

BASIC COURT OF PRISHTINE/PRISTINA

P.Kr nr.18/14

PPS No. 38/09

Court No: GJPP No. 138/09

13<sup>th</sup> March 2014

**IN THE NAME OF THE PEOPLE**

The Basic Court of Prishtine/Pristina in the trial panel composed of EULEX Judge Mariola Pasnik as Presiding judge, and Kosovo Judge Suzana Cerkini and EULEX Judge Marie Tuma as panel members, assisted by Recording Officer David Hegarty and Zeqir Shebani as Interpreter, in the criminal case against:

**Name** S.

**Surname** T.

**Gender** Male

**Nationality** Albanian

**Citizenship** Republic of Albania

**Economic status** Poor to average

**Education** 4 years Elementary School

**Family status** Married. Children.

**Other Criminal Proceedings** None

**Previous Convictions** None.

**Custody and Chapter XXX measures in place** Detention on remand since 01 July 2011

Who is charged with the following counts

### **COUNT 1**

**UNAUTHORISED PURCHASE, POSSESSION, DISTRIBUTION, AND SALES OF DANGEROUS NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES, COMMITTED IN CO-PERPETRATION AND CONTRARY TO** Article 229, paragraphs 1,2,3 and 4 of the Provisional Criminal Code of Kosovo (PCCK) in conjunction with Article 23 thereof, punishable by a fine and by imprisonment of three to fifteen years, or alternatively, intentionally assisted in the commission of this criminal offence as provided by Article 25 of the PCCK.

**BECAUSE** between 24 July 2009 and 15 September 2009, **S.T.** committed the offence of unauthorised purchase, possession, distribution and sale of dangerous narcotic drugs and psychotropic substances by participating in the exportation from Albania to Kosovo and transportation through Kosovo for export to countries in Western Europe including Switzerland of a shipment of heroin as a member of a group.

### **COUNT 2**

**UNAUTHORISED PURCHASE, POSSESSION, DISTRIBUTION, AND SALES OF DANGEROUS NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES, COMMITTED IN CO-PERPETRATION AND CONTRARY TO** Article 229, paragraphs 1,2,3 and 4 of the Provisional Criminal Code of Kosovo (PCCK) in conjunction with Article 23 thereof, punishable by a fine and by imprisonment of three to fifteen years.

**BECAUSE** between 01 October 2009 and 25 November 2009, **S.T.** committed the offence of unauthorised purchase, possession, distribution and sale of dangerous narcotic drugs and psychotropic substances by participating in the exportation from Albania to Kosovo and transportation through Kosovo for export to countries in Western Europe , namely Switzerland, Netherlands, Italy and /or Germany, of a shipment of at least 109kg of cannabis sativa as a member of a group.

### **COUNT 3**

**ORGANISED CRIME**, contrary to Article 274 Paragraph 2 of the PCCK, punishable by imprisonment of at least five years.

**BECAUSE** between 24<sup>th</sup> July and 25<sup>th</sup> of November 2009, **S.T.** on the territory of Kosovo committed the offence of Organised Crime by actively participating in the criminal or other activities of an organised criminal group together with **6 Other participants**, and other unidentified co-perpetrators, knowing that his participation would contribute to the commission of serious crimes by the organised criminal group namely Unauthorised Purchase, Possession, Distribution and Sales of Dangerous Narcotic Drugs from Albania into Kosovo and onwards to countries in Western Europe, *inter alia*, Slovenia, Italy, Germany, Switzerland and/or the Netherlands.

**AFTER** having held the Main Trial sessions in open court on 04 March 2014, 11 March 2014 and 12 March 2014, in the presence of the defendant **S.T.**, his Defence Counsel and in the presence of EULEX Special Prosecutor Charles Hardaway of the Special Prosecution Office of Kosovo and after deliberation and voting held on 12 March 2014, according to Article 391, paragraph (1) of the Provisional Criminal Procedure Code of Kosovo ("KCCP"), pursuant to Article 392 Paragraph (1) of KCCP, and Articles 385, 386 and 387 of the KCCP on this 13<sup>th</sup> day of March 2014, in open court and in the presence of the Defendant, his Defence Counsel and the EULEX Special Prosecutor, the Court renders and announces the following:

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## JUDGMENT

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**S.T.** with personal details above, in detention since 01 July 2011 is found as follows:

Pursuant to Article 389 paragraph 1 of the KCCP,

**Count 1:** **REJECTED** because the prosecutor withdrew the charge during the main trial;

Further, pursuant to Article 391 of the KCCP,

**Count 2:** **GUILTY** of the UNAUTHORISED PURCHASE, POSSESSION, DISTRIBUTION, AND SALES OF DANGEROUS NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES, COMMITTED IN CO-PERPETRATION AND IN VIOLATION OF Article 229, paragraph 1, 2, 3 and 4 of the Provisional Criminal Code of Kosovo (PCCK) in conjunction with Article 23 thereof

**BECAUSE** between 01 October 2009 and 25 November 2009, **S.T.** committed the offence of unauthorised purchase, possession, distribution and sale of dangerous narcotic drugs and psychotropic substances by participating in the exportation from Albania to Kosovo and transportation through Kosovo for export to countries in Western Europe, namely Switzerland, Netherlands, Italy and /or Germany, of a shipment of at least 109kg of cannabis sativa as a member of a group.

Further, pursuant to Article 391 of the KCCP

**Count 3:** **GUILTY of ORGANISED CRIME**, IN VIOLATION OF Article 274 Paragraph 2 of the PCCK.

**BECAUSE** between 24<sup>th</sup> July and 25<sup>th</sup> of November 2009, **S.T.** on the territory of Kosovo committed the offence of Organised Crime by actively participating in the criminal or other activities of an organised criminal group together with **6 other participants**, and other unidentified co-perpetrators, knowing that his participation would contribute to the commission of serious crimes by the organised criminal group namely Unauthorised Purchase, Possession, Distribution and Sales of Dangerous Narcotic Drugs from Albania into Kosovo and onwards to countries in Western Europe, *inter alia*, Slovenia, Italy, Germany, Switzerland and/or the Netherlands.

**THEREFORE**, by reason of the aforesaid, the Court imposes the following sentence:

Having been found guilty under Count 2 of Unauthorised purchase, possession distribution and sales of dangerous narcotic drugs and psychotropic substances under Article 3 paragraph 2 of the CCK and

Article 229 paragraph 4, Article 66 paragraph 2, Article 67 paragraph 1 sub-paragraph 2 and Article 39 paragraph 1 and 2 of the PCCK the Defendant is sentenced to a term of imprisonment of 2 (two) years and 6 (six) months imprisonment, and to a fine of €400 with two months to pay.

Having been found guilty under Count 3 of organised crime, based on Article 3 paragraph 2 of the CCK and Article 274, paragraph 2 and Article 66 paragraph 2, Article 67 paragraph 1 subparagraph 2 of the PCCK the Defendant is sentenced to a term of 3 (three) years and 11 (eleven) months imprisonment.

Pursuant to Article 71, paragraph 2 subparagraph 2 of the PCCK, the Court imposes an aggregated punishment a term of imprisonment of 4 (four) years.

Pursuant to Article 73 paragraph 1 of the PCCK and Article 393, paragraph 1, sub-paragraph (5) of the KCCP, the time spent in detention from 01 July 2011 shall be credited towards the sentence.

Pursuant to Article 54, paragraph 2, sub-paragraph 7, and Article 60, paragraph 1 of the PCCK Nokia mobile telephone, black, model 1280, belonging to **S.T.** with **an** IMEI number shall be confiscated.

Pursuant to Article 102, paragraph 4 of the KCCP the Defendant is hereby entirely relieved from liability for the costs of the criminal proceedings which shall be paid from budgetary resources.