

**DISTRICT COURT OF PRIZREN**  
**P. No. 164/10**  
**08 February 2011**

**IN THE NAME OF THE PEOPLE**

The District Court of Prizren, in a panel comprised of EULEX Judge Gunnar Øyhaugen as Juvenile Presiding Judge, EULEX Judge Ingo Risch and Judge Ajsere Skenderi as panel members, with court recorders Jacqueline Ryan, Nexhmije Mezini, Stefen Parkinson, Robert Abercrombie and Vlora Johnston,

in the criminal case against the Defendant L B, charged pursuant to Indictment PP.no.92/10, filed by the District Public Prosecutor in Prizren dated 6 September 2010 with the criminal offence of Aggravated Murder, pursuant to Article 147, paragraph 7, read in conjunction with Article 23 of the Criminal Code of Kosovo (hereinafter "the CCK") and criminal offense of Unauthorized Ownership, Control, Possession, or Use of Weapons, pursuant to Article 328, paragraph 2 of the CCK.

And in the criminal case against the Juvenile, charged pursuant to the proposal for imposing sentence with imprisonment PPM. no. 09/10 dated 6 September 2010, filed by the District Public Prosecutor in Prizren dated 6 September 2010, with the criminal offence of Aggravated Murder, pursuant to Article 147, paragraph 7, read in conjunction with Article 23 of the CCK, and criminal offense of Unauthorized Ownership, Control, Possession, or Use of Weapons, contrary to Article 328, paragraph 2 of the CCK,

after having held the main trial hearing on 18, 19 January and 8 February 2011, and after the trial panel held deliberating and voting on 8 February 2011 – pursuant to Article 392 paragraph (1) of Kosovo Criminal Procedure Code (KCCP) – on the same day in public – in the presence of the Accused, their Defence Councils and the Public Prosecutor, announced the following



## VERDICT

The defendant,

**L B**, father's name **K** mother's name **N**, (maiden  
) , born on ,  
currently residing in the of Prizren,  
has completed the first year of the faculty of medicine, single, Kosovar,  
Albanian, poor financial situation, in detention since 7<sup>th</sup> April 2010, is

## GUILTY

Because,

I. That on 16 May 2009, at about 18:00, the Defendant **L B**, in prior agreement with the Juvenile , went to play in Toto Sport Betshop, which is located at Street. After they entered the Shop, they waited until other customers left the Shop and they remained with the Victim only. The defendant **L B** or the Juvenile in co-perpetration, with prior agreement, intentionally used a Zastava pistol, calibre 6.35 mm, serial number ET-8111258, and shot the **B V** with a projectile at the back part of the head from close range, thus causing the Victim a lethal wound. The Victim was sent to the regional hospital in Prizren at about 21:00 and later on to the QKUK in Pristine. However, he passed away as a result of the injuries sustained on 20 May 2009. The Defendant **L B** did not provide aid to the victim and he and in cooperation after took from the victim a wallet containing 180 Euro, they walked out of the above-mentioned Shop and proceeded on their way to e Qytetit. The goal of their action was to obtain money from the victim.

- By reason thereof the defendant **L B** committed in co-perpetration the criminal offense of Aggravated Murder, pursuant to Article 147, paragraph 7, read in conjunction with Article 23 of the CCK.



II. On 6 April 2010, when the police searched the defendant's house, they recovered under a couch in the living room a sports hunting gun bearing the following inscription: A172779 QUIRES) BINGHAN-MODEL-1400 MFTD.BY ARMS CORPORATION OF THE PHILIPPENS 11H and a magazine with two cartridges, "Floberg" type, 6mm caliber, and two unused cartridges, which he was in unauthorized possession of,

- By reason thereof the defendant L : B committed the criminal offense of Unauthorized Ownership, Control, Possession, or Use of Weapons, contrary to Article 328, paragraph 2, of the CCK, and is

### SENTENCED

as follows:

On Count I, namely Aggravated Murder, pursuant to Article 147, paragraph 7, read in conjunction with Article 23 of the CCK to a term of fourteen (14) years and six (6) months imprisonment;

On Count II, namely Unauthorised Ownership, Control or Use of Weapons in violation of Article 328 (2) of the CCK to a term of nine (9) months imprisonment;

Pursuant to Article 71 (1) and (2) subparagraph 2 of the CCK the Defendant Leurat Buduri is sentenced to an aggregate punishment comprising a term of imprisonment of fifteen (15) years in which sentence the time spent in detention on remand shall be taken into account from 7 April 2010 until the Judgment becomes final.

The juvenile

born in the \_\_\_\_\_, father's name \_\_\_\_\_ mother's \_\_\_\_\_ (maiden \_\_\_\_\_  
in the \_\_\_\_\_ in the \_\_\_\_\_ currently residing \_\_\_\_\_

of average financial situation, in detention since 7<sup>th</sup> April 2010, is



**GUILTY**

Because,

I. That on 16 May 2009, at about 18:00, the Juvenile [redacted], in prior agreement with the defendant I [redacted] t B [redacted] went to play in Toto Sport Betshop, which is located at [redacted] st. After they entered the Shop, they waited until other customers left the Shop and they remained with the Victim only. The defendant L [redacted] B [redacted] or the Juvenile [redacted] in co-perpetration, with prior agreement, intentionally used a Zastava pistol, calibre 6.35 mm, serial number ET-8111258 and shot the Victim B [redacted] V [redacted] with a projectile at the back part of the head from close range, thus causing the Victim a lethal wound. The Victim was sent to the regional hospital in Prizren at about 21:00 and later on to the QKUK in Pristine. However, he passed away as a result of the injuries sustained on 20 May 2009. The Juvenile [redacted] did not provide aid to the victim and he and L [redacted] in cooperation after took from the victim a wallet containing 180 Euro, they walked out of the above-mentioned Shop and proceeded on their way to [redacted] e Qytetit. The goal of their action was to obtain money from the victim.

- By reason thereof the Juvenile [redacted] acting so as co-perpetrators committed a criminal act of aggravated murder defined under article 147 paragraph 7 read with article 23 of CCK.

II. On 16 May 2009 at about 10:00 hrs he borrowed a pistol from E [redacted] B [redacted], type Zastava, caliber 6.35mm with serial number ET 8111258 with a magazine containing 4 or 5 bullets, kept and possessed it illegally, without permission from competent authorities, whereas during the night hours after going back to village [redacted] e Qytetit at the internet shop the same pistol was returned to E [redacted] B [redacted]

- By reason thereof the juvenile [redacted] acting so he committed a criminal offence of unauthorized ownership, control, possession or use of weapons defined under article 328 paragraph 2 of CCK, therefore Pursuant to article 34 of the Juvenile Justice Code of Kosovo



## SENTENCED

as follows:

On Count I, namely Aggravated Murder, pursuant to Article 147, paragraph 7, read in conjunction with Article 23 of the CCK to a term of eight (8) years and six (6) months imprisonment;

On Count II, namely Unauthorised Ownership, Control or Use of Weapons in violation of Article 328 paragraph 2 of the CCK to a term of eight (8) months imprisonment;

Pursuant to Article 71 (1) and (2) subparagraph 2 of the CCK the Juvenile is sentenced to an aggregate punishment comprising a term of imprisonment of nine (9) years, in which sentence the time spent in detention on remand shall be taken into account from 7 April 2010 until the Judgment becomes final.

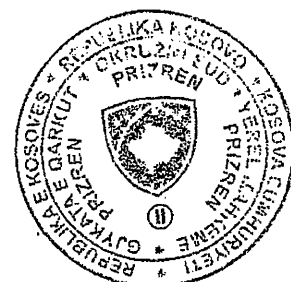
=====

Pursuant to Article 54 (2) subparagraph 7 and Article 328 (5) of the CCK the seized handgun with serial A172779 QUIRES BINGHAN-MODEL-1400 MFTD.BY ARMS CORPORATION OF THE PHILIPPENS 11H and a magazine with two cartridges, "Floberg" type, 6mm caliber, and two unused cartridges, found in the house of the defendant L. B. is hereby confiscated.

Pursuant to Article 102 (1) and (3) of the KCCP and Article 75 of the Juvenile Justice Code, the Defendant L. B. and the Juvenile shall jointly and in solidum be liable to pay the costs of these criminal proceedings.

Pursuant to Article 393 (5) of the KCCP, the defendant L. B. and the Juvenile shall remain in detention until the Judgment becomes final.

The injured party shall pursue any claim for compensation through the civil courts.



## REASONING

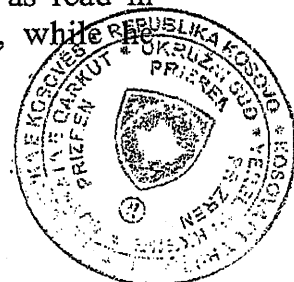
### A. Procedural background

On 6 September 2010 the District Public Prosecutor in Prizren filed to the District Court of Prizren the indictment PP. No. 92/10 against the defendants Leurat Buduri, charged with the criminal offence of Aggravated Murder, pursuant to Article 147, paragraph 7, read in conjunction with Article 23 of the CCK, and criminal offense of Unauthorized Ownership, Control, Possession, or Use of Weapons, pursuant to Article 328, paragraph 2, of the CCK, G B charged with the criminal offence of Failure to Report Criminal Offenses of Perpetrators, pursuant to Article 304 paragraph 1 of the CCK and the defendants E B, P K, F Kc, O Q K M charged with the criminal offense of Unauthorized Ownership, Control, Possession, or Use of Weapons, contrary to Article 328, paragraph 2, of the CCK.

And pursuant to Article 34 of the Kosovo Code of Criminal Procedure (hereinafter "the KCCP"), proposed the separation of the criminal proceedings against the defendants E B G I B P k K, F K i, O Q and K i because the acts of these defendants and offences they are charged with are not connected with the offences the defendants L B and the Juvenile are charged with.

On 6 September 2010 the District Prosecution Office of Prizren also filed the proposal for imposing sentence with imprisonment PPM. no. 09/10 against the Juvenile charged with the criminal offence of Aggravated Murder defined under article 147 paragraph 7 read in conjunction with article 23 of CCK, and criminal offence of Unauthorized Ownership, Control, Possession or Use of Weapons defined under article 328 paragraph 2 of CCK.

On 6 October 2010 the confirmation Judge of the District Court of Prizren rendered the ruling KA.no.140/2010 which confirmed the indictment in Prizren PP.no. 92/10 dated 6 September 2010. During the confirmation of the indictment the Defendant L B pleaded not guilty to the criminal offence of aggravated murder under Article 147 par.7 as read in conjunction with Article 23 of the CCK, as a co-perpetrator, while



pleaded guilty to the criminal offence of unauthorized ownership, control, possession or use of weapons under Article 328 par.2 of the CCK.

The Defendant G: d B pleaded not guilty to the criminal offence of failure to report criminal offences or perpetrators under Article 304 par.1 of the CCK.

The Defendants E: n B , P: c K , F: K O, Q and K M all pleaded guilty to the criminal offence of Unauthorized Ownership, Control, Possession, or Use of Weapons, pursuant to Article 328, paragraph 2, of the CCK.

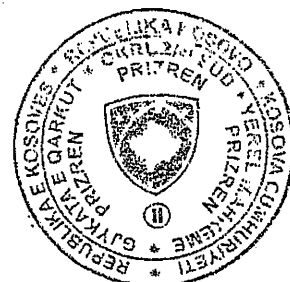
On 15 October 2010 the injured party, parents of the late B: V , filed the request to the Assembly of EULEX Judges for taking over the case by EULEX Judges.

On 25 October 2010 the Juvenile panel of the District Court of Prizren granted the prosecutor's requests for joinder of the criminal proceedings, and decided to conduct a joint procedure against the accused L: B and the Juvenile , since they were both charged as co-perpetrators for the criminal offences of Aggravated Murder under Article 147 paragraph 7 as read in conjunction with article 23 of the CCK and also Unauthorized Ownership, Control, Possession or Use of Weapons under article 328 paragraph 2 of the CCK. It was decided that a single Judgment under registration number P.no.164/10 would be rendered.

On 4 November 2010 the President of the Assembly of EULEX Judges, based on Article 3.3 on law on jurisdiction, case selection and case allocation of EULEX Judges, decided to take over the case and assign to EULEX Judges at the District Court of Prizren.

On 18 January 2011 the Juvenile panel of the District Court of Prizren issued the ruling where the criminal procedure against the accused L: B and Juvenile was severed from the other defendants. Hence this case shall only be proceeded with the Defendant I: B and the Juvenile

\*\*\*



The first day of the Main Hearing in this case commenced on 18 December 2010. The juvenile presiding Judge warned the parties that since one of the accused is Juvenile, according to Article 71 (1) of the Juvenile Justice Code of Kosovo, the court hearing was closed to the public. According to KCCP Article 330 (3), the Juvenile presiding judge also warned the persons attending the main trial which is closed to the public, of their obligations to keep confidential all information that comes to their knowledge at the trial and that disclosing such information constitutes a criminal offence.

During the trial were also present the representative of the Guardianship Authority and the representative of the Probation Service.

### **B. Competence of the court:**

In accordance with Article 23 paragraph 1 of the KCCP the District Courts shall have jurisdiction to adjudicate at first instance criminal offence punishable by imprisonment of at least five years or by long-term imprisonment.

In the present case the Defendant I t B and the Juvenile were inter alia each charged with the criminal offence of Aggravated Murder pursuant Article 147 (7) of the CCK, read in conjunction with Article 23 of the CCK,

The criminal offences according to the indictment and the proposal for imposing a sentence of imprisonment, were committed in Prizren. Therefore, in accordance with article 27 par. 1 of the KCCP, the District Court of Prizren has territorial jurisdiction. Thus, it can be concluded that the District Court of Prizren has the jurisdiction to adjudicate in the present case.

The President of the Assembly of EULEX Judges, based on the request of the parents of the injured party and based on Article 3.3 of the law on jurisdiction, case selection and case allocation of EULEX Judges, decided to take over the case and assign it to EULEX Judges at the District Court of Prizren.





In accordance with article 4.7 on the Law on Jurisdiction the trial panel of the District Court of Prizren was composed of a mixed panel of two EULEX Judges and one local Judge.

In accordance with article 51 paragraph 1 of the Juvenile Justice Code of Kosovo, the Juvenile Judge was the presiding Judge of the panel.

None of the parties objected to the panel composition.

### C. The Indictment:

In the Indictment it was averred that:

I. The Defendant L t B in conspiracy with the Juvenile on 16 May 2009, at about 9 p.m., in Prizren, specifically "Toto-sport" sports-betting shop located at , wilfully and in co-perpetration, deprived the life the now late B V from Prizren. After the defendants went to the betting shop, they started playing on the betting shop equipment. And at one point, in order to obtain a material benefit, the juvenile defendant shot B t V at close range with a Zastava 6.35 mm calibre, serial number ET-8111258, hitting B : V a with a bullet at the back part of the head, thereby causing fatal injury. The B : V was sent to the Regional Hospital in Prizren and later on to QKUK – Pristine. But due to the injuries sustained, he passed away on 20 May 2009. It was alleged in the Indictment that by reason thereof, the Defendant L t B committed the criminal offence of Aggravated Murder, according to Article 147, paragraph 7, read in conjunction with Article 23 of the CCK.

II. On 6 April 2010, when the police searched the Defendant I B house, they recovered under a couch in the living room a sports hunting gun bearing the following inscription: A172779 QUIRES BINGHAN-MODEL-1400 MFTD.BY ARMS CORPORATION OF THE PHILIPPENS 11H and a magazine with two cartridges, "Floberg" type, 6mm caliber, and two unused cartridges, which he was in unauthorized possession of. It was alleged in the Indictment that by reason thereof, the Defendant I B committed the criminal offence of Unauthorized Ownership, Control, Possession, or Use of Weapons, contrary to Article 328, paragraph 2, of the CCK.



In the proposal for the imposition of sentence it was averred that the Juvenile by prior agreement with defendant L B on 16 May 2009 at about 9 p.m. in Prizren, at the betting sport shop "Toto sport" situated at the street , intentionally and in co-perpetration deprived the late B V from Prizren of his life. The defendants went to the betting shop, intending to gain a material benefit, the juvenile shot B V with a pistol, Zastava caliber 6.35 mm, with serial number ET -8111258, from a very close distance. The bullet hit the back side of the victim's head and caused fatal wounds. After this B V was taken to the regional hospital in Prizren and later on to the main clinic in Prishtina. Subsequently, due to the wounds, he died on 20 May 2009. It was alleged in the proposal for imposing sentence that by reason thereof the juvenile committed the criminal offence of Aggravated Murder as defined by article 147 (7) CCK as read in conjunction with article 23 CCK.

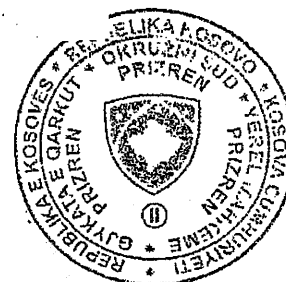
On 16 May 2009 at about 10 a.m. took a pistol from E B, type Zastava, calibre 6.35mm with serial number ET 8111258 along with a magazine containing 4 rounds; he kept and possessed them illegally and without permission from the competent authorities. During the night hours, after going back to village at the internet shop, the same pistol was returned to E B. It was alleged in the proposal for imposing the sentence, that the juvenile committed a criminal offence of Unauthorized Ownership, Control, Possession or Use of Weapons defined under article 328 (2) of the CCK.

#### D. The witness and the Defendants/ Juveniles testimonies

At the first Main Hearing the Juvenile Panel heard the evidence of two witnesses: E B and G B

E B  
The witness E B testified before the court that he had owned and possessed the above mentioned pistol. He stated that it was in the spring/early summer when asked to borrow the pistol – but he did not remember the date. This took place about midday. The pistol was given back to E B on the same day it was borrowed.

E B was asked by the Prosecutor if he knew where was the same day after he gave him the pistol. He testified:



*"If you are asking if he went the mountains, I don't know. I phoned him and he was in Prizren. I went to Prizren to look for him but he returned it to me. I met him on the way coming to Prizren as he was coming to my house".*

E: B testified that after he gave the pistol, he called him because someone else notified him that had gone to Prizren and they had seen him on a bus. The witness was told from that he was at the hotel. E: B looked for there, but he was not there. He called him from the post office, but he rang a wrong number and there was no response.

Further he testified that he only once lent his pistol to and that he got back the pistol no more than five hours later. It could have been about 6 p.m. – but no later. He did not notice if the pistol had been used/ fired from, or if the number of the bullets were the same when the pistol was returned.

G: B  
On the same date, 18 January 2011, the witness G: B testified that L B phoned him in the evening "on the critical day" (meaning 16 May 2009). L B asked him to come out to the centre, to have a drink. According to his statement, L B and came together in a taxi. He was playing pool when they came inside and asked him to go out with them. They went together to a football field. L B and were alone and said that they had something to tell him.

Extract from the main trial minutes:

*Public Prosecutor: What did they say?*

G: B : *They said we have committed a murder.*

*Public Prosecutor: Did you ask where it happened and who they killed?*

G: B *Yes and they said it was at Toto Sport.*

*Public Prosecutor: Who had they killed?*



G: B: : I did not know the name at the time. They said they killed a guy at Toto Sport.

G: B: : It was Leurat Buduri that said they had committed a murder.

Public Prosecutor: Did you see the pistol?

G: B: : Yes

Public Prosecutor: Who had it?

G: B: : but he gave it to L B  
L B: said it was the weapon.

G: B: They told me to shut my mouth; both of them.

H: S: When you met that night and L  
B: did the jointly tell you they committed murder?

G: B: Yes, they told me they had committed a murder.

Presiding Judge: (to the witness) You have said that they said they have committed the murder. You have also said that the person who said that was L B: . Did : also tell you that?

G: B: : No

Presiding judge: Did he make any objections when L B: told you that they had murdered this person?

G: B: : No

Presiding judge: I understood it correctly that from the onset you understood that they had murdered this person.

G: B: Yes

Presiding judge: Are you in any doubt about this fact?



G: B: No

*Presiding judge: Did they tell you who used the gun?*

G: B: No

G: B: testified that they stayed at the stadium no longer than 30 minutes. He was the first who left and he did not see where and L: B: went afterwards.

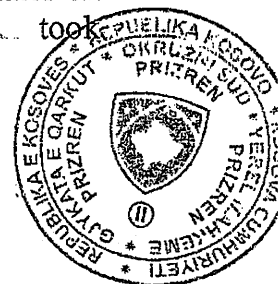
During the testimony a picture of E: B: pistol was shown to him. He meant that the pistol shown in the the picture, was like the pistol they had in their possession when they told him about the murder.

The Defendant L: B: gave evidence in his own defence. He was examined as a suspect on 7 April 2010 in the presence of his defence counsel before police. On 8 April 2010, 22 April 2010 and 30 August 2010 the defendant L: B: was examined before a Public Prosecutor of the District Public Prosecution Office in Prizren in presence of his defence counsel.

L: B: in his testimony during the main trial, stated that he is not the perpetrator of the criminal offense of Aggravated Murder committed against the now late B: V: from Prizren. He told the court that on 16 May 2009 – after he finished his work – he left to go home. At around 5 p.m. on this way home, he met . They had not made any prior agreement to meet. Half an hour/one hour later the same day, he and .

went to “Toto Sport” Betting shop. He stated that when they were there, and B: V: entered the toilet. They remained in the toilet for about 5-6 minutes. Then B: V: came out from the toilet, holding a broom in his hand, followed by . A moment later he heard a shot, whereupon B: V: fell down on the floor. He saw that . had a gun in his hand. When he went closer to help B: V: said “don’t move as you can go like he did”.

He did not see if . searched the victim’s pockets, but later on he saw that . had a wallet. He saw that . took



out from the wallet an 100-EUR note, a 50-EUR note a 10-Euro note and a 20-EUR note. After they left "Toto Sport" and came to a river nearby, [redacted] threw the wallet into the river. [redacted] was at this time carrying the pistol under the belt.

He wanted to return to [redacted] Village by bus, but [redacted] did not allow him to do that and told him that he had to go with him. [redacted] got a taxi and told the driver to go to [redacted] Village.

When they came to the village, they called G [redacted] B [redacted] to have a coffee with him. L [redacted] B [redacted] went home for a short while and then he went to the centre of the village where he found G [redacted] B [redacted] together with [redacted]. When L [redacted] B [redacted] met them, G [redacted] B [redacted] told him that he knew what had happened, because [redacted] had informed him about the incident and expressed that [redacted] is not normal. L [redacted] B [redacted] did not inform any other persons about what happened at Toto Sport.

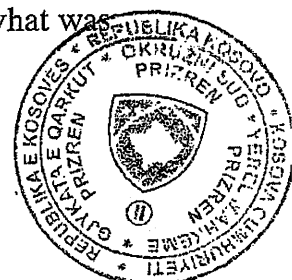
During the main trial the Zastava pistol with serial number ET8111258 was shown to L [redacted] E [redacted]. He was asked if this was the gun he had seen in the hand of [redacted] on the critical day.

L [redacted] B [redacted] testified that it was this type and size of gun he had seen that day.

The Juvenile [redacted] gave evidence in his own defence. He was examined as a suspect on 7 April 2010 in the presence of his defence counsel before the police. On 22 April 2010 and 30 August 2010 [redacted] was examined before the District Public Prosecutor of Prizren in the presence of his defence counsel.

[redacted], in his testimony before the court, denied the criminal offence of Aggravated Murder as defined under article 147 (7) read in conjunction with article 23 of CCK as a co-perpetrator, stating that he is not the one who committed the said crime. He stressed that the defendant L [redacted] B [redacted] committed the crime.

In evidence he stated that he went to the toilet for one minute or two, washed his face and then he heard a shot. When he came out to see what was happening, he saw B [redacted] V [redacted] lying on the ground by the main door and also saw that L [redacted] B [redacted] had a small gun in his hand. He asked what was



going on. L B answered "You don't need to know what is going on. Get out."

The pistol was shown to him while he was giving evidence, he stated that he recognized the colour and size. He did not see a wallet while they were walking away from Toto Sport. L B told him to come with him in a taxi.

When they came to I , he went home for a while before he went to the village centre. There he met G I B together with L B. He told G B what had happened at Toto Sport. G B informed him that Leurat Buduri already had spoken to him and had told him that "he did that". He did not inform any other persons about the murder.

Regarding the second criminal offence of Unauthorized Possession of Firearms defined under article 328 (2) of CCK, in evidence, he did not deny that he had been in possession of the pistol borrowed from E B but he claimed he borrowed the pistol in June – sometime around the middle of the day 11 – 12 a.m., and returned the pistol to E B brother at around 4 p.m. same day. The purpose for borrowing the pistol for such a short time, was to go to the mountains and make some photos of himself with the pistol. He did that – but he no longer has any photographs from this trip.

#### Other evidence:

During the course of the evidentiary proceedings the court inspected and read - transcripts of telephone conversations, photo-documentation contained in the case files and the Report MA-09-132 of the autopsy undertaken by Forensic medical doctor Dr. Marek Gasior. The Autopsy Report concluded that the cause of the death of the victim B V was a gunshot injury to his head.

The Expert Opinion from the Ballistics Laboratory on the weapons, laboratory no. 2009-1073, case no. 2009-GA-1232, shows that the weapon which was used, was the above mentioned Zastava pistol owned by E B and borrowed by

On 19 January 2011, during the main trial, the Juvenile trial panel heard Ms M B an officer of the probationary centre in the region of Prizren.



Ms Mićević stood behind the social inquiry for the Juvenile with number A.S – 57/10 dated 28 April 2010, which had been made by her based on the District Public Prosecutor request PPM no.9/2010 dated 22 April 2010. Defence counsel of [redacted] – Lawyer Hajrip Krasniqi – requested an additional report from the officer of the probationary centre regarding [redacted] for the period he had been in the correction service. On the same date the court issued a request to the Probation service to make further report regarding [redacted] during the period being in correction service.

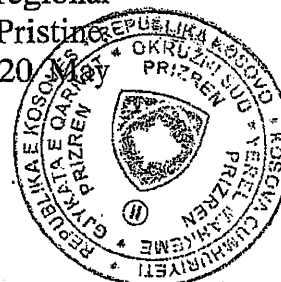
On 19 January 2011, during the evidentiary procedure, the Court also heard testimony from the father of the Juvenile [redacted], who testified with regards to [redacted] behaviour from childhood to the time of his arrest.

The Court read the Pre-judgement report submitted by the Probation service R.P.-41/2010 dated 25.01.2011 on the juvenile [redacted], with the conclusion that they have no recommendation on the sanction or punishment, because the [redacted] did not admit having committed the offence he is charged with.

Based on the article 375 of the KCCP, the court has read the data concerning the question about prior convictions and sentences regarding L. B. and [redacted]. Based on the registry of the court, they have never been convicted before.

During the final speech of the parties the District Public Prosecutor corrected the factual description in relation to the defendant L. B. in count I

“I. That on 16 May 2009, at about 6 p.m., the Defendant L. B., in prior agreement with the Juvenile [redacted], allegedly went to play in Toto Sport Betshop, which is located at [redacted]. After they entered the Shop, the Defendant L. B. allegedly started playing bets. He waited until other customers left the Shop and they remained with the Victim only. Meanwhile, the Juvenile [redacted] using a Zastava pistol, calibre 6.35 mm, serial number ET-81111258, shot the Victim B. V. [redacted] with a projectile at the back part of the head from close range, thus causing the Victim a lethal wound. The Victim was sent to the regional hospital in Prizren at about 9 p.m. and later on to the QKUK in Pristina. However, he passed away as a result of the injuries sustained on 20 May 2009.”





2009. Thus, the Defendant L t B did not undertake a single action to prevent the Juvenile from carrying out his acts, but consented thereto in silence. He did not provide aid to the victim and after taking the wallet containing 180 Euro, they walked out of the above-mentioned Shop and proceeded on their way to l ytetit “.

The District Public Prosecutor corrected the factual description in relation to the Juvenile in count I only at the end of the factual description

“That the Juvenile and the Defendant L t B , after they took the wallet from the Victim’s pocked, containing 180 Euro, did not aid the Victim. And after they used the moment when there were no other persons in the shop, walked out of the mentioned shop and proceed on their way to t”

The other parts remained unchanged.

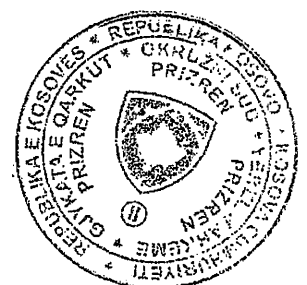
#### **E. Summary of evidence presented:**

During the proceedings of the main trial, the following witnesses were heard:

- a) A1 E B' as witness
- b) A2 G B' as witness

Among the mentioned witnesses the Juvenile panel heard was the representative of the probation Service:

- c) A3 Mi B' officer of the probationary centre in the region of Prizren



The juvenile panel, during the main trial, heard the fathers of L. B. and . The father of L. B. gave only a remark about the court proceedings.

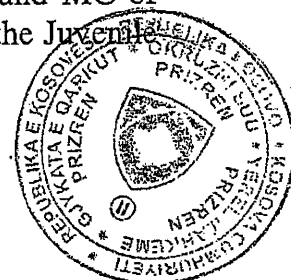
d) A4. father of the juvenile

Documentary evidence and reports:

During the main trial, the following documents were read as evidence:

- B1 Certificate on seizure of items,
- B2 Transcripts from phone conversations,
- B3 Photo documentation,
- B4 Autopsy report made at the Medical Institute in Prishtina on 22.05.2009, MA -09-132,
- B5 Expert's Opinion submitted by the Ballistics Laboratory on the weapons, Laboratory no. 2009-1073, case no. 2009-GA-1232
- B6 Pistol called Zastava with number ET8111258 showed to the defendant and to the juvenile during the main trial
- B7 Social inquiry AS – 57/10 dated 28 April 2010
- B8 Pre-judgment report submitted from Probation service R.P.-41/2010 dated 25 January 2011 against the juvenile

The court *ex officio* requested the criminal record of the Defendant L. B. and the Juvenile from the District Court of Prizren and the Municipal Court of Prizren. The DC and MC of Prizren informed the court that neither the Defendant nor the Juvenile had any prior criminal record.



- B9 Copy of the document submitted by DC Prizren dated 26 January 2011 that shows that the Defendant and the Juvenile have never been convicted before.
- B10 Copy of the document submitted by MC Prizren dated 27 January 2011 that shows that the Defendant and the Juvenile have never been convicted before.

#### F. Evaluation of presented evidence – factual findings:

In the evaluation of the presented evidence, the Court has given the benefit of all reasonable doubt to L B and

Upon the evidence presented during the course of the main trial, the Court has found the following facts to be proven:

That L B and according to a prior agreement on the 16<sup>th</sup> May 2009, entered Toto Sport – a betting shop in Prizren – in order to obtain a material benefit, and deliberately shot B V in his head from a short distance. After B V had fallen to the floor, they took his wallet with money and left the shop without trying to assist B V. B V died few days later due to the wound sustained to his head.

It has not been possible to establish if it was L B or who shot B V. The court however is sure that it was one of the two. This is principally based on the testimony of the witness G B. The accused told him that same day: “we have committed a murder.....they killed a guy at Toto Sport.” But they did not tell G B which of them actually shot the deceased.

L B and have both admitted that they were in the shop when B V was shot. However, they have both accused each other of having made the shot. It is clear to the Court that there are no other persons apart from the two accused involved in the killing, because not the slightest indication leads to a third person.

In addition there are other elements in the case which support that L B or shot E V. The witness G



B in his testimony did not only state that the two accused confessed the murder to him, but at the same time he saw that handed over a pistol to L B and L B indicated that this was the murder weapon.

Based on the scientific examination of the pistol and bullets taken from the victim's body, the Court is also convinced that the murder weapon was the pistol owned by the witness E B

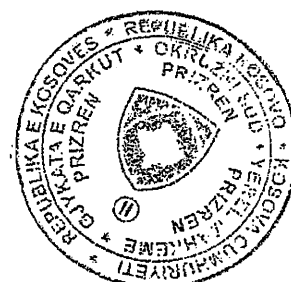
The connection between E B's pistol and the accused in this case is that both and E B have confirmed that spring/summer 2009 borrowed this pistol. However, they both have explained that this weapon was returned earlier in the day than the murder took place. has claimed that he borrowed this pistol later than the date of the murder of B V.

L B, G B and have all explained that the pistol they saw on the 16. May 2009 is like/similar to the pistol owned by E B

If was innocent regarding this murder, it is unlikely that shortly after he had witnessed such a brutal murder, performed by a pistol, would have wished to borrow a similar pistol in order to make photographs of himself with the pistol.

The Court has noted that has only borrowed this pistol one time. This fact is confirmed by both and E B. On this background the Court finds it proven that was in possession of E B pistol on the 16 May 2011 – when the murder took place – and that this pistol is the murder-weapon.

Although the Court cannot establish which of the accused shot the victim, the Court is convinced that they shot the victim following a prior agreement to do so and to take the victims money. The witness G B has – as already mention above – stated that they told him “we have committed a murder” – and they did not accuse each other when they the same day, shortly after the shooting of the victim, informed G B about the murder.



According to G: B it was clear that they have done this together. The handing over of the pistol from . . . . . to L: B - which G: B observed, is also an important piece of evidence supporting the fact that they had co-operated in this matter. In this way, both of the accused are also linked to the murder-weapon.

The fact that neither of them tried to help or assist the victim, after he was shot, is also an element supporting the assertion that they co-operated regarding the shooting etc. The fact that they went together to Toto Sport and went back together to their village, after the shooting had taken place, is a similar supporting element.

A further element to be mentioned is that they together told G: B1 what had happened, but neither of them told anybody else.

The telephone conversation also indicates that they had made a prior agreement to go to the betting shop in question.

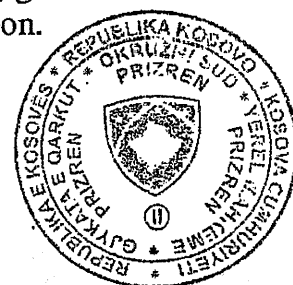
An important aspect is also that they both warned G: B to shut his mouth.

The Court finds no other motive for the shooting of the victim than to take his money. In addition, the fact that they took the victims wallet with money, has convinced the Court that they shot the victim with the intention of taking his money for their material benefit.

The key-witness in this case is G: B. The Court finds G: B1 to be a truthful witness. In the Courts opinion there are no motives, reasons or information in this case which might indicate that he has made a false testimony. Furthermore, G: B1 was L: B's friend and . . . . . relative. Neither L: B1 and . . . . . nor their defence counsels have been able to point out any reasonable cause for G: B1 to give false testimony in this serious case.

Unauthorized Ownership etc of weapon – Defendant L: B

With regard to the second offence the Defendant L: B is charged with, he admitted that he was in possession of a sports hunting gun and he knew that he had a duty to obtain an authorization for such weapon.



The sport hunting gun in question had the following inscription: A172779 QUIRES) BINGHAN-MODEL-1400 MFTD.BY ARMS CORPORATION OF THE PHILIPPENS 11H.

This gun was found under a couch in the living room in L B house in connection with a police search – together with a magazine with two cartridges, “Floberg” type, 6 mm calibre, and two unused cartridges.

In this respect, L B has pleaded guilty. The Court finds that it is proven that L B owned this gun and cartridges without Weapon Authorization Card.

Unauthorized Ownership etc of Weapon – Juvenile

The Court has above already found it proven that borrowed a pistol from E B type Zastava, calibre 6,35 mm with serial number ET 8111258 and with a magazine containing 4 or 5 bullets.

has admitted that he has borrowed this pistol with a magazine containing bullets. In this respect he has pleaded guilty. The Court finds that it is proven that has possessed and controlled this weapon without a valid Weapon Authorization Card.

**G. Legal Qualification:**

Based on what the Court above has found proven – it is clear that L B and have, in collaboration, deprived B V life.

The shot to B V head from a short distance was fatal. The shooting was performed with the intent and knowledge that it would very likely result in death.

The court has also above found proven that their motive was obtaining a material benefit – to take the victim’s money.

Thus the Court concludes that the Defendant L B and the Juvenile are guilty of having committed “Aggravated Murder” – pursuant to Article 147, paragraph 7, read in conjunction with Article 23 of CCK (Criminal Code of Kosovo).



Based on what the Court above has found proven regarding the weapons – L. B. is guilty of having committed “Unauthorized Ownership” of the above described hunting gun, pursuant to Article 328, paragraph 2 of the CCK. He owned and possessed this gun without a valid Weapon Authorization Card.

is guilty of having committed “Unauthorized Ownership” of the above described pistol he borrowed from Erdogan Bytyqi, pursuant to Article 328, paragraph 2 of the CCK. He possessed and controlled this pistol without a valid Weapon Authorization Card.

### H. Determination of punishment:

When imposing the criminal sanction, the Court has to bear in mind both the general purpose of punishment – that is to suppress socially dangerous activities by deterring others from committing similar criminal acts – and the specific purpose, to prevent the offender from re-offending.

In determining the punishment, the Court must evaluate all mitigating and aggravating factors, pursuant to Article 64 paragraph (1) of the CCK.

The panel has considered all pros and cons in order to find fair and well balanced punishments and has in particular taken into consideration the following aspects:

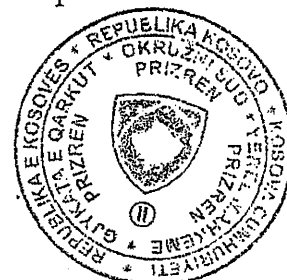
#### I B

To the favour of Leurat Buduri is to be counted:

- a) His relatively young age when the crime were committed. He was only 20 years old at that time.

To the disfavour of L. B. is to be counted:

- a) The crime was planned in advance – with prior agreement and an arrangement that they have a pistol and bullets.
- b) The crime was performed in co-perpetration with another person –



- c) The motive of the crime was to obtain a material benefit – to take the victims money – which they did.
- d) The way the murder was done, was extremely brutal and had the feature of execution. The perpetrators and the victim knew each other and the victim could not have expected any attack, in particular not to be shot from behind.
- e) He did not do anything in order to help the victim after the victim was shot to his head.

For the criminal offence of Aggravated murder in violation of Article 147 paragraph 7 of the CCK, read in conjunction with Article 23 of the CCK, the law foresees a minimum punishment of 10 years of imprisonment or of long-term imprisonment. By applying the cited Articles and considering all of the mitigating and aggravating circumstances, the Court impose a sentence of 14 years and 6 months imprisonment for L B for the Aggravated Murder.

For the criminal offence of Unauthorized Ownership, Control or Use of Weapon in violation of Article 328 (2) of the CCK, the Court imposes a sentence of 9 months imprisonment for L B

Pursuant to Article 71 (1) and (2) subparagraph 2 of the CCK, L B is sentenced to an aggregate punishment comprising a term of imprisonment of **fifteen (15) years**, in which sentence the time spent in detention on remand shall be taken into account from 7 April 2010 until the judgment becomes final.

To the favour of the court considers:

- a) His young age when the crime were committed. He was 17 years old at that time. He was therefore a Juvenile and the Juvenile Justice Code is to be applied. In this respect the Court refers to Chapter VII Juvenile Imprisonment – and in particular Article 34 where it is stated that the maximum term of juvenile imprisonment is 10 years for serious criminal offences punishable by long-term imprisonment.





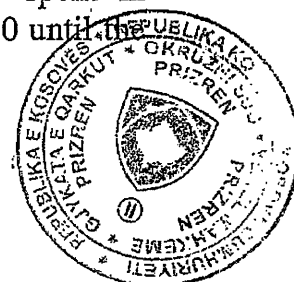
To the disfavour of \_\_\_\_\_ the court considers:

- b) The crime was planned in advance – with prior agreement an arrangement that they have a pistol and bullets.
- c) The crime was performed in co-perpetration with another person –  
L \_\_\_\_\_ B \_\_\_\_\_.
- d) The motive of the crime was to obtain a material benefit – to take the victims money – which they did.
- e) The way the murder was done, was extremely brutal and had the feature of execution. The perpetrators and the victim knew each other and the victim could not have expected any attack, in particular not to be shot from behind.
- f) He did not do anything in order to help the victim after the victim was shot in his head.

For the criminal offence of Aggravated murder in violation of Article 147 paragraph 7 of the CCK, read in conjunction with Article 23 of the CCK, the law foresees a minimum punishment of 10 years of imprisonment or of long-term imprisonment. But because \_\_\_\_\_ was a Juvenile when the crime was committed, the Juvenile Justice Code is to be applied as described above – the maximum term of juvenile imprisonment is 10 years. By applying the cited Articles and considering all of the mitigating and aggravating circumstances, the Court imposes a sentence of 8 years imprisonment for \_\_\_\_\_ for the Aggravated Murder.

For the criminal offence of Unauthorized Ownership, Control or Use of Weapon in violation of Article 328 (2) of the CCK, the Court imposes a sentence of 8 months imprisonment for \_\_\_\_\_.

Pursuant to Article 71 (1) and (2) subparagraph 2 of the CCK, \_\_\_\_\_ is sentenced to an aggregate punishment comprising a term of imprisonment of **nine (9) years**, in which sentence the time spent in detention on remand shall be taken into account from 7 April 2010 until the judgment becomes final.



**I. Confiscated Item.**

Pursuant to Article 328 (5) of the CCK, the seized handgun with serial A172779 QUIRES BINGHAN-MODEL-1400 MFTD.BY ARMS CORPORATION OF THE PHILIPPENS 11 H and a magazine with two cartridges, "Floberg" type, 6 mm caliber, and two unused cartridges, found in the house of L B , are hereby confiscated.

**J. Costs:**

Since L B and have been found guilty, they shall reimburse the costs of the criminal proceeding pursuant to Article 102 paragraph 1 and 3 of KCCP, and Article 75 of the Juvenile Justice Code, with the exception of the costs of interpretation and translation.

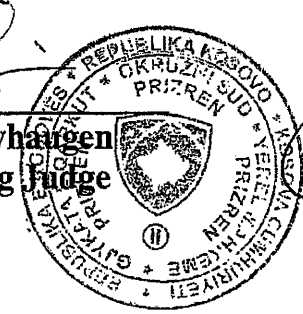
L B i and shall be jointly and severally liable (in solidum) to pay the costs for these criminal proceedings.

**K. Compensation Claims:**

At the beginning of the main trial the injured parties were reminded of the possibility of filing a motion to realise a property claim within the criminal proceeding, pursuant to the KCCP, Article 355, paragraph 2. The Court did not receive any motion in this respect. Therefore, the injured party shall pursue any claim for compensation through the civil courts.

*Apser Skenderi*  
*[Signature]*

*[Signature]*  
**Judge Gunnar Øyhøgen**  
**Juvenile Presiding Judge**



*200 Ri*  
*INGORI*

*[Signature]*  
Court recorder

**LEGAL REMEDY:** the authorized persons may file an appeal of this Judgment through the District Court of Prizren to the Supreme Court of Kosovo within fifteen (15) days of the day a copy of the judgment has been served.

