

INTERIM ADMINISTRATION OF KOSOVO

P. No. 29/99

IN THE NAME OF THE PEOPLE

The District Court of MITROVICA, in the panel composed of the Judge Avdi Dinaj - presiding judge of the panel, International Judge Christer Karphammar –member, and lay judges Shaban Mlinaku, Enver Ramaxhiku, and Tefe Vokrri – members, and the recording clerk Fetije Pireva, in the criminal case against the accused Lulzim Ademi from Mitrovica, charged for the criminal offences of War Crimes against the civil population pursuant to Article 142, Paragraph 1 in relation to Article 22 of the CLY, Murder as foreseen by Article 30, section 2, item 5 of the CLK in relation to Article 22 of the CLY, and illegal possession of weapons and ammunition as foreseen by Article 199, Paragraph 3 in relation to Paragraph 1 of the CLK, committed in real conjunction, the accused according to the indictment of the District Public Prosecutor in Mitrovica, PP.no. 4/99, dated on 23.11.1999, and after holding the session of the main trial, public and verbal, dated on 29.08.2000 in the absence of the accused person, in the presence of the District Public Prosecutor Zyhra Ademi, in the presence of the defense council lawyer Mira Deleviq from Mitrovica, after the statements and proposals of the parties, on 30.08.2000, reached and announced this:

VERDICT

The accused LULZIM ADEMI, father's name Mehmet, mother's name Sadije, mother's maiden name Veseli, born on 21.10.1970 in the village Broboniq, municipality of Mitrovica, has resided in Mitrovica, Rr. Kral Plettri, L. no.19, Albanian, employee of the local security in Mitrovica, married, father of two kids, has completed the elementary school, has completed military service in 1990 in Surdulic, of poor economic status, never faced trial to now, no other proceedings for any other criminal offence is currently being carried out against him, is in detention from 11.07.1999 till 24.02.2000.

IS GUILTY

By violating the rules of the International Law during the time of the war – armed conflict, against the civil population, by murders, inhumane behavior, forced displacement, intimidation, property looting, and by causing grave sufferings, as member – employee of the local security in Mitrovica, together with a group comprising members of the Yugoslavian Army, Ministry of Internal Affairs of Serbia, and the Serb paramilitary organizations, armed with fire weapons and other weapons¹, during the military intervention of the NATO air forces in Yugoslavia, the accused by a strong will and unscrupulously attacked against the life, body integrity, freedoms and propriety of the population and that:

1. On 16.04.1999, the accused Lulzim Ademi together with Ratku, Boban, Nenadin, Saviq, have committed the offences of murder in a manner that first they started uncontrolled shooting by fire

¹ Literally, the translation is 'cold weapons' – which in Albanian stands for knives and other sort of weapons other than fire ones.

weapons, in the streets, roads, and yards of the houses of “Tavnik” quarter in Mitrovica, by causing an atmosphere of fear, danger and physical endangerment, and then they expelled by force citizens out of their houses and apartments, and through an inhumane behavior, they lined the people into massive columns. They placed this column of people under physical violence, and by sporadically shooting fire weapons, they forced the people to move towards the village Shipol, where at the intersection Shipol-Zhabar “Ke shelnjet” they took out of the column by force Besnik Osmani in the presence of the relatives and robbed him DM 140, while DM 60 from Bujar Shala, and later they forced the two to rejoin the column. While they took out of the column Bedri Muja, Fatmir Avdyli, Mehdi Tahiri, and Sami Sahiti, took them in the yard of a burned house close to the intersection, and executed them by fire weapons.

The accused Lulzim Ademi together with Ratko, Nenad, Saviq, Boban, and three uniformed and armed persons, on 05.05.1999, at about 21:00 hrs. have committed murder in the tiny road Tavnik – Zhabare close to ‘Migjeni’ school, in a manner that by using a black colored four-wheel drive vehicle suddenly they approached to the group of citizens by causing intimidation and danger there, and after jumping out of the vehicle they first talked and then they got aside Ferit Preteni by saying “you are needed to us” whereas to the now-late Mursel Peci, Fehmi Preteni, and Bislim Tepqen, they forced them to the wall close to the house and from the vicinity, they first shot by revolver shooting them by a bullet in the feet, and later they shot by automatic rifles by hitting them at different parts of the body. They took Ferit Preteni with them and left away from the site of the event, while some citizens being at a situation of uncertainty and fear, secretly evacuated and transported with tractors the corpses of the victims at the village Vaganice where these citizens buried the corpses.

The accused Lulzim Ademi together with three masked persons, on 14.04.1999, at about 21:30 hrs. have committed murder in Mitrovica in a manner that after entering inside the yard of the house of the now late Beqir Hajre located at “Foqe” str. No. 16, they forcefully expelled the family of the late, while they shot scores of bullets from their automatic rifles towards the now late Beqir Hajre. After this execution, inhumanly, they amputated by knives the fingers of the hands of the victim, which were carrying golden rings that were forcefully grabbed from the corpse, and after checking the pockets they also took DM 600, one male watch, two rings, one female watch propriety of his wife Safete Hajre, his family was expelled from the house, while by using a special explosive material, they burned down the house of the now-late, and fled away from the site.

The accused Lulzim Ademi on 20.05.1999, during the time interval between 09:00 till 18:30 hrs., has led the mixed groups with members of the paramilitary and military Serb units at “Proji i Sharapit” on which occasion they surrounded the village Broboniq, and by firing uncontrolled shots by fire weapons they caused fear, danger, and uncertainty, and in such an atmosphere the villagers were taken away, while – by using the special explosive materials – they burned down some 100 resident houses and other objects in this village.

By which, in complicity with N.N., persons, he has committed the criminal offense War Crime against civil population as foreseen by Article 142, Paragraph 1 in relation to Article 22 of the CLY.

2. Because he has possessed a large quantity of fire weapons until 11.07.1999 in Mitrovica at his home located at “Kral Petri” str. I/19, while it is strictly forbidden to the citizens to carry any of those weapons, which were two automatic rifles AK-47, two revolvers “Zastava 7,65,” one plastic bomb, ten automatic rifle magazines, six revolver magazines, one special BAJONET and one uniform set.

- by this he has committed the criminal offense illegal possession of weapons and ammunition as foreseen by Article 199, Paragraph 3 in relation to Paragraph 1 of the CLK, committed in real conjunction with criminal offenses described under section 1. of this enacting clause.

Therefore, with regard to these criminal offences and pursuant Article 48 of the CLY, the trial first establishes the sentencing, and more precisely, for the criminal offences described under section 1. of the enacting clause, War Crimes against the civilian population pursuant to Article 142,

Paragraph 1 of the CLY in relation to Article 22 of the CLY, pronounces an imprisonment sentence for a period of twenty [20] years,

- for the criminal offense illegal possession of weapons and ammunition as foreseen by Article 199, Paragraph 3 in relation to Paragraph 1 of the CLK, described under section 2 of the enacting clause, pronounces the sentence of imprisonment by a time frame of one [1] year and six [6] months.

Therefore for these criminal offenses, pursuant to the same legal provisions and Article 48, Paragraph 2, item 2 of the CLY, the trial

SENTENCE

20 / twenty years of imprisonment, including the time spent in detention from 11.07.1999 until 14.02.2000.

The accused is obliged to pay to the court the criminal procedural expenses according to the receipt reflecting these expenses as well as the legal fee of 800 DM. The payment should be received within 15 days after the verdict comes to effect. The injured party is instructed about the property claim in a civil law suit.

The weapons and the munitions mentioned in the enacting clause are sequestered as the tools used to commit the criminal act.

II

The accused Lulzim Ademi as noted in this verdict pursuant to article 350 paragraph 3 of LCP.

IS ACQUITTED FROM THE INDICTMENT

Because on the night of 25/26.01.1999 in Mitrovica, together with Saviq N. Ratko, N. Nenad N., and Boban N., behaving in an unscrupulous and ruthless way, they have taken the life of now the late Dejan Kostiqi by shooting at him several times with fire weapons in vital parts of his body. Later, his body was brought in the village of Shupkovic and it was thrown away near the Mitrovica-Prishtine road.

Thus, they have would have committed the criminal act of Murder as per Article 30 paragraph 2 item 5 of CLK in connection to Article 22 of CLY.

REASONING

The District Public Prosecutor in Mitrovica with the indictment PP.no. 4/99 dated 23.11.1999, has accused Lulzim Ademi from Mitrovica with the criminal act of War Crimes against the Civilian Population as per Article 142 paragraph 1 in connection with Article 22 of CLY and of Murder as per Article 30 paragraph 2, item 5 of CLK in connection with Article 22 of CLY and the criminal act of Illegal Possession of Weapons or Explosive Materials as per Article 199 paragraph 3 in connection with paragraph 1 of CLK, and the cases are consolidated.

The representative of the indictment, the District Public Prosecutor Zyhra Ademi, hands over to the court the amended written copy of his closing statement after having completed the factual situation and precised the legal qualification, also proposing to the court to declare the accused guilty and to punish him according to the law.

During the main session and in the closing statements, the injured party supported the criminal prosecution of the accused and presented the property claims.

Since the accused escaped from Mitrovica District Prison on 24.02.2000, the District Public Prosecutor with his proposal PP.no. 4/99 dated 22.05.2000, proposes to the court to hold the trial session in the absence of the accused. With the decision P.no. 29/99 dated 03.07.2000, the court decided to approve the proposal of the prosecutor and the main session would be held in the absence of the accused and the above decision was confirmed by the decision of the Supreme Court of Kosovo in Prishtine, Ap.no. 80/2000 dated 12.07.2000.

During investigations, the accused denied having committed the criminal acts mentioning that he was working at the Municipal Assembly in Mitrovica and that he was not invited to be mobilized by neither the army nor the police. He has also not killed anyone in his life but these charges were raised against him on purpose, adding that on 22.12.1998 he was wounded by the KLA in a café while his brother who was two year older, was kidnapped. He did not take part in the expelling of the residents of the Shipol village from their houses by the Serb paramilitaries. He did not take any monetary rewards from anyone and he does not know the people that were mentioned. It is not true that on 24.04.1999, the paramilitaries in Mitrovica took the life of Beqir Hajren, cut off the fingers of his left hand and mutilated his face or burned his house. Moreover, in his defense during investigations, he adds that it is not true that in the beginning of May of 1999, he burned 100 houses in Braboniq village together with the Serb paramilitaries, adding that his house was also burned in Braboniq and that if he were in that village, he would not have allowed the burning of his own house. With regard to the weapons, he stated that he had a revolver of a 7.65 mm caliber, an automatic rifle with 5 magazines, 3 of which were loaded. But the other weapons belonged to his son-in-law.

He adds that the Albanians invented these acts since in the last ten years he did not speak Albanian. He and his family were discriminated against. He was working regularly at the Assembly in Mitrovica on the local security. His supervisor Matnoviq Mihajlo can confirm the fact that was working during the entire time. But, he does not know Bislim Trepcen, Fehmi Preteni and M. Mursel Pecin and he is not related to the "Tamnik" neighborhood in any way.

In his closing statement, the defense counsel of the accused, states: the presented evidence does not reveal that the accused has committed the criminal acts he is charged with. The Prosecutor mentions the accused and his unidentified group of people as the perpetrators of the acts. The accused is not the perpetrator of the criminal acts he is charged with, because he could not have been and he did not want to be present during any of the events described in the indictment. He added that the accused was not mobilized but he was responsible for the security of the object of the municipality which can be better confirmed by Mihajlo Matanoviq and the witness Sanije Haziri who met the accused near the Town Hall working in the better interest of the village. Therefore, he proposes to the court to acquit the accused from the indictment.

Based on the presented evidence during the main trial of the criminal case, the court established this factual situation:

It has been undoubtedly established that the accused Lulzim Ademi was in working relations at the Municipal Assembly in Mitrovica under the capacity of the local defense counsel. Also the accused himself does not contest the fact that he was armed with a revolver and an automatic rifle. The presented evidence proved that during the war, specifically on 16.04.1999, the residents of Mitrovica were being evicted from their homes and apartments in an inhumane way accompanied by sporadic shootings with firearms creating an atmosphere of fear, uncertainty and physical danger as the people were being forced to line up and move toward the village of Shipol. In the presence of their relatives, Bedri Fatmiri, Avdyli, Mehdi Tahiri and Sami Sahiti were taken out of the line and sent in the yard of a burned house near the intersection of the road where they were executed with firearms. The same day, they took 140 DM from Besnik Osmani and 60 DM from Bujar Shala who were released after they were taken out of the line.

After the counting of the population, on 05.05.1999 around 21:00 hours, in the "Tavnik" – Zhabar street, the accused Lulzim Ademi, in the company of Ratko, Nenad, N. Saviqi and three other people in uniform and masks, were inside a black jeep. They captured Fahmi Preteni, Mursel Peci and Bislim Trepcen and ordered them to lean on the wall of a house. At first they shot with a revolver from

up close, wounding them in the legs. Then, they shot them in different parts of their bodies with an automatic rifle. They took Ferit Preteni with them as they left the crime scene. Furthermore, on 24.04.1999 around 21:30 hours in Mitrovice, after the accused with the three masked paramilitaries entered the yard of the house of now the late Beqir Hajre situated in "Foqes" street number 16, they shot frantically with automatic rifles creating again an atmosphere of fear, insecurity and danger. They forced the family of now the late to leave the house. After the execution, they mutilated his fingers decorated with golden rings, which they violently took off. After the search, they took from now the late 600DM, one male wristwatch, two golden rings and his wife's female wristwatch. Using explosive materials and tools, they burned the house of now the late and they left the crime scene waiving their rifles. On 20 May, 1999 they were leading some mixed groups composed of members from paramilitary and from the Serb army who were passing by the Sharap water stream and who surrounded the Braboniq village burning 100 houses from the village.

It has certainly been established that on 11.07.1999, the accused Lulzim stored in his residence in Mitrovice situated in "Kral Petri" street 1/19, large amounts of weapons and munitions, whose possession was not at all permitted to regular citizens. He had two "Kallashnikov" rifles with 6 magazines, two of which were loaded, 2 half automatic "Zastava" pistols with 4 magazines, one paramilitary uniform, one hand grenade, 4 magazines for Kallashnikov, one bayonet and another grenade.

The court proved the state of facts as follows:

On 28 September 1999, upon receipt of information from the International Tribunal, in the presence of forensics and specialized gendarmerie, the exhumation of bodies was conducted in Vaganica, the killed victims being Bedri Muja, Fatmir Avdyli, Mehdi Tahiri, Sami Sahiti, Bashkim Abazi, wherefore it was asserted that the aforementioned victims were deprived of life by a bullet in the head. The records on the exhumation and the autopsy of the bodies confirm the following: as concerns Bashkim Abazi, after the description of the clothes and the verification of the causes of death, it is asserted that the blow was at close range and it hit the left temple, causing a total blast of the cranium. This blow was identified in the central area of the forehead by a globular hole in the cranial chamber, therefore a fatal blow. There's also a blow in the central-right area of the body and a hole 1,32 m further up from the sole of the foot on the central-left area of the body. As concerns Mehdi Tahiri, after the description of the clothes, a blast of the cranium was found with a schism of the face. Death was caused by a bullet fired at close range, since the cranium was pulverized. As concerns Sami Sahiti, after the description of the clothes, the causes of death are asserted by a fracture of the body on the right side, fractures of ribs number seven, eight and nine, as well as total schism of the head and face. As concerns Bedri Muja, after the description of the clothes, the causes of death were confirmed by a 9 mm hole above the right parietal, a blast of the head on the left by a blow at close range – experience of an execution. As concerns Fatmir Avdyli, a blast of the cranium and face was found, what, as a result of the execution in the head, precludes every possibility of a re-constitution of the cranium. All these bodies were found in the intersection between Shipol street and Zhabar street.

The French gendarmerie, went to the scene in "Sylë Vokshi" street No. 15 in the Shipol-Zhabare intersection, Tamnik quarter, in the house of Musa Maliqi, where the victims were sent on 16 April 1999. On this date, two houses were completely burned down, both surrounded by 2,5 m high brick walls, stones or wooden fence. An aluminum part of the entering gate was found melted by the heat of three bullets fired on their relatives². After the convoy set off, bursts of shots were heard, i.e. their execution took place. The bodies were found in the house of Musa Maliqi and from there they were taken to Vaganice village to be buried. According to the statements of witnesses Besnik Osmani and Bujar Shala, it was proved that on that same day, 140 DM were taken from Besnik, and the accused was on the scene. There were seven other persons³. They knew the accused Lulzim before. 60 DM were taken from Bujar Shala. After that the convoy of family members of the now late ones had been walking for some 20 m, the shots

² unclear on the Alb. version, hence the *verbatim* translation (*Transl.'s note*)

³ unclear whether the seven persons were with the accused or with Besnik (*Transl.'s note*)

were heard and two days later, when they returned to the scene, they found the now late ones executed.

The accused Lulzim Ademi, with friends Ratko, Nenad, Saviq N. and Boban N., on 05.05.1999, at around 21.00 hrs, in a street in Zhabar village, with a black jeep, after checking the identification papers of Ferit Preteni, Mursel Peci and Bislim Trepca, put them against the wall of a nearby house and executed the three of them, what was confirmed by Ferid Islami. As concerns the process of 14 July 1999, when the French gendarmerie went to the scene, they saw the wall surrounding the front part of a building, where bullets blows were visible. Bloodstains were visible in two places, 1,51 m high and 1,60 m high above, what implies that the victims were killed by bullets in the head. The wall is 12 m long and 2 m high. The witness Florim Islami observed the incident from a height of 41 m.

Following the statement of the witness Dervish Musaj, who is disinterested in this criminal case, it was proved that on 14.04.1999, at about 21.30 hrs, the accused Lulzim with three other persons passed by the place he lived, i.e. near "Teferigj". They went to the house of Beqir Hajra, talked about the burning of the house, what the latter objected to. The accused forced the family members to go out of the house and kept the late Beqir inside. Through the window of his house, the witness saw the accused Lulzim shooting the late one and saw the latter going down. The fingers of the late one were cut in order for his rings to be taken, and, after this, the house was set alight and a burning timber from the ceiling fell on his head. The light of the moon enabled the sight of this. The witness knew the accused and his parents from before. The next day, the wife of the now late Safet Hajra and his father Milazim Hajra confirmed the killing of their dear, and buried his body in the mosque of Haxhi Veseli. They also confirmed the cutting of his fingers due to the rings on them.

According to the records of synthesis PV No. 15/80 dated 11 July 1999, in the framework of the initial procedure against the accused Lulzim Ademi, as concerns the burning in the village of Broboniq, municipality of Mitrovica, accompanied by the testimony of a witness of the burning, the burning of over 100 houses – out of 155 houses all in all –was corroborated, besides the house of the accused as proved by his father. The burning of houses in Broboniq was also proved by the witness Halit Beranid, who, on 20.05.1999, at about 9.00 hrs, was in a plastic tent with his children. He observed the accused Lulzim leading the infantry at the bombing of the village, first. Then the Serb military and paramilitary troops came into the village through the brook and conducted the burning of Broboniq village.

According to synthesis dated 11 July 1999, compiled by the French gendarmerie, it is proved that, in the house of the accused, they found two Kalashnikov weapons with 6 full magazines, two semi-automatic Zastava handguns with 4 magazines a Serb paramilitary uniform, a chest with local police clothes, a hand grenade, pieces of newspapers on the operations of Lulzim Ademi in military and paramilitary uniform, 5 Kalashnikov magazines, two of which full of 5,56-caliber, one spear with its sheath and one grenade.

The defense of the accused claim that the evidence presented did not prove that the accused has actually committed the criminal acts he was pronounced guilty for. The court rejected this as ungrounded, since, besides the records of the scene inspection compiled by the French gendarmerie, these circumstances were also proved by the statements of the witnesses mentioned in the state of facts. It was based on such evidence that the court came to the conclusion that the acts of the accused were directed against the basic rights of citizens, their lives, their physical integrity, their freedom and property. These acts were materialized through serious wounding of the civilian population during the armed conflict, acts which are undoubtedly against the law.

In the case in question, the evidence concluded proves the massive deportation of the civilian population in Kosovo, mainly women, children, and elderly, leaving them hungry and lacking the basic life necessities, what is forbidden by international conventions. Likewise, the acts of the accused were directed against the physical integrity of the now late ones, the killings

executed as mentioned in the state of facts, and inhuman acts like taking money, burning houses, and the massive deportation of the inhabitants from their homes. Therefore, this case, which bears the main elements of the criminal act he was pronounced guilty for, the victims are civilians. On the other hand, the manner in which the acts were committed was proved as mentioned in the state of facts, i.e. that the accused Lulzim Ademi has jointly committed the acts along with Ratko N., Nenad N., N. Saviq. The willfulness of the accused ones to commit these criminal acts is unswerving, and this is also proved by the fact that the accused was an employee of the local police force in Mitrovica, thus serving the aggressor. The cases proved and the time span of the acts he committed establish the willfulness of the accused to commit these criminal acts.

The defense claim that the witness Mihajllo Matanoviq testified for the presence of the accused on the workplace was rejected as ungrounded, since Mihajllo Matanoviq only saw the accused once or twice during the 78 days of the bombing and war in Kosovo.

In the framework of these established facts, this court concluded that the acts of the accused Lulzim Ademi bear all the crucial elements of the criminal acts of war against civilian population as per Art 142 prg 1 in connection with Art 22 CLY, and illegal possession of weapons and explosives as per Art 199 prg 3 in connection with prg 1 CLK, jointly committed, for which the court pronounced him guilty and criminally responsible, while not finding any circumstance which would exclude or mitigate the criminal liability of the accused.

As concerns the criminal act of murder as per Art 30 prg 2 item 5 CLK in connection with Art 22 CLY, committed against the now late Dejan Kostiq, the court acquitted the accused, due to the fact that the key witnesses on this case are Adnan Hasani and Selim Hasani, who did not see Dejan Kostiq at all on the critical night. On this night, they were kidnapped by masked persons, while the killing of Dejan Kostiq was done by other persons on the same night, so Adnan and Selim Hasani can't have committed the murder. They were unable to identify their kidnappers, while the body of Dejan Kostiq was found in Shupkovc village.

Since the statements of the witnesses Adnan and Selim Hasani, and Liljana and Afërdita Kostiq cannot establish who kidnapped and killed Dejan Kostiq on the critical night between the 25th and 26th of January 1999, the existing evidence cannot prove the fact that the accused committed this criminal act, which he is charged with in the indictment. Therefore, the court acquitted him pursuant to Art 350 prg 3 LCP.

As regards the punishment, the court considered the degree of criminal liability, the actual consequences, the personal circumstances and the economic state of the accused.

According to the assessment of this court, the extenuating circumstances for the accused consist of the fact that he has never been prosecuted before, no procedures for any other criminal act are currently being carried out against him, his economic status is poor and he is father of two orphans.

Upon consideration of these facts, pursuant to Art 41 CLY, the court deemed as aggravating circumstances the number of the persons executed by the accused jointly with his collaborators, as well as the manner in which the criminal acts were committed. Therefore, pursuant to Art 48 CLY, the court first considered the punishment for the criminal act of war against the civilian population as per Art 142 prg 1 CLY, and sentenced him to an imprisonment term of 20 (twenty) years; whereas, for the criminal act of illegal possession of weapons and explosives as per Art 199 prg 3 in connection with prg 1 CLK, the court sentenced him to an imprisonment term of 1 (one) year and 6 (six) months. Pursuant to Art 48 prg 2 item 2 CLY, the court sentenced him to a unified prison term of 20 (twenty) years, and has reason to believe that the pronounced sentence will achieve the purpose of the punishment as per Art 33 CLY.

Pursuant to Art 351 prg 1 item 6 CPL, the time the accused spent in detention is calculated, i.e. from 11.07.1999 until 24.02.2000.

With regard to the expenses of the criminal procedure, pursuant to Art 98 prg 1 CPL, it was decided as in the page on expense definition, while the court flat fee was decided, pursuant to Art 95 prg 3 CPL, depending on the time-length of the procedure, its complexity and the economic status of the accused.

Pursuant to Art 352 prg 1 item 5 CPL, the security measure for the accused was pronounced, which regards the sequestration of the two weapons seized by the accused, i.e. the Kalashnikov guns, two Zastava handguns, the hand grenade, the bayonet with its sheath, the magazines and the ammunition.

The injured party was instructed pursuant to the legal property law.

In view of the abovementioned, it was decided as in the initial clause of this verdict.

DISTRICT COURT MITROVICA

P. No. 29/99 date 30.08.2000

COURT RECORDER

JUDGE

Fetije Pireva

PRESIDING

Avdi Dinaj

LEGAL REMEDY: A complaint against this verdict can be filed with the Supreme Court of Kosovo within 15 days from the date this verdict is issued.