

BASIC COURT OF PRISHTINË/PRIŠTINA

Sitting in the Appeals Court building in Prishtinë/Priština

Case number: **P. no 448/2012**

Date: **7 June 2013**

The judgments published may not be final and may be subject to an appeal according to the applicable law.

IN THE NAME OF THE PEOPLE

BASIC COURT OF PRISHTINË/PRIŠTINA in the Trial Panel composed of EULEX Judge Jonathan Welford-Carroll, presiding, Republic of Kosovo Judge Shadije Gerguri, and EULEX Judge Cezary Dziurkowski, panel members, with the participation of EULEX Legal Officer Emiliya Viktorova, as court clerk, in the criminal case against:

L.G., aka Commander “X.”, Kosovo Albanian, father’s name R., mother’s name R. and maiden name S. , born on XXX in XXX, Municipality of XXX, law graduate, currently residing in XXX;

N.M. , aka “X.”, Kosovo Albanian, father’s name H. , mother’s name Sh. and maiden name H., born on XXX, municipality of XXX, married with three children, law graduate, currently residing in XXX;

RR.M. aka “X.”, Kosovo Albanian, father’s name M. , mother’s name N. and maiden name I. , born on XXX, law graduate, currently residing in XXX.

The Accused, **L.G., N.M. and RR.M.** Charged under Count 8 of the Amended Indictment, Hep. No. 65/2002, dated 30 June 2003, limited to events alleged at the XXX camp only, with the following criminal offences, prosecuted *ex officio*:

Count 8:

War Crime Against the Civilian Population, in particular, inhumane treatment, immense suffering or violation of bodily integrity or health, application of measures of intimidation and terror, and torture in violation of Article 142 of the Criminal Code of the Socialist Federal Republic of Yugoslavia (Official Gazette SFRY No. 44 of October 8, 1976) (CCSFRY), in conjunction with Articles 22, 24, 26 and 30 of the CCSFRY, because from October 1998 until late April 1999, L.G., N.M. and RR.M., with superior and personal liability, acting in concert with other unidentified individuals and pursuant to a joint criminal enterprise, ordered and participated in the beating and torture of Kosovo Albanian civilians illegally detained in the detention centre located at Llapashtica in an attempt to force those detainees to confess to acts of disloyalty to the KLA.

AFTER having held the pre-trial hearing on 26 February 2013 and main trial hearings open to the public on 25, 26 and 27 March 2013, 3, 4 and 11 April 2013, 7, 8, 10 and 22 May 2013 and 4 and 7 June 2013, as well as a partially closed session on 11 April 2013 when the personal details of protected witnesses I, C and P were recorded in the main trial minutes;

HAVING held the above hearings in the presence of the Accused L.G. and his Defence Counsel M.S. or B.T., the Accused N.M. and his Defence Counsel F.B., the Accused RR.M. and his Defence Counsel A.R., or duly authorized substitute representatives and EULEX Special Prosecutor Charles Hardaway of the Special Prosecution Office of the Republic of Kosovo;

AFTER the Main Trial Panel's deliberation and voting, held on 6 June 2013;

PURSUANT to Article 3 paragraph 2 of the Criminal Code of the Republic of Kosovo (CCRK), No. 04/L-082, as promulgated on 20 April 2012, entering into force on 1 January 2013 and Article 351 Law on Criminal Proceedings (LCP) (Official Gazette No. 26/86), on this 7th day of June 2013, in open court and in the presence of the Accused, their Defence Counsel and the EULEX Special Prosecutor;

renders the following

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VERDICT

1. **L.G., N.M. and RR.M.** each, with the personal details as above,

ARE FOUND, pursuant to Article 351 of the LCP:

GUILTY of *War Crime Against the Civilian Population*, in particular, inhumane treatment, immense suffering or violation of bodily integrity or health, application of measures of intimidation and terror, and torture in violation of Article 142 of the Criminal Code of the Socialist Federal Republic of Yugoslavia (Official Gazette SFRY No. 44 of October 8, 1976) (CCSFRY), in conjunction with Articles 22, 24, 26 and 30 of the CCSFRY, because from October of 1998 until late April of 1999, L.G., N.M. and RR.M., with superior and personal liability, acting in concert with other unidentified individuals and pursuant to a joint criminal enterprise, ordered and participated in the beating and torture of Kosovo Albanian civilians illegally detained in the detention center located at Llapashtica in an attempt to force those detainees to confess to acts of disloyalty to the KLA.

PURSUANT to Articles 41 and 42, of the CCSFRY and Article 351, paragraph 3 of the LCP, the Accused are sentenced as follows in relation to Count 8:

1. **L.G.**, with personal details as above, is sentenced to **5 years** of imprisonment.
2. **N.M.**, with personal details as above, is sentenced under Count 8 to **3 years** of imprisonment.
3. **RR.M.**, with personal details as above, is sentenced under Count 8 to **4 years** of imprisonment.

CONSIDERING the separate punishments in relation to Count 5 (*War Crimes Against the Civilian Population contrary to Article 142 of the CCSFRY*), L.G. 2 years imprisonment, N.M. 1 year six months imprisonment, and RR.M. 2 years imprisonment, and Count 14 (*War Crimes Against the Civilian Population contrary to Article 142 of the CCSFRY*), L.G.

2 years imprisonment, as determined by the District court of Prishtinë/Priština in its Judgment of 2 October 2009 and upheld by the Supreme Court of Kosovo in its Judgment of 26 January 2011;

NOTING that the Supreme Court of Kosovo in its Judgment of 26 January 2011 instructed this Trial Panel to determine the aggregate punishment to be imposed on L.G. in relation to Counts 5, 8 and 14, on N.M., in relation to Counts 5 and 8, and on RR.M., in relation to Counts 5 and 8;

PURSUANT to Article 48, paragraph 2 of the CCSFRY and Article 357, paragraph 5 of the LCP, the aggregate punishments are determined, as follows:

1. **L.G.**, with personal details as above, shall serve an aggregate punishment under Counts 5, 8 and 14 of **6 years** of imprisonment.
2. **N.M.**, with personal details as above, shall serve an aggregate punishment under Counts 5 and 8 of **3 years** of imprisonment.
3. **RR.M.**, with personal details as above, shall serve an aggregate punishment under Counts 5 and 8 of **4 years** of imprisonment.

Pursuant to Article 50 of the CCSFRY and Article 351, paragraph 1, sub-paragraph 6 of the LCP, the accused are entitled to credit for time spent in custody thus far.

PROPERTY CLAIM

The injured parties may pursue their property claims before a civil court.

The property claim in relation to Count 14, as assessed by the District court of Prishtinë/Priština in its Judgment of 2 October 2009, shall be satisfied, unless the compensation has already been paid.

COSTS OF THE CRIMINAL PROCEEDINGS:

The Accused shall reimburse the costs of the criminal proceedings, pursuant to Article 98 paragraphs 1 and 3 of the LCP, with the exception of the costs of interpretation and translation. A separate ruling on the amount of the costs shall be rendered by the Court when such data is obtained pursuant to Article 96 of the LCP.

PRESIDING JUDGE:

PANEL MEMBERS:

EULEX Judge
Jonathan Welford-Carroll

Kosovo Judge
Shadije Gerguri

EULEX Judge
Cezary Dziurkowski

COURT CLERK

EULEX Legal Officer
Emiliya Viktorova

Legal Remedy: Pursuant Article 359 of the LCP, the authorised persons may file an appeal against this verdict within fifteen (15) days from the day when the transcript of the verdict is delivered. Pursuant to Article 368 of the LCP, the appeal shall be filed with the Basic Court of Prishtinë/Priština.