

**IN THE NAME OF THE PEOPLE**

**THE DISTRICT COURT OF PRISTINA** in the Trial Panel composed of EULEX Judge Jonathan Welford-Carroll, presiding, Judge Shqipe Qerimi, and EULEX Judge Dean Pineles, panel members, with the participation of EULEX Legal Officers Zane Ratniece and Beti Hohler, as recording officers, in the criminal case against:

I. **Arben KRASNIQI**, father's name , mother's name , born on , in , residing in , completed , ; charged according to the Indictment of the EULEX Special Prosecutor PPS no. 07/10, dated and filed with the Registry of the District Court of Pristina on 25.07.2011 (**Indictment**), with the criminal offences:

Count 1: **War Crime against the Civilian Population and Prisoners of War**, under Articles 142, 144 of the Criminal Code of the Socialist Federal Republic of Yugoslavia (CCSFRY), also foreseen in Articles 120, 121 of the Criminal Code of Kosovo (CCK), read in conjunction with Articles 22, 24, 26 CCSFRY and 23, 25, 26 CCK, in violation of Common Article 3 to the four Geneva Conventions 1949, and Articles 4, 5(1) of Protocol II Additional to the four Geneva Conventions (APII); the Accused, in his capacity as KLA member, in co-perpetration with Fatmir LIMAJ, Naser KRASNIQI, Nexhmi KRASNIQI, Naser SHALA, Behlul LIMAJ, Besim SHURDHAI, Sabit SHALA, cooperative witness X, Shaban SHALA and other so far unidentified KLA soldiers, **violated the bodily integrity and the health of an undefined number of Serbian and Albanian civilians and Serbian military prisoners**, detained in an improvised KLA detention center in the Klecke/Klecka Village, by keeping them in inhumane conditions (including prisoners chained, premises inappropriate, excessive cold, lack of sanitation, inadequate nutrition, frequent beatings); in Klecke/Klecka, Lipjan/Lipljan Municipality, from early 1999 until mid-June 1999;

Count 2: **War Crime against Prisoners of War**, under Articles 22, 144 CCSFRY, currently criminalized under Articles 23, 120 CCK, in violation of Common Article 3 of the four Geneva Conventions 1949 and Articles 4, 5(1) APII; the Accused in his capacity of member of the KLA, in co-perpetration with Nexhmi KRASNIQI, Naser SHALA, Refki MAZRREKU, Naser KRASNIQI and cooperative witness X **participated in the killing of a Serbian military prisoner**, detained in the Klecke/Klecka detention center, and whose remains were found in a mass grave near Klecke/Klecka containing five bodies; more precisely, the defendant participated in the crime by providing Naser SHALA, the direct perpetrator of the killing, with a scythe, although he knew,

because explicitly informed of Naser SHALA's intentions, that the latter was going to kill the prisoner with that scythe; in Klecke/Klecka, Lipjan/Lipljan Municipality, on an undetermined date in April 1999, not before 11 April 1999;

Where Count 2 has been withdrawn by the EULEX Special Prosecutor pursuant to Partial Withdrawal of the Indictment, dated 09.11.2011, filed with the Court on 11.11.2011, as presented at the session on 11.11.2011;

Count 3: **War Crime against Prisoners of War**, under Articles 22, 144 CCSFRY, currently criminalized under Articles 23, 120 CCK, in violation of Common Article 3 of the four Geneva Conventions 1949 and Articles 4, 5(1) APII; the Accused in his capacity as member of the KLA, in co-perpetration with Fatmir LIMAJ, Nexhmi KRASNIQI, Naser SHALA, Naser KRASNIQI, Behlul LIMAJ and cooperative witness X, **participated in the killing of Nejbojša Djuričić and Veljko Marković, two Serbian Police officers** detained in the Klecke/Klecka detention center, who were executed by cooperative witness X with several gun shots fired with a pistol; more precisely, the defendant participated in the crime by marching the two prisoners to the execution spot and by keeping the victims at the disposal of the direct perpetrator of the execution, although he knew (because explicitly informed of Fatmir LIMAJ's orders), or at least could easily foresee from the orders received (marching the two Serbian prisoners to a remote location in the woods) what would happen to them; in a location known as Livadhi i Canit near Klecke/Klecka, Lipjan/Lipljan, on or about 04/05 April 1999;

II. **Behlul LIMAJ**, father's name , mother's name , born on , in , residing in , completed , ; charged according to the Indictment with the criminal offences:

Count 1: **War Crime against the Civilian Population and War Crime against Prisoners of War**, under Articles 22, 142, 144 CCSFRY, currently criminalized under Articles 23, 120 CCK, in violation of Common Article 3 to the four Geneva Conventions 1949, and Articles 4, 5(1) of APII; the Accused, in his capacity as KLA member, in co-perpetration with Fatmir LIMAJ, Naser KRASNIQI, Nexhmi KRASNIQI, Naser SHALA, Arben KRASNIQI, Besim SHURDHAI, Sabit SHALA, cooperative witness X, Shaban SHALA and other so far unidentified KLA soldiers, **violated the bodily integrity and the health of an undefined number of Serbian and Albanian civilians and Serbian military prisoners**, detained in the Klecke/Klecka detention center, by keeping them in inhumane conditions (including prisoners chained, premises inappropriate, excessive cold, lack of sanitation, inadequate nutrition, frequent beatings); in Klecke/Klecka, Lipjan/Lipljan Municipality, from early 1999 until mid-June 1999;

Count 2: **War Crime against Prisoners of War**, under Articles 22, 144 CCSFRY, currently criminalized under Articles 23, 120 CCK, in violation of Common Article 3 to the four Geneva Conventions 1949, and Articles 4, 5(1) of APII; the Accused in his capacity as member of the KLA, in co-perpetration with Fatmir LIMAJ, Nexhmi KRASNIQI, Naser SHALA, Naser KRASNIQI, Arben KRASNIQI and cooperative witness X, **participated in the killing of Nejbojša Djuričić and Veljko Marković, two Serbian Police officers**, detained in the Klecke/Klecka detention center, who were executed by cooperative witness X with several gun shots fired with a pistol; more precisely, the defendant participated in the crime by marching the two prisoners to the execution spot and by keeping the victims at the disposal of the direct perpetrator of the execution, although he knew (because explicitly informed of Fatmir LIMAJ's orders), or at least could easily foresee from the orders received (marching the two Serbian prisoners to a remote location in the woods) what would happen to them; in a location known as Livadhi i Canit near Klecke/Klecka, Lipjan/Lipljan, on or about 04/05 April 1999;

III. **Refki MAZRREKU**, nickname , father's name , mother's name , born on , in , , residing in , completed , ; charged according to the Indictment with the criminal offences:

Count 1: **War Crime against the Civilian Population**, under Articles 22, 142 CCSFRY, currently criminalized under Articles 23, 120 CCK, in violation of Common Article 3 to the four Geneva Conventions 1949, and Articles 4, 5(1) of APII; the Accused, in his capacity as member of the KLA, in co-perpetration with Naser KRASNIQI, Nexhmi KRASNIQI and Naser SHALA, **killed Arben Avdyli**, a Kosovo Albanian civilian who had been previously detained in and released from the Klecke/Klecka detention center; more precisely, the defendant participated in the crime by keeping the victim at the disposal of the perpetrators and by pushing him into a hole in the ground where he was subsequently executed by Naser KRASNIQI and Nexhmi KRASNIQI with AK-47 firearms; in Klecke/Klecka, Lipjan/Lipljan Municipality, on or about 03/04 April 1999;

Count 2: **War Crime against Prisoners of War**, under Articles 22, 144 CCSFRY, currently criminalized under Articles 23, 120 CCK, in violation of Common Article 3 to the four Geneva Conventions 1949, and Articles 4, 5(1) of APII; the Accused in his capacity of member of the KLA, in co-perpetration with Naser KRASNIQI, Naser SHALA, Nexhmi KRASNIQI, Arben KRASNIQI and cooperative witness X **participated in the killing of a Serbian military prisoner**; more precisely, the defendant participated in the crime by marching the prisoner to the execution spot and by keeping him at the disposal of the direct perpetrator, Naser SHALA, although he knew, because explicitly

informed about Naser SHALA's intention to kill the prisoner from the previous conversation between the latter and Fatmir LIMAJ, that the prisoner would be executed; in Klecke/Klecka, Lipjan/Lipljan Municipality, on an undetermined date in April 1999, not before 11 April 1999;

IV. **Sabit SHALA**, nickname , father's name , mother's name , born on , in , residing in , completed , ; charged according to the Indictment with the criminal offences:

Count 1: **War Crime against the Civilian Population and War Crime against Prisoners of War**, under Articles 22, 142, 144 CCSFRY, currently criminalized under Articles 23, 120 CCK, in violation of Common Article 3 to the four Geneva Conventions 1949, and Articles 4, 5(1) of APII; the Accused, in his capacity as KLA member, in co-perpetration with Fatmir LIMAJ, Naser KRASNIQI, Nexhmi KRASNIQI, Naser SHALA, Arben KRASNIQI, Behlul LIMAJ, Besim SHURDHAI, cooperative witness X, Shaban SHALA and other so far unidentified KLA soldiers, **violated the bodily integrity and the health of an undefined number of Serbian and Albanian civilians and Serbian military prisoners**, detained in the Klecke/Klecka detention center, by keeping them in inhumane conditions (including prisoners chained, premises inappropriate, excessive cold, lack of sanitation, inadequate nutrition, frequent beatings); in Klecke/Klecka, Lipjan/Lipljan Municipality, from early 1999 until mid-June 1999;

Count 2: **War Crime against Prisoners of War**, under Articles 22, 144 CCSFRY, currently criminalized under Articles 23, 120 CCK, in violation of Common Article 3 to the four Geneva Conventions 1949, and Articles 4, 5(1) of APII; the Accused, in his capacity as member of the KLA and in co-perpetration with cooperative witness X, Nexhmi KRASNIQI, Naser SHALA, Besim SHURDHAI, **tortured four Serbian military prisoners**, detained in the Klecke/Klecka detention center, whose remains were found in a mass grave near Klecke/Klecka and at least three of which were identified through DNA as Bojan Cvetković, Zarko Filipović and Zivota Todorović, by repeatedly beating them; in Klecke/Klecka, Lipjan/Lipljan Municipality, on an undetermined date in April 1999, not before 11 April 1999;

V. **Shaban SHALA**, father's name , mother's name , born on , in , residing in , completed , ; charged according to the Indictment with the criminal offences:

Count 1: War Crime against the Civilian Population and War Crime against Prisoners of War, under Articles 22, 142, 144 CCSFRY, currently criminalized under Articles 23, 120 CCK, in violation of Common Article 3 to the four Geneva Conventions 1949, and Articles 4, 5(1) of APII; the Accused, in his capacity as KLA member, in co-perpetration with Fatmir LIMAJ, Naser KRASNIQI, Nexhmi KRASNIQI, Naser SHALA, Arben KRASNIQI, Behlul LIMAJ, Besim SHURDHAJ, Sabit SHALA, cooperative witness X, and other so far unidentified KLA soldiers, **violated the bodily integrity and the health of an undefined number of Serbian and Albanian civilians and Serbian military prisoners**, detained in the Klecke/Klecka detention center, by keeping them in inhumane conditions (including prisoners chained, premises inappropriate, excessive cold, lack of sanitation, inadequate nutrition, frequent beatings); in Klecke/Klecka, Lipjan/Lipljan Municipality, from early 1999 until mid-June 1999;

VI. **Besim SHURDHAJ**, father's name , mother's name , born on , in , residing in , graduate, ; charged according to the Indictment with the criminal offences:

Count 1: **War Crime against the Civilian Population and War Crime against Prisoners of War**, under Articles 22, 142, 144 CCSFRY, currently criminalized under Articles 23, 120 CCK, in violation of Common Article 3 to the four Geneva Conventions 1949, and Articles 4, 5(1) of APII; the Accused, in his capacity as KLA member, in co-perpetration with Fatmir LIMAJ, Naser KRASNIQI, Nexhmi KRASNIQI, Naser SHALA, Arben KRASNIQI, Behlul LIMAJ, Sabit SHALA, cooperative witness X, Shaban SHALA and other so far unidentified KLA soldiers, **violated the bodily integrity and the health of an undefined number of Serbian and Albanian civilians and Serbian military prisoners**, detained in the Klecke/Klecka detention center, by keeping them in inhumane conditions (including prisoners chained, premises inappropriate, excessive cold, lack of sanitation, inadequate nutrition, frequent beatings); in Klecke/Klecka, Lipan Municipality, from early 1999 until mid-June 1999;

Count 2: **War Crime against Prisoners of War**, under Articles 22, 144 CCSFRY, currently criminalized under Articles 23, 120 CCK, in violation of Common Article 3 to the four Geneva Conventions 1949, and Articles 4, 5(1) of APII; the Accused, in his capacity as member of the KLA and in co-perpetration with Nexhmi KRASNIQI, Naser SHALA and Sabit SHALA **tortured four Serbian military prisoners**, detained in the Klecke/Klecka detention center, whose remains were found in a mass grave near Klecke/Klecka and at least three of which were identified through DNA as Bojan Cvetković, Zarko Filipović and Zivota Todorović, by repeatedly beating them; in

Klecke/Klecka, Lipjan/Lipljan Municipality, on an undetermined date in April 1999, not before 11 April 1999;

AFTER having held the Main Trial sessions open to the public on 11 and 14 November 2011, 01 and 14 December 2011, 16, 30 and 31 January 2012, 06, 07, 09, 28 and 29 February 2012, 01, 05, 06, 07 and 21 March 2012; all held in the presence of Accused Arben KRASNIQI, his Defence Counsel Fehmije Gashi-Bytyqi, Accused Behlul LIMAJ, his Defence Counsel Ramiz Krasniqi, Accused Refki Mazrreku, his Defence Counsel Haxhi Millaku, Accused Sabit Shala, his Defence Counsel Mexhid Sylja, Accused Shaban Shala, his Defence Counsel Destan Rukiqi, Accused Besim Shurdhaj, his Defence Counsel Qerim Zogaj, previously Fazli Balaj; except for the sessions when Defence Counsel sent their substitutes;<sup>1</sup> and in the presence of EULEX Special Prosecutor Maurizio Salustro of the Special Prosecution Office of Kosovo;

AFTER the Trial Panel's deliberation and voting held on 30 March 2012;

PURSUANT to Article 392 of the Kosovo Code of Criminal Procedure (KCCP) on this day of 30 March 2012, in open court and in the presence of all Accused and their Defence Counsel and EULEX Special Prosecutor Charles Hardaway, substituting EULEX Special Prosecutor Maurizio Salustro;

*renders the following*

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## JUDGMENT

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- I. **Arben KRASNIQI**, with personal details above, arrested in Switzerland in view of extradition on 16 March 2011, in house arrest from 14 April 2011 until 21 March 2012, is found, as follows:

pursuant to Article 390 3) KCCP

Count 1: **NOT GUILTY** of War Crime against the Civilian Population and Prisoners of War (violation of the bodily integrity and the health of an undefined number of Serbian and Albanian civilians and Serbian military prisoners)

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<sup>1</sup> The Main Trial sessions were held in the presence also of other Accused and their Defence Counsel whose case has been severed.

Count 3: **NOT GUILTY** of War Crime against Prisoners of War, (participation in the killing of Nejbojša Djurić and Veljko Marković, two Serbian police officers)

pursuant to Article 389 1) KCCP

Count 2: **REJECTED** War Crime against Prisoners of War (participation in the killing of a Serbian military prisoner)

**II. Behlul LIMAJ**, with personal details above, under house arrest from 16 March 2011 until 21 March 2012, is found as follows:

pursuant to Article 390 3) KCCP

Count 1: **NOT GUILTY** of War Crime against the Civilian Population and War Crime against Prisoners of War (violation of the bodily integrity and the health of an undefined number of Serbian and Albanian civilians and Serbian military prisoners)

Count 2: **NOT GUILTY** of War Crime against Prisoners of War (participation in the killing of Nejbojša Djurić and Veljko Marković, two Serbian police officers)

**III. Refki MAZRREKU**, with personal details above, in detention on remand from 16 March 2011 until 11 July 2011, and until 21 March 2012 under house arrest, is found as follows:

pursuant to Article 390 3) KCCP

Count 1: **NOT GUILTY** of War Crime against the Civilian Population (killing of Arben Avdyli)

Count 2: **NOT GUILTY** of War Crime against Prisoners of War (participation in the killing of a Serbian military prisoner)

IV. **Sabit SHALA**, with personal details above, in detention on remand from 16 March 2011 until 21 March 2012, is found as follows:

pursuant to Article 390 3) KCCP

Count 1: **NOT GUILTY** of War Crime against the Civilian Population and War Crime against Prisoners of War (violation of the bodily integrity and the health of an undefined number of Serbian and Albanian civilians and Serbian military prisoners)

Count 2: **NOT GUILTY** of War Crime against Prisoners of War (torture of four Serbian military prisoners)

V. **Shaban SHALA**, with personal details above, under the measure of attendance at police station from 16 March 2011 until 21 March 2012, is found as follows:

pursuant to Article 390 3) KCCP

Count 1: **NOT GUILTY** of War Crime against the Civilian Population and War Crime against Prisoners of War (violation of the bodily integrity and the health of an undefined number of Serbian and Albanian civilians and Serbian military prisoners)

VI. **Besim SHURDHAJ**, with personal details above, under house arrest from 16 March 2011 until 21 March 2012, is found as follows:

pursuant to Article 390 3) KCCP

Count 1: **NOT GUILTY** of War Crime against the Civilian Population and War Crime against Prisoners of War (violation of the bodily integrity and the health of an undefined number of Serbian and Albanian civilians and Serbian military prisoners)

Count 2: **NOT GUILTY** of War Crime against Prisoners of War (torture of four Serbian military prisoners)



**COSTS OF CRIMINAL PROCEEDINGS**

Pursuant to Article 103 (1) KCCP the costs of criminal proceedings under Article 99 (2) 1) to 5) KCCP; the necessary expenses of the defendant and the remuneration and necessary expenditures of defence counsel, as well as the costs of interpretation and translation shall be paid from budgetary resources as per applicable rates.

**PROPERTY CLAIM**

No property claim has been filed. Therefore, no decision is rendered pursuant to Article 396 (4) KCCP.

**Presiding Judge:**

Recording Officers:

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EULEX Judge Jonathan Welford-Carroll

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EULEX Legal Officer  
Zane Ratniece

**Panel Members:**

\_\_\_\_\_  
EULEX Legal Officer  
Beti Hohler

\_\_\_\_\_  
Judge Shqipe Qerimi

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EULEX Judge Dean Pineles