs of bullets of 7mm caliber, 5 packs of bulletes of caliber 6mm from his house located in Dumosh village, Podujeva Municipality to a location in Prishtina, and then he has sold them without authorization to the defendant Mehdi Limani. Then the latter, after being provided with the said items, on the following day, on 28/ 07/ 2008, on return, has given 1. 150 € to Bujar N, a worker at the storehouse ”Te Bashkimi” near “Hib Petrol”.

- through which each of them have committed the criminal act: “Unauthorized supplying, transporting and selling of weapons” as per the Article 327, paragraph (2) related to paragraph (1) of PCCK.

IV. Ramush KUTLESHI and Sami KUTLESHI

Since the unknown persons, as per the previous negotiations with the defendants, have supplied with weapons and munitions without authorization the defendants Ramush Kutleshi and Sami Kutleshi by bringing the big war arsenal at the house of these latters in Dumosh village, Podujeva Municipality, thus the following items were brought: a “Beretta” pistol of 950 B model, of 6.35mm caliber; a “Zastava” pistol, bearing serial no. ET 834037; 8526 bullets of different calibers, 7. 62 x 25 mm; 7.62 x 39 mm; 7. 665mm; 7.92 x 57 mm; 6.35 mm and 9x19mm. The defendants Ramush Kutleshi and Sami Kutleshi being fully conscious have continued to possess the said amount of weapons without having a valid permission for them up to 30/ 07/ 2008, keeping them inside a storage room, in the vehicle “Golf 2” and in a cradle, in order to commit together the criminal act “Unauthorized possession of weapons as per the Article 328, paragraph (3) related to paragraph (2) of PCCK for which it is foreseen the punishment of 1 to 10 years imprisonment, and from this smuggling the defendants have intended to earn money.

-through which the defendants Ramush Kutleshi and Sami Kutleshi in cooperation have committed the criminal act “Organized Crime” as per the Article 274, paragraph (2) related to Article 23, related to Article 328, paragraph (3) and paragraph (2) of PCCK.

The indictment has then been confirmed on the 8th of September 2008 by the Confirmation Judge of the Pristina District Court, Shemsi HAJDINI.

On the 13th of January 2009, the main trial has started. Present were the Panel members as specified above; the defendant Mehdi LIMANI and his defense counsels Flamur BOGAJ/Bahtir TROSHUPA; Skender MAHMUTI and his defense counsel Azem VLLASI; Ramush KUTLESHI and his defense counsel Hamdi PODVORICA; Sami KUTLESHI and his defense counsel Besime ISMAILI. 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. The accused Mehdi LIMANI has pleaded not guilty for count I, paragraph 1), count II and III, and guilty for count I, Paragraph 2); the accused Skender MAHMUTI has pleaded not guilty; the accused Ramush KUTLESHI has pleaded not guilty for count III and partially guilty for count IV as per Article 328 but not as per Article 274 of the PCCK; the accused Sami KUTLESHI has pleaded not guilty.

On the motion of the defense counsels of all the defendants to terminate the detention on remand imposed on them and having heard the opinion of the Public Prosecutor, the Court has decided with a separate ruling to confirm detention on remand imposed on the defendant Mehdi LIMANI and to terminate detention on remand for all the other defendants, imposing on them house detention, pursuant to Articles 268, Paragraphs 3 and 4, and 278 of the PCCK.

On the 20th of January 2009, the witness Haki BERISHA has been examined.

On the 21st of January 2009, the Public Prosecutor has read the relevant documentation of the telephone interceptions. The examination of the defendant Mehdi LIMANI has followed.

On the 22nd of January 2009, the session has continued with the examination of the defendants Mehdi LIMANI, Skender MAHMUTI, Ramush KUTLESHI and Sami KUTLESHI. The closing statements have also been presented by all the parties.

On the 23rd of January 2009, the Public Prosecutor has presented the order for the extension of interception of telecommunications, which has been entered in the court file. The Court has withdrawn for deliberation. Then the court, after deliberation and voting, has announced the above written enacting clause of the verdict.

MERITS OF THE CASE

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

In the indictment and during the trial, the Public Prosecutor has attempted to convince this Court that the defendant Mehdi LIMANI has been an active member of a criminal organization - of which the other defendants Skender MAHMUTI, Ramush KUTLESHI and Sami KUTLESHI have also been part - dealing with the trafficking of weapons. Nevertheless, the Public Prosecutor, upon which is the burden of the proof, according to Article 10, Paragraph 3, of the PCPCK, has completely failed to support with any evidence the existence of such criminal organization.

Article 274, Paragraphs 1 and 2, of the PCKK 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 PCKK 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 completely failed to give any evidence whatsoever with regard to 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 been active, the financial or material benefit gained by the group and so on. On the contrary, it appears clear from the collection of the evidence during the main trial that Skender MAHMUTI did not know any of the other defendants prior to the initiation of the present criminal proceeding and that Sami KUTLESHI also did not know Skender MAHMUTI and Mehdi LIMANI.

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 Mehdi LIMANI.

This Court has satisfied itself beyond any reasonable doubt of the criminal responsibility of the defendant Mehdi LIMANI in relation to the criminal offences of Attempted "Unauthorized Supply, Transport, Production, Exchange or Sale of Weapons", contrary to Articles 327 (1) and 20 of the PCCK and "Unauthorized Ownership, Control, Possession or Use of weapons" contrary to Article 328 (2) and (3) of the PCCK.

2.1. Attempted "Unauthorized Supply, Transport, Production, Exchange or Sale of Weapons", contrary to Articles 327 (1) and 20 of the PCCK.

2.1.1. Count I, Paragraph 1), of the indictment.

With regard to the charge of "Unauthorized Supply, Transport, Production, Exchange or Sale of Weapons", the Court finds that the criminal responsibility of the defendant Mehdi LIMANI shall be limited to an "attempt" to commit such an offence, as the Public Prosecutor has not been able to demonstrate that the exchanges and sells of weapons or ammunitions to which some of the intercepted phone calls were referring to did really occur. Moreover, even in the form of "attempt", some of the exchanges and sells which are mentioned in the indictment have not been proved to have happened at all.

The main sources of evidence on which the Court can rely on are the results of the telephone interceptions on the telephone number 044201844 in use of the defendant Mehdi LIMANI. The covert measures of interception of telecommunications have been lawfully ordered by force of a ruling of the Pre-Trial Judge issued on the 4th of March 2008 and further extended by the same Judge. The relevant intercepted telephone calls have also been read during the public main trial in the session held on the 21st of January 2009.

The intercepted telephone number 044201844 has been recognized to be the one in use of Mehdi LIMANI during the period indicated in the indictment, by the same defendant.

This is the relevant excerpt from the minutes of the session held on the 21st of January 2009:

Public Prosecutor: *How many numbers do you have and what are they?*

Mehdi Limani: *I have two; 044 201844 and the other is my brothers, who works with me in a bus company, and his number is 044 608010....(omissis)....*

Presiding Judge: *I have to clarify. Could you please clarify your first number again?*

Mehdi Limani: *044201844....(omissis)...*

Andrea Cruciani: *One clarification, regarding the interception. Is the phone number 044 201 844, the one that you were having in use during the time March until July 2001?*

Mehdi Limani: *I have this phone number since 2001.*

Andrea Cruciani: *So you are confirming that you were using it?*

Mehdi Limani: *Yes.*

In some telephone conversations reference is made to a person with name “Gadafi” or “uncle Gadaf”. This is the nickname of the defendant Mehdi LIMANI, as he has also admitted during the examination in court on the 21st of January 2009.

An extract from the minutes of the session held on the 21st of January 2009:

Public Prosecutor: *Do you have a nickname?*

Mehdi Limani: *Yes, Gadafi.*

Based on the mentioned interception of telecommunications, the criminal responsibility of Mehdi LIMANI to attempt to sell or buy weapons and ammunitions has been proven beyond reasonable doubt in relation to the following incidents:

- 1 on 6 March 2008 he attempted to sell a “M 48” gun to a person “Faton”.

The integral intercepted call from 15:00:42 to 15:01:44 hours from the defendant mobile (044201844) to a person named Fatoni (049890796) makes clear reference to M48 gun:

Fatoni: hey I have a long one;

Mehdi: what?

Fatoni: can you take it or not, forty eight (48);

Mehdi: fine?

Fatoni: not so much but it's good, new one;

Maehdi: how much money?

Fatoni: really I do not know what to say, I am in a bad situation, I want to say for you two hundred (200), I will give it.

- 2 on 6 March 2008 he attempted to sell a “TT” pistol to a person “Albert”.

Here is the relevant intercepted call, which shows the attempt to sell “TT” pistol to a person “Albert”:

Target Phone no.	Call no.		Operation name
44201844			
Date	Call start	Duration of call	Call end
06/03/2008 10:42:32	06/03/2008 10:40:32	0:01:34	06/03/2008 10:41:06
Call Type: Voice	SMS	Yes	No
Contact phone number	Subscriber		
Called: 44201844			
Calling: 44652666			
Person using intercepted phone		Contact person	
Mehdiu		Alberti	
Attempted call		Yes	
Call relevant		Yes	

Summary Yes No
Word for word Yes No

Albert: uncle Gadaf, are you tired?
Mehdiu: a little bit and you?
Albert: Albert, I am from Koshare, (not very understandable)
Mehdiu: Yes Albert?
Alberti: What are you up to, how are you?
Mehdiu: Fine, well
Alberti: are you sleeping?
Mehdiu: No, I am drinking a tea
Albert: I wanted to ask you something. Friend of mine asked me. He need a revolver TT
Mehdiu: Oh, yes
Albert: Do you have any new one?
Mehdiu: Not really
Alberti: Someone said that there are in Shtime
Mehdiu: Not really not any new one, not I swear there is not a new
Albert: Not a new?
Mehdiu: No, no
Albert: and used ones how much are uncle Gadaf?
Mehdiu: not under five hundred (500) euro's, and I do not have for the moment. I have others, but not those.
Albert: for five hundred (500)?
Mehdi: yes, yes
Albert: ok, its fine
Mehdi: ok, by
Albert: By, by.

DATE	TIME	OFFICER (name and signature)	LA
23 - Apr - 08	13.53	Scorpion	wind

3 on 6 March 2008 he attempted to sell a silent gun and war equipment to a person "Luli".

Here is the relevant intercepted call, which makes clear reference to the attempt to sell a silent gun and war equipment "Luli":

LI Transcription

Target Phone no.	Call no.		Operation name
44201844			
Date	Call start	Duration of call	Call end
06/03/2008 19:32:47	06/03/2008 19:32:47	0:00:42	06/03/2008 19:33:29
Contact phone number	Subscriber		
Called: 44201844 Calling: 44413895			
Person using intercepted phone		Contact person	
Mehdiu		Luli	
Attempted call		Yes	
Call relevant		Yes	

Summary Yes No
Word for word Yes No

Luli: Hi!
Mehdi: Hi!
Luli: Those keep it together, together
Mehdi: ok, ok
Luli: ok?
Mehdi: both, together?
Luli: what?
Mehdi: both, to keep it?
Luli: yes, silencer with those, yes
Mehdi: When he is coming, when?
Luli: He is coming at the end of the month, he said that
Mehdi: ok that's fine, ok, where I you now?
Luli: by
Mehdi: by

Date	Time	Officer (name and signature)	LA
23 - Apr. - 08	13.54	scorpion	

4 on 7 March 2008 he attempted to sell a "Scorpion" gun for the price of 500 EURO to an unknown person.

It follows the intercepted call, which refers to the attempt to sell a "Scorpion" gun for 500,00 EURO:

Target number 044201844; Date: 07/03/2008; Time: 11:14:35 - 11:15:18:

PPM: what are you doing?
Mehdi: I am here in the restaurant.
PPM: yes, hey!
Mehdi: yes
PPM: do you have that, the yellow one?
Mehdi: ah?
PPM: the yellow one, do you have it?
Mehdi: yes.
PPM: for how much do you sell it?
Mehdi: Sell it as much as you wish, I don't give a shit
PPM: do you know which one?
Mehdi: Yes, yes

PPM: the scorpion
Mehdi: yes, yes, yes, do not talk, I know
PPM: how much do you sell it for us?
Mehdi: Well, five hundred (500) Euro, last price, including the other "talk" (meaning "stuff")
PPM: which other "talk"?
Mehdi: It has also another "talk" that is being attached to it, like this, it is attached to it, you know?
PPM: yes
Mehdi: do you know?
PPM: Yes, yes, yes
Mehdi: that is being attached to it, separately, in addition, if you want to attach it
PPM: how much, last price, last price, how much?
Mehdi: five, last price, five hundred (500)
PPM: yes? Ok
Mehdi: yes
PPM: good, we'll tell this to someone right now
Mehdi: bye, bye.

5 on 9 March 2008 he attempted to buy from a unknown person 4 packs of bullets for a "TT" pistol.

The integral intercepted call from 11:09:04 to 11:09:04 hours from the defendant mobile (044201844) to an unknown person (044239473) makes reference to three or four boxes of bullets for the "TT" pistol:

Mehdi: bring me three-four boxes of bullets TT on the asphalt.

6 on 9 March 2008 he attempted to sell a fire weapon of 357 type, priced EURO 600 to a person "Genc".

The integral intercepted call from 16:40:34 to 16:42:08 hours received by the defendant's mobile (044201844) from a person called Genc (044433522) is related to a 357 type weapon, worthy 600 euro:

PPM: a new 357, brand new, how much does it cost according to you?
Mehdi: 600 euro;
PPM: paid 800 for it, it is brand new;
Mehdi: it can not be sold for more than 6-7 hundred;

7 on 9 March 2008 he attempted to sell 1000 pieces of bullets of a gun "Kallash" to an unknown person.

The integral intercepted call from 22:01:20 to 22:02:56 hours received by the defendant's mobile (044201844) from an unknown person (044662808) pertains to the sell of 1000 pieces of bullets of a gun "Kallash" for 30 cents for piece:

PPM: do you have those of;
Mehdi: I have as many as you want;
PPM: how many to give to someone 1000 pieces;
Mehdi: with 30 cent. As many as you want.

8 on 10 March 2008 he attempted to sell a fire weapon of type "Scorpion" and 6 pistol cartridges to a person "Dulla".

The integral intercepted call from 10:11:18 to 10:12:43 hours received by the defendant's mobile (044201844) from a person with nickname Dulla (044527969) makes reference to the sell of a weapon scorpion type and 6 cartridges:

Dulla: hey what happened yesterday, the guy has tried it, I tried it too at I 3-4 at automatic shooting it blocks;

Mehdi: I swear Dulla I don't know, I don't believe that it happened like that, do you hear me;(omissis)...

Dulla: hey and for that scorpion did you find those cartridges for me?

Mehdi: No I swear, that's scarce, it's difficult to find them;

Dulla: and for these do you have cartridges?

Mehdi: for what?

Dulla: for revolvers;

Mehdi: yes, there is something;

Dulla: how many pieces can you find for me, can you find 2-3 for me?

Mehdi: I can find for you 5 or 6;

Dulla: how much are they?

Mehdi: well, 20 euro, they cost 25 but I'll give to you for 20.

9 on 14 March 2008 he attempted to sell two silent gun to a person "Luli".

The integral intercepted call from 10:34:08 to 10:34:46 hours received by the defendant's mobile (044201844) from a person Luli of Budakova (044264827) pertains to the sell of two silent guns.

Luli: keep that one together with the other one, keep both;

Mehdi: done done;(omissis)

Luli: both, the silent piece together with that, yes;

Mehdi: when is he coming, when?

10 on 15 April 2008 he attempted to sell 70 bullets of unknown caliber to a person "Bea".

The integral intercepted from 19:27:38 to 19:28:46 hours received by the defendant's mobile (044201844) from a person "Bea" (044201844) makes reference to 70 bullets:

Beha: how much is package?

Mehdi: with whom I am speaking ?

Beha: oh, with Beha

Mehdi: Beha, you know that fifty-fifty(50-50)

Beha: a seventy pieces (70)

Mehdi: yes.

Beha: some ten (10) pieces how much should I take?

Mehdi: come, here and do what you want.....

Beha: no, no, no, I live the money to this boy

Mehdi: come here because is not a problem

Beha: how much should I live (give)?

Mehdi: yes, as much as you want, don t make me talk I swear to God.

11 on 20 April 2008 he attempted to sell 40 bullets of unknown caliber to a person "Ismet".

The integral intercepted call from 11:30:35 to 11:31:37 hours received by the defendant's mobile (044201844) from the person Ismet from Gremja who passed the phone to unknown person (044299522) pertains to 40 bullets:

PPM: this uncle needs some forty (40), S-S
Mehdi: I am coming there, know I coming there
PPM: ok
Mehdi: right know I am coming there
PPM: ok.

12 on 2 May 2008 he attempted to sell 10 bullets to an unknown person.

The integral intercepted call from 13:09:37 to 13:09:54 hours received by the defendant's mobile (044201844) from an unknown person (044201844) makes reference to ten (10) bullets:

Mehdi: where is Perparim?
PPF: here it is outside
Mehdi: tell him some ten (10) pieces of the seventh (7), let him bring in Shtime, let him bring in Shtime, some ten (10) pieces of the seventh.
PPF: ok.

13 on 22 May 2008 he attempted to sell a pistol of Italian production at price of EURO 330 to an unknown person.

The integral intercepted call at 17:32:11 hours received by the defendant's mobile (044201844) from unknown person pertains to a pistol of Italian production for the price of 330 EURO:

PPM: what are you doing....
Mehdi: I am here in Ferizaj together with Ferat.
PPM: you are in Ferizaj
Mehdi: yes we are here in the parking place of the disabilities persons.
PPM: ok, later on I might come, I am in the way to certain place, I wanted to have kind of item one of those Italian do you know with B.
Mehdi: yes.
PPM: how much money one among the bests.
Mehdi: among the bests 300
PPM: ok ok, should I take that kind of item
Mehdi: look if it is fake something.
PPM: no, no don't worry, but he is saying 350.
Mehdi: how much
PPM: 350.
Mehdi: it is too much 350, too much.
PPM: know I would take it for you
Mehdi: is it brand new or not.
PPM: no, yes, yes it is brand new, new
Mehdi: 300 around, don't break with him.

14 on 3 June 2008 he attempted to sell 6 pistol guns to a person "Rifa".

The integral intercepted call at 14:50:32 hours received by the defendant's mobile (044201844) from a person "Rifa" makes reference to a six pistol guns:

Mehdi: hey listen where you are
Rifa: here in the shop in the market
Mehdi: I swear there is no more than 6 did you listen ...
Rifa: no, no this business is over
Mehdi: to delay them no
Rifa: can't, can't
Mehdi: 6 I finish them after 1 hour, I can bring to you
Rifa: ok is done I will wait for you in the shop

15 on 29 June he attempted to buy 20 packs of ammunition.

The integral intercepted call at 11:57:22 hours received by the defendant's mobile (044201844) from person called "Arben" pertains to twenty packs of ammunitions:

Arben: what do you need and how much do you need for tonight to have your things
Mehdi: yes, too many things a
Arben: how many will you take tell me, because there are a lot normally, but how much you take
Mehdi: I swear some 20, 30, a 40.
Arben: hey listen those packages you have them for 35
Mehdi: yes a
Arben: yes, tell me how much you take, if you have things tonight to give to me
Mehdi: yes, but where are, where are
Arben: tonight, tonight
Mehdi: ok than tonight 20,20 I swear not more, but to much 35 Arben
Arben: 20 packs
Mehdi : yes.
Arben: and those big ones don t you need them
Mehdi: no but will see Arben will see for big ones
Arben: 20 and nothing else
Mehdi: o no, I swear no
Arben: ok, ok 20 I have them for sure but you have things
Arben : ok then when can I come
Arben: tonight around 8 at the latest
Mehdi: ok is done I inform you when I am there you heard
Arben: no, no maybe I bring them there.

As to what the defendant's statements pertain in relation to the telephone interceptions, Mehdi LIMANI attempted to give a different explanation of the results of the telephone interceptions, by questioning that he was not the one who was using his telephone (044201844) when the intercepted calls were made or received.

These are some excerpts of the minutes of the session held on the 21st of January 2009:

Public Prosecutor: *Can it be possible that someone else used your phones?*

Mehdi Limani: *Yes.*

Public Prosecutor: *Who?*

Mehdi Limani: *Ever since I was wounded in 1998, I drink a great deal and it has very often happened to me to leave my phone on the table and come back an hour later to find it has no credit left.....(omissis).....*

These are the relevant extracts from the minutes of the session held on the 22nd of January 2009:

Andrea Cruciani: *The telephone interceptions that the Prosecutor read to you and many of these conversations were referenced to weapons and bullets and some of them were referenced to the nickname Gadafi. How do you explain these conversations?*

Mehdi Limani: *After my injuries after the war, I worked in an association during which period we went through places after the war. We had meetings with soldiers, which were quite interesting. The military service of Former Yugoslavia, I have done the service in 1981 and I worked in storage room for weapons, so more or less I was familiar with weapons, as far as minor defects are concerned; and in which case I was called by soldiers to fix these.*

Andrea Cruciani: *We are speaking about March to July 2008. Were you still involved with these contacts to the military?*

Mehdi Limani: *No.*

Andrea Cruciani: *Can you please explain these conversations to the court.*

Mehdi Limani: *As I said yesterday, I spend a lot of time in café bars and do drink a lot so people might have used my phone.*

Andrea Cruciani: *When you say people might use my phone, how can it happen that people might have used your phone for almost every second day for a period, from months of March to July 2008?*

Mehdi Limani: *I am not sure if I explained this yesterday that we have a travelling Bus Company. We travel people by bus from Ferizaj to Shtimje and it has many times happened that I have forgotten my phone on the bus; my brother and I had this bus company.*

Andrea Cruciani: *Are you saying that during that dates, on the 5, 6, 7, 8, 10, 14, 15 and so on of March, during all these days you have forgotten your phone in the bus and that someone picks it up and uses it to buy or sell bullets?*

Mehdi Limani: *I can't recall the exact date but (Judge interrupts)*

Presiding Judge: *It is strange, at all times that you forget your phone; someone starts to buy or sell the bullets?*

Mehdi Limani: *I do not believe that all the time someone speaks about those things on my phone but the interceptions are not correct, because they say that I transport bullets and weapons but when the police stopped me and searched me and my vehicle they found nothing.*

Andrea Cruciani: *You are telling us that you forgot your phone in the bus. How did you get your phone back?*

Mehdi Limani: *When we go to Ferizaj, in the bus station, we have breaks during which we park our bus at the parking lot and we go a bit further to have lunch and tea, so it can happen.*

Andrea Cruciani: *How do you get it back?*

Mehdi Limani: *When the time comes to go back we, go from Freizaj to Shtimje, four times a day. So, then I get the phone.*

Andrea Cruciani: *Some of the phone calls that were intercepted and were referring to weapons and bullets, were recorded late in the evening at 1900 and at 2200 hrs?*

Mehdi Limani: *I said, in the afternoon I spend a lot of time in the café bars.*

Andrea Cruciani: *What happens in these bars?*

Mehdi Limani: *We stay and have drinks with friends, sold cars, wood, parts of vehicle etc.*

Andrea Cruciani: *I am referring to those phone calls which were made late in the evening. How do explain that?*

Mehdi Limani: *After the war, we used to call each other with nicknames, such as 'where are you Kallash', 'where are you Gadaf' and so on.....(omissis).....*

Bahtir Troshupa: *Are you selling the wood to the construction? How are the measurements, are they thin, long?*

Presiding Judge: *I have got to stop you there. Do you measure wood in calibre?*

Mehdi Limani: *Yes, when we were joking.*

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 by the defendant. Mehdi LIMANI makes reference in his statements to various and contradicting circumstances to justify the intercepted calls, going from his involvement in the armed conflict in Bosnia to the fact that he is addicted to alcohol, to the use of the public bus, to his presence in the bars at night, to the use of "calibers" to measure the wood that he sells.

The Panel is not convinced of any of the arguments referred by the defendant.

It is absolutely illogical and implausible that the defendant has forgotten his mobile telephone in the public bus and that each time someone was there ready to take his forgotten mobile phone and to use it in order to deal with the trafficking of weapons.

Those statements become even less credible, if attention is drawn on the circumstance that the person that would have used the defendant's telephone was called by the other person on the phone with the nickname Gadaf and that he replied to be the one named Gadaf.

Moreover, the defendant has also claimed that not only he kept forgetting the phone on the bus but also that during the evenings, when most of the intercepted calls took place, he was sitting in a bar where his mobile was taken by unknown persons and used for the said illegal purposes. Even these circumstances are not at all plausible.

It is not proper to elaborate more on the patently incredible and unreliable defendant's assertions. The clearly illogical and implausible defendant's version of the events is not even corroborated by a single piece of evidence. On the contrary, it is in contrast with the results of the telephone interceptions and with all the other material evidence collected during the investigations and presented in court.

2.1.2. Count II of the indictment.

In relation to count II of the indictment, the defendant Mehdi LIMANI in the course of the examination at the main trial has admitted that on the 29th of July 2008 he was going

to sell twenty (20) bullets at the "Migroll Petroll Station" along the road Pristina-Ferizaj, but he got arrested just before.

This is the relevant passage from the minutes of the session held on the 22nd of January 2009:

Azem Vllasi: *You explained about Ramadani at this petrol station having asked for certain amount of bullets which you brought and gave them free of charge. Can you tell us, what happened to these bullets? Did you give them to Ramadani, or did police get them, or what happened?*

Mehdi Limani: *First of all, I'd like to point out that this person's name is not Ramadan, his name is Rahman. It is true that I gave 20 bullets to Rahman. He asked me because he had wedding to attend. I gave the bullets to Rahman, on his hand and I wanted to continue to Ferizaj. My engine was on, a vehicle stopped by; I do not remember the colour of this vehicle. Two persons with weapons, got out of this vehicle and they said, get out of the car, raise your hands and you are under arrest.*

2.1.3. Legal qualification in relation to Count I, Paragraph 1, and count II of the indictment.

As for the legal qualification of the criminal offence, the charge in counts I, Paragraph 1), and II of the indictment make reference to the "Unauthorized Supply, Transport, Production, Exchange or Sale of Weapons", contrary to Article 327, Paragraphs 1 and 2, of the PCPCK. Nevertheless, to achieve the full perpetration of the said criminal offence it is needed that the exchanges or sells of weapons are proved to have effectively occurred. In the present criminal proceeding, for the already mentioned arguments, what has been proven is that the defendant has intentionally taken immediate actions towards the perpetration of the said criminal offence, by contacting (or by being contacted by) unknown persons discussing all the relevant details of the exchanges or sells (type of weapons or ammunitions, quantity, price, date and place of delivery). On the opposite, the Public Prosecutor has failed to demonstrate that the discussed exchanges or sells did actually take place, as no investigative actions have been directed to that aim. For instance, no activity of covert photographic or video surveillance has recorded the illicit transactions of weapons and ammunitions and no simulated purchases of the said items have ever taken place.

For the afore mentioned reasons the correct legal qualification of the criminal acts committed by the defendant Mehdi LIMANI is Attempted Unauthorized Supply, Transport, Production, Exchange or Sale of Weapons, contrary to Articles 327 (1) and 20 of the PCCK.

2.1.4. The acquittal for some incidents referred in Count I, Paragraphs 1 and 2, of the indictment.

On the other hand, the defendant shall be acquitted for the remaining incidents mentioned in count I, Paragraphs 1 and 2, of the indictment, as they were not adequately supported by sufficient evidence.

In particular, in relation to the following incidents, the Public Prosecutor has presented to the Court only a summary of the intercepted calls, without the integral transcripts of

the telephone calls, so that it is not possible for the Panel to assess whether the references made in the said summaries to weapons and ammunitions are clearly spelled out in the conversation or whether they are the result of an evaluation made by the police officers in charge of the drafting of the summaries:

- 1 On 16/04/2008 he sold a pistol of "Beretta" type, priced 300 € to a caller named Naser N, with mob. no. 044 664 800;
- 2 On 19/ 05/ 2008 he sold a pack with bullets for "TT" pistol;
- 3 On 22/ 05/ 2008 he sold a pack of gun powder for M-48 gun to "Emin's son";
- 4 On 22/ 05/ 2008 he sold 50 bullets for M-48 gun to an unknown person;
- 5 On 23/ 05/ 2008 he sold a gun to an unknown person without a certified price;
- 6 On 25/ 05/ 2008 he sold an amount of bullets, priced 50 € to Kasim N;
- 7 On 08/ 06/ 2008 he sold 16 bullets to an unknown person;
- 8 On 08/ 06/ 2008 he sold 40 bullets for "TT" pistol to Agim N;
- 9 On 21/ 06/ 2008 he sold 20 bullets of "TT" pistol gun to Rrahman N;
- 10 On 23/ 06/ 2008 he sold a pistol, priced 300 € to a person with nickname "Ceni";

The defendant shall also be acquitted for the following incidents as the intercepted and integrally reported telephone conversations contain a coded language, with simple references to numbers or prices in relation to which the Panel could not be convinced beyond any reasonable doubt that the said references were pertaining to weapons and ammunitions or instead to other legitimate transactions of goods:

- 11 On 05/ 03/ 2008 he sold an amount of bullets priced 100 € to unknown person; in the conversation reference is made to a coded language "keys", "birds" and "chickens" and the price of 100 euro;
- 12 On 05/ 03/ 2008 he sold 30 bullets to Shaban Buja; the only reference is made to the number 30;
- 13 On 07/ 03/ 2008 he sold some weapons and an amount of unknown munitions to Faton N from Dremnjak village; no reference is made to the selling of weapons but to "stuff" which is not at home;
- 14 On 01/ 06/ 2008 he sold 25 bullets for pistol gun to an unknown person; there is an integral conversation in which Mehdi is being asked about 25 bullets and he replies that he does not have them:

PPM: Hey, some 20 pieces don't you have them, that one the small one:
Mehdi: no I swear.

- 15 On 15/ 06/ 2008 he sold two "TT" pistol guns to unknown person; there is a small integral part of conversation referring to "those blacks" but it is not clear exactly to what reference is made.

2.1.5. The acquittal for Count III of the indictment.

The defendant shall also be acquitted in relation to the count III of the indictment of "Unauthorized Supply, Transport, Production, Exchange or Sale of Weapons", contrary

to Article 327 (1) of the PCCK. The indictment reads: "On 27/07/2008 the defendant Ramush KUTLESHI has transported without authorization 10 packs of bullets of 9mm caliber, 10 packs of bullets of 7mm caliber, 5 packs of bullets of caliber 6mm from his house located in Dumosh village, Podujeva Municipality to a location in Prishtina, and then he has sold them without authorization to the defendant Mehdi LIMANI. Then the latter, after being provided with the said items, on the following day, on 28/07/2008, on return, has given 1.150 € to Bujar N, a worker at the storehouse" Te Bashkimi" near "Hib Petrol".

In the court file, except for the confiscation of the amount of money of € 1.150,00 (onethousandonehundredand fifty) from the premises of Ramush KUTLESHI's house, no other evidence exist in relation to this incident. Even with respect to the said amount of money there is no evidence that this money represent the price for the selling of the ammunitions. Neither the Public Prosecutor during the course of the trial has supported, by further explanations or pieces of evidence, that count of the indictment, so that in no way the circumstances of this incident as described in the indictment have been demonstrated.

As a result of the complete lack of evidence of the involvement of Mehdi LIMANI in the transporting and selling of the said ammunitions, the defendant shall be acquitted on this count of the indictment.

Based on the illustrated arguments, the court comes to the conclusion as specified in the enacting clause of this judgment.

2.2. "Unauthorized Ownership, Control, Possession or Use of weapons" contrary to Article 328 (2) and (3) of the PCCK, as referred in Count I, Paragraph 2), of the indictment.

With regard to the charge of "Unauthorized Ownership, Control, Possession or Use of weapons" contrary to Article 328 (2) and (3) of the PCCK, the defendant Mehdi LIMANI pleaded guilty on that count I, paragraph 2), of the indictment, according to which "until 29/07/2008 he has kept without valid weapon permission a big amount of weapons, thus he has kept at his house premises a pistol of "Zastava" type, bearing serial no. 9243J, whereas in his garage he has kept a total number of 1. 423 bullets of 7.62mm caliber; 7.62 mm with scripture II 65; bullets with gas; of 7.62mm caliber; of 9mm caliber; of caliber 7.62 mm, of caliber 7./62mm with scripture II 64 and of caliber 6.35mm."

The weapons and ammunitions of different calibres were found in the premises of his house following a lawful search and confiscation activity by the police on the 30th of July 2008.

It follows a passage from the report drafted on the 30th of July 2008 by the police officer Shqipe Ahmeti #6488 of Ferizaj Crime Unit:

"From the Sergeant Driton Vrajolli we have been informed that during the search of the house of the suspect Mehdi Limani there has been found a weapon and a quantity of ammunitions. The ammunitions were in the garage which was located behind the house, whereas the weapon was in the house of the suspect.

1. *The work of crime-technique*

The photographing of the crime scene has been conducted with a digital camera from three distances: far, middle and close. After the removal of the ammunitions from the bags where they were packed, the ammunitions were lined up, counted and evidenced with the following numbers:

1-the whole quantity of the ammunitions has been evidenced

1A- 285 pieces of bullets caliber 7,62, one cartridge and five holders of bullets have been evidenced

1B- 165 bullets caliber 7,62 with the scripture II 65 and 3 cartridges have been evidenced

1C- 16 bullets with gas have been evidenced

1D- 7 bullets of different calibers have been evidenced

1E- 315 bullets caliber 7,62 have been evidenced

1F- 302 bullets 9mm and 100 bullets caliber 7,62 have been evidenced

1G- 63 bullets caliber 7,62 with the script II 64 have been evidenced

1H- 184 bullets caliber 6,35mm have been evidenced

2- The weapon with the script 9243J has been evidenced

[3] The proof has been packed after having evidenced it and the same has been confiscated by the DKKO unit which is also responsible for the case."

The circumstances of this event have also been further explained by the defendant during his examination. These are the most significant passages from the minutes of the session held on the 21st of January 2009:

Public Prosecutor: *Are you aware of the fact that some ammunition was found at your house?*

Mehdi Limani: *Yes.*

Public Prosecutor: *Who told you so?*

Mehdi Limani: *Regarding the pistol, it is mine; it was an old pistol and as far as I remember it was of German production. After the war I found a bunch of ammunition. I do not know exactly how many I have. After the departure of Serbian police and the military in 1999, we came back home and at home I found that amount of ammunition; different types. I hid this from my children. I apologize for finding them and not telling the police about them. I don't know exactly how many I found. When the police made the house search I was not present.*

Thus, the material element (*actus rei*) is proved by the factual circumstance that the described amount of weapons and ammunitions of different calibres were found in the premises of his house following a lawful search and confiscation activity by the police on the 30th of July 2008 and by the statements of the defendant.

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

has pleaded guilty on this particular count of the indictment and has confirmed the unauthorized possession during the examination at the trial.

As for the legal qualification of the criminal offence, although the terminology used in the indictment is not precise, as it makes reference to "Keeping in unauthorized possession of weapons", correct reference is made to Article 328, paragraphs (2) and (3) of PCCK, which criminalizes the "Unauthorized Ownership, Control, Possession or Use of weapons".

The items found in the defendant's premises are surely to be classified as weapons. Indeed, according to Article 107, Paragraph 28), of the PCCK, 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."

Furthermore, there is no doubt that the amount of weapons involved shall be considered as "large", in accordance with article 327, Paragraph 2, of the PCCK, as the quantity of the said material is considerably high.

3. The criminal responsibility of Skender MAHMUTI.

The defendant Skender MAHMUTI has been charged by the Public Prosecutor with "Unauthorized Supply, Transport, Production, Exchange or Sale of Weapons", contrary to Articles 327 (1) of the PCCK, because on the 29th of July 2008 he left his house in Godance village, Shtime Municipality and went to "*Migroll Petroll Petrol Station located along Prishtina- Ferizaj road, and at 16:00 hrs, together with Ramadan N, has contacted Mehdi LIMANI, who was previously called by Ramadan N, to transport without authorization 37 bullets of 7.65 mm caliber to that place since they had a (purchase) order from Liridon GASHI from Godance village, Shtime Municipality, then to transport without authorization, those bullets to his house in Godance village with "Gjeep- Opel Frontera".*

With regard to count II of the indictment, to which the defendant has pleaded not guilty in court, this Panel finds that the criminal responsibility has been proved but only in the form of "*attempt*", pursuant to Article 20 of the PCCK.

In particular, the statements of the defendant and the other evidence presented in the course of the trial have demonstrated that Skender MAHMUTI on the 29th of July 2008 left his house in Godance village, Shtime Municipality and went to "Migroll Petroll" Petrol Station located along Prishtina-Ferizaj road in order to buy 20 bullets from Mehdi LIMANI. Before he was actually able to collect the bullets and to pay the price of the illicit purchase he was arrested by the police.

This is an excerpt from the minutes of the session held on the 22nd of January 2009:

Public Prosecutor: *Do you recall what you talked about with Rahman?*

Skender Mahmuti: *Yes.*

Public Prosecutor: *What was the subject of discussion?*

Skender Mahmuti: *After I went to fill up my car with petrol, and before, I had a phone call from a friend of mine, he was working somewhere else and he told me: Can you find for me somewhere 20 bullets. After I went to the petrol station, I asked Rahman: Do you know anyone who can find those bullets for me.....(omissis)....*

Presiding Judge: *What happened?*

Skender Mahmuti: *I was in the restaurant having a coffee, when I left the restaurant the police car came in and the policeman arrested us.*

Presiding Judge: *Arrested you and who else?*

Skender Mahmuti: *The person who was driving the Frontera.*

Presiding Judge: *Why were you waiting in the restaurant?*

Skender Mahmuti: *I didn't wait for no one; I was just having a coffee.*

Presiding Judge: *But you said that you have ordered 20 bullets and Rahman will get them for you and then he called a person named Gadaf. So my question is, did you wait for those 20 bullets?*

Skender Mahmuti: *I made the order but I was not waiting for the bullets....(omissis).....*

Public Prosecutor: *Have you seen bullets at that place and time?*

Skender Mahmuti: *I saw just police when they came to arrest us.*

Public Prosecutor: *Where did you see the bullets?*

Skender Mahmuti: *I saw them on the floor.*

Presiding Judge: *Which floor.*

Skender Mahmuti: *In front of the petrol station.....(omissis).....*

Presiding Judge: *You do not recognise Mehdi Limani from this incident?*

Skender Mahmuti: *Yes.*

Presiding Judge: *Did you see him driving Opel Frontera?*

Skender Mahmuti: *Yes.....(omissis)....*

Andrea Cruciani: *In relation to these 20 bullets, did you ever give anyone any amount of money?*

Skender Mahmuti: *No, I have not.*

Sylejman Nuredini: *You said that the bullets were an order by Liridon Gashi. Did you know him before?*

Skender Mahmuti: *Yes he is a friend of mine.*

The acts which have been committed by the defendant do not fulfill the perpetration of the crime of "Unauthorized Supply, Transport, Production, Exchange or Sale of Weapons", provided by Article 327 (1) of the PCCK, as the actions that have put in place by the defendant have never reached the stage of the material exchange of the bullets with the price. Nevertheless, the criminal responsibility of the defendant is still existent as to the "attempt" to commit the said crime, as the actions to agree with Rahamn for the purchase of the 20 bullets and his will to finalize the illicit transaction fall under the provision of Article 20 of the PCCK, which punishes whoever "intentionally takes an immediate action toward the commission of an offence and the action is not completed or the elements of the intended offence are not fulfilled."

4. The criminal responsibility of Ramush KUTLESHI.

4.1. The acquittal for “Unauthorized Supply, Transport, Production, Exchange or Sale of Weapons”, as per Article 327 (1) of the PCCK, as referred in Count III of the indictment.

As for the charge of “Unauthorized Supply, Transport, Production, Exchange or Sale of Weapons”, contrary to Article 327 (1) of the PCCK, count III of the indictment reads: “On 27/07/2008 the defendant Ramush KUTLESHI has transported without authorization 10 packs of bullets of 9mm caliber, 10 packs of bullets of 7mm caliber, 5 packs of bullets of caliber 6mm from his house located in Dumosh village, Podujeva Municipality to a location in Prishtina, and then he has sold them without authorization to the defendant Mehdi LIMANI. Then the latter, after being provided with the said items, on the following day, on 28/07/2008, on return, has given 1.150 € to Bujar N, a worker at the storehouse” Te Bashkimi” near “Hib Petrol”.

In the court file, except for the confiscation of the amount of money of € 1.150,00 (onethousandonehundredand fifty) from the premises of the defendant’s house, no other evidence exist in relation to this incident. Even with respect to the said amount of money there is no evidence that this money represent the price for the sells of ammunitions. Neither the Public Prosecutor, during the course of the trial, has further supported that count of the indictment by providing explanations or pieces of evidence, so that in no way the circumstances of this incident as described in the indictment have been demonstrated.

As a result of the complete lack of evidence as to the involvement of Ramush KUTLESHI in transporting and selling the said ammunitions, the defendant shall be acquitted on this count of the indictment.

4.2. “Unauthorized Ownership, Control, Possession or Use of weapons” contrary to Article 328 (2) and (3) of the PCCK, as referred in Count IV of the indictment.

With regard to the charge of “Unauthorized Ownership, Control, Possession or Use of weapons” contrary to Article 328 (2) and (3) of the PCCK, the defendant Ramush KUTLESHI pleaded guilty on count IV of the indictment, since on the 30 July 2008 at his house in Dumosh village he kept the following weapons and ammunition: a “Beretta” pistol; a “Zastava” pistol, serial number ET834037; 8526 (eighthousandfivehundredandtwentysix) bullets of different calibers.

On the 30th of July 2008 a search was conducted by the Kosovo Police- Forensic Office, in the premises located in Dumosh Village/Podujevo Municipality. The operations were supervised by the police officer Haki BERISHA, who was examined in court on the 20th of January 2009, confirming the contents of the report.

This is an extract from the police report of the 30th of July 2008:

“Then we went on with the document, where on the annex object, at one of the used rooms, also used and as a wooden shed. During the search there we did find a quantity of the various munitions. It was divided in groups, therefore registered by numbers; from No. 1 to No. 7. On this case pictures has been taken for the proofs of these documents. In the yard of this house under the pillow in on the cradle has been found a pistol of the caliber 6.35 mm, Bereta mod. 950 B and one cartridge clip with eight (8) bullets, caliber 6.35. The car Golf II, white color, registration number 101 - KS - 822 has been registered with number 9. In this car behind the drivers seat under the carpet were found and registered these proofs: bullets of the caliber 7.62X25 mm. Twenty (20X70 peaces) of the boxes. Also and a pistol “ZASTAVA”, with the serial number ET834037 with two bullets.....(omissis).....During the numbering of the bullets it results the total quantity of the arms and munitions. One (1) hunting rifle, caliber 12 mm. Two (2) pistols, caliber 6.35 mm. 8526 (eight thousand and twenty six bullets of the various calibers).”

The defendant Ramush KUTLESHI has also pleaded guilty on that count of the indictment and has admitted to have been in possession of the described arsenal in the premises of his house.

These are the most significant passages of the defendant's statements from the minutes of the session held on the 22nd of January 2009:

Hamdi Podvorica: *Where did Mr. Ramush get those weapons?*

Ramush Kutleshi: *That ammunition and these weapons I found while working in the field near the airport, where I have been working. There has been some workers working in the road and while they were doing this work, at the end of the field there was some rubbish as well. And the construction vehicles have cleared out that rubbish and in the same place I have been working in the field. I noticed a pipe as big as my hand, I assumed that is from the power plant and I stopped to see what was in that pipe. While that machine was working there and I went to see what was in the pipe. Around the pipe was some rubbish as well. I noticed two rounds of ammunition and near there I saw a big can which was damaged by the construction machine and after that I left that pipe behind and finished my work and then went straight home. Afterwards I went back with my car; I took them and put them in the garage of my house. I dropped them and I covered them with a piece of cloth. In that garage there was coal and wood.*

Hamdi Podvorica: *Why did you not leave them where you found them; why did you take them home?*

Ramush Kutleshi: *As they were lying around I took them to prevent children coming across them as the children spend a lot of time in the field with the cattle.....(omissis)....*

Ramush Kutleshi: *Yes, I am guilty only of the ammunition found in my house.*

Presiding Judge: *But here it says there was a Beretta pistol and Zastava pistol; where they found in your house?*

Ramush Kutleshi: *Yes.*

Presiding Judge: *So it is weapons and ammunition?*

Ramush Kutleshi: *Yes, all the weapons that were found by the police I had found in the field as I said before....(omissis)....*

Presiding Judge: *Do you recognise the weapons there?*

Ramush Kutleshi: *I know there were two pistols, but I never studied the ammunition in detail; not even 40 minutes passed that I threw them in the garage.*

Presiding Judge: *Are you saying you found them on the same day the police came and arrested you?*

Ramush Kutleshi: *Yes, the very same day.*

Andrea Cruciani: *You can see in the pictures that some of the bullets were placed in red boxes; did you do this job the same day?*

Ramush Kutleshi: *No, I have not. The way I found them, I just took them and through them in the garage and the police came not even in the 40 minutes later.*

Andrea Cruciani: *Did you find some of this ammunition still in the boxes?*

Ramush Kutleshi: *Yes, I did not do anything with them. The way I found them I just took them and I did not put them in any boxes and I truly regret. Where I found the weapons and ammunition, if there was a mine there I would have picked that up to. I took them home and I truly regret that I did this. I had the intention of informing the police after a while.*

The Court deems that, although the circumstances in which the said arsenal was found by the defendant are not made clear and that it is more likely the defendant came in the possession of the described ammunitions and weapons by other means, the uncontroverted fact which is relevant at this stage is that the said arsenal was in his possession and that he had full knowledge of it.

Thus, the material element (*actus rei*) is proved by the factual circumstance that the described amount of weapons and ammunitions of different calibres were found in the premises of his house following a lawful search and confiscation activity by the police on the 30th of July 2008.

The psychological element (*mens rea*) is demonstrated by the knowledge to detain the mentioned items without a valid permission. This is recognized by the defendant as he has pleaded guilty on this particular count of the indictment and has confirmed the unauthorized possession during the examination at the trial.

As for the legal qualification of the criminal offence, correct reference is made in the indictment to Article 328, paragraphs (2) and (3) of PCCK, which criminalizes the "Unauthorized Ownership, Control, Possession or Use of weapons".

The items found in the defendant's premises are surely to be classified as weapons. Indeed, according to Article 107, Paragraph 28), of the PCCK, 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."

Furthermore, there is no doubt that the amount of weapons involved shall be considered as “large”, in accordance with Article 328, Paragraph 3, of the PCPCK, as the quantity of the said material is considerably high.

5. The position of Sami KUTLESHI.

The defendant Sami KUTLESHI shall be acquitted of the charge referred in count IV of the indictment, to which he has also pleaded not guilty, of “Unauthorized Ownership, Control, Possession or Use of weapons” contrary to Article 328 (2) and (3) of the PCCK.

The Court finds that there is no sufficient evidence to support the direct involvement of Sami KUTLESHI in the criminal activities for which his brother has been charged as well. In particular, although the described amount of weapons and ammunitions was confiscated in a hut attached to the premises of the house where also Sami KUTLESHI lives, there is no evidence that he actually was disposing and possessing such weapons and ammunitions. Most probably, the defendant Sami KUTLESHI, who declared in court not to be in good relations with his elder brother, had knowledge that the brother had possession of such items but was not in the position to react to such situation. The statements made by both Sami and Ramush KUTLESHI suggest that the younger brother Sami was in a passive position with respect to the activities of his elder brother.

This is a relevant extract from the minutes of the session held on the 22nd of January 2009:

Public Prosecutor: *Do you remember when the police came to search your house?*

Sami Kutleshi: *Yes.*

Public Prosecutor: *Where were you?*

Sami Kutleshi: *As I said I am father to three children, and I am forced to help my wife whenever I can and at that time my wife told me to go and take some wood. So I went to the garage where we put the wood and when I opened the door I saw some ammunition in the garage and I just pushed it aside and I continued to pick up the wood. I left the garage and went up to 2 metres away and I saw a policeman coming towards me and he said I was under arrest. I just dropped the wood and raised my hands(omissis)....*

Presiding Judge: *How is your relation to your brother?*

Sami Kutleshi: *Not a very good relationship.*

Presiding Judge: *Do you want to explain that?*

Sami Kutleshi: *We have had several family related disagreements.*

Presiding Judge: *But you still live in the same compound?*

Sami Kutleshi: *Yes, we do not have any serious problems; he minds his own business and I mind mine.*

Considered the statements of both Ramush and Sami KUTLESHI, and for the above mentioned arguments, this Court deems that there are no sufficient elements to declare beyond any reasonable doubt the criminal responsibility of the defendant Sami KUTLESHI for the charge indicated in the indictment.

6. The sentencing

6.1. The sentence for Mehdi LIMANI

Concerning the position of the accused Mehdi LIMANI, the Court takes into due consideration, in relation to all the charges, the circumstances mentioned in Article 64 of the PCCK and specifically:

- 1 the degree of criminal liability: the degree of criminal liability is quite high as the crime was carried out through various and repeated attempts to buy and sell a large amount of weapons and ammunitions;
- 2 the motives for committing the act: the defendant has committed several attempted exchanges and sells of weapons and ammunition, which suggest that is intent was to make a business out of the criminal activities;
- 3 the intensity of danger or injury to the protected value: the protected value of public order is consistently affected by the attempt to illegally provide a large amount of weapons and ammunitions to potential users;
- 4 the circumstances in which the act was committed: it has already been stressed that the crime was committed by several attempted illegal transactions;
- 5 the past conduct of the perpetrator: the accused has already been convicted for unauthorized possession of weapons on the 17th of June 2008 with a conditional sentence of 6 months;
- 6 the entering of a guilty plea: the court has taken into due account the guilty plea of the accused in relation to part of the indictment;
- 7 the personal circumstances of the perpetrator: the defendant is father of six children;
- 8 and his behavior after committing the criminal offence: the accused has demonstrated to partially facilitate the course of justice and he has also showed serious regret in front of the Panel.

Therefore, the punishment shall be equitably determined as follows:

- imprisonment of two (2) years and six (6) months for the charge of Attempted “Unauthorized Supply, Transport, Production, Exchange or Sale of Weapons”, contrary to Articles 327 (1) and 20 of the PCCK. In relation to this charge the Court has also considered, in accordance with Articles 20 and 65 of the PCCK that a person who attempts to commit a criminal offence shall be punished more leniently than the perpetrator.
- imprisonment of one (1) year and six (6) months for the charge of “Unauthorized Ownership, Control, Possession or Use of weapons” contrary to Article 328 (2) and (3) of the PCCK. With regard to this charge the Panel has also taken into account that, for the already mentioned reasons, the crime involved a large amount of weapons.

Pursuant to article 71 of the PCCK the final aggregated punishment for the accused Mehdi LIMANI shall be determined in imprisonment of three (3) years and six (6) months.

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

6.2. The sentence for Skender MAHMUTI

As for the accused Skender MAHMUTI, the Court takes also into due consideration all the circumstances mentioned in Article 64 of the PCCK and specifically:

- 1 the degree of liability: the low degree of criminal liability for the accused depends on the circumstance that he was involved in only a single and minor incident;
- 2 the motives for committing the act: the defendant claims that the ammunitions were not to be purchased for his own purpose but for a wedding ceremony;
- 3 the intensity of danger or injury to the protected value: the protected value was not seriously affected since the actual purchase of the ammunitions did never take place and it was involving a small quantity of ammunitions;
- 4 the circumstances in which the act was committed: it has been a single incident regarding a small amount of ammunitions;
- 5 the past conduct of the perpetrator: there is no evidence that the defendant has previously committed any other criminal activities;
- 6 the entering of a guilty plea: the defendant did not plead guilty, but he admitted to have made an order for the purchase of the said bullets;
- 7 the personal circumstances of the perpetrator: the defendant is of young age;
- 8 and his behavior after committing the criminal offence: the defendant has complied with the house detention imposed on him and has had a collaborative attitude during the main trial.

The Court has also considered, in accordance with Articles 20 and 65 of the PCCK, that a person who attempts to commit a criminal offence shall be punished more leniently than the perpetrator, so that the punishment for the charge of Attempted “Unauthorized Supply, Transport, Production, Exchange or Sale of Weapons”, contrary to Articles 327 (1) and 20 of the PCCK, shall be equitably determined in imprisonment of six (6) months.

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

6.3. The sentence for Ramush KUTLESHI

Concerning the position of the accused Ramush KUTLESHI, the Court takes into due consideration all the circumstances mentioned in Article 64 of the PCCK and specifically:

1. the degree of criminal liability: the degree of criminal liability is moderately low, as the crime involved only the unauthorized possession and not also the trafficking in weapons and ammunitions;
2. the motives for committing the act: the defendant has not given consistent explanations on the motives of the possession of such items;
3. the intensity of danger or injury to the protected value: the protected value of public order is moderately affected, as there was no evidence regarding the circulation of the seized arsenal;
4. the circumstances in which the act was committed: it has already been stressed that the crime was committed by an unauthorized possession of weapons and ammunitions;
5. the past conduct of the perpetrator: there is no evidence that accused had already been involved in the criminal activity related to the possession of weapons;
6. the entering of a guilty plea: the Court has taken into due account the guilty plea of the accused in relation to part of the indictment;
7. the personal circumstances of the perpetrator: the defendant is in middle economic conditions;
8. and his behavior after committing the criminal offence: the accused has demonstrated to partially facilitate the course of justice, by complying with the house detention imposed on him and by providing a partial guilty plea. He has also showed serious regret in front of the Panel.

With regard to this charge the Panel has also taken into account that, for the already mentioned reasons, the crime involved a large amount of weapons, so that the punishment for the charge of "Unauthorized Ownership, Control, Possession or Use of weapons" contrary to Article 328 (2) and (3) of the PCCK shall be equitably determined in the imprisonment of one (1) year.

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

7. The costs of the criminal proceeding.

Pursuant to Articles 102, Paragraphs 1 and 3, and 391, Paragraph 1 item 6), of the PCPCK, the defendants, Mehdi LIMANI, Skender MAHMUTI and Ramush KUTLESHI are jointly and severally liable for the costs and must reimburse all the costs of the criminal proceedings.

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

8. Termination of security measures imposed on the defendants.

Pursuant to Articles 393, paragraph 1, of the PCPCK, the panel finds that the grounds under Article 393, Paragraph 1, of the PCPCK have ceased to exist in relation to all the defendants and with a separate ruling has established that detention on remand imposed

on Mehdi LIMANI and house detention imposed Skender MAHMUTI and Ramush KUTLESHI shall be cancelled.

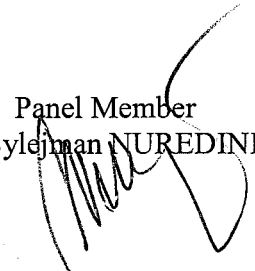
Finally, pursuant to Article 393, Paragraph 2 item 1, of the PCPCK, house detention imposed on the defendant Sami KUTLESHI is cancelled and the accused shall be released.

23 January 2009


Presiding Judge
Tron GUNDERSEN



Panel Member
Andrea CRUCCIANI


Panel Member
Sylejman NUREDINI



Recording Clerk
Elisabeth BATMAN

Legal remedy

Pursuant to article 400 (1) PCPCK, an appeal must be announced within 8 days from the announcement of this verdict and, according to article 398(1) PCPCK, 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.