

Institute for Democracy, Media & Culture

TRIALS AGAINST THE COMMUNIST NOMENCLATURE

1993-1996



Prepared for publication by:

Çelo Hoxha

Jonila Godole

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Original Title: *Gjyqet e nomenklaturës komuniste (1993-1996)*
English Title: *Trials Against the Communist Nomenclature (1993-1996)*

Published by: Institute for Democracy, Media & Culture (IDMC)
Address: “Bardhok Biba” St., Trema A, Tirana
Email: office@idmc.al
Web: www.idmc.al/en

Supported by: Konrad Adenauer Foundation (KAS)
Address: “Dëshmorët e Kombit” Blvd., Twin Tower 1, Tirana
Tel: +355 4 22 66 525
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Translated by: Language Solutions
Edited by: Oriada Dajko, Besmir Godolja

Cover Photo: Trial against Nexhmije Hoxha, ATA (1993)

© IDMC 2025
First English Edition

ISBN: 9789928465436

Printed by: FILARA Publishing House
Address: “Sabaudin Gabrani” St.,
Ish-kombinati “Misto Mame”, Tirana

Mob: 069 33 30 983
Email: filarabotime@yahoo.com
Web: www.filarabotime.com

Table of Contents

Foreword	5
Editorial notes	7
INTRODUCTION	
In the footsteps of Transitional Justice: An analysis of court proceedings and legal changes in the post-communist Albania	9
COURT DECISIONS	
Decision No. 16 against N. Hoxha, K. Buxheli	19
Decision No. 505 against A. Çarçani, M. Myftiu, R. Alia, R. Marko, S. Stefani, H. Isai, A. Çela, Rr. Mino, Z. Ramizi, V. Hadëri	31
Decision No. 414 against H. Lleshi, Z. Ramizi, A. Çela	59
Decision No. 492 against F. Çami, P. Murra, M. Asllani, G. Nesho, Z. Loka, D. Bengasi	71
Decision No. 601 against K. Mustaqi, A. Stroka, K. Çoni	85
Decision No. 736 against N. Domi, Sh. Bajraktari, Ll. Gegprifti, V. Hadëri, I. Vero, A. Tafa, L. Çuko, I. Beqiri, S. Abazi	93
Decision of innocence no. 297 against F. Çami, P. Murra, M. Asllani, G. Nesho, Z. Loka, D. Bengasi	105
Court order for compensation no. 1018 against D. Bengasi	112
ANNEX	119
I. List of abbreviations	120
II. Report on the governmental services' activity control	121
III. Facsimile of Decision No. 16 / 709	131
IV. Nominal list of the convicted individuals	147
V. Detailed summary table	148
ABOUT THE AUTHORS	150

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Foreword

This book is published for the first time for the readers as a result of multi-year research to secure the decisions of court proceedings against the high-ranking officials of the communist dictatorship in Albania. They are widely known as the “Coffee Trials”, with the nomenclature being convicted for minor abuses of power rather than political crimes. The documents included in this book prove that but they also indicate the efforts of the new justice system to punish the persons responsible for the dictatorship. Although the politically persecuted expected a “Nuremberg”, a strict adjudication for the persecutors, who were responsible for tens of thousands of political prisoners, interned families and thousands of killed and missing individuals, this did not happen. A discussion on the required legal framework that would prevent them escape their responsibility was not held with the argument that “they had just followed the orders”. The pressure by the newly formed civil society, by the journalists, who reported more on sensational news on expenses for luxurious life and less for the specific responsibilities of the accused was not exerted. A society-wide reflection on the causes and effects of a repressive regime surviving for nearly half a century, as well as a deep moral catharsis and a division with the past did not happen.

This publication sheds light on the answers to those questions highly debated in 1990s, but faded into oblivion today. Although the documents included here look like a retrospective, their studying remain a current topic. If the justice bodies had acted with professionalism and without political partiality and if the legal framework was based on international models, so that the responsible persons would not be later freed from the proven charges, perhaps the trajectory of the rule of law and democracy development in Albania would have been different.

Through this publication, the Institute for Democracy, Media & Culture (IDMC) and the authors do not claim to provide a full judicial explanation of court proceedings, but to present court decisions as resource materials within the context such trials were held. The readers are free to judge on their own the weight, advantages and disadvantages of the arguments presented by the defense party and prosecution party.

A valuable contribution for this publication was given by some individuals and institutions, who we would like to thank whole-heartedly. The decisions were secured thanks to the cooperation with the Institute for the Study of Communist Crimes and Consequences (ISKK), which avails their original copies. The Albanian Radio and Television (ART) and the Albanian Telegraphic Agency (ATA) assisted with film and photographic materials, some of which are used in this publication. The National Library staff made us available, within a short period of time, the periodicals of 1990s to examine the context of that time. The

IDMC would like to extend particular thanks to this project coordinator, Oriada Dajko and Besmir Godole, who, thanks to their dedication and professionalism, transcribed and edited all the decisions included in this publication. Sincere thanks also go to Laura Skënderasi for her precious judicial advices during the publication's preparation phase.

Finally, this publication is not only a documentation of events but a contribution for discussion and reflection on transitional justice in the context of Albania. The review of these processes and their lessons learnt can help in the future strengthening of the justice system and consolidation of a more just and transparent society in Albania.

Dr. Jonila Godole

Director of the Institute for Democracy, Media & Culture (IDMC)

Editorial notes

This book is organized in a way to make its reading as easier and understandable as possible.

The introduction provides a full picture of the historical and political context in which judicial proceedings took place, while reflecting the legal changes and the specifics of trials.

The court decisions are listed chronologically, starting from the earliest (1993) to the latest (2002). Every judicial decision is accompanied by a summary table with the main data. The reader will be presented with eight transcribed court decisions, with two of them being a decision of innocence (No. 279 of 1997) and a decision on compensation for unjust sentencing (No. 1018 of 2002).¹ 279 of 1997) and a decision on compensation for unjust sentencing (No. 1018 of 2002). These decisions illustrate the mechanisms followed by the Court after 1997 to overrule the previous decisions and to compensate the former high-ranking officials for the years served in prison, and they are essential in understanding the progress of transitional justice in Albania after such trials.

Decision No. 811 was not available until the publication, that is why it has not been included here.¹¹ However, the general data on names and years of respective decisions can be consulted in the Annex (pages 151-154).

The photographs included in this publication are provided by the ATA fund and reflect authentic moments from trials and their protagonists. They are accompanied by respective notes of that time, when possible.

The annex includes various important documents and elements, organized as follows:

1. **List of abbreviations:** Positioned in the beginning of the Annex to facilitate the orientation during the reading. It includes abbreviated legal and institutional terms.
2. **Report on the governmental services' activity control:** The report presented on 27 July 1991 by the former Minister of Finance and Economy, Genc Ruli, provides an detailed analysis of expenses and abuses by the communist high-ranking leaders in Albania during the period 1985-1991. This report is essential to understand the context prior to the arrests and convictions that followed.
3. **Facsimile of Decision No. 16:** It illustrates a judicial decision against the defendants N. Hoxha and K. Buxheli, as an example of the criminal decisions process.
4. **Nominal list of the convicted individuals:** It includes the names of all individuals convicted in those judicial proceedings alphabetically.
5. **Table of judicial proceedings:** It provides details on all judicial proceedings, their respective years, and the changes to decisions for each convicted individual.

1 Decision No. 811, dated 30.12.1993, against the defendants: Foto Çami, Besnik Bekteshi, Hajredin Çeliku, Lenka Çuko, Llambi Gegprifti, Muho Asllani, Pali Miska, Prokop Murra, Qiriako Mihali, Vangjel Çërrava.

The transcribed decisions of criminal trials have been processed while staying loyal to the original, based on the following principles:

- Subject to corrections were the orthography and punctuation, names or last names with random spelling mistakes in the source material.
- The dates, which appear as numbers and as letters in the sources, are unified in the entire document, usually by using numbers.
- The underlined words or those printed in a special format in the original material are kept the same.
- The numbering of decisions according to the respective basic register by the Tirana District Court (as the authority responsible for the files) is kept as in the original.
- The numbering of pages of individual documents is not kept as in the original for readability purposes.
- There might still be mistakes in the source documents related to the writing of special names, in particular the names of places and streets, thus the editors are grateful for any suggestion for corrections.

Introduction

The dictatorship trials: Efforts for accountability in the post-communist Albania

The most important trials in the history of the Albanian justice were held in Tirana during the period 1993-1996. The high-ranking leaders of the communist regime, the most powerful people in Albania for almost half a century, were adjudicated and convicted for crimes committed against their people, whom they ruled through violence and terror.

Among the convicted persons were the following:

- The leader of the PLA, Ramiz Alia, the person who replaced Enver Hoxha in 1985 as the party leader, but who has been in leading positions since 1944;
- The widow of the dictator, Nexhmije Hoxha, who had been the chairperson of the Democratic Front for a long time, the most powerful organization following the PLA;
- The prime minister and the ministers of internal affairs of that time, still alive¹;
- The members of the Political Bureau, the highest body of the PLA Central Committee, ministers, deputy ministers, judges and prosecutors, and of officials of other high ranks;
- A total of 35 persons.

Many more persons, responsible for crimes committed during the dictatorship, could have been brought to justice. But the justice system decided to act rapidly at first, without pursuing any strategy and drafting a new legal framework to guarantee the principle *Nulla poena sine lege* and to allow the criminal proceedings of crimes without leading to decisions being later faced with constitutional challenges or being declared illegal. The rush and lack of strategy reflect the problems that the new institutions encountered in a short period of time following the collapse of the communist regime and the fragility of the judicial and prosecution structures. However, the punishment of former high-ranking officials of the dictatorship² in such

1 During the period 1944-1991 Albania had three prime ministers and six ministers of internal affairs. Prime ministers: Enver Hoxha (1944-1954), died of natural causes on 11 April 1985; Mehmet Shehu (1954-1981), whose accurate death circumstances from non-natural causes in 1981 have not been yet clarified; Adil Çarçani (1982-1991) was alive at that time and was brought to justice. Ministers of internal affairs: The first minister, Koçi Xoxe, was executed by his ruling colleagues (11 July 1949); the second, Mehmet Shehu, became prime minister in 1954 and (committed suicide) was killed(?) in 1981; the third, Kadri Hazbiu (1954-1980), was executed on 10 September 1983; the fourth, Feçorr Shehu (1980-1982), was executed on 15 September 1983. The last two ministers of internal affairs brought to justice were Hekuran Isai (1982-1989, 1990-1991) and Simon Stefani (1989-1990).

2 The terms 'high-ranking officials', 'nomenclature', 'former high-ranking functionaries', 'PLA leadership' will

large numbers and of that high level of hierarchy remains an unprecedented case in former communist countries of the Eastern Europe. A large number of high-ranking officials of the communist regime were brought before the court after the fall of the communism even in Romania, but their case was related to the violence exerted during the 1989 protests, which led to the collapse of the communist regime and the execution of the Nicolae Ceausescu and his wife.

The efforts to prosecute communist injustices in Albania and to bring the responsible ones to justice can be divided into various phases, which were affected by the political power of the time: when the democrats ruled, progress was made, and the efforts diminished by the former communists.

“Trials of nomenclature” (1993-1996)

Prior to allowing the political pluralism, the communist leadership was obligated to take some legal measures against former functionaries. At first, the attention focused on Nexhmije Hoxha (1921-2020), the dictator’s widow, who was excluded from the party in June 1991. On 4 December 1991, she was arrested for the appropriation of state funds during the period 1985-1990 and was finally sentenced to nine years of imprisonment.³ The cause for that was a report from Genc Ruli, the Minister of Finance and Economy at that time, read in the Parliament on 27 July 1991.⁴ The report described the luxurious lifestyle and privileges of 26 families of nomenclature, Hoxha’s family in particular, including the high consumption of food and drinks, frequent travels and medical treatments abroad. These families lived in a fenced neighborhood in the center of Tirana, built following the Kremlin model for the soviet political leading class. *Blloku* (the block) was protected by soldiers, policemen and 230 State Security employees.⁵ The management of the *Bllok* was secured by the Reception Directorate, established in 1956 to assist high-ranking functionaries of the PLA and Central Committee. The economic and financial activity of the Reception Directorate absorbed large governmental funds, such as ALL 200 million (about 2 million dollars) in the last decade prior to the regime collapse only, with the majority of them in foreign currency.

The change of government in March 1992 led to undertaking some further legal steps against other high-ranking officials. Between September 1992 and 1993, the first former secretary of the PLA, Ramiz Alia, and other members of the Political Bureau were arrested for the appropriation of people’s property. On 2 July 1994, Alia was sentenced to nine years of imprisonment for corruption. The former minister of internal affairs, Hekuran Isai, was sentenced to five years of imprisonment and his successor, Simon Stefani, to eight years of imprisonment. The former prime minister, Adil Çarçani, was sentenced to five years of imprisonment. The former chairperson of the High Court, Aranit Çela, was sentenced to seven years of imprisonment in 1994; the last director of the *Security*, Zylyftar Ramizi, was sentenced to six years imprisonment and the former general prosecutor, Rrapi Mino, to four years imprisonment. However, the majority of such decisions were revoked a few

hereinafter be used as synonyms to describe the same thing: high-ranking leaders and the persons responsible for the dictatorship crimes in Albania.

3 Ramiz Alia would later write in his memoirs that he had not given any order and had not been aware of her arrest. In addition, read: Ramiz Alia, *Shpresa dhe zhgënjime* [Hopes and disappointments] (Tirana: Dituria, 1993), p. 89.

4 Read the full report in the Annex of this publication, p. 125.

5 Kastriot Dervishi, *Sigurimi i Shtetit 1944-1991. Historia e policisë politike të regjimit komunist* [State Security 1944-1991. The history of the communist regime’s political police] (Tirana: Publishing House 55, 2012).

years later. Alia was released in 1995. Apart from Nexhmije Hoxha, who did not appeal the court decision and served the sentence, the others appealed to the High Court and Court of Cassation, gaining their innocence and compensation for the time they served in prison.

These processes provoked strong public debates on the criminal proceedings. Many former political prisoners expressed their disappointment that the Albanian justice system focused on financial abuses of the leadership and not on their criminal acts committed during the regime. The DP chairperson and the President of the Republic at that time, Sali Berisha, was against the criminal trials, which recalled him the Hoxha period. According to him, only the high-ranking functionaries like Nexhmije Hoxha, who “fatten at the expense of the people” should have been sentenced.⁶⁷

“Trials for genocide” (1995-1996)

In the years following, the efforts to prosecute those responsible for the communist dictatorship were intensified. On 22 September 1995, three years after the democrats came to power, the parliamentary majority of the Democratic Party, encouraged by the conservative wing within the party, approved the so-called Genocide Law No. 8001 *“On Genocide and Crimes against Humanity Committed in Albania during Communist Rule for Political, Ideological and Religious Motives”*. The law not only provided for severe punishments on crimes against humanity but also the exclusion of persons from the political life until 2002. Based on this law, 35 former high-ranking communist functionaries were arrested until January 1996, some of whom being previously sentenced for appropriation. In February 1996, the former president, Alia, was arrested again. The new charge against him was for “crimes against humanity”, “ordering the expulsion and arrest of thousands of citizens before 1991” and “ordering the killing of people who tried to leave the country in the period 1990-1991”. The trial lasted more than a year and Alia managed to leave the country before a decision was made against him, following the turmoil that began in March 1997.

Reopening of Court Proceedings and Sentence Reduction (1996)

Following the 1996 legal changes, the previous court proceedings reopened. The severe sentences, which were initially imposed for appropriation and other crime charges, were reconsidered and the majority of such sentences was reduced to the appeal processes. A special case is that of Aranit Çela, who was initially sentenced to death for crimes against humanity on 24 July 1996. Later, this sentence reduced to 25 years of imprisonment. The same happened to Zylyftar Ramizi and Rrapi Mino.⁷⁸ On the other hand, some other officials received sentences varying from five years of imprisonment to life imprisonment.

But, there were also cases when sentences were not served. For instance, in July 1996, the Court of Appeal decided to release Haxhi Lleshi, the chairperson of the People’s Council up to 1982, and Manush Myftiu, former prime minister and chairperson of the Internment and Expulsion Committee due to the old age and health conditions. Their life imprisonment sentences changed to five years of imprisonment, on bail.

6 Elez Biberaj, *Albania in Transition: The Rocky Road to Democracy* (Boulder Colorado: Westview Press, 1998). P. 125.

7 “Albania: Judge in Albania revokes death sentences on three former communist officials convicted of crimes against humanity”, <https://reuters.screenocean.com/record/566071> (accessed on 25.12.2023)

Former functionaries regaining innocence (1997-1999)

With the return of the Socialist Party to power in 1997, the processes were reviewed leading to the dismissal of some charges against some former high-ranking functionaries, including Ramiz Alia. The Court of Appeal decided on 20 October 1997 to dismiss the charges against the former president Alia and other high-ranking officials. According to the court, they “*could not be sentenced for actions that were not illegal in the time they were committed*”.⁸⁹

In 1999, the rest of the former functionaries arrested were declared not guilty: Foto Çami, chief of propaganda, member of the Central Committee (1971-1991); Prokop Murra, former Minister of Defense (1982-1990); Muho Asllani, former Minister of Agriculture (1986-1990); Gaqo Nesho, high-ranking functionary of the party in Pogradec, Vlora, Berat from 1970 to the end of 1980s; Zef Loka, director in various posts at the Ministry of Internal Affairs (1976-1990), and Dilaver Bengasi, deputy officer of the state since 1973 and police director (1985-1990).

Legal Framework of Judicial Proceedings

The first judicial proceedings against former functionaries of the communist regime were based on the 1977 Criminal Code. This Criminal Code, adopted by Law No. 5591, dated 15.6.1977, included:

- Article 106 - Abuse of power: “*Intentionally committing acts in violation of the proper performance of the state or social duty, or intentional failure to perform the duty, when they have brought or it is known that they could bring severe consequences to the state or social interests, or rights and legal interests of the citizens, is punished with re-education through work or liberty deprivation up to 10 years*”.
- Article 107 - Violation of the equality of the citizens: “*Creation of privileges, national inequality, and any other action violating the rights of national minorities, when the act does not constitute a crime against the state, is punished with liberty deprivation up to 10 years*”.

The concept of the charge for genocide or crimes against humanity was missing at that time. The processes focused mainly on matters of economic abuse or abuse of power, as stipulated in article 13 on complicity in committing the criminal offense and article 31 on aggravating circumstances.

The adoption of the 1995 Criminal Code, Law No. 7895, dated 27.1.1995, which entered into force on 1.6.1995, brought significant changes in addressing crimes of the communist regime. This new Criminal Code included:

- Article 25 - Meaning of complicity: “*Complicity shall mean the commitment of a criminal offense by two or more persons who agree upon between themselves.*”
- Article 67 - Non-stipulation of prosecution: “*The war crimes and crimes against humanity shall not be subject to the prescription of prosecution.*”

8 Bledar Abdurrahmani, “Transitional Justice in Albania: The Lustration Reform and Information on Communism Files”. In:

Interdisciplinary Journal of Research and Development, Vol. 5, no. 3 (Durrës: Aleksandër Moisiu, 2018), p. 123. See also Austin/ Ellison, 2009, p. 192-193.

- Article 73 - Genocide *"The execution of a premeditated plan aiming at the total or partial destruction of a national, ethnic, racial or religious group directed towards its members, and combined with the following offenses, such as: intentionally killing group's members, serious physical and psychological harm, placement in difficult living conditions which cause physical destruction, applying birth preventing measures, as well as the obligatory transfer of children from one group to another, is sentenced with no less than ten years, or with life imprisonment."*
- Article 74 - Crimes against humanity *"Murder, enforced disappearance, extermination, enslaving, internment and expulsion and any other kind of human torture or violence committed according to a concrete premeditated plan or systematically, against a group of the civil population for political, ideological, racial, ethnical and religious motives, shall be punishable to not less than fifteen years of imprisonment or life imprisonment."*
- Article 248 - Abuse of power: *"The intentional commitment or non-commitment of actions or omissions in violation of the law, comprising abnormal performance of the duty by the person holding public functions, when they have resulted in giving him or other persons unfair material or non-material benefits, or have damaged the legal interests of the state, citizens or other legal persons, if not constituting another criminal offense, shall be punished with up to seven years imprisonment."*

These legal changes reflect an effort to address the nature and scale of abuses of power during the communist regime in a more differentiated manner. Upon the entry into force of the 1995 Criminal Code, the processes oriented towards a more comprehensive addressal of justice, aiming to bring the individuals responsible for serious crimes during the communist regime to justice.

Characteristics of adjudications against former high-ranking functionaries of the communist regime

In the processes undertaken against the former functionaries of the communist regime, the prosecution and courts acted within the legal framework of that time. Regardless of the political tensions in the early 1990s and the fragility of democratic institutions, the judicial bodies attempted to justify criminal offenses that had happened in violation of the communist regime's legal framework. This is manifested through the treatment of various cases that illustrate the challenges in law interpretation and implementation, such as:

The execution of 22 persons concerning the bomb in the Soviet Union Embassy (1951): This case shows serious charges, such as murders without trials, which reflect violations of the fundamental human rights by the regime of that time. After the execution of 22 persons without any trial being held, the communist regime did not stop with that, they also expelled their families from Tirana. The court tried to justify such actions as violations of laws of that time: *"[...] with actions in contradiction to the normal performance of the duty, the defendant Adil Çarçani, holding the position of the Government's Secretary-General until 5.3.1951, by an oral order of the Prime Minister Enver Hoxha, has issued letters no.7/130, 7/131, 7/132, 7/133, 7/134, dated 2.3.1951, which led to the transfer to some cities of 18 families of individuals executed without trials, expelled from Tirana, called by this defendant as reactionary families and under the 'caution' of 'inding work to earn the living'."*

Letters on the expulsion of families of the executed persons (1951), which were issued

without any grounded decision of the Special Expulsion Committee, violate the criterion of the decree-law no. 649, dated 10.1.1949, “On the execution of expulsion and confiscation decisions as administrative measures”, with Article 4 stating, among others, that: *“Expulsion shall be executed with a grounded decision made at the Ministry of Internal Affairs”*.

Activity of State Security: In addition, the court tried to treat the State Security activity in accordance with the constitutional framework of that time. The court states that the platforms of the Ministry of Internal Affairs, which were in fact work regulation for the State Security, had acted in violation of the guarantees declared in Articles 24 and 58 of the Constitutions of 1950 and 1976 respectively, and the criminal law and criminal procedural law respectively. For instance, in the 1985 Platform of the Ministry of Internal Affairs, this institution’s bodies were given the right to perform *“secret checks of the correspondence, post and telephone services, telegraphic correspondence of the convicted individuals and correspondence of internees and expelled individuals. The postal check of the external correspondence was a general one. It includes the check of the entire correspondence and packages circulating through postal and customs channels (letter and telegrams), telephone conversations, parcel posts, telexes, magnetic tapes, tapes, video tapes, press of different publications. The check of press and publications reaching our country and vice versa is made in accordance with the rules set forth by the PLA Central Committee. During the correspondence check, the Internal Affairs Bodies shall have the right to ban and confiscate the correspondence. The check of correspondence shall be performed without leaving any traces...”*

The court reasoning clarifies “that the content of this basic act for the Internal Affairs Bodies has nothing in common with the Constitution of that period; on the contrary, they are in flagrant contradiction to it. The reasoning continues citing that article 58 of the 1976 Constitution stipulates that *“the secrecy of correspondence and other communication means cannot be affected unless in cases of a crime investigation, state of emergency or war”*; article 53 of the same Constitution sanctions that *“the nationals enjoy the freedom of the press”*; in addition, article 87 of the Criminal Procedure Code sets forth the legal obligation that *“the sequestration of postal and telegraphic correspondence shall be performed by the investigator upon the approval of the prosecutor or the court, and always in the presence of the respective postal and telegraphic of ice’s representative”*.

However, in certain cases, the court hesitated to recognize the unlawfulness of some actions, such as the implementation of the Internal Affairs Platforms, leading to the acquittal of some officials who had acted in accordance with them. While, in another case, the court admits that the Platforms were documents created beyond the constitutional framework, meaning in violation of it. In regard to that, the court states that it deems fair the position held by the prosecutor on the charge pressed against the defendants Hekuran Isai and Zylyftar Ramizi on *“approval of decision on withdrawal in secret cooperation with mandatory material”* of the national Sali Rama, considering it ungrounded, as according to the *“Operational Work Platform of the Internal Affairs Bodies”* they had acted for its implementation. Ungrounded is also the charge on abuse of power against the defendant Zylyftar Ramizi for the episode of proposing changes to the Platform, its recognition and implementation. *“The defendant has performed such actions conform to the normal performance of his duty, thus he should not be prosecuted for this episode.”*

The platforms were documents prepared by the Central Committee of the CPA, which had no authority to approve such documents. The investigation body, prosecution and courts did not address in-depth the legal framework governing the work of the State

Security in-depth, starting with the missing law on its establishment. However, such limitations in recognizing the legal framework can be considered reasonable, but we should take into account the fact that archives in Albania had been closed for half a century. In the early 1990s, it had not been sufficient time to recognize the past. Many years later, the historians discovered archival documents indicating that some of the defendants had been aware of the State Security activity not being based on the law and, although the Platforms of the Ministry of Internal Affairs were illegal, they had admitted to work for their implementation. Such evidence is found in a meeting of the Political Bureau, on 1 June 1990. In that meeting, the Minister of Internal Affairs, Simon Stefani, declared that *"with regard to the Security work, apart from the orders issued by the Ministry of Internal Affairs in accordance with the laws, our work has been built on the basis of the Platform of the Political Bureau. There are no laws approved, neither for the intelligence, nor for the State Security."*^{9,10} None of those present responded against it, thus showing that they knew and approved the situation.

If the court was aware of such a fact, then the defendants or some of them would be charged of participating and leading an illegal organization (State Security), which had performed acts of terror against the Albanian people. The same charge would be pressed against all, if the lawfulness of the PLA activity had been investigated, which was never registered as a legal entity at the Ministry of Internal Affairs, as per the provisions of Law No. 370, 6 December 1946, *"On the establishment of political parties and cultural, scienti ic, professional associations, etc., and public meetings."*

The processes carried out against the former functionaries of the communist regime were also characterized by other features, among others:

Lack of direct confrontation: These processes were initiated mainly by state bodies and they failed to have a direct confrontation between prosecutors and victims. With one exception, when a forum of persecuted individuals filed general charges, but it was a short-term forum. Even in those fewer cases when the persecuted attested against the defendants, their connections were usually weak or not direct. A reason for that might be the fear of pressing charges, which was strong even after the fall of the communist regime.

Selection of defendants: The selection of defendants process gave the idea of a hasty and not an in-depth action. Clear criteria on the selection of individuals to be brought to justice were missing. For instance, the selection of the PLA Central Committee's Political Bureau members and their first secretaries of districts was carried out selectively. Since all have held leading positions and have given their approval on arrests and internment, all should have been summoned as defendants, without differentiating some of them. The same applied for the State Security leaders as well, with only some of them being selectively chosen.

Use of genocide charges: The courts hesitated to use the genocide charge, preferring to be supported more on the concept of crimes against humanity. This position must have been an intentional choice to avoid the complexity and need for a more in-depth and detailed reasoning required for the genocide charge, which is based on the international conventions Albania was a signatory party. For instance, the slavery and forced labor practices, which were applied against former political prisoners and internees of the communist regime, could be considered as the basis for charges based on the international conventions. These

9 Central State Archive, P. 14AP/OU, V. 1990, D. 12, Journal 51. Meeting minutes of the PLA Central Committee's Political Bureau, 1 June 1990.

actions, which include the exploitation of forced labor and severe living conditions, are prohibited according to the international human rights standards. Addressing such matters in the context of trials would identify the severe violation of the communist regime and contribute to a firmer reasoning on the responsibility of regime's high-ranking officials on crimes against humanity.

High Court Plenum processes: The processes of regaining innocence or jury nullification by the High Court Plenum were also problematic. The arguments put forward on innocence were often not convincing and reflected more the political spirit of time rather than clear facts and evidence. Regaining innocence interrupted a normal process of pressing charges and adjudication, which could have been performed by anyone and at any time, thus depriving victims the opportunity for justice, and questioned the integrity of the judicial system.

These characteristics of adjudications indicate a process full of challenges, and the lack of a clear and consistent approach, along with the influence of politics, hindered the opportunity of achieving full and fair justice for the victims of the communist regime.

The judicial proceedings against the former functionaries of communist regime in Albania emerged as an attempt for accountability and justice, but they were deeply impacted by the political and social context of the time, leaving room for interpretations and critics on their effectiveness and justice.

Conclusions

The processes against former high-ranking functionaries in 1990 demonstrated that doing transitional justice is a complex challenge. These processes require a full understanding of the nature and degree of abuses occurring during the repressive communist dictatorship and a stable commitment to observe and apply the international human rights principles.

Regardless of the efforts, the important process of punishing the communist regime crimes was not often taken seriously by media and was influenced by politics, thus focusing more on economic abuses rather than human rights violations. This lack of professionalism in reporting and the powerful political impact lead to sensationalizing and discrediting judicial proceedings, in particular in the new media institutions of 1990s, which were often financed or led by persons related to the former communist regime. This media approach avoided the opportunity for an impartial and fair reporting on these processes, thus further hindering the efforts to achieve full transitional justice.

In addition, the trials against the high-ranking officials of the communist regime were used for political purposes of the ruling government as well. The organization of judicial proceedings coincided with two major electoral events: Constitutional referendum (1994) and general elections (1996). The government's interests to use this event for electoral purposes are understandable.

By the time trials against the communist regime functionaries were held, the Albania's judicial system was facing major challenges. The majority of jurists, who had worked during the communist regime as prosecutors, judges, etc., and were trained under the socialist law doctrine, were found unprepared to address crimes committed by their previous regime. This led to a limitation of the law interpretation and implementation in the changed political and social context. On the other hand, many young jurists educated and employed in courts after 1990s were assigned based on their partisanship and connection

to the ruling party, serving more to its interests rather than the independent justice. Such submission of justice bodies by the government, which continued the communism tradition, still remains a wound for the fragile democracy in Albania. The lack of a judicial system independent of the government and political power has seriously impeded the development of justice and rule of law.

Finally, while judicial proceedings in Albania during 1990s against high-ranking functionaries of the communist regime indicated an unprecedented effort in Europe to punish the communism crimes, they also identified major lacks in transitional justice and judicial system. The majority of convicted individuals, including the wife of the former dictator Hoxha and his successor, Ramiz Alia, did not serve the full sentence. The subsequent political developments, in particular those of 1997, made the situation go right back to ground zero.

The court, during socialist governance 1997-2000, dismissed all charges against former high-ranking functionaries, including Ramiz Alia, with the claim that they could not be sentenced for actions not considered illegal at the time they were committed.

Symbolically, it seems that the blame for the dictatorship crimes in Albania rested with two persons: the dictator, Enver Hoxha, whose statue was taken down violently by protesters on 20 February 1991, and his wife, Nexhmije Hoxha, who, unlike other former high-ranking officials being sentenced, did not request neither her innocence, nor financial compensation. This action should not be interpreted as an act of heroism or reflection, but more like a firm attitude in protection of the deed and memoir of her husband, justifying the communist regime crimes where she had also been an important protagonist. She continued protecting and honoring the communist regime and role of her husband until her death in 2020, never admitting responsibility for crimes or abuses performed during that period. On the contrary, her collaborators tried to escape the responsibility and benefit from political changes. Ironically, they were declared not guilty and continued their life normally, thus benefiting from financial compensations and from the previous connections with the government. Meanwhile, the persecuted and former political prisoners have still not fully received what they deserve.

This contrast in the treatment of victims and persecutors, and the innocence for persons responsible of crimes committed in Albania for half a century established the *myth of impunity* and had an impact on leaving the 1990s trials against former regime functionaries in collective oblivion, fostering the narrative that serious trials against persecutors were never held in Albania and no one was declared guilty.

Dr. Çelo Hoxha

Dr. Jonila Godole

Kastriot Dervishi

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Decision No. 16
against the defendants:

Nexhmije Hoxha
Kino Buxheli

SUMMARY SHEET

Title of the Decision	Basic Register No. 709 / Decision No. 16
Trial Panel	Chairperson of the session: Muharrem Kushi Maksim Shuaipi, Uk Cena
Prosecutor	Teodor Mosko
Defendants (3)	Nexhmije Tefik Xhuglini, Kino Dalan Buxheli
Attorneys	Dhimitër Beshiri, Përparim Sanxhaku
Witnesses	More than 45
Session	9 sessions in dates: 8, 9, 11, 12, 13, 14, 21, 26 and 27 January 1993
Charges	Acquisition of state properties in large proportion and in complicity.
Decision	Defendant Nexhmije Hoxha is found guilty of the appropriation of state properties in large proportion pursuant to articles 62, 31/D of the Criminal Code. Defendant Kino Buxheli is found guilty of abuse of power.
Aggravating circumstances	Position in important state and social duties
Mitigating circumstances	Age and health condition; Influence to some extent by the irregularities allowed by service personnel and directors of the Reception Directorate.
Sentence	Initially being sentenced to 9 years of imprisonment (N. Hoxha), 4 years of imprisonment (K. Buxheli). (Tirana, on 27.01.1993) Acquitted on the abuse of power, provided for by Article 106 of the Criminal Code. Obligation to return ALL 29.490. Obligation to return to the state 3 Zadrime scarf pieces, etc. Amended by Decision No. 63, dated 17.5.1993, of Tirana Court of Appeal, requesting the return of an amount of ALL 549030, sentencing with 11 years of imprisonment. Upheld by Decision No. 149, dated 26.8.1993, of the Court of Cassation.
Appeal against the decision	NA
Sentence reduction	Out of 11 years imprisonment, Nexhmije Hoxha served 5 years and 37 days thanks to the amnesty and pardon for prisoners.
Release of Nexhmije Hoxha	10 January 1997

REPUBLIC OF ALBANIA
TIRANA DISTRICT COURT

BASIC REGISTER NO. 709

DECISION NO. 16

DECISION
“IN THE NAME OF THE PEOPLE”

The Tirana District Court composed of:

Muharrem Kushi	Deputy Chairperson of the District Court
Maksim Shuaipi	Assistant Judge
Uk Cena	Assistant Judge

assisted by the secretaries, Flutura Kadiu and Valentina Papi, with the participation of the prosecutor, Teodor Mosko, on 8, 9, 11, 12, 13, 14, 21, 26 and 27.1.1993, held an open-door review for the criminal matter no. 709 related to the defendants:

1. NEXHMIJE HOXHA, the daughter of Tefik and Naxhije, born in 1921, in Manastir and resident in Tirana, unconvicted, arrested on 4.12.1991, defended in the court by the attorney Dhimitër Beshiri.

CHARGED WITH: In complicity with other persons has committed the crime of appropriating state property amounting to ALL 746,192 and abuse of power, causing damage to the state amounting to ALL 121,738, out of which ALL 89,822 in complicity with the defendant Kino Buxheli; offenses provided for in articles 62; 106 and 13 of the Criminal Code.

2. KINO BUXHELI, the son of Dalan and Tike, born in 1954, born and resident in Tirana, arrested on 31.8.1991, defended in the court by the attorney Përparim Sanxhaku.

CHARGED WITH: In complicity with other persons has committed the crime of appropriating state property amounting to ALL 3,261,888 and abuse of power, causing an economic damage amounting to ALL 2,135,682; offenses provided for in articles 62; 106 and 13 of the Criminal Code.

The court, after hearing the defendants, witnesses, accounting experts, administered the written evidence, and after hearing the prosecutor of the hearing who requested:

1. Declaring the defendant, Nexhmiije Hoxha, guilty of the crime of appropriating state property in large proportions amounting to ALL 752,623 and pursuant to article 62 of the Criminal Code she is sentenced to 14 years of imprisonment.

Obligation of the defendant to compensate the state for the amount of ALL 752,623. For the rest of the damage, the affected legal person should be recognized the right of damage compensation and the case should be addressed to the civil court for review. In the enforcement phase, the value of gifts should be deducted as material evidence.

2. Declaring the defendant, Kino Buxheli, guilty of the crime of abuse of power and pursuant to article 106 of the Criminal Code he is sentenced to 4 (four) years of imprisonment.

3. Declaring the defendant, Kino Buxheli, guilty of the crime of appropriating state property and pursuant to article 62 of the Criminal Code he is sentenced to 7 (seven) years of imprisonment.

Pursuant to article 35 of the Criminal Code, the defendant, Kino Buxheli, shall be sentenced to 9 (nine) years of imprisonment.

The damaged legal person shall be recognized the right to compensation for the damage caused and the civil lawsuit shall be addressed to the civil court.

The court, after hearing the defense of defendants and their defense attorneys, who requested:

The defendant, Nexhmije Hoxha, and her defense attorney - innocence

The defendant, Kino Buxheli, and his defense attorney - innocence

FOUND

During the period 1986-1990, the defendant, Nexhmije Hoxha, had been elected in important party and state positions as a member of the PLA Central Committee, Member of the People's Assembly, chairperson of the Democratic Front of Albania and, for a long time, she has been the director of the Institute of Marxist-Leninist Studies at the PLA Central Committee.

Since April 1986, the defendant, Kino Buxheli, has been assigned the task of the Director of Reception Directorate, whose scope of work was to meet the living conditions of former party and state high-ranking figures in the one-party system period.

Both defendants were sent for adjudication by the prosecutor's office of the Tirana District Court charged with: in complicity with one another and other persons, for whom the criminal matter has been separated, have committed offenses of appropriating state property in large proportions and abuse of power, causing a significant economic damage to the state, as provided for in articles 62, 106 and 13 of the Criminal Code respectively.

More specifically, the defendant, Nexhmije Hoxha, is charged with appropriation of state property; during the period 1986-1990, she has organized lunches and dinners, receptions and cocktails for various persons amounting to ALL 506,704 (12,158 people have been invited for lunches and dinners with a quota of ALL 35 per person and 21,662 persons with a quota of ALL 3).

Based on the indictment, lunches and dinners were organized by her in different districts of the country.

The defendant has been accused of spending ALL 25,553 related to the daily quota of ALL 3 spent by her and persons accompanying her; ALL 6,439 including ALL 3,2 per day unpaid for the holiday period; for the amount of ALL 143,290 representing the difference in the price of goods purchased in cash currency; ALL 25,051 spent on gifts sent to doctors in two cases when she went to be cured abroad in 1986 and 1987 respectively, and ALL 52,160 that is the amount for medicaments used by her and her family members. Therefore, she has been accused of benefiting an amount of ALL 746,192.

In addition, the defendant, Nexhmije Hoxha, has also been charged with the crime of abuse of power causing to the state a significant damage amounting to ALL 121,738.

The judicial investigation proved that the defendant, Nexhmije Hoxha, has committed the crime of appropriating state property, but not to the amount she has been accused of by the Prosecution body.

With regards to receptions, lunches and dinners, the defendant, Nexhmije, as it was proven in the adjudication, had been guided to host various individuals and delegations, based on the functions and duties she has performed as the wife of Enver Hoxha too.

Such activity has been expanded immediately after the death of Enver Hoxha, such as in cases of anniversaries, historical events, etc.

In organizing such receptions, the service personnel, based on the orders given by the

defendant, Nexhmije, had accordingly prepared lunches, dinners, reception and cocktails, and simple organizations, and according to the calculation, those expenses had been covered by the state for each month.

From the subjective point of view, in those cases, the defendant, Nexhmije has not carried out such actions to make profits for herself or for other persons, but she had been informed, as proven during the adjudication process, by state and party high-ranking figures that her family would have to be treated as before.

With regard to the issue of party or state acts, which have no date effectively and that they would regulate such activity, that was the duty of party or state bodies, and not of the defendant. The latter has had no legal obligation to know whether such acts were issued by competent bodies or not.

But with regard to this episode, the defendant, Nexhmije Hoxha, should be held liable only for lunches and dinners organized for the New Year, such as: on 1 January 1986 for 15 persons; on 31 December 1986 for 26 persons; on 1 January 1987 for 18 persons; on 31 December 1987 for 24 persons; on 1 January 1988 for 15 persons; on 31 December 1988 for 21 persons; on 1 January 1989 for 18 persons and on 31 December 1989 for 27 persons, spending an amount of ALL 5,740, calculated with a quota of ALL 35 per person, which had been covered by the state.

She should also be held liable for hosting her relatives from Türkiye, including her family members and relatives, and the amount of ALL 1,505 has been covered by the state.

The defendant, Nexhmije, should be held liable for appropriating state property for lunches and dinners organized by her, because as the head of household she was obliged to conduct monthly calculations of expenses covered by the state and by the household, as such receptions were organized based on the orders given by her to the service personnel.

Therefore, as long as an agreement on appropriation between the defendant, Nexhmije and the service personnel on lunches and dinners mentioned above has not been proved, for which the “official lunches and dinners” note has been made, the court is convinced that for the above-mentioned episodes, fake data have been presented in documents and the defendant, Nexhmije, has admitted through conclusive actions to make profits.

The witnesses asked during the adjudication process for such episodes clarified that no official receptions were organized for the New Year events, but only preparations for family members.

The defendant, Nexhmije Hoxha, should be held liable for appropriating state property and for the episode of gifts she has made to doctors when she went abroad to be cured, which according to the exit permit amount to ALL 25,051.

In fact, such goods received by the defendant are covered by her, even though she was not entitled to it, and she will also be held liable for such gifts because she gave them to third parties in her name and on behalf of her and not of the state.

As for the differences in prices of goods purchased in cash currency (in 40 cases), amounting to ALL 143,290, the defendant, Nexhmije, should not be prosecuted as the price of goods has been set by competent specialists, who were not under her influence. As those specialists explained, summoned in the capacity of witnesses, the prices of goods were set based on the manual of prices of that period. If the specialists had made any infringement, they would still face civil obligation for that case and not criminal responsibility.

The fact that the defendant, Nexhmije, has received medicaments free of charge during the period 1986-1990 is true, but such a thing has been set forth in the regulation of the former Special Clinic, approved by the former Minister of Health and, in fact, all the

members and candidates of the Party of Labor's Central Committee have acted this way, although based on the Political Bureau Decision No. 1 of 1983, they do not enjoy this right.

Therefore, the defendant, Nexhmije, from the subject point of view, has not intended to appropriate the state property, but she thought she was entitled to that right as others have also acted.

With regard to another fact, as mentioned in the indictment, that her family members have also taken medicaments free of charge, the court, based on the administered evidence, did not reach to the conclusion reached by the prosecution body. Not only receipts in the name of the defendant's family members were found in the former Special Clinic, proving that medicaments were purchased with cash, but the statements of witnesses on which the charge is based on for this episode are not considered reliable by the court.

The witness, Drita Andoni, in order to escape her responsibility, although being charged with material responsibility, tried to blame the defendant, Nexhmije, at a time when, as proven during the adjudication process, she and the doctor Isuf Kalo have ongoingly and illegally and openly received medicaments by the pharmacy located in the premises the defendant lived and taken them to the ward led by the doctor, Isuf Kalo.

With regard to this activity, the witness, Ilir Koxheri, shed light on it and presented a personal notebook, in which some of the cases when he had taken medicaments from the pharmacy to the ward were noted down, highlighting that such activity continued until the early 1990. Therefore, while medicaments were taken from the pharmacy to the ward, without any exit document, with the latter not being effectively downloaded and the inventory result was achieved based on the entry documents and notes made for used medicaments in the defendant's patient information card.

The fact that many medicaments were taken by this pharmacy until mid-April of 1985 is true, but such action has also been performed in the subsequent period and there is a real chance that abuses were made by the medical service personnel, such as the witness, Drita Andoni, or others.

Finally, for this episode, based on the notes made on the defendant's (Nexhmije) patient information card for the period in question, the damaged party has the right to civilly request the counter-payment of medicaments taken by her.

For the unpaid difference of ALL 6,439 concerning the holiday period, the defendant, Nexhmije, should not be prosecuted. In fact, the food quota for the Party of Labor's Central Committee members and candidates, for the holiday period, was ALL 9,3, as it was set by the Professional Unions, but according to letter no. 875/l, dated 16.9.1968, of the former deputy prime minister A. Çarçani for the above-mentioned, the quota was set to be ALL 12.5 per day.

The defendant, Nexhmije, and all the PLA Central Committee members and candidates have not paid the difference of ALL 3,2 per day because of the directors of the Reception Directorate and, under such circumstances, the defendant should be civilly obligated to compensate the state for the above-mentioned amount, but this should be resolved by the civil court.

With regard to the crime of abuse of power related to the difference in inventory and the amortization value of goods that the defendant were given for use, the case prosecutor waived the charge for such crime and the court should mandatorily decide on case dismissal.

The claim raised by the defendant and her defense attorney that a special decision was made for the "Hoxha" family, which, according to them, defined that the "treatment was made without any restrictions", is unjust. This claim is made to escape the criminal

responsibility, but even if such a decision was made, in 1960s as pretended, it would be effective for as long as E. Hoxha, who held the position of the Party of Labor Central Committee's first secretary, was alive. After its death and under the circumstances of a one-party system, this decision would normally not be effective as after the death of Enver, his family was not about to enjoy those privileges, which were gained due to that duty.

Under the circumstances mentioned above, the defendant, Nexhmije Hoxha, will be held liable for the crime of appropriating state property amounting to ALL 32,296, as provided for by article 62 of the Criminal Code. In the judicial definition of the criminal offense, the period of its commitment and the Albanian currency value should be considered.

The defendant's guilt is proved by the witnesses' statements, written evidence administered during the adjudication and the accounting expertise act.

According to the indictment brought by the prosecution, the defendant, Kino Buxheli, is charged with criminal offenses of state property appropriation committed to the benefit of third parties, amounting to ALL 3,261,888 and abuse of power as, based on the indictment, through his illegal actions and omissions, he has caused to the state an economic damage of ALL 2,135,682.

The prosecutor, as the prosecution representative, narrowed the charge at the end of the judicial investigation and, more specifically, on state property appropriation amounting to ALL 62,170 and abuse of power, as the defendant admitted having caused to the state an economic damage of ALL 466,036.

As the adjudication process found, based on the Political Bureau Decision No. 39 of 1976, the right to organize receptions, lunches, dinners, and cocktails was also entitled to Adil Çarçani, who has held the position of the Council of Ministers' chairperson. The same course of actions as in the case of the defendant Nexhmije Hoxha has been followed for the organization of such receptions, with the only difference that ALL 25 would be spent per person, not ALL 35. With regard to the calculation of such expenses by the cook Paskal Kostari, interrogated in the capacity of the witness, neither daily nor monthly evidence were kept to accurately define the amount to be covered by the state on organized receptions.

The number of persons invited for lunches and dinners, cocktails and simple receptions has not been reflected in monthly evidence kept by the head of finance sector, the witness Kaje Tafaj, but with regard to the source such data were taken, the explanations given by the witness mentioned above are in contradiction to those of the witness Paskal Kostari. The latter was obligated to accurately reflect the organized receptions and the number of participants, and based on such documents, the witness Kaje Tafaj should calculate the expenses to be covered by the state and those to be covered by Adil Çarçani. This action, as mentioned above, has not been performed by the witness Paskal Kostari, but during the trial he stated that he was in touch with the witness Kaje Tafaj with regard to the number of receptions and participants, whereas the latter pretends that data on them were taken by the defendant Kino Buxheli.

The prosecution admits in the indictment that the defendant Kino Buxheli has performed the crime of state property appropriation to the benefit of third parties and more specifically to the benefit of Adil Çarçani, thus fictitiously reflecting fake data on the number of receptions and participants and, based on the indictment, the amounts to spent by Adil Çarçani had been covered by the state.

This is the conclusion of the prosecution representative to the court, whereas for other episodes of state property appropriation the charge was withdrawn.

After objectively analyzing the evidence administered during the trial, the court is

not convinced that the defendant Kino Buxheli has committed the crime of state property appropriation.

As for the specific case, for the only episode this defendant is already charged with, the court does not consider the statements of the witness Kaje Tafaj, who has her own responsibility on this charge, reliable.

During the adjudication, this witness explained that the defendant Kino Buxheli informed her about the number of receptions and persons taking part in Çarçani family's organizations and based on them, she performed respective actions.

The witness Paskal Kostari has a different explanation of such actions. According to him, he was in contact with the head of finance sector, the witness Kaje Tafaj and not with the defendant Kino Buxheli, as the above witness claims.

The explanations of this witness are closer to the truth as he should normally be in contact with the witness Kaje Tafaj; thus, as for the sake of an analogy, Kaje Tafaj has acted the same way even with the witness Miço Madhi, the cook of "Hoxha" family.

Therefore, it is believed that the witness Kaje Tafaj has not said the truth during the investigation and the case adjudication, and this is understandable as she is responsible for the committed actions as much as the defendant Kino Buxheli.

The latter, in the capacity of a director, has managed the accounts of both families mentioned above and of the former president Ramiz Alia, as only these three families have had the right to organize receptions in their available premises. Therefore, the defendant Kino Buxheli has signed documents only upon their drafting by the witness Kaje Tafaj. Thus, the irregularities allowed by the defendant Kino, such as his signature in the expense statement without requesting and looking at the cook's documents, should, in this specific case, be addressed as elements of abuse of power and not as elements of the crime of state property appropriation.

This change is made by the court themselves as the defendant's position is not aggravated and this episode adds to other episodes of abuse of power for which the prosecutor expressed.

In addition, the adjudication proved that the defendant Kino Buxheli, in the capacity of the director, has committed actions or omissions in contradiction to the normal duty performance.

The defendant Kino got involved in such illegal activity for various motives, such as the wish to meet the requests of party and state high-ranking figures for a more luxurious life and their fulfilment would create guarantees and privileges for himself.

More specifically, his actions and omissions, which are in contradiction to the normal duty performance, consist of the following directions:

The defendant Kino Buxheli, in contradiction to the requirements of Law No. 6942, dated 25.12.1984 and Decision of the Council of Ministers No. 70, dated 11.3.1985, "On administration, documentation, circulation and preservation of material and monetary values", has not requested to regularly compile a physical inventory for the equipment that former high-ranking figures had in use, but only accounting inventories were compiled. Violations related to the circulation and movements of goods, in particular goods purchased by cash currency, were allowed. In many cases, those goods were not entered in the Reception Directorate's warehouse, as the rule says, but they were taken to residencies by persons, family members that had bought them abroad and the actions on setting prices and entries and exits were mostly fictitious. In particular, violations were allowed in goods valuation which, as the trial found, the price setting commission members frequently did

not take them into account, but have acted based on documents presented to them by the interested parties.

Violations and irregularities were also allowed related to expenses covered by the state, such as the cases of receptions in Çarçani family, and by the expenses amounting to ALL 3 per day. Based on the documents in the file and with regard to the amount of ALL 512,111, which were covered by the state and represent the expenses of ALL 3, it has not been clarified to whose benefit such expenses had been made.

Pursuant to the Decision of the Political Bureau of 1976, other acts of the party and letters issued by the chairpersons of the Council of Ministers, which have been mandatory to the defendant, as the Reception Directorate's activity was governed mainly by party acts, and the latter was obligated to furnish some of the premises of the villas where former high-ranking leaders of the Party and state resided, accepting the amount of ALL 25,000 as the maximum limit. This criterion has been violated by the defendant and his subordinates as during the period he was in charge, while meeting the requests for a luxurious life of former high-ranking officials of the Party and state, he allowed large expenses for the furnishing of living premises. Thus, the inventory of such equipment in 1986 amounted to ALL 4,183,000, whereas by the end of 1990 it amounted to ALL 6,643,000.

With regard to purchasing goods on cash currency, violations were allowed not only on the management of this property but this currency was often used to purchase goods that were easily available in the country and some of them, as couples, etc., were transferred in the inventory to persons who have purchased them rather than to collect their counter-payment.

The defendant Kino has not requested the rigorous implementation of law requirements on goods and articles received by former party and state high-ranking figures to donate them to doctors when going abroad for medication. As the adjudication found, some of those goods were not donated to doctors but were left to embassies and other premises, without compiling any document, as in the case of the witness Enver Miloti. In such cases, it is the duty of the Reception Directorate's employees to issue a document for those goods to allow them enter our embassies and the latter pay the counter-payment to the Reception Directorate. These actions have left room for various abuses and abuses.

With regard to the obligations on residence rent, electricity and water, violations were also allowed as the Reception Directorate's employees have not reflected the factual obligation but only that of ALL 250, when such a thing was stipulated by the Political Bureau decision of 1976. This decision should have been made so that expenses covered by the state were as lower as possible.

In cases of fatalities (death), the defendant Kino has allowed that the state cover various expenses, such as for F. Çani an amount of ALL 3,558, for Ll. Gegprifti an amount of ALL 4,247 and L. Çuko for an amount of ALL 644, at a time when the Political Bureau Decision focuses only on services provided by the personnel and not to cover them, as it was performed.

In addition, the defendant Kino Buxheli has allowed that for the summer period, the obligation of ALL 3,2 per day was not paid for former members and candidates of the Party of Labor's Central Committee, which was in fact an addition to the daily food quota.

Those actions and omissions of the defendant constitute themselves elements of the crime of abuse of power, as the normal activity of the institution he led was severely affected and at the same time, an economic damage was caused to the state, which according to experts asked during the adjudication process amounts to ALL 488,206.

The guilt for the criminal offense the defendant is charged with is proved by the statements of witnesses, written letters administered during the trial and the accounting expertise act presented by experts.

As it was mentioned above, the defendants should have been declared guilty of the following criminal offenses: the defendant Nexhmije Hoxha for the state property appropriation and the defendant Kino Buxheli for the abuse of power.

In giving the sentence, the court considers the social dangerousness level of criminal offenses committed and of the defendants themselves.

For the defendant Nexhmije Hoxha, the court takes into account the fact that the irregularities allowed by the service personnel and the Reception Directorate leaders have affected her criminal activity to some extent. It has also considered her old age and health conditions. In addition, the fact that she has held important state and social duties while committing the criminal offense, under paragraph “d” of article 31 of the Criminal Code, it is considered an aggravating circumstance.

For the defendant Kino Buxheli, the court takes into account the fact that in comparison to his predecessor, he has established order and discipline in some sectors of the Reception Directorate and has made efforts to norm his activity. Furthermore, the fact that he was under the influence of former party and state high-ranking figures, who made frequent complaints to have a luxurious life, is also considered. Therefore, under paragraph “d” of article 30 of the Criminal Code, the commitment of the criminal offense under their influence should be considered as a mitigating circumstance.

With regard to his social dangerousness, the fact that violations and irregularities were also committed by his subordinates should be considered, and his possibilities to check were somehow limited, although criminal responsibility is not excluded.

Lastly, the court takes into account his family situation with two minor children.

As for the civil liability, for the defendant Kino Buxheli, the court takes into account the fact that his guilt issue in the civil field is related to that of other persons, thus it cannot be resolved in this criminal proceeding. The damaged party shall have the right to request it at the criminal court.

For the defendant Nexhmije Hoxha, the civil lawsuit on the appropriated amount should be resolved by deducting the value of goods as material evidence sent by the defendant Enver Miloti, amounting to ALL 2,806, from the total amount. Other liabilities shall be resolved by the civil court accordingly.

THEREFORE:

The court, pursuant to Article 150 of the Civil Procedure Code,

DECIDED

1. Defendant Nexhmije Hoxha is found guilty of the criminal offense of “state property appropriation” and pursuant to article 62, 31/d of the Criminal Code, she is sentenced to 9 (nine) years of imprisonment.

Case dismissal for the defendant Nexhmije Hoxha for the criminal offense of “abuse of power”, as provided for in article 106 of the Criminal Code, as the case prosecutor withdrew the charge.

The sentence for the defendant Nexhmije Hoxha commences from the arrest date, on 4.12.1991.

2. Defendant Kino Buxheli is found guilty of the criminal offense of “abuse of power”

and pursuant to article 106, 30/d of the Criminal Code is sentenced to 4 (four) years of imprisonment.

The sentence for the defendant Kino Buxheli commences from the arrest date, on 31.8.1991.

Obligation of the defendant Nexhmije Hoxha to return the amount of ALL 29.490 to the Directorate of Governmental Services.

The material evidence consists of three items: three pieces of Zadrime scarves, 4 pieces of wool rugs, two wool bags, one artistic cooper tray, a set of wooden casks, three wooden pipes, one plastic bag and one (picture) painting should return to the Directorate of Governmental Services.

Separation of civil lawsuit in the criminal proceedings, obligation that may exist on both defendants and its resolution by the court upon the damaged party's request.

An appeal and a protest can be lodged with the Tirana Court of Appeal against this decision within 5 days, from the third day of the decision announcement.

Announced this day of 27.1.1993

SECRETARY

Flutura Kadiu

(Signature)

Valentina Papi

(Signature)

JUDGE

Muharrem Kushi

(Signature)

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IDMC.al

Decision No. 505
against the defendants:

Adil Çarçani
Manush Myftiu
Ramiz Alia
Rita Marko
Simon Stefani
Hekuran Isai
Aranit Çela
Rrapi Mino
Zylyftar Ramizi
Veiz Hadëri

SUMMARY SHEET

Title of the decision Decision No. 505, Act No. 705, dated 02.07.1994

Trial panel	Chairperson of the trial panel: Andi Çeliku Members of the trial panel: Barije Bitincka, Arben Kostandini Case prosecutor Neshat Fana
Defendants (10)	Adil Çarçani, Manush Myftiu, Ramiz Alia, Rita Marko, Simon Stefani, Hekuran Isai, Aranit Çela, Rrapi Mino, Zylyftar Ramizi, Veiz Hadëri
Attorneys (10)	Riza Icka, Zamir Stefani, Kleanthi Koçi, Ilir Selenica, Roland Përmeti and Pirro Stefani, Arben Vani, Arqile Lole, Luan Beri, Vladimir Bineri
Sessions	16 closed-door sessions starting from 21 May 1994 to 2 July 1994
Charges	Abuse of power in complicity resulting in violation of fundamental freedoms and rights of citizens and property damage, and the criminal offense of “violation of the equality of citizens in complicity”.
Factual circumstances	1. Execution of 22 intellectuals for the Soviet Embassy event, without applying any legal procedure and denying all the rights recognized by law and constitution. 2. Activity of State Security Bodies was not based on judicial and constitutional norms. 3. Violation and denial of a series of fundamental freedoms and rights of citizens sanctioned in the Constitutions of 1950 and 1976, as well as the laws issued based on them and for their implementation. 4. Decisions of the Internment and Expulsion Committee, with some cases of persons or families being interned or expelled because their family members were arrested or sentenced for agitation and propaganda, or their families were not well-aligned with the political orientation. 5. Encouraging violence against religion and religious freedom, and issuing acts banning further continuation of the activity of religious communities and years of religion. 6. Opening fire at the border. 7. Violence exercised against the convicts at the “Qafë Bari” rebellion. 8. Criminal offense of “violation of the equality of citizens through privileges committed in complicity”.
Sentences	3 to 9 years imprisonment Monetary obligations from ALL 188,869 to 1,174,167

Appeal against the decision

1. At the Tirana Court of Appeal, which through Decision No. 378, dated 5.9.1994, changed the sentence to the defendant:

- Ramiz Alia - 8 years imprisonment
- Rita Marko - 6 years imprisonment
- Ramiz Alia - 5 years imprisonment

2. At the Tirana Court of Cassation, which through Decision No. 208, dated 30.11.1994, has upheld Decision of the Tirana Court of Appeal related to the guilt and qualification of offenses for which the defendants were found guilty, and has changed the sentence for the following defendants:

- Ramiz Alia - 5 years imprisonment
- Rita Marko - 5 years imprisonment
- Simon Stefani - 6 years imprisonment
- Hekuran Isai - 4 years imprisonment
- Aranit Çela - 4 years imprisonment
- Rrapi Mino - 3 years imprisonment
- Zylyftar Ramizi - 5 years imprisonment
- Veiz Haderi - 2 years imprisonment
- Upholding decision of the Tirana Court of Appeal on the sentence for the defendant Adil Çarçani and Manush Myftiu.

(Tirana, on 6.12.1994)

REPUBLIC OF ALBANIA
TIRANA DISTRICT COURT

ACT NO. 705

DECISION NO. 505

DECISION
“IN THE NAME OF LAW”

The Tirana District Court composed of:

Andi Çeliku	Chairperson of the trial panel
Barije Bitincka	Members
Arben Kostandini	Members

assisted by judicial secretaries Entela Haxhij and Gentiana Skëndo, with the participation of the prosecutor Neshat Fana, on 21.5.1994, 22.5.1994, 27.5.1994, 28.5.1994, 29.5.1994, 3.6.1994, 4.6.1994, 5.6.1994, 7.6.1994, 8.6.1994, 11.6.1994, 12.6.1994, 18.6.1994, 23.6.1994, 28.6.1994, 2.7.1994 reviewed in an open-door hearing the criminal case with Act no. 705 concerning the defendants:

1) ADIL ÇARÇANI, the son of Haki and Sabrije, born in 1922, in Fushë-Bardha of Gjirokastra and resident in Tirana, graduate, married, unconvicted, with Albanian nationality and citizenship, locked at home without any guard (defended by the attorney Riza Icka).

CHARGED WITH: For the criminal offense of “abuse of power in complicity”, resulting in violation of fundamental freedoms and rights of citizens, resulting in an economic damage amounting to ALL 484,778, as provided for in articles 106–13 of the Criminal Code, and the criminal offense of “violation of the equality of citizens in complicity”, as provided for in articles 107–13 of the Criminal Code.

2) MANUSH MYFTIU, the son of Hyдай and Hatije, born in 1919, in Vlora and resident in Tirana, not finishing higher education, married, unconvicted, with Albanian nationality and citizenship, arrested on 31.8.1991 in Unit No. 313, Tirana (defended by the attorney Zamir Stefani).

CHARGED WITH: For the criminal offense of “abuse of power in complicity”, resulting in violation of fundamental freedoms and rights of citizens, as provided for in articles 106–13 of the Criminal Code, and the criminal offense of “violation of the equality of citizens in complicity”, as provided for in articles 107–13 of the Criminal Code.

3) RAMIZ ALIA, the son of Taip and Sabie, born in 1925, in Shkodra and resident in Tirana, graduate, widower, unconvicted, with Albanian nationality and citizenship, locked at home, protected by a guard, on 12.9.1992, arrested later in Unit No. 313, Tirana (defended by the attorney Kleanthi Koçi).

CHARGED WITH: For the criminal offense of “abuse of power in complicity”, resulting in violation of fundamental freedoms and rights of citizens, resulting in an economic damage amounting to ALL 484,778, as provided for in articles 106–13 of the Criminal Code, and the criminal offense of “violation of the equality of citizens in complicity”, as provided for in articles 13–107 of the Criminal Code.

4) RITA MARKO, the son of Sterjo and Parashqevi, born in 1920, in Korça and resident in Tirana, not finishing higher education, married, unconvicted, with Albanian nationality and citizenship, arrested on 4.12.1991, in Unit No. 313 Tirana (defended by the attorney Ilir Selenica).

CHARGED WITH: For the criminal offense of “abuse of power in complicity”, resulting in violation of fundamental freedoms and rights of citizens, as provided for in articles 106–13 of the Criminal Code, and the criminal offense of “violation of the equality of citizens in complicity”, as provided for in articles 107–13 of the Criminal Code.

5) SIMON STEFANI, the son of Muçi and Varvava, born in 1929, in Përmet and resident in Tirana, graduate, married, unconvicted, with Albanian nationality and citizenship, arrested on 8.7.1992 in Unit No. 313, Tirana (defended by the attorneys Roland Përmeti and Pirro Stefani).

CHARGED WITH: For the criminal offense of “abuse of power in complicity”, resulting in violation of fundamental freedoms and rights of citizens and detrimental to the lives of some persons killed on the border, as provided for in articles 106–13 of the Criminal Code, and the criminal offense of “violation of the equality of citizens in complicity”, as provided for in articles 107–13 of the Criminal Code.

6) HEKURAN ISAI, the son of Selman and Zegjine, born in 1933, in Peqin and resident in Tirana, graduate, married, unconvicted, with Albanian nationality and citizenship, arrested on 28.9.1991 in Unit No. 313 Tirana (defended by the attorney Ilir Selenica).

CHARGED WITH: For the criminal offense of “abuse of power in complicity”, resulting in violation of fundamental freedoms and rights of citizens and detrimental to the life of the person, as provided for in articles 107–13 of the Criminal Code.

7) Aranit Çela, the son of Hysni and Emine, born in 1923, in Vlora and resident in Tirana, graduate, married, unconvicted, with Albanian nationality and citizenship, arrested on 8.1.1993 in Unit No. 313 Tirana (defended by the attorney Arben Vani).

CHARGED WITH: For the criminal offense of “abuse of power in complicity”, resulting in violation of fundamental freedoms and rights of citizens, as provided for in articles 106–13 of the Criminal Code.

8) RRAPI MINO, the son of Jovan and Sofije, born in 1934, in Bubullima of Lushnja and resident in Tirana, graduate, married, unconvicted, with Albanian nationality and citizenship, arrested on 18.10.1993 in Unit No. 313 Tirana (defended by the attorney Arqile Lole).

CHARGED WITH: For the criminal offense of “abuse of power in complicity”, resulting in violation of fundamental freedoms and rights of citizens, as provided for in articles 106–13 of the Criminal Code.

9) ZYLYFTAR RAMIZI, the son of Qazim and Xhevo, born in 1934, in Aranitas, Fier district and resident in Tirana, graduate, married, unconvicted, with Albanian nationality and citizenship, arrested on 18.10.1993 in Unit No. 313 Tirana (defended by the attorney Luan Beri).

CHARGED WITH: For the criminal offense of “abuse of power in complicity”, resulting in violation of fundamental freedoms and rights of citizens, as provided for in articles 106–13 of the Criminal Code.

10) VEIZ HADËRI, the son of Shemo and Feko, born in 1949, in Rexhina, Tepelena and resident in Saranda, graduate, married, unconvicted, with Albanian nationality and citizenship, arrested on 30.12.1993 in Unit No. 313 Tirana (defended by the attorney Vladimir Bineri).

CHARGED WITH: For the criminal offense of “abuse of power in complicity”, resulting in humiliating actions against citizens killed on the border, as provided for in articles 106–13 of the Criminal Code.

The court, after hearing the defendants, witnesses, experts, administered the written evidence, and after hearing the prosecution representative, who in their presence requested:

1. Defendant Manush Myftiu is found guilty of the criminal offenses of “abuse of power” and “violation of the equality of citizens”, as provided for in articles 106-13 and 107-13 of the Criminal Code and is sentenced to 5 years of imprisonment on parole respectively, and by joining the sentences, he is ultimately sentenced to 5 years of imprisonment on parole.

2. Defendant Adil Çarçani is found guilty of the criminal offenses of “abuse of power” and “violation of the equality of citizens”, as provided for in articles 106-13 and 107-13 of the Criminal Code and is sentenced to 5 years of imprisonment on parole respectively, and by joining the sentences, he is ultimately sentenced to 5 years of imprisonment on parole.

3. Defendant Ramiz Alia is found guilty of the criminal offenses of “abuse of power” and “violation of the equality of citizens”, as provided for in articles 106-13 and 107-13 of the Criminal Code and is sentenced to 8 and 5 years of imprisonment respectively, and by joining the sentences, he is ultimately sentenced to 10 years of imprisonment.

4. Defendant Rita Marko is found guilty of the criminal offenses of “abuse of power” and “violation of the equality of citizens”, as provided for in articles 106-13 and 107-13 of the Criminal Code and is sentenced to 8 and 5 years of imprisonment respectively, and by joining the sentences, he is ultimately sentenced to 10 years of imprisonment.

5. Defendant Simon Stefani is found guilty of the criminal offenses of “abuse of power” and “violation of the equality of citizens”, as provided for in articles 106-13 and 107-13 of the Criminal Code and is sentenced to 6 and 4 years of imprisonment respectively, and by joining the sentences, he is ultimately sentenced to 8 years of imprisonment.

6. Defendant Hekuran Isai is found guilty of the criminal offenses of “abuse of power” and “violation of the equality of citizens”, as provided for in articles 106-13 and 107-13 of the Criminal Code and is sentenced to 6 and 3 years of imprisonment respectively, and by joining the sentences, he is ultimately sentenced to 6 years of imprisonment.

Admission of the civil lawsuit filed by the Prosecution against these defendants pursuant to article 155 of the Criminal Procedure Code.

7. Defendant Aranit Çela is found guilty of the criminal offense of “abuse of power”, as provided for in articles 106–13 of the Criminal Code and is sentenced to 7 years of imprisonment.

8. Defendant Zylyftar Ramizi is found guilty of the criminal offense of “abuse of power”, as provided for in articles 106–13 of the Criminal Code and is sentenced to 6 years of imprisonment.

9. Defendant Rrapi Mino is found guilty of the criminal offense of “abuse of power”, as provided for in articles 106–13 of the Criminal Code and is sentenced to 4 years of imprisonment.

10. Defendant Veiz Hadëri is found guilty of the criminal offense of “abuse of power”, as provided for in article 106 of the Criminal Code and is sentenced to 3 years of imprisonment.

After hearing the defendants and their attorneys, who requested innocence in their last word, reviewed and discussed the case fully.

FOUND

On 22.4.1994, the Prosecution of Tirana District submitted for review and adjudication to this court the investigation file no. 3 concerning the defendants Manush Myftiu, Adil Çarçani, Ramiz Alia, Rita Marko, Simon Stefani, Hekuran Isai, Aranit Çela, Zylyftar Ramizi, Rrapi Mino and Veiz Hadëri, charged with the charges mentioned above.

The court investigation of this criminal matter found the following to be proved:

All ten defendants adjudicated in different time periods have held various functions, mainly state and party high-ranking functions.

Therefore, from 1948 the defendant Manush Myftiu had been elected a Member of the People’s Assembly, and during the period 1949-1951 he held the position of the State Audit chairperson and the *ad interim* Minister of Justice, as well as the Deputy Prime Minister. During the period 1958-1966, he held the positions of the first deputy chairperson of the Council of Ministers and Minister of Education and Culture, and later from 1976 to July 1990 he held the position of the deputy chairperson of the Council of Ministers. For about 30 years, he has been a candidate and member of the Political Bureau of the CCPLA.

From 1949 to 1951, the defendant Adil Çarçani held the duty of the secretary-general of the Council of Ministers and the Minister of Industry later. From 1961 he held the position of the deputy chairperson of the Council of Ministers and during the period 1982-February 1991, he was the chairperson of the Council of Ministers. For many legislatures, he had been elected an MP of the People’s Assembly and a candidate and a member of the Political Bureau of the CCPLA from 1956.

From 1948, the defendant Ramiz Alia had been a member of the CCPLA and during the period 1956-1985 he was a candidate and a member of the Political Bureau of the CCPLA. During the period 1961-1985, he was the secretary of the CCPLA; from 1985 to 1991, he held the position of the first secretary of the CCPLA. In addition, apart from being an MP in some legislatures and a member of the Presidium of the People’s Assembly, from 1982 to 29.4.1991 he was the chairperson of the Presidium of the People’s Assembly.

During the period 1956-1990, the defendant Rita Marko was a member of the Political Bureau of the CCPLA, an MP for many legislatures of the People’s Assembly, deputy chairperson of the Presidium of the People’s Assembly, member of the Government and secretary of the CCPLA, etc.

From 1979 to 1989, the defendant Simon Stefani had been elected an MP of the People’s Assembly and a member of the Political Bureau of the CCPLA at the same time, and a secretary of the CCPLA for a certain period of time. From march 1989 to July 1990, he held the position of the deputy chairperson of the Council of Ministers and the Minister of Internal Affairs.

From 1976 to 1990, the defendant Hekuran Isai was elected an MP of the People’s Assembly and a member of the Political Bureau of the CCPLA simultaneously. From January 1982 to February 1989, and from July 1990 to February 1991, he held the position of the deputy chairperson of the Council of Ministers and the Minister of Internal Affairs.

During the period 1954–1958 and 1966–1990, the defendant Aranit Çela has held the position of the chairperson of the High Court, and the position of the General Prosecutor of the Republic during the period 1958–1966.

From 1977 until the early 1992, the defendant Rrapi Mino has held the duty of the General Prosecutor of the Republic.

From November 1982 to July 1990, apart from being a member of the CCPLA, the defendant Zylyftar Ramizi has also held the position of the deputy minister of Internal Affairs under the direct dependency and control of the former First Directorate of State Security.

During the period from 1984 to December 1990, the defendant Veiz Hadëri was the head of the Internal Affairs Branch of Saranda District.

Therefore, it is clear that the defendant Ramiz Alia, Manush Myftiu, Adil Çarçani, Rita Marko and, for a shorter period of time, the defendants Simon Stefani and Hekuran Isai had continuously been in legislative, executive and party power positions. Meanwhile, the defendants Aranit Çela and Rrapi Mino have led for a long time the highest judicial bodies and law enforcement control bodies.

It was proven that 13 persons related to the incident occurring in the Soviet Union of 19.2.1951, interpreted as a terrorist act and serious crime against the people and the state, were found guilty by Decision No. 524, dated 9.10.1951, of the Military College of the High Court.

Pursuant to the evidence administered by the Court, such as criminal file no. 2771, minutes of the meeting of the Political Bureau on 20.2.1951, Government's minutes of the meeting of 2.3.1951 and 8.3.1951, letters no. 7/130, 7/131, 7/132, 7/133, 7/134, dated 2.3.1951, Decision No. 64, dated 10.8.1991, of the Plenum of the High Court, explanations of the witnesses Siri Çarçani, Vangjel Kocani, Rasim Dedja, Vangjel Kote, Qemal Çeka, the event of 19.2.1951 at the Soviet Embassy served as an excuse for the elimination of 22 intellectuals who were executed on 20.2.1951. No legal procedure was followed for these persons and they were denied all the rights recognized by law and constitution. Therefore, these persons were investigated without the commencement of the criminal case, without records on their interrogation by incompetent persons and were not summoned as defendants; the charge was not communicated to them, as it was later compiled; they were not adjudicated, as the trial was held on 27.2.1951, after their execution.

Such serious violations and others identified by the Plenum of the High Court led, through Decision No. 64, dated 10.8.1991, the Plenum to nullify Decision No. 64, dated 27.2.1951, of the High Military Court and the stay of proceedings for the sentenced persons.

The defendants Adil Çarçani and Manush Myftiu were informed of all of these, who, in the Government meeting of 2.3.1951, were informed by Mehmet Shehu on the measures taken by the Ministry of Internal Affairs and their execution.

In addition, being present in the Government meeting of 8.3.1951, in the capacity of Government members, those defendants reviewed and made a decision on the adoption of the draft decree no. 1223 "On tracking and monitoring the activity of terrorist organizations and terrorist acts against the workers of the people's power and political and social organizations of the People's Republic of Albania". In fact, this decree was signed on 26.2.1951 by the Prime Minister Enver Hoxha to justify the trial, although a formal one, held on 27.2.1951 without the presence of the prosecutor and attorneys, and without the presence of persons subject to adjudication.

Meanwhile, the 1950 Constitution, in its article 22, sanctions, among other things, that “no one can be sentenced without being found guilty, without a decision of the competent court and without being heard and summoned for defense as per the law prescriptions”. Therefore, no one can be executed without a decision of the competent court.

With actions in contradiction to the normal performance of the duty, the defendant Adil Çarçani, holding the position of the Government’s Secretary-General until 5.3.1951, by an oral order of the Prime Minister Enver Hoxha, has issued letters no. 7/130, 7/131, 7/132, 7/133, 7/134, dated 2.3.1951, which led to the transfer to some cities of 18 families of those executed without trials, expelled from Tirana, called by this defendant as reactionary families and under the ‘caution’ of “finding work to earn the living”. These letters were not issued on the basis of a decision of the Special Expulsion Committee and in contradiction to the criteria of decree-law no 649, dated 10.1.1949, “On the implementation of expulsion and confiscation sentences as administrative measures”, and its article 4 states, among others: “Expulsion shall be executed with a grounded decision made at the Ministry of Internal Affairs”. Therefore, it is clear that this defendant has performed an action during his exercise of duty for which he was no competent at all. In addition, while being appointed as the *ad interim* Minister of Justice via decree no. 1235, dated 5.3.1951, the defendant Manush Myftiu, being fully informed of the situation, did not follow any legal means, although he had the obligation by law to control the just implementation of laws, for instance proposing the chairperson of the High Court to make a request for lawfulness protection against unjust decisions.

Both defendants Manush Myftiu and Adil Çarçani, appointed on 5.3.1951 as the Minister of Industry, a member of the Government, through the above-mentioned illegal actions and omissions, committed intentionally in contradiction to the normal performance of high state duties they performed, resulted in members of families of those executed without being tried live in severe living and working conditions and with limited rights for tens of years, as well as in covering such a crime for years. In addition, the object of this act performed by defendants is relations established to ensure the normal activity of the state apparatus which helps to ensure, among others, the protection of social interests and legal rights and interests of citizens.

In this context, the stay of these defendants is in violation of articles 62 and 63 of the 1950 Constitution, according to which “the Government is obligated to, in accordance with the Constitution and laws, take all the measures required to secure and protect the constitutional order and rights of citizens”.

Thus, the responsibility of the defendants Adil Çarçani and Manush Myftiu derives from the content of article 67 of the 1950 Constitution, which states that: “The government members are criminally responsible for the violation of constitution and laws concerning the exercise of their functions”

Rightfully, the defendant Rita Marko was not definitively accused by the session prosecutor. As it was proved in the court hearing, this defendant returned to Albania from the Soviet Union he was to be cured on 28.2.1951, thus after the event in question, and via decree of 5.3.1951, he was dismissed as a member of the Government. Therefore, on 8.3.1951, when the draft decree no. 1223 was reviewed, this defendant was not a member of the Government. Under such circumstances, the defendant Rita Marko cannot be a subject of this episode, the criminal offense of “abuse of power”, for which he is accused of and thus he should not be held liable for that episode.

The judicial investigation found that the State Security activity has been regulated by the “Operational Work Platforms of the Internal Affairs Bodies”, approved by the Political Bureaus of the CCPLA in 1954, 1958, 1964, 1977, 1985, 1989, along with their additional annexes, for which the defendants Ramiz Alia, Adil Çarçani, Manush Myftiu, Rita Marko gave their approval since 1958, the defendant Hekuran Isai since 1977 and the defendant Simon Stefani since 1985.

The legislation in force for those periods, and the 1946 statute and the Constitutions of 1950, 1976 have sanctioned the principle that the “Constitution is a fundamental law of the state and its punctual and uniform implementation and of laws is mandatory for the entire activity of state bodies and all other levels”. This clarifies the fact that the entire state activity should be based on constitutional norms and laws issued only pursuant to and for the implementation of the constitution. As per the above, this obligation was violated in two special direction of exercising state activity. Therefore, the activity of State Security Bodies through the Operational Work Platform of the Internal Affairs Bodies was not based on judicial and constitutional norms. Of this character are the instructions of the Political Bureau, dated 12.2.1985, “On further expansion of leadership and control of the party in the activity of the Internal Affairs Bodies”, signed by the defendant Ramiz Alia, draft-addendum “On some changes to chapter 7 of the 1985 platform”, also approved by the defendant Ramiz Alia.

Although they were part of the Ministry of Internal Affairs and under the direct dependency and control of the Council of Ministers, the former State Security Bodies did not exercise their activity like other levels of the state administration but under the control of party bodies and the so-called “self-control”. Therefore, in the 1985 platform, article 2 states that the “Internal Affairs Bodies are continuously led and controlled by the party” but there was no conspiracy limitation on the operational work of the Internal Affairs Bodies for the First Secretary of the District Party Committee. “The Ministry of Internal Affairs reports to the Political Bureau, the CCPLA secretariat, the CCPLA plenum and the Council of Ministers. These illegal forms of exercising such state activity have led to arbitration resulting in denial of a series of fundamental freedoms and rights of citizens, freedoms and rights sanctioned by the Constitutions of 1950, 1976, and the laws issued pursuant to and for their implementation.

The Security Bodies part of the platforms of the Internal Affairs Bodies are recognized the right to act in contradiction to the guarantees stipulated in articles 24 and 58 of the 1950 and 1976 Constitutions, and criminal law and criminal procedural law respectively. For instance, according to chapter 7, paragraph 1 of the 1985 platform, the Internal Affairs Bodies have the right to perform “secret checks of the correspondence, post and telephone services, telegraphic correspondence of the convicted individuals and correspondence of internees and expelled individuals. The postal check of

the external correspondence was a general one. It includes the check of the entire correspondence and parcels circulating through postal and customs channels (letter and telegrams), telephone conversations, parcel post, telexes, magnetic tapes, tapes, video tapes, press of different publications. The check of press and publications reaching our country and vice versa is made in accordance with the rules set forth by the PLA Central Committee.

During the correspondence check, the Internal Affairs Bodies shall have the right to ban and confiscate the correspondence. The check of correspondence shall be performed without leaving any traces”. It is clear that such content of this basic act on the work of the

Internal Affairs Bodies has nothing in common with the Constitution of that period; on the contrary, it is in flagrant contradiction to it.

Therefore, article 58 of the 1976 Constitution stipulates that “the secrecy of correspondence and other communication means cannot be affected unless in cases of a crime investigation, state of emergency or war”; Article 53 of the same Constitution sanctions that “the nationals enjoy the freedom of the press”; in addition, article 87 of the Criminal Procedure Code sets forth the legal obligation that “the sequestration of postal and telegraphic correspondence shall be performed by the investigator upon the approval of the prosecutor or the court, and always in the presence of the respective postal and telegraphic office’s representative”.

As a result of those violations, the free opinion of thousands of people was controlled and censored; more specifically, the materials administered at the hearing indicated that, since the establishment of special structures on postal control in Saranda district for the period from 1.1.1984 to 31.12.1984, the correspondence of various citizens was controlled and seized in 308 cases. The records on Saranda’s Internal Affairs Branch registers’ review (records included in the file) found that control was exercised in 3.899 cases for the period 1973-1983. In addition, the official information indicate that control was exercised to the correspondence of thousands of people and in thousands of cases, in particular in Tirana, Saranda, Vlora, etc.

The above was also proved during the hearing and the explanations of different witnesses like Maqo Çomo, Qazim Zeka, Mihallaq Ziqishti, Zvetllana Marku, etc.; even the witness Serjan Cacaj explained that the convicted individuals received letters sent by their family members open, obligated by the imposed rules; this is a demonstrative violation of the constitutional principle mentioned above.

Therefore, the above was also proved by the explanations of defendants themselves who, in their vast majority, deemed such an anti-constitutional and anti-legal action as something natural conform to all norms.

Furthermore, the freedom of opinion and speech of citizens (sanctioned in article 53 of the 1976 Constitution) has been violated through counseling and debunking against them, as forms of labor provided in instruction “On further expansion of the Party’s leadership and control in the activity of the Internal Affairs Bodies”.

This instruction dictated the Party’s committees in districts and the Internal Affairs Bodies to act while exercising the right of a legal entity for the application of a criminal policy, with the excuse of protecting people. Therefore, the instruction stated: “For the persons conducting hostile activity and whose differentiation is thought to take place, while advising or debunking them, the Internal Affairs Branch shall submit to the first secretary of the Party’s Committee a summary report on the person and their hostile activity, proposing the sentence to be given for him, i.e. counseling or debunking. The organization and execution of counselling or debunking of those persons are made by the District Party’s Committee”.

Meanwhile, article 73 of the Criminal Procedure Code defines that the “Court, the sole judge or investigator, shall have the right, in specific cases, not to initiate the criminal matter or, during the investigation and adjudication at first instance, to dismiss it while deeming that the dangerousness of the committed offense and of the person is low and the person shows deep regret”.

In addition, article 56 of the 1976 Constitution and article 5 of the Criminal Procedure

Code sanction that “No one can be declared guilty without a court decision”.

More specifically, based on the official formations administered at the hearing, for the period 1977-1990, the Party's Committees of districts have debunked or advised more than 3,700 persons, mainly on the crime of agitation and propaganda, with 2,170 persons by the Internal Affairs Bodies. The districts with the highest number of counselling and debunking are Tirana, Korça, Shkodra, Durrës, etc. The explanations given by the witness Janaq Syko, former instructor at Vlora District Party's Committee, debunking or counselling was usually conducted in halls with large audience, led by the Party's Committee through its representatives. The person subject to counselling or debunking was interrogated and asked for explanations by the Party's Committee representatives in the capacity of the judge and prosecutor. The person in the capacity of the defendant had to face the pressure of “witnesses”, employees of Internal Affairs Bodies, who had given and processed information on them. Once “guilt” was proven, respective measure for that person was imposed, counselling or debunking. Apart from the consequences mentioned above, that type of work carried the stigma for those persons, which accompanies them in every aspect of life to create deprivation. In support of the argument above, we can mention the example of the Internment and Expulsion Committee decisions, using as a motive for the internment or expulsion of persons the fact that their family members were counselled or debunked in different time periods. This fact rejects the claim of defendants that such forms of labor were used to protect people and prevent crime, as the counselled or debunked persons, in the case of the Internment and Expulsion Committee decisions, were considered equivalent to the persons who have committed criminal offenses stipulated as criteria on the internment and expulsion decree. Under such circumstances, regardless of the fact that defendants Ramiz Alia, Adil Çarçani, Manush Myftiu, Rita Marko, Hekuran Isai and Simon Stefani deny those episodes of the charge against them on abuse of power, they should be held legally liable as per the above and report for the periods when the Platform built by them was operational.

The actions and positions of the above-mentioned defendants clearly indicate elements of the criminal offense of “abuse of power”.

The scope of this criminal offense, of this criminal episode in particular, includes the relations established on the normal maintenance and operation of the state apparatus, namely Internal Affairs Bodies of that time and the wider Ministry of Internal Affairs, as well as the normal activity of competent bodies of serving justice, i.e. the courts. In addition, the scope of this crime includes also the relations established on defending the fundamental freedoms and rights of citizens, and the constitutional order.

From the objective perspective, the above-mentioned persons committed the criminal offense through their actions or omissions in contradiction to the constitution related to the normal performance of the duty, by approving all together anti-constitutional and anti-legal acts, which resulted in the abnormal functioning of the state apparatus and the violation of fundamental freedoms and rights of members.

Subject to this crime are all these six defendants who have held high-ranking positions during the periods they are accused of, being vested universal power, be it related to the party as candidates and members of the Political Bureau, or to the executive power as Government members, or legislative power as members of the People's Assembly.

From the subjective perspective, this fact sheds light on the other element of the crime of abuse of power. The defendants have acted intentionally to commit such criminal offense,

as taking into account the high-ranking positions they held, their knowledge of the legislation (being vested legislative power), they were obligated to predict the consequence, but they wanted that consequence and intentionally allowed it, as its effect would keep them in power for years like it happened.

The collaboration among the defendants Ramiz Alia, Adil Çarçani, Manush Myftiu, Rita Marko, Simon Stefani and Hekuran Isai, becomes clear by the fact that in various time periods, on collegial basis upon proposals and discussions among themselves, they approved an act of anti-constitutional content in certain parts of it. This is proved by written evidence administered at the hearing, such as letters of proposal, reasoning reports, full texts of Operational Work Platforms of the Internal Affairs Bodies, minutes of meetings of the Political Bureau, etc.

With regard to the episodes of abuse of power from the defendants Aranit Çela and Rrapi Mino, related to the 14-day arrests and 72-hour detention made by the State Security, the trial panel deems that such episodes should be rejected, which was also requested by the case prosecutor, as those consisted of a right stipulated in article 47 of the Criminal Procedure Code and the Operational Work Platforms of the Internal Affairs Bodies combined with the criminal procedural law.

In addition, the court states that it deems fair the position held by the prosecutor on the charge pressed against the defendants Hekuran Isai and Zylyftar Ramizi on “approval of decision on withdrawal in secret cooperation with mandatory material” of the national Sali Rama, considering it ungrounded, as such a right was given to defendants by the “Operational Work Platform of the Internal Affairs Bodies” and they had acted based on and for its implementation.

Ungrounded is also the charge on abuse of power against the defendant Zylyftar Ramizi for the episode of proposing changes to the Platform, its recognition and implementation. “The defendant has performed such actions conform to the normal performance of his duty, thus he should not be prosecuted for this episode.”

Article 18 of the 1950 Constitution stated that: “All citizens shall be granted the freedom of conscience and religion; religious communities are free in their faith matters, and their external exercise and practice.” Through the bylaws issued based on this constitutional principle, the religious communities are recognized as legal persons and have regularly conducted their activity.

This was proved in the beginning of 1967 based on the party position held by the defendants Ramiz Alia, Adil Çarçani, Manush Myftiu and Rita Marko who, together with the high-ranking leaders of that time, have admitted and agreed upon encouraging violence against religion and freedom of faith.

The defendant Ramiz Alia explained at the hearing that “the decision made on religion was a party position”. The “initiative” of Durrës students was also conceived and promoted by those defendants. The defendant Rita Marko explained at the hearing that those problems were discussed in that period by the high-ranking officials at the Secretariat, at a time when it was well-known that the defendant Ramiz Alia was the secretary of the CCPLA on ideological problems.

The witness Todi Lubonja explained at the hearing that being an editor-in-chief of the “Zëri i Popullit” magazine, the CCPLA body, since 1967, he was obligated to present the fight against religion in the magazine he led, as this (position held against religion) is a decision of the CCPLA.

In addition, those facts shed light on the statement of the witness Mihallaq Ziçishti, the first secretary of Korça District Party's Committee of that time. This mechanism against religion operated initially in Durrës district. The statements administered by the witnesses Kujtim Kabashi and Shyqyri Mushketa indicate that they were summoned to Durrës District Party's Committee and were oriented on the fight against religion, becoming initiators and instigating anti-religious propaganda. This movement was driven by the defendant Ramiz Alia in his visit in that period, giving relevant orientations that were finalized by Enver Hoxha in his speech of 6 February 1967, considered at that time as a "historic speech", which still remains as such from another perspective.

This party dictate led to the restriction and then the fully denial of people's spiritual food, firstly in Durrës and then in other districts, the positive influence of various religious communities on cultivating tolerance and peace, and educating people with virtues, and cultural and historical values the cult objects had, were ferociously hit, as well as the all-round persecution of religious institutions' figures. As this party position against religion was an anti-constitutional act as the defendant Ramiz Alia explained, who then highlighted that immediately after the religion was suppressed, work in commissions to reflect it in the new Constitution commenced (the new Constitution was adopted 9 years later, in 1976), which was a change to the chapter on fundamental freedoms and rights of citizens.

This moment indicated that those defendants were fully aware of the Constitution's violation and intentional in undertaking this anti-constitutional act in complicity with each other, sanctioned only in 1976. The defendants Adil Çarçani and Manush Myftiu have committed intentional acts who, pursuant to article 63 of the 1950 Constitution, as a Government member was charged with the duty of protecting constitutional freedoms and rights, but on the contrary, those defendants have issued acts banning further continuation of the activity of religious communities and years of religion.

So, from the subjective perspective of such crime, it is clear that the subjects were: the defendant Ramiz Alia, at that time holding the position of the secretary of the CCPLA; the defendant Rita Marko, first secretary of the Durrës District Party's Committee; the defendants Adil Çarçani and Manush Myftiu, Government members, all together, members of the Political Bureau of the CCPLA.

The objective perspective of this crime is related to the illegal actions and omissions in contradiction to the normal performance of the duty, committed in complicity as members of the highest forum of the PLA and Government members by those defendants, which led to the violation of freedom of belief.

The object of this episode of the criminal offense of "abuse of power" concerns the relations established on the defense of constitutional order in the Republic of Albania and fundamental freedoms and rights of citizens.

Finally, the trial panel deems that defendants Ramiz Alia, Adil Çarçani, Rita Marko and Manush Myftiu should be held legally liable for that episode of the crime of "abuse of power", for what they are charged with, a criminal offense provided for in articles 106 and 13 of the Criminal Code.

Article 16 of the 1952 Criminal Code and article 17 of the 1977 Criminal Code state that the internment and expulsion are two criminal sentences given by the court and against those persons committing crimes and criminal offenses.

The Constitutions of 1946, 1950 and 1976 sanctioned that "no one can be interned or expelled unless exceptional cases provided for by law".

The judicial investigation concluded that the enforcement of this criminal sentence is recognized to an administrative body outside the judicial bodies system, such as the Central Committee of Internment and Expulsion, via decrees of the Presidium of People's Assembly no. 649, dated 10.1.1949, no. 1906, dated 2.8.1954, no. 3027, dated 12.1.1960, no. 5912, dated 26.6.1979, no. 7071, dated 15.9.1986. The defendant Manush Myftiu, Hekuran Isai, Aranit Çela and Rrapi Mino were part of this committee for a long time.

So, the defendant Manush Myftiu was the chairperson of the committee from 1977 to 1989, for about 12 years; the defendant Hekuran Isai was the deputy chairperson from 1982 to 1989, for about 7 years; the defendant Aranit Çela was a member of the committee from 1960 to 1989, for about 29 years; the defendant Rrapi Mino was a member of the committee from 1976 to 1986, for about 10 years.

According to the criteria defined in the decrees mentioned above, the decision on internment or expulsion, as an administrative measure, could be taken against persons posing a threat to society and against family members of the fugitives, if they cohabited or were under their dependency.

The Central Committee of Internment and Expulsion has not supported its work on any regulation, and no protocol or meeting minutes were kept for its meetings.

In addition, the data presented in the proposals for internment and expulsion were not verified if they reflected the reality or not. This work practice has resulted in a series of decisions made not based on legal criteria but based on subjectivism and partiality.

For the period from 2.8.1954 to 26.6.1979, the committee's decisions were made based on the legal framework consisting of the decree 1906, dated 2.8.1954.

The respective expertise act of 21.3.1994 indicated that during the period 1970-1979, 198 decisions of the Central Committee of Internment and Expulsion were repeated and for the same motive, the measure of internment or expulsion. Those decisions were all signed by the defendant Aranit Çela and partly by the defendants Manush Myftiu and Rrapi Mino.

Those decisions resulted in the internment and expulsion of certain persons and families for tens of years. This act was illegal as the decree-law no. 1906, dated 2.8.1954, did not grant the Central Committee of Internment and Expulsion the right to extend, on repeated basis, the measure of internment and expulsion, but guided them on deadlines defined in articles 21 and 22 of the Criminal Code.

This right was recognized to the committee only upon decree no. 5912, dated 26.6.1979.

Under such circumstances, the defendant Aranit Çela should be held legally liable for all the acts of that nature from 1960 to 1979, upon the issue of the new decree of that year, whereas the defendants Manush Myftiu and Rrapi Mino for the decisions corresponding with their period.

The legal criteria on decision-making by the Committee were usually violated by being exceeded or being unfairly interpreted.

Therefore, persons or families were interned or expelled because they were family members of those arrested or sentenced for agitation and propaganda, their families were not well-aligned with the political orientation, etc., without giving reasons in those decisions on the dangerousness such nationals had on society, but the opportunity of such dangerousness being reflected in the future was sufficient to them. For instance, 29 persons from Fier were interned for five years with the motive "Their family member was arrested for hostile activity in the form of hostile group agitation and propaganda..." via decision no.

12, dated 24.9.1982, signed by these four defendants. Therefore, no motive was mentioned in decision no. 13, dated 27.9.1982, signed by these four defendants, on the internment of 10 persons.

On 29.9.1982, the four defendants, upon decision no. 14 decided on the internment of 12 persons for a maximum time with the motive that their family members were arrested for agitation and propaganda.

Decisions no. 12 and no. 14 of 1982 served as a pressure over justice bodies imposing them and prejudging the case on the arrested persons.

Furthermore, ungrounded are also decision no. 8, 10, 16, 11 of 1982, signed by four defendants, which led to the unjust internment of about 30 persons.

For the period 1975-1976-1978-1980-1982, with the motive that relatives of those persons were arrested or sentenced for agitation and propaganda, 132 persons were unjustly interned via decision of the Central Committee of Internment and Expulsion, such as decisions no. 11, 14, 15, 16, 18 of 1975, which led to the internment of 48 persons and the defendant Aranit Çela was a member of the Committee.

In addition, not based on legal criteria were also decisions no. 5 and 10 of 1978 and no. 16 of 1980, with the defendants Aranit Çela, Manush Myftiu and Rapi Mino being members of that Committee, which led to the internment of 27 persons, mainly because their relatives were fugitives and were not well-aligned with the political orientation.

Subjectivism has been an integral part of the committee's work, and in that specific case the four defendants have acted in contradiction to the normal performance of their duties.

The defendant Aranit Çela explained at the hearing that, in some cases, he did not agree on the decision (when not in accordance with the legal criteria) he had signed but, as he explained, the decision would be made even if he was to reject signing it.

It is clear that this defendant has intentionally, although he was aware of signing an illegal decision, committed such act. The intention in the actions of defendants Aranit Çela and Rapi Mino is also noted in the content of the report with Protocol No. 355, dated 21.3.1990, addressed to the defendant Manush Myftiu, stating: "Although article 56 of our Constitution leaves room to administratively take such measures (internment and expulsion), we believe that the decree is not in line with the overall spirit of the

Constitution. According to the decree, nationals can be interned and expelled from three months to five years respectively, as a rule, only on the basis of data collected by the Internal Affairs Bodies, which are not subject to any regular procedure. Such a method does not offer guarantees on grounded and fair decisions".

The defendants Manush Myftiu and Hekuran Isai have committed their actions intentionally as found by letter 719, dated 31.3.1990, of the Council of Ministers in which these defendants were mentioned, addressed to the CCPLA, stating: "Our legislation associates the state coercion measures both with the commitment of this illegal act and the presence of guilt. As known, the decree on internment and expulsion, as an administrative measure, does not contain both those requests in some directions".

Subjects to this criminal offense are the four defendants in the capacity of chairpersons, deputy chairpersons and members of the Committee and respective duties as deputy chairpersons of the Council of Ministers, ministers, chairperson of the High Court and General Prosecutor.

The criminal offense was committed by defendants through their illegal acts in

contradiction to the normal performance of duty resulting in the unjust internment and expulsion of a considerable number of people. Those acts were committed by the defendants Manush Myftiu, Aranit Çela, Hekuran Isai and Rrapi Mino in collaboration with each other and other persons, members of the Committee in different time periods.

The object of this criminal episode relates to the relations established on protection of freedom and integrity of the person.

Under such circumstances, those defendants should be held liable for the abuse of power resulting in violation of freedom of citizens and constitutional guarantees of their integrity.

The statements given by the witnesses Muhamet Xhaferri, Selfo Pashaj, Musa Begaj, Spiro Sofroni, Saryhan Merdani, Mihallaq Ziqishti, Svetlana Marku, Fatbardh and Njazi Çojniku and Maqo Çomo, through decisions of the Internment and Expulsion Committee administered as written evidence at the hearing, the act of expertise, dated 21.3.1994, proposal reports of the Ministry of Internal Affairs, and the explanations given by the defendants themselves proved the above.

The defendant Zylyftar Ramizi was accused of this episode of abuse of power as the drafter of proposals addressed to the Central Committee of Internment and Expulsion.

The judicial investigation found that those proposals were made by districts and the role of the sector covered by the defendant was just forwarding them, registering, organizing and presenting proposals to the Committee.

Under such conditions, the actions committed by Zylyftar Ramizi do not indicate the presence of elements of the criminal offense of "abuse of power" and the prosecutor themselves requested that this defendant should not be held legally liable for that episode, so the trial panel deems that he should not be charged with this episode.

According to law no. 7380, dated 8.5.1990, "On some amendments to the Criminal Code" approved by the People's Assembly, the criminal offense of "treason against motherland in the form of escape" has changed, being qualified as illegal border crossing. This new judicial qualification would of course make this offense be considered of very low social dangerousness than the previous provision, and of low dangerousness of the person.

There was a trend for many persons crossing the state border during that period.

A new sub-legal regulation should be made considering the changes to the legislation, an obligation of the Minister of Internal Affairs of that time, namely the defendant Simon Stefani. This defendant did not do that, even though such legal right and obligation was recognized to him by decree no. 4650, dated 9.3.1970, and article 85 of the 1976 Constitution, according to which "Ministers are held liable for the activity of Ministries... they issue orders, regulations and instructions pursuant to laws for the matter under their competences".

The judicial investigation found that the defendant Simon Stefani has not made such a legal regulation, has not processed any previous regulation or issued orders and instruction on performing duties of border forces under the new conditions of the economic, social and political crisis, and the legislation change.

Although large information was available on what was happening on the border (information administered at the hearing), the defendant Simon Stefani has allowed the border protection be carried out via the previous regulation approved by his order no. 01-56, dated 5.6.1985, and amended by order no. 01-10, dated 13.10.1989, which stipulates the rules on opening fire as well.

For the period such sub-legal acts were issued, the high social dangerousness of the criminal offense of “treason against motherland in the form of escape abroad” should be considered. Based on the 1985 border service regulation, opening fire at the border is one of the moments of major responsibility and always takes a sharp political nature as it is related to the party and state policy.

The defendant Simon Stefani did not make the necessary changes to the existing regulation or order ceasing fire, thus avoiding consequences but, during that period, he ordered further implementation of previous regulations. These intentional anti-legal positions of the defendant held because of the duty, through its normal performance, are clearly noted on the answers and notes this defendant made in written information submitted to him, which expressed concern on the implementation of new social, political and legislative conditions of previous regulations. Therefore, with regard to the concern presented in information no. 678, dated 8.6.1990, of Librazhd Internal Affairs Branch, on the implementation method of existing regulations and the new law interpretation, the defendant Simon replied with the following note: “The border command, all the cadres and the education sector in particular make serious preparations and based on the problems emerging in units or border areas, soldiers and cadres should be given explanations that the measures taken by the Party and Government do not liberalize the law (regulation) on border, but they request to strengthen it, and currently implementing it strictly.”

In addition, the explanations given at the hearing by the witness Ismail Skeja, a deputy director of the Border Directorate at the Ministry of Internal Affairs at that time, found that in the first seven months of 1990, as many events were happening at the border compared to preceding and subsequent periods, the Border Command has issued some orders on certain periods on ceasing fire, and has made proposals to the head of department on a change to the implementation of the new law of the regulation.

The intent in previous actions of the defendant Simon Stefani, although in his last career days as a Minister of Internal Affairs, is also noted in his telegram of 4.7.1990, sent to border district, to cancel the order of the border commander, dated 30 June 1990 on ceasing fire at the border, ordering the implementation of previous regulations’ requirements on border service.

The above were proved by the record of reviewing the written documents on 14.2.1994 administered at the hearing. The claim of the defendant that the border is an object of special importance and the use of weapons at the border determine each other is not grounded, as weapons are one of the means used to defend the border, whose use requires a special situation. The offense committed by the defendant concerns the relations established on the protection of lives of citizens and normal operation of state apparatus. Subject to this criminal offense is the defendant Simon Stefani in the capacity of the Minister of Internal Affairs for the period corresponding with this episode of the charge.

Therefore, the actions and omissions of this defendant can be clearly seen as elements of the crime of “abuse of power”, which has resulted in the killing of 13 citizens at the border and the injury of another person from 23 May 1990 to 8 July 1990 when the defendant was dismissed from being the Minister of Internal Affairs. The border forces in districts of Korça, Erseka, Librazhd, Shkodra, Saranda, Gjirokastra, and the citizens Sokol Lika, Sami Daja, Kujtim Xhaja, Bujar Osmani, Fatmir Duro, Nik Hoti, Pëllumb Pëllumbi, Artan Çemi, Muhamet Nurja, Harallamb Papuçiu, Ilia Dalla, Thoma Boda, Enver Duka were killed, and the citizen Kristaq Lloçi was injured.

These socially dangerous consequences were proved at the hearing even by

the investigation files administered by the court, information of prosecutor's offices, investigation offices and Internal Affairs Branches in districts, border command, etc. The practice followed by this defendant's successors, former Minister of Internal Affairs, the defendant Hekuran Isai, showed that at least a new position of border forces could and should be dictated by the Ministry of Internal Affairs (in particular by the head), because as the defendant Hekuran Isai explained, the situation at the border was aggravated, and the failure to issue an order on ceasing fire would have catastrophic consequences for the people. The defendant Simon Stefani was accused of not handing over to families the bodies of citizens killed at the border, in complicity with the defendant Veiz Hadëri. The trial panel deems the position of the prosecution representative as fair and both these defendants should not be held legally liable for this episode, as the judicial investigation found that both these defendants had not committed the criminal offense in complicity. The claim that Simon Stefani has ordered that the bodies should not be handed over to family members was not proved for the event of Grazhdan, Saranda, as well as the claim that he had talked or communicated in another form with the defendant Veiz Hadëri. On the other side, the claim that this defendant (Veiz Hadëri) had ordered the onsite burial of bodies and not handing them over to family members was not proved too. Finally, the defendants Simon Stefani and Veiz Hadëri should not be held legally liable for this episode.

However, the defendant Veiz Hadëri is also accused of another episode of abuse of power while being in the capacity of the Chairperson of Saranda Internal Affairs Branch.

In June 1985, in the vicinity of Ksamil and Monastery Bay, dead bodies of the citizens Sotiraq Nasto and Jorgji Sholla from Narta, Vlora district, were found. The defendant Veiz Hadëri has ordered crews of border service motorboat to place them on motorboat prows and to travel across the Saranda city coast with alarm signals on.

The claim of the defendant that such action was made to identify the bodies is not grounded: Firstly, due to the fact a bag with the identification documents of Sotiraq Nasto was found close to the scene and, secondly, because of the fact that the demonstration of bodies was made in a distance of 180–200 m far from the shore, which allowed only the fulfilment of this defendant's real purpose and not the identification of the body. Through these illegal and antihuman actions in contradiction to the normal performance of the duty, the defendant Veiz Hadëri has exerted psychological pressure and terror for a relatively long time on people and has, on the other hand, caused anger to all the city residents and visitors. This fact was made clear by the trial panel during the interrogation as a witness of one of the motorboat's crew, who stated: "We are ashamed of going out to Saranda."

Furthermore, following those illegal actions, the border forces that were under the dependency of Veiz Hadëri committed in 1989 imitations of persons killed at the border with the reason of training, exposing in front of the people persons supposedly killed at the border, rolled on sheets, and painted in red. Those actions were preceded with fireworks one night earlier, shootings and sirens, to create an image of alarm and state of readiness to the city.

Under such circumstances, it is clear that those actions' aim was not to train the border forces, but to "train" people with the feeling of fear and panic.

The above was proved at the hearing by the explanations of the defendant Veiz Hadëri himself, who revealed the circumstances the events mentioned above happened, but according to him and his defense attorney they were normal actions and did not constitute criminal offense, the explanations of Reiz Maksuti, Mitat Bala, Luan Zani and

Sokrat Jorgji, motorboat's officer of the coast border forces, and partly by the witness Ilirjan Cica. In addition, in his statement, the witness Ismail Skeja, former deputy director of the Border Directorate at the Ministry of Internal Affairs, rejected the claims that the specific imitation performed by Saranda border forces were part of the training work program, and he explained that such a form was never encountered before; he was even surprised by the details given by the prosecutor on the imitation of soldiers rolled on sheets, and painted in red. It is clear that such "training" forms were an initiative of the defendant Veiz Hadëri, unapproved and unknown by the department.

Finally, considering the presence of elements of the criminal offense of "abuse of power" as follows, the defendant Veiz Hadëri should be criminally held liable for such crime.

From the objective side, the crime was committed through illegal acts, which were in contradiction to the normal performance of the duty. Those acts have led to the humiliation of the person's dignity and the spread of panic, fear and insecurity to the people. The object to such crime are the relations established on preserving social order in general and the person's dignity in particular, as well as the normal operation of state apparatus, and more specifically Saranda Public Order Branch.

The defendant Veiz Hadëri, in the capacity of the head of Saranda Internal Affairs Branch, is a subject to this criminal offense.

From the subjective side, the defendant has committed such actions with full intent as there were all the possibilities for him to predict the consequences that such actions would lead to but he has acted with full intent as he wanted them.

On 22.5.1984, a rebellion of the convicted persons sparked off in Qafë-Bari Reeducation Camp No. 311, as one of the convicted individual failed to meet the norm assigned to him and the Command requested him to work the next shift as well. With regard to this rebellion, the Command of Unit 311 notified the Ministry of Internal Affairs and, on this basis, ordered by the defendant Hekuran Isai to verify the situation, the defendant Zylyftar Ramizi together with three accompanying policemen went to Qafë-Bari by helicopter. Furthermore, he ordered Unit 326 in Tirana forces to go to Qafë-Bari by land. Upon his arrival in Qafë-Bari, although situation was relaxed, the defendant Zylyftar requested explanation, isolated the "problematic ones" ordering police officers of Unit No. 311 to leave the camp, and ordered forces of Unit No. 326 in Tirana to exert violence on the sentenced persons. As a result of the violence, apart from the others, the convict Sandër Sokoli suffered severe damages in his head and chest, and some broken ribs. This person, together with the sentenced Dalip Zhaboli, Drago Vujosheviç, Hajredin Fratari, Nuredin Skrapari, Lazër Shkëmbi, etc., upon the order of the defendant Zylyftar Ramizi, were transported by a 7-seat vehicle to Puka Internal Affairs Branch. The sentenced Sandër Sokoli died during the transportation. The witness Pandush Gliozheni, who was the physician, was informed that night and, being forced and under the pressure of the defendant Zylyftar Ramizi, issued the forensic expertise act no. 12, dated 25.5.1984, concluding that the death cause was heart failure, which was the cause requested by the defendant Zylyftar. In fact, as explained by the witness Pandush Gliozheni, the victim had numerous ecchymosis and hematoma in his face's left frontal part; during the opening of the thoracic part, two-three broken ribs were identified in the left part of the thorax.

The above was proved at the hearing through the explanations given by the witnesses Riza Musollari, Fiqiri Çakalli, Pandush Gliozheni, Dalip Zhaboli, Dedë Miri, the documents

of investigation file no. 56 of Puka District Investigation Office and other evidence obtained and administered at the hearing.

Under such circumstances, the defendant Zylyftar Ramizi has fully committed elements of the criminal offense of “abuse of power” by not normally performing it, giving illegal orders on exerting physical violence on the convicts at Qafë-Bari in 1984, actions that led to criminal consequences, the death of the citizen Sandër Sokoli. In addition, those elements of the crime are also noted in the actions performed by the defendant on hiding the real causes of such criminal consequences.

The relations affected by this criminal offense are those established for the preservation of life and health of citizens. The defendant Zylyftar Ramizi is subject to this crime as he has given the order of exerting violence and other actions while holding the position of the deputy minister of Internal Affairs.

From the subjective side, the offense was committed with intent as this defendant had all the possibilities and was obligated to predict the consequences that might arise from the exertion of violence on those sentenced by persons specialized in this duty. In addition, the intent in this defendant’s actions is also indicated by the fact that he has tried to hide (and has succeeded for quite some time) the real cause of death of the citizen Sandër Sokoli.

The defendants Manush Myftiu, Adil Çarçani, Ramiz Alia, Rita Marko, Simon Stefani, Hekuran Isai are charged with the criminal offense of “violation of the equality of citizens through privileges committed in complicity”, as provided for in articles 107 and 13 of the Criminal Code. Based on the evidence administered at the hearing, the treatment of the state and party high-ranking leaders was made mainly through decisions of the Political Bureau no. 28/11, dated 23.8.1956, no. 163, dated 15.6.1961, no. 352, dated 5.11.1963, no. 242, dated 27.7.1964, no. 172, dated 1.12.1966, no. 39, dated 23.3.1976, no. 1, dated 5.1.1983.

Those decisions were approved and signed by the defendants above during the periods they were members of the Political Bureau.

Those defendants have had the right to spend their vacations in special places administered by the Reception Directorate, which had under its administration tens of luxurious villas in the most picturesque places of Albania. The expenses for the time those defendants used to stay in those villas were covered by the state, whereas in cases their family members used to stay there, they paid rent for up to three rooms and the rest of expenses were the same as for the employees.

Furthermore, the defendants used to live in a “block” of villas, in buildings with excessive surface areas compared to their family composition. Reconstructions and additions to such buildings were made to those villas in different periods, according to their requests.

Those defendants did not pay their factual expenses on rent, electricity, water and heating, as 50% and 70% of them were covered by the state and none of those defendants should not pay more than ALL 250 per month at a time when, by Government’s decision of 30.10.1980, all citizens were obligated to pay the real value of expenses above.

Some of the defendants were simultaneously members of the Government while exercising their functions, and although they used to make decisions on citizens to pay the real value of expenses, on the other side, they regulated such relations with the state by decisions of the Political Bureau, according to which they were highly favored.

In addition, those defendants used to have a special medical treatment, which was provided to the special clinic where they were treated while receiving medications free of

charge, and dental works with gold received from the state treasury, again free of charge for these defendants.

A considerable number of people used to serve in their houses and their houses were equipped with furnishings and furniture, with their expenses covered by the state.

Apart from factors leading to decisions of the Political Bureau, through their actions, these defendants have adopted practices that were beyond the decisions made at the Political Bureau. Therefore, in many cases when the defendants or their family members went abroad for medical visits, they had taken with them, free of charge, material values such as gifts for foreign doctors (mainly artistic items), whose value has unjustly exceeded the state expenses.

For that issue, the defendant Adil Çarçani, has issued, as an order, the secret letter no. 237, dated 19.2.1971, submitted for application to the Reception Directorate. Therefore, only on this basis and not being supported on any legal or sub-legal acts, a series of authorizations were issued by the defendants Adil Çarçani and Manush Myftiu to secure gifts for themselves and other defendants, which were paid by the state. The judicial investigation found that such practice was not followed by the defendants Hekuran Isai and Simon Stefani.

Although special lines of food and industrial production were operating for the accused defendants and their families, still these defendants used to meet their and their family members' requests through orders given to the Reception Directorate or their purchase when going abroad on foreign currency when going abroad.

Furthermore, after these purchases, the goods were set favoring prices and not based on the exchange of obtained and spent currency. Meanwhile, the Decision of the Council of Ministers No. 227, dated 17.9.1975, banned the purchase of goods in cash currency, except for exceptional cases.

With no legal and sub-legal acts, defendants had their expenses covered by the state, even the minor daily expenses amounting to ALL 3 per day; thus, they have benefited an additional quota for the vacation time amounting to ALL 3.2 per day.

These actions clearly indicate that these defendants have created privileges for themselves and their family members, living a high standard life not comparable to the people's life. Moreover, these actions are in contradiction to the constitutional principles. Article 14 of the 1950 Constitution does not recognize any privilege on the grounds of origin, position, wealth or culture level, while article 40 of the 1976 Constitution sanctions that no restriction or privilege is recognized in citizens' rights and duties on the grounds of social position.

Therefore, article 107 of the 1977 Criminal Code, issued on the basis of and for the implementation of the Constitution, considers the violation of the equality of citizens a criminal offense, an offense fully committed by the defendants through privileges.

With regard to the civil lawsuit filed for adjudication by the prosecution's representative, the court considers that it should be partially admitted as, for some items, some of the defendants cannot be civilly held liable pursuant to article 155 of the Criminal Procedure Code.

The trial panel considers that the defendant Simon Stefani should not be civilly held liable for the value of gifts amounting to ALL 12.158 under his name, because as we said above, he did not receive them.

In addition, based on decision no. 32, dated 18.3.1994, of the Court of Cassation, the

trial panel considers a deduction to the value of personnel salaries in families of defendants and the personnel's food, amounting to ALL 7 per day. As for the item of home furniture and appliances amortization, the defendants should be civilly held liable for the period 1986 to August 1990, as the amortization rate has been calculated based on the joint order of the State Plan Committee and the Ministry of Finance No. 997 and 1288 of 1985, entered into force on 1.1.1986. Thus, the trial panel considers that the defendants who have made expenses in cases of fatalities should not be civilly held liable for those expenses.

Finally, based on the accounting expertise act, the six defendants should be civilly held liable for respective amounts by the summary statement attached to this decision.

In conclusion, all defendants should be declared guilty of the criminal offenses they are accused of related to the episodes reasoned in this decision. Those episodes are characterized by a unique criminal thinking, same actions, thus constituting a single criminal offense.

The trial panel considers that we are facing an ongoing crime resulting in systematic and stable consequences, committed by subjects holding permanent party and state high-ranking positions.

Concerning the sentence, the court has taken into account the significant dangerousness of those criminal offenses committed by the defendant to the society, as they affect important social relations preserved by the Constitution and the Criminal Law, the social dangerousness of defendants, the consequences of their criminal activity, the fact that defendants have committed some criminal offenses, their commitment in complicity, the fact that criminal offenses are committed by persons with important state and social duties, with the latter being stipulated as aggravating circumstances in article 31/b and 31/d of the Criminal Code.

In addition, the court takes into account the age of defendants, severe health conditions of some defendants, proved that by expertise acts administered at the hearing, and in particular the health situation currently highly severe, which was reflected at the hearing, of the defendants Manush Myftiu and Adil Çarçani, for whom the court considers that the sentence should be given as a probation period for a term deemed reasonable by the court, thus ordering the suspension of the decision execution.

Pursuant to article 51 of the Criminal Procedure Code, the security measure for the defendant Manush Myftiu should change choosing a more appropriate measure for him until the decision is final.

T H E R E F O R E

Pursuant to article 149 and 150 of the Criminal Procedure Code, the Court

D E C I D E D

1. Defendant MANUSH MYFTIU is found guilty of the criminal offense of "abuse of power in complicity" resulting in violation of fundamental freedoms and rights of citizens, and pursuant to articles 106, 13, 31/b, 31/d of the Criminal Code is sentenced to 5 (five) years of imprisonment.

This defendant is found guilty of the criminal offense of "violation of the equality of citizens in complicity", and pursuant to articles 107, 13, 31/b and 31/d of the Criminal Code is sentenced to 4 (four) years of imprisonment.

Finally, based on the unification of sentences pursuant to article 35 of the Criminal Code, the defendant Manush Myftiu is sentenced to 5 (five) years of imprisonment.

Pursuant to article 38 of the Criminal Code (as amended), the suspension and execution of this decision is ordered giving the remaining sentence with the probation time of 5 (five) years, given that he does not commit another criminal offense of the same seriousness or more serious within this timeframe.

Change of the security measure for this defendant from “arrest” to being locked at home with no guard, thus ordering its immediate execution.

Obligation of this defendant to pay the amount of ALL 424.464 to the Directorate of Governmental Services.

2. Defendant ADIL ÇARÇANI is found guilty of the criminal offense of “abuse of power in complicity” resulting in violation of fundamental freedoms and rights of citizens, and pursuant to articles 106, 13, 31/b, 31/d of the Criminal Code is sentenced to 5 (five) years of imprisonment.

This defendant is found guilty of the criminal offense of “violation of the equality of citizens in complicity”, and pursuant to articles 107, 13, 31/b and 31/d of the Criminal Code is sentenced to 4 (four) years of imprisonment.

Finally, based on the unification of sentences pursuant to article 35 of the Criminal Code, the defendant Adil Çarçani is sentenced to 5 (five) years of imprisonment.

Pursuant to article 38 of the Criminal Code (as amended), the suspension and execution of this decision is ordered giving the remaining sentence with the probation time of 5 (five) years, given that he does not commit another criminal offense of the same seriousness or more serious within this timeframe.

Obligation of this defendant to pay the amount of ALL 667.727 to the Directorate of Governmental Services.

3. Defendant RAMIZ ALIA is found guilty of the criminal offense of “abuse of power in complicity” resulting in violation of fundamental freedoms and rights of citizens, and pursuant to articles 106, 13, 31/b, 31/d of the Criminal Code is sentenced to 8 (eight) years of imprisonment.

This defendant is found guilty of the criminal offense of “violation of the equality of citizens in complicity”, and pursuant to articles 107, 13, 31/b and 31/d of the Criminal Code is sentenced to 5 (five) years of imprisonment.

Finally, based on the unification of sentences pursuant to article 35 of the Criminal Code, the defendant Ramiz Alia is sentenced to 9 (nine) years of imprisonment, with the sentence being served from 12.9.1992.

Obligation of this defendant to pay the amount of ALL 1.174.167 to the Directorate of Governmental Services.

4. Defendant RITA MARKO is found guilty of the criminal offense of “abuse of power in complicity” resulting in violation of fundamental freedoms and rights of citizens, and pursuant to articles 106, 13, 31/b, 31/d of the Criminal Code is sentenced to 7 (eight) years of imprisonment.

This defendant is found guilty of the criminal offense of “violation of the equality of citizens in complicity”, and pursuant to articles 107, 13, 31/b and 31/d of the Criminal Code is sentenced to 5 (five) years of imprisonment.

Finally, based on the unification of sentences pursuant to article 35 of the Criminal Code, the defendant Rita Marko is sentenced to 8 (eight) years of imprisonment, with the sentence being served from 4.12.1991.

Obligation of this defendant to pay the amount of ALL 275.873 to the Directorate

of Governmental Services.

5. Defendant SIMON STEFANI is found guilty of the criminal offense of “abuse of power in complicity” resulting in violation of fundamental freedoms and rights of citizens and detrimental to the lives of some persons killed on the border, and pursuant to articles 106, 13, 31/b, 31/d of the Criminal Code is sentenced to 7 (five) years of imprisonment.

This defendant is found guilty of the criminal offense of “violation of the equality of citizens in complicity”, and pursuant to articles 107, 13, 31/b and 31/d of the Criminal Code is sentenced to 4 (four) years of imprisonment.

Finally, based on the unification of sentences pursuant to article 35 of the Criminal Code, the defendant Simon Stefani is sentenced to 8 (eight) years of imprisonment, with the sentence being served from 8 July 1992.

Obligation of this defendant to pay the amount of ALL 188.869 to the Directorate of Governmental Services.

6. Defendant HEKURAN ISAI is found guilty of the criminal offense of “abuse of power in complicity” resulting in violation of fundamental freedoms and rights of citizens, and pursuant to articles 106, 13, 31/b, 31/d of the Criminal Code is sentenced to 4 (four) years of imprisonment.

This defendant is found guilty of the criminal offense of “violation of the equality of citizens in complicity”, and pursuant to articles 107, 13, 31/b and 31/d of the Criminal Code is sentenced to 3 (three) years of imprisonment.

Finally, based on the unification of sentences pursuant to article 35 of the Criminal Code, the defendant Hekuran Isai is sentenced to 5 (five) years of imprisonment, with the sentence being served from 28.9.1991.

Obligation of this defendant to pay the amount of ALL 413.082 to the Directorate of Governmental Services.

7. Defendant ARANIT ÇELA is found guilty of the criminal offense of “abuse of power in complicity” resulting in violation of fundamental freedoms and rights of citizens, and pursuant to articles 106, 13, 31/b, 31/d of the Criminal Code is sentenced to 7 (eight) years of imprisonment, with the sentence being served from 8.1.1993

8. Defendant ZYLYFTAR RAMIZI is found guilty of the criminal offense of “abuse of power” detrimental to the lives of some persons and pursuant to article 106 of the Criminal Code is sentenced to 6 (six) years of imprisonment with the sentence being served from 18.10.1993.

9. Defendant RRAPI MINO is found guilty of the criminal offense of “abuse of power in complicity” resulting in violation of fundamental freedoms and rights of citizens, and pursuant to articles 106, 13, 31/b, and 31/d of the Criminal Code is sentenced to 4 (four) years of imprisonment, with the sentence being served from 18.10.1993

10. Defendant VEIZ HADËRI is found guilty of the criminal offense of “abuse of power” and pursuant to article 106 of the Criminal Code is sentenced to 3 (three) years of imprisonment with the sentence being served from 31.12.1993.

An appeal or protest can be made against the decision at the Court of Appeals within 5 days, starting three days following the decision issuance.

Announced this day of 2.7.1994.

SECRETARY

Entela Haxhiaj
(Signature)

JUDGE

Andi Çeliku
(Signature)

APPEALS AGAINST THE DECISION

An appeal was filed against this decision and the acts were sent for review to Tirana Court of Appeal, which through Decision No. 378, dated 5.9.1994,

DECIDED

1. Upholding court decision no. 505, dated 2.7.1994, of the Tirana District Court for the defendant Adil Çarçani, Manush Myftiu, Hekuran Isai, Simon Stefani, Rapi Mino, Zylyftar Ramizi and Veiz Hadëri.

2. Upholding court decision no. 505, dated 2.7.1994 of the Tirana District Court concerning the legal definition, guilt and sentence for the charge stipulated by article 106 of the Criminal Code for the president Ramiz Alia.

Upholding this decision, legal definition, guilt concerning the criminal offense of “violation of the equality of citizens” changing the sentence for the defendant Ramiz Alia from 5 (five) to 2 (two) years of imprisonment.

Finally, based on the unification of sentences pursuant to article 35 of the Criminal Code, the defendant Ramiz Alia is sentenced to 8 (nine) years of imprisonment.

The sentence commences on 12.9.1992.

3. Upholding decision no. 505, dated 2.7.1994 of the Tirana District Court concerning the legal definition, guilt and sentence for the charge stipulated by article 107-13 of the Criminal Code for the defendant Rita Marko.

Upholding court decision on legal definition and guilt concerning the criminal offense of “abuse of power in complicity” resulting in the violation of freedoms and rights of citizens pursuant to articles 106-13, 31/b and d of the Criminal Code, thus changing the sentence from 7 to 6 years of imprisonment.

Finally, based on the unification of sentences pursuant to article 3 of the Criminal Code, the defendant Rita Marko is sentenced to 6 (six) years of imprisonment. The sentence commences on 4.12.1991.

4. Upholding court decision no. 505, dated 2.7.1994 of Tirana District Court on legal definition and guilt concerning the criminal offense of “abuse of power in complicity” resulting in the violation of fundamental rights of citizens pursuant to articles 106-13, 31/b and d of the Criminal Code, thus changing the sentence, ultimately sentencing the defendant Aranit Çela to 5 (five) years of imprisonment. The sentence commences on 8.1.1993.

5. Upholding Decision No. 505, dated 2.7.1994, of the Tirana District Court concerning the civil lawsuit.

COURT CHIEF SECRETARY

Flutura Kadiu

(Signature)

An appeal was filed against this decision and the acts were sent for review to Tirana Court of Cassation, which through Decision No. 208, dated 30.11.1994,

DECIDED

a) Upholding Decision of the Tirana Court of Appeal No. 378, dated 17.9.1994, related to the guilt and qualification of offenses for which the defendants were found guilty.

b) Change of the sentences for the following defendants:

1. Ramiz Alia, pursuant to article 106, 31/b, d of the Criminal Code, is sentenced to 4 years of imprisonment. Pursuant to article 107, 31/b, d of the Criminal Code, he is sentenced to 2 years of imprisonment.

Based on the unification of sentences pursuant to article 35 of the Criminal Code, he is sentenced to 5 years of imprisonment.

2. Rita Marko, pursuant to article 106, 31/b, d of the Criminal Code, is sentenced to 5 years of imprisonment.

For the criminal offense provided for in article 107, 31/b, d of the Criminal Code, she is sentenced to 2 years of imprisonment.

Based on the unification of sentences pursuant to article 35 of the Criminal Code, he is sentenced to 5 (five) years of imprisonment.

3. Simon Stefani, pursuant to article 106, 31/b, d of the Criminal Code, is sentenced to 5 years of imprisonment.

For the criminal offense provided for in article 107, 31/b, d of the Criminal Code, she is sentenced to 2 years of imprisonment.

Finally, based on the unification of sentences pursuant to article 35 of the Criminal Code, he is sentenced to 6 (six) years of imprisonment.

4. Hekuran Isai, pursuant to article 106/b, 31/b, d of the Criminal Code, is sentenced to 3 years of imprisonment.

For the criminal offense provided for in article 107, 31/b, d of the Criminal Code, she is sentenced to 2 years of imprisonment.

Finally, based on the unification of sentences pursuant to article 35 of the Criminal Code, he is sentenced to 4 (four) years of imprisonment.

5. Aranit Çela, pursuant to article 106, 31/b, d of the Criminal Code, is sentenced to 4 years of imprisonment.

6. Rrapi Mino, pursuant to article 106, 31/b, d of the Criminal Code, is sentenced to 3 (three) years of imprisonment.

7. Zylyftar Ramizi, based on the unification of sentences pursuant to article 106 of the Criminal Code, he is sentenced to 5 (five) years of imprisonment.

8. Veiz Hadëri, based on the unification of sentences pursuant to article 106 of the Criminal Code, he is sentenced to 2 (two) years of imprisonment.

Upholding decision of the Tirana Court of Appeal on the sentence for the defendant Adil Çarçani and Manush Myftiu.

Upholding decision concerning the civil lawsuit.

Tirana, on 6.12.1994

COURT CHIEF SECRETARY
Flutura Kadiu
(Signature)

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Decision No.414
against the defendants:

Haxhi Lleshi
Zylyftar Ramizi
Aranit Çela
Rrapi Mino
Manush Myftiu

SUMMARY SHEET

Title of the Decision	Decision No. 414, Act No. 449, dated 24.05.1996
Trial panel	Chairperson of the session: Luan Daci Members of the trial panel: Adelina Berati, Shaqir Hasani
Session	24.05.1996
Defendants (5)	Haxhi Lleshi, Zylyftar Ramizi, Aranit Çela, Rrapi Mino, Manush Myftiu
Attorneys (4)	Kujtim Puto, Nasip Naço, Riza Icka, Jani Koçi
Charges	Abuse of power and Crimes against humanity
Reasoning	The internment and expulsion were made for political, ideological and religious motives only. This activity was permanent, consistent and not spontaneous or episodic with the aim of implementing the strategy on persecuting those people. This activity is in contradiction to the international conventions “on crimes against humanity”, sources of criminal law recognized, approved and adhered to by the Albanian state of that time, the state where such defendants were heads of different bodies or officials.
Aggravating circumstances	These decisions have consequences on the development of children, pregnant women and elderly when they are interned as a family.
Mitigating circumstances	The relatively old age of defendants
Decisions made	Case dismissal for the defendants Aranit Çela, Rrapi Mino and Zylyftar Ramizi for the criminal offense of “Genocide”. Declaration of defendants guilty of the criminal offense of “crimes against humanity” committed in complicity.
Sentences	Death sentence (A.Çela, Rr.Mino, Z. Ramizi) and life imprisonment (H. Lleshi and Manush Myftiu)
Appeals against this decision	1. At the Tirana Court of Appeal, which through Decision No. 526, dated 24.7.1996, has decided: Zylyftar Ramizi – life imprisonment Aranit Çela, Rrapi Mino – 25 years imprisonment Haxhi Lleshi, Manush Myftiu – sentenced to 5 years on bail, on probation. Their immediate release was ordered. (Tirana, on 12.9.1996) 2. A recourse has been filed against the Tirana Court of Appeals and the acts were submitted to the Court of Cassation, and a decision on the release of 5 defendants was made. (Tirana, on 28.01.1999)

REPUBLIC OF ALBANIA
TIRANA DISTRICT COURT

ACT NO. 449 DECISION NO. 414

DECISION
“IN THE NAME OF THE PEOPLE”

The Tirana District Court composed of:

Chairperson of the session Luan Daci

Member Adelina Berati

Member Shaqir Hasani

assisted by the secretaries Hajrie Axhani and Afërdita Kapoli this day of 24.05.1996, in an open-door session, reviewed at the hearing the criminal matter concerning:

DEFENDANTS: 1. HAXHI LLESHI, the son of Halil and Xhibe, born in 1913, in Dibra, resident in Tirana, married with three children, graduate, Albanian nationality and citizenship, old-age pensioner, unconvicted, under house arrest, with no guard, represented and defended by the attorney Kujtim Puto, with power of attorney. 2. ZYLYFTAR RAMIZI, the son of Qazim and Xhevo, born in 1934, born in Aranitas, Mallakastra, resident in Tirana, graduate, teacher, married with children, sentenced and serving the sentence for the crime of “abuse of power”, defended by the attorney Nasip Naço.

CHARGED WITH: “Crimes against humanity”.

Legal framework: Articles 74, 67, 25 of the Criminal Code.

3. ARANIT ÇELA, the son of Hysen and Emine, born in 1923, in Vlora, resident in Tirana, “L. Gurakuqi” St., P. 2, Apt. 17, married with children, retired, with Albanian nationality and citizenship, convicted and completed sentencing for the offense of “Abuse of power” No. 106 of the Criminal Code, 4 years of imprisonment, currently being held at Prison 313 in Tirana.

4. RRAPI MINO, the son of Jovan and Sofie, born in 1934, in Lushnja, resident in Tirana, “Dëshmorët e Rilindjes” St., Building 2/3, married with two children, higher education, occupation attorney, sentenced to three years of imprisonment for the criminal offense of “Abuse of power”, Albanian nationality and citizenship, held at Prison 313 in Tirana, defended by attorney Riza Icka.

5. MANUSH MYFTIU, the son of Hajdar, born in 1919, born in Vlora, resident in Tirana, higher education, occupation medical doctor, previously convicted for the criminal offense of “Abuse of power”, sentenced to 5 years (conditional), represented by attorney Luan Beri, with proxy by assistant attorney Jani Koçi.

CHARGED WITH: “Crimes against humanity” and “Genocide”. Legal framework: Articles 74, 73, 67, 25 of the Criminal Code

In the presence of prosecutor Arjan Sulstafa, at Tirana Factual Court Prosecution Office, who after:

- a) Verifying the presence of the party, Article 348 of the Criminal Procedure Code.
- b) The decision of adjudication in absentia of defendants H. Lleshi and M. Myftiu, pursuant to Article 352/1 of the Criminal Procedure Code.
- c) Receiving and dismissing the initial requests according to Article 354, paragraphs 1 and 3 of the Criminal Procedure Code.

d) Announcing the commencement of judicial review, Article 355 of the Criminal Procedure Code.

f) The introduction, request for evidence of the parties and the issuance of decision on the above, according to Articles 356-357/1,2 of the Criminal Procedure Code.

g) Statements of defendants according to Article 358 of the Criminal Procedure Code. As per the above, requested:

The cessation of adjudication of the three defendants A. Çela, M. Myftiu and Rrapi Mino for the criminal offense of “Genocide”, as provided for under Article 387/1 of the Criminal Code, an offense foreseen under Article 73 of the Criminal Code.

Defendant HAXHI LLESHI is found guilty of the criminal offense of “crimes against humanity” committed in complicity with the other four defendants, an offense provided for in articles 74–67–25 of the Criminal Code and he is sentenced to life imprisonment pursuant to articles 33 and 74 of the Criminal Code.

Defendant ARANIT ÇELA is found guilty of the criminal offense of “crimes against humanity” committed in complicity with the other defendants, an offense provided for in articles 74–67–25 of the Criminal Code and he is sentenced to life imprisonment pursuant to articles 33 and 74 of the Criminal Code.

Defendant ZYLYFTAR RAMIZI is found guilty of the criminal offense of “crimes against humanity” committed in complicity with the other defendants, an offense provided for in articles 74–67–25 of the Criminal Code and he is sentenced to life imprisonment pursuant to articles 74 and 33 of the Criminal Code.

Defendant RRAPI MINO is found guilty of the criminal offense of “crimes against humanity” committed in complicity with the other defendants, an offense provided for in articles 74–67–25 of the Criminal Code and he is sentenced to 25 years of imprisonment pursuant articles 32 and 74 of the Criminal Code.

Defendant MANUSH MYFTIU is found guilty of the criminal offense of “crimes against humanity” committed in complicity, an offense provided for in articles 74–67–25 of the Criminal Code and he is sentenced to life imprisonment pursuant to articles 33–74 of the Criminal Code.

After listening to the defense and the final statement of the defendants pleading not guilty, Haxhi Lleshi and Manush Myftiu, the cessation of adjudication from the other three defendants A. Çela, Rr. Mino and Z. Ramizi, pursuant to Article 387/1 of the Criminal Procedure Code.

FOUND

Following the lawsuit filed with the Prosecution body at the competent Tirana District Court by the “National Forum of Albanian Intellectuals”, dated 8.11.1995, Criminal Proceeding No. 651 regarding the charges against defendants H. Lleshi, accused of the criminal offense of “Crimes against humanity” committed in complicity with defendant Manush Myftiu, Rrapi Mino, Aranit Çela and Zylyftar Ramizi was initiated and recorded, pursuant to Article 25 of the Criminal Code.

Manush Myftiu, accused of the criminal offense of “Genocide and crimes against humanity” committed in complicity with defendants Haxhi Lleshi, Rrapi Mino, Aranit Çela and Zylyftar Ramizi, offenses foreseen under Articles 73–74–25–67 of the Criminal Code.

Defendant Aranit Çela, charged with the criminal offense of “Genocide and crimes against humanity” committed in complicity with the defendants Haxhi Lleshi, Manush Myftiu, Rrapi Mino and Zylyftar Ramizi, offenses provided for in articles 73–74–67–25 of the Criminal Code.

Defendant Rrapi Mino, charged with the criminal offense of “Genocide and crimes against humanity” committed in complicity with the defendants H. Lleshi, M. Myftiu, A. Çela and Z. Ramizi, offenses provided for in articles 74–67–25 of the Criminal Code.

Defendant Zylyftar Ramizi, charged with the criminal offense of “Genocide and crimes against humanity” committed in complicity with the defendants Rr. Mino, A. Çela, H. Lleshi and M. Myftiu, offenses provided for in articles 74–67–25 of the Criminal Code.

Based on the judicial review, pursuant to Article 355 and thereafter of the Criminal Procedure Code, it was found and proven that the defendants charged in this criminal trial, at different periods of time from 1954 to 1990, held high state official positions during 1954-1990, a period subject to the adjudication, and were also members of political forums at the time, specifically:

Defendant Haxhi Lleshi was appointed Chair of the People’s Assembly Presidium, with full state Chair attributes from 1954 until 1982. Additionally, he was a member of the People’s Assembly during the same period until 1992.

Defendant Manush Myftiu, was appointed as Deputy Chair of the Council of Ministers for a long time, Secretary of the Central Committee of the Party of Labor of Albania, leading and covering ideological issues, First Secretary of Tirana Labor Party Committee, member of the People’s Assembly for several terms.

Defendant Aranit Çela held the position of the Supreme Court Chair, with two separate interruptions, during which period (subject of the adjudication) he was appointed General Prosecutor of the Albanian state, as well as member of the Central Committee of the Party of Labor of Albania for an extended period of time.

Defendant Zylyftar Ramizi was appointed Deputy Minister of Interior for a long period until 1990 and was a member of PLA CC.

Defendant Rrapi Mino acted as the General Prosecutor of the Albanian state during 1977-1986.

From the acts and statements of the defendants themselves, which were considered and analyzed as evidence during the trial conducted pursuant to Articles 36-367 of the Criminal Procedure Code, it was found that H. Lleshi, appointed as Head of State, had signed and ordered the mass application of internment and exile in Albania as administrative measures, without a court decision and not issued as complementary punishments by the court. The signed acts were classified as decrees, respectively of 1954, 1960 and 1979, no. 1906, dated 2.8.1954, no. 3027, dated 12.1.1960 “On Internment and Exile as Administrative Measures”, no. 5912, dated 26.6.1979 “On Internment and Exile as Administrative Measures”, acts and orders that led to the establishment of a so-called Internment and Exile Central Committee, which operated during the period under review with the complicit participation of the three defendants, Manush Myftiu, Rrapi Mino and Aranit Çela, in complicity with defendant Zylyftar Ramizi, as the political filter of the persons or families to be interned or exiled, who, as shown during the trial for thousands of cases, were interned and exiled for political, ideological and religious motives, which are foreseen under Article 74 as crimes against humanity, a provision that also defines timeframes as established under the Criminal Code, adopted by special Law No. 7895, dated 27.2.1995 by the current democratic parliament.

Such “normative” acts bearing the authority of the law and signed by the former Head of State, namely by defendant Haxhi Lleshi, as shown during the trial, were blatantly unlawful, violating the adopted Article 56. Defendant Haxhi Lleshi, at the time a member of the People’s Assembly, was fully aware of the legal provisions in question.

The three decrees, included as evidence in the file, were unlawful and unconstitutional with regard to Article 56 of the Fundamental Law, i.e. the Statute of the Republic, which governs the legislative balance of a country, and in the case at hand, of the Albanian state, which was headed by defendant Haxhi Lleshi for a period of time.

The statute requires precise observance by all citizens, at both state and civil levels. Article 12 of the 1976 Constitution explicitly provides that:

“... The precise and uniform observance of the Constitution and laws shall be compulsory throughout the activity of state bodies and employees.”

In reference to that provision and the legitimacy or lack thereof of the three signed acts that resulted in criminal consequences due to the mass internment and exile of a large number of Albanian citizens during the period that the three decrees were not abrogated, defendant Haxhi Lleshi stands accused of and is hereby required to answer for their unlawfulness, and the danger they pose to society, considering that such relations are provided for and governed by the current Criminal Code under Article 74 thereof, with defined timeframes, and such acts are deemed by the court as punishable; thus, defendant Haxhi Lleshi, although with technical experience and capable staff, and power to implement the Fundamental Law of the state, has exhausted and fully committed the criminal offense of “Crimes against humanity”, leading to the mass internment-exile or property seizure of Albanian citizens, who were interned and exiled for political, ideological and religious motives and to realize the ideological strategy of oppressing such class or groups of people, as shown during the trial by way of the evidence that the parties did not deny, through the deprivation of freedoms granted to the victims in this process by the Constitution, as the fundamental law at the time.

It has been explicitly clarified and interpreted according to the 1976 Constitution under Article 56 that the three “acts” signed and ordered by defendant Haxhi Lleshi, included as evidence in the case file, were unlawful. The Constitution provides as follows:

“No one can be interned or exiled, except as provided for by the Law.” The specific law referenced in Article 56 of the Constitution pertained to Articles 17, 26, 27 of the Criminal Code at the time, a law that governed this relation, explaining and explicitly stating that internment and exile were complementary punishments to be issued by the court against a convict, not against a free citizen or a person not convicted by the court as a dangerous individual. Specifically, in Article 17 of the Criminal Procedure at the time, the Central Committee in power for decades explicitly provided that: “the internment and exile measures shall be issued by the court as complementary punishments against persons that have committed criminal offenses.” Based on the judicial investigation, including the statements of witnesses Skënder Haluci, Rajmond Çako, Zare Hoxha, Muhamet Prodani, Kristo Budo etc., it resulted that the internment and exile orders for such individuals and their families were signed, ordered and effectively executed by way of acts signed by the four defendants, M. Myftiu, Rr. Mino, A. Çela and Zylyftar Ramizi, not by a court decision but through administrative means in complicity, i.e. upon the proposal of the Ministry of Interior through defendant Zylyftar Ramizi.

During the judicial investigation, based on the evidence submitted during trial, it was shown that a large number of Albanian citizens were interned to different geographical areas, in difficult living conditions and ostracized from other free Albanian citizens; they were denied an education and contact, be it with nearby citizens or their relatives interned or exiled, or displaced to other remote areas.

Moreover, during the judicial investigation, it was demonstrated that the criminal activity of defendants Haxhi Lleshi, Manush Myftiu, Aranit Çela, Zylyftar Ramizi and Rrapi

Mino was permanent, consecutive and by no means spontaneous or episodic, in an effort to realize the strategy of persecuting such people categorized en masse by the state ideology at the time, as executed by the defendants, as “declassed”, “kulaks”, “party adversaries”, etc., and they had to be interned, exiled and excluded from the civil life and deprived of their rights as citizens, formally granted by the fundamental statute of the state at the time.

Based on the evidence reviewed during trial, such as witness statements, as well as based on the defendants’ statements, the latter had ordered in complicity the mass internment and exile of individuals and families, comprising a large number of citizens who, as confirmed by witness Shefqet Prespa, called in by the court “mainly” upon the request of the defendants:

“Due to the job position at the Archive of the Ministry of Interior, as well as based on a case by case review of all documents kept at the Ministry, the number of those interned and punished for political, ideological or religious motives, ordered and executed in complicity by the defendants present in trial at different periods of time under review in this process, was progressive and grows increasingly larger.”

The court, in confirming the fulfillment of the condition set under Article 74 of the Criminal Code regarding the completion of the crime figure by the five defendants, charged with “crimes against humanity”, was based on the pleas of the defendants Aranit Çela and Zylyftar Ramizi during trial, who emphasized that:

“The motives for the internment and exile we carried out at the time were fundamentally political, in the framework of the class war and guaranteeing our political rule over that group, part of the Albanian people and citizens.”

The key and ironic element in the process regarding the demagogic and social politics of the state at the time comprised the statement of defendant Zylyftar Ramizi:

“In many cases, the internment and exile during the last years of the last citizens were also carried out for the purpose of seizing the dwellings granted by the state to this social and political group and to transfer them to those in support of the political party.”

As per the above, the court holds that the criminal activity of defendants Aranit Çela, Rrapi Mino, Zylyftar Ramizi, Manush Myftiu and Haxhi Lleshi regarding the criminal offense of “Crimes against humanity”, as foreseen under Articles 74-25 of the Criminal Code, was by no means random or during specific political crises affecting the country, but it was ideated and executed willingly by the defendants to serve the purpose of politically degrading that group of Albanian citizens, etc. This is precisely the relation that was infringed upon and violated by the defendants’ criminal activity in complicity, and by the mass internment and exile ordered and executed by them, for which they have to bear responsibility pursuant to Article 12 of the Constitution at the time. Therefore, they should be held accountable for their illegal activity, for having violated Article 56 of the Constitution, resulting in the criminal consequence of mass internment and exile.

The constitutional provision in question requires them to be legally prosecuted as heads of state bodies or state employees at the time, who had to “precisely” and uniformly observe the Constitution, specifically the laws governing such criminal relations, namely Articles 17, 26, 27 of the Criminal Code at the time, and not to apply, order and execute internment and exile as administrative measures, i.e. their joint activity in complicity during the period under review is unlawful, defined by the Code as a criminal offense that poses serious danger to society, and it is effectively punishable (specifically Articles 74, 25 and 67 of the Criminal Code, which govern this relation).

This activity is in contradiction to the international conventions “on crimes against humanity”, sources of criminal law recognized, approved and adhered to by the Albanian

state of that time, the state where such defendants were heads of different bodies or officials.

As per the above, based on the evidence reviewed during trial, it was shown that defendants H. Leshi, M. Myftiu, Rr. Mini, A. Çela and Z. Ramizi, in complicity according to Article 25 of the Criminal Code, in agreement based on the aim of carrying out their criminal activity of internment and exiling Albanian citizens for political motives through “administrative means”, it resulted that they have committed all four elements required by the figure of a criminal offense, such as the one they stand accused of:

“Crimes against humanity”, pursuant to Articles 74 and 25 of the Criminal Code.

The 5 defendants present before the court for adjudication have committed this criminal activity and have to answer for all of the acts they ordered, signed and executed; specifically, defendant Haxhi Lleshi, by way of three “normative” acts, ordered internment and exile as administrative measures. Defendants M. Myftiu, A. Çela and Rrapi Mino, who ordered internment and exile, and defendant Zylyftar Ramizi, who drafted and ordered the internment and exile of Albanian citizens through administrative means.

Defendant Haxhi Lleshi is held responsible before the law as the normative decrees issued by him were not submitted for approval by the People’s Assembly, thus violating the legal obligations and responsibilities under Article 78 of the Constitution regarding the state function position of the defendant.

The subjective aspect pertaining to the guilt and psychological state of the defendants when committing the criminal offense was fully proven during trial, regarding the fact that the aims and motives were deeply political and they incited the defendants to willingly and permanently commit the criminal offense.

The scope of their activity involved the internment and exile stated and demonstrated during the trial from the submitted and obtained evidence, both in favor of the prosecution body, as well as other parties, which were procedurally analyzed and found as follows:

- Decisions no. 5, 6, 9, 10 respectively dated 23.4.1982, 21.5.1982, 7.9.1982, 2.8.1982 or the proposal for internment dated 30.12.1983.

The objective aspect of the criminal offense consists in the causal relation demonstrated between the cause, i.e. the acts issued and signed by defendant Haxhi Lleshi, decisions involving the order of the so-called Internment-Exile Committee, signed by defendants Manush Myftiu, Rrapi Mino and Aranit Çela, and proposed by the other defendant, Zylyftar Ramizi, on the one hand; and the consequence of the crime resulting from the stated cause, i.e. the internment and exile of an increasing number of Albanian citizens for political, ideological and religious motives, on the other.

The criminal offense was committed in complicity by the five defendants, Haxhi Lleshi, Manush Myftiu, Aranit Çela, Rrapi Mino and Zylyftar Ramizi, according to Article 25 of the Criminal Code, complicity which was demonstrated by the statements of the defendants themselves, who testified and showed that during the time of their correspondence they were aware of what they would be doing, the consequence and observations that any of the defendants had in their anti-constitutional activity.

In order to come to such conclusion, i.e. the agreement of the defendants to commit the criminal offense, the court took into account and reviewed as evidence the statement of defendant Aranit Çela during trial, specifically:

“Although I was insistent on drafting, designing and approving Article 56 of the 1976 Constitution, as I was part of the working group, both I and my other comrades were actually opposed to carrying on with the internment and exile ordered by the Central Committee and we were opposed to proceeding with the criminal activity of internment and

exile, as I understand that the Internment-Exile Committee was anti-constitutional and had criminal consequences for a particular group of Albanian citizens.”

The defendant in question was aware that the internment and exile was a criminal section and was governed by the criminal law at the time, to be ordered by the court against persons convicted by it. As per the above, the court holds that the criminal offense was committed in complicity by the defendants and the agreement was carried out through the cyclic relationship that involved the “issuance of the normative act”, “appointment of Central Committee members” and political filtering of those interned, a filter under the direction of defendant Zylyftar Ramizi, demonstrated during trial by way of written evidence and statements of the defendants (proposal reports) presented by him before defendants Aranit Çela, Rrapi Mino and Manush Myftiu.

The court also reviewed and analyzed the evidence in favor of the defense of defendants Aranit Çela, Rrapi Mino and Zylyftar Ramizi and their claims through which they requested the cessation of case adjudication pursuant to Article 2 of the Criminal Code, claiming that: “No one shall be criminally punished for an offence, which is not already explicitly provided for by law as a crime or a criminal contravention.”

Regarding such claim, the court, in reference to Article 74 of the Criminal Code, which categorizes internment and exile as “crimes against humanity”, and Article 67 thereof defining that the statute of limitations shall not apply to such crimes, hereby rejects it.

Moreover, the court also analyzed and reviewed the other claim presented by the defendants that: “In the review during the criminal process, according to them, the factual court is once again dealing with a previously adjudicated case.”

In order to conduct an objective analysis and deliver justice, as also stated in the final decision, the court conducted an analytical and legal review of the evidence obtained upon request of the defendants and attorneys thereof, namely Decision No. 05, dated 21.05.1994, Decision No. 378, dated 5.9.1994, and Decision No. 208, dated 30.11.1994 of the Albanian judicial system courts. Reviewing and analyzing such evidence, the court holds that the claim of the defendant and their defense should be rejected on the grounds of lacking evidence, as the decisions included in the case file demonstrate that the defendants were judged and punished pursuant to Articles 106 and 13 of the Criminal Code at the time, while presently they are being prosecuted and judged by the competent court in Tirana for a different criminal offense provided for by the law, adopted by the Democratic Parliament, namely Articles 74 and 25 of the Criminal Code and, specifically, they stand accused of “Crimes against humanity”, with the aforementioned provision deeming such relations, such as “Internment and exile for political, ideological and religious motives”, criminal, with the court designating them as such through evidence.

Based on Decision No. 505 and thereafter of the judicial system cycle reviewed during trial, it is finally demonstrated as follows:

The defendants have never been adjudicated for crimes against humanity. Moreover, the court mainly took into consideration the evidence in favor of defendant Haxhi Lleshi upon the request of his legal representative and is analyzing them presently in reference to the defense or the charge subject, such as the statements of Kurt Zefi.

Through their statements, they wished to confirm the political and moral standing of the defendant during the period of activity outside of the charge scope, which the court deems invalid and irrelevant to the charge scope.

Actually, when asking witness Kurt Zefi whether he was aware of any internment or exile for political reasons in Albania, he explained and elaborated that “it is true that there have been such cases and recently they have been quite prevalent”.

Furthermore, he also testified that defendant Haxhi Lleshi had assisted certain people by revoking their internment-exile or saving them from imprisonment. This shows that the defendant possessed potential legal or operational and daily competence to abrogate such anti-constitutional acts or to eliminate the criminal consequences thereof. However, this evidence demonstrates to the court that the governance of the country, which defendant Haxhi Lleshi was part of, was carried out in accordance with the feudal principle of Louis XIV “I am the state”.

Additionally, based on the evidence presented by both parties, the court holds that the claim of defendant Haxhi Lleshi should also be rejected, as he had stated that “I have acted in accordance with the law at the time”, interpreting Article 56 of the 1976 Constitution in favor of his defense to reject the claim of the prosecution regarding the anti-constitutionality of the three normative acts signed and issued by said defendant.

We wish to once more emphasize that the unlawfulness of the criminal activities of defendant Haxhi Lleshi has already been demonstrated by way of the other acts in the case file and the statements of defendants Aranit Çela, Zylyftar Ramizi, and charges based on Articles 17, 26, 27 of the Criminal Code at the time and Articles 12 and 56 of the 1976 Constitution. The criminal activity under adjudication is punishable as it violates the relations governed by the criminal legislation, namely Articles 74, 25 and 64 of the new Criminal Code, as defined in the respective provisions. Moreover, the criminal activity is dangerous, as it infringes on the relations regarding the rights granted by the fundamental statute of the country under Article 56 of the Constitution.

The designation as punishable denotes the punishability of the violation of the Constitution as provided for in Article 12 thereof, which requires that defendant Haxhi Lleshi be held personally responsible before the law.

Based on the review of evidence and reliability of the grounds of the charges of crimes against humanity for all 5 defendants H. Lleshi, M. Myftiu, Z. Ramizi, A. Çela and Rr. Mino, such as the “normative” acts signed by defendant Haxhi Lleshi, and the decisions and proposal reports signed by the other 4 defendants, the court holds that they were unlawful and have resulted in criminal consequences, i.e. internment and exile for political, ideological and religious motives.

With respect to the above, the court, upon reviewing the evidence submitted during trial, holds that the 5 defendants H. Lleshi, M. Myftiu, A. Çela, Z. Ramizi and Rr. Mino have fully committed the criminal offense of “Crimes against humanity” in complicity, an offense defined under Articles 74-67-25 of the Criminal Code, and should therefore be punished.

Regarding the type and measure of punishment, the court took into account the serious danger to society posed by the offense and the grave consequences for the life and development of thousands of Albanian citizens interned and exiled. It also recognizes that the criminal offense was committed with intent for political, ideological and religious motives.

As an aggravating circumstance, it references Article 50, subparagraphs “c” and “gj” and the complicity in committing the offense, as well as the resulting consequences for the development of children, pregnant women and the elderly when interned as a family.

The court also acknowledges the denial of charges by the defendants; whereas, the mitigating circumstance consists in the relatively old age of the defendants according to Article 48 of the Criminal Code.

The court deems just the request of the prosecutor during the trial’s final conclusion to cease the adjudication against defendants Aranit Çela, Rrapi Mino and Zylyftar Ramizi

for the criminal offense of “Genocide”, due to the withdrawal and evidence submitted in accordance with Article 387 of the Criminal Procedure Code.

The above was concluded on and adjudicated by way of the complete evidence submitted during trial and

T H E R E F O R E

Pursuant to Article 384 of the Criminal Code

D E C I D E D

- To cease adjudication for the criminal offense of “Genocide” pursuant to Article 387/1 of the Criminal Procedure Code, against defendants Aranit Çela, Rrapi Mino and Zylyftar Ramizi, an offense defined under Article 73 of the Criminal Code because the criminal prosecution should not have commenced in the first place.

- Defendant HAXHI LLESHI is found guilty of the criminal offense of “Crimes against humanity” committed in complicity with the other defendants Aranit Çela, Rrapi Mino, Manush Myftiu, and Zylyftar Ramizi, as an offense provided for in articles 74–67–25 of the Criminal Code and he is sentenced to life imprisonment pursuant to articles 29/1, 31/1 and 74 of the Criminal Code.

Pursuant to Article 260/4 of the Criminal Procedure Code, it replaces the security measure against defendant Haxhi Lleshi from house arrest without guards to imprisonment in Prison No. 313 in Tirana, in isolation.

Pursuant to the decision on the replacement of the security measure, the Judicial Police shall forthwith be charged with its implementation upon its announcement.

- Defendant MANUSH MYFTIU is found guilty of the criminal offense of “crimes against humanity” committed in complicity with the other defendants Aranit Çela, Rrapi Mino, Zylyftar Ramizi and Haxhi Lleshi and he is sentenced to life imprisonment pursuant to articles 29/1, 31/1 and 74 of the Criminal Code.

Pursuant to Article 260/4 of the Criminal Procedure Code, it replaces the security measure against defendant Manush Myftiu from house arrest without guards to imprisonment in Prison No. 313 in Tirana, in isolation.

Pursuant to the decision on the replacement of the security measure against defendant Manush Myftiu, the Judicial Police shall forthwith be charged with its implementation upon its announcement.

- Defendant ARANIT ÇELA is found guilty of the criminal offense of “crimes against humanity” committed in complicity with the other defendants Haxhi Lleshi, Manush Myftiu, Rrapi Mino and Zylyftar Ramiz, as an offense provided for in articles 74–67–25 of the Criminal Code and he is sentenced to death penalty pursuant to articles 29/1, 31/1 and 74 of the Criminal Code.

- Defendant RRAPI MINO is found guilty of the criminal offense of “crimes against humanity” committed in complicity with the other defendants Haxhi Lleshi, Manush Myftiu, Aranit Çela and Zylyftar Ramiz, as an offense provided for in articles 74–67–25 of the Criminal Code and he is sentenced to death penalty pursuant to articles 29/1, 31/1 and 74 of the Criminal Code.

- Defendant ZYLYFTAR RAMIZI is found guilty of the criminal offense of “crimes against humanity” committed in complicity with the other defendants Haxhi Lleshi, Manush Myftiu, Rrapi Mino and Aranit Çela, as an offense provided for in articles 74–67–25 of the Criminal Code and he is sentenced to death penalty pursuant to articles 29/1, 31/1 and 74 of the Criminal Code.

- An appeal or contestation can be made against the decision at the Tirana Court of Appeals within 10 days, starting from the next day of the decision issuance.

Announced on this day of 24.5.1996.

SECRETARY
Hajrie Axbani
(Signature)

JUDGE
Luan Daci
(Signature)

APPEALS AGAINST THE DECISION

An appeal was filed against this decision and the acts were sent for review to Tirana Court of Appeals, which through Decision No. 526, dated 24.7.1996, has decided:

- To uphold Decision No. 414, dated 24.5.1996 of Tirana District Court on the legal and guilt definition and cessation of adjudication of the criminal offense of genocide.

- To amend Tirana Court's decision on the types and measures of punishment, by sentencing the defendants as follows:

1. Defendant Zylyftar Ramizi, pursuant to Articles 74, 25, 49 and 50/gj of the Criminal Code, is sentenced to life imprisonment.

2. Defendant Aranit Çela, pursuant to Articles 74, 25, 49 and 50/gj of the Criminal Code, is sentenced to 25 (twenty-five) years of imprisonment.

3. Defendant Rrapi Mino, pursuant to Articles 74, 25, 49 and 50/gj of the Criminal Code, is sentenced to 25 (twenty-five) years of imprisonment.

4. Defendant Manush Myftiu, pursuant to Articles 74, 25, 49, 50/gj, 53 and 59 of the Criminal Code, is sentenced to 5 (five) years of imprisonment, to be served on probation for 5 (five) years.

5. Defendant Haxhi Lleshi, pursuant to Articles 74, 25, 49, 50/gj, 53 and 59 of the Criminal Code, is sentenced to 5 (five) years of imprisonment, to be served on probation for 5 (five) years.

Defendants Manush Myftiu and Haxhi Lleshi are to be released from prison forthwith.

Defendants Aranit Çela, Rrapi Mino will serve their sentence commencing from the date of arrest.

Tirana, on 12.9.1996

COURT CHIEF SECRETARY
Flutura Kadiu
(Signature)

A recourse has been filed against the decision of Tirana Court of Appeals and the acts were submitted to the Court of Cassation, which upon Decision No. 344, dated 29.9.1997 decided:

To repeal Decision No. 414, dated 24.5.1996, of the Tirana District Court and Decision No. 526, dated 24.7.1996 of Tirana Court of Appeals and to cease the adjudication of the criminal case involving defendants Haxhi Lleshi, Manush Myftiu, Aranit Çela, Rrapi Mino and Zylyftar Ramizi for the criminal offense of "Crimes against humanity" as provided for under Articles 74 and 25 of the Criminal Code.

Their release if not in custody for any other criminal offense.

Tirana, on 28.1.1999

COURT CHIEF SECRETARY
Flutura Kadiu
(Signature)

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Decision No. 492
against the defendants:

*Foto Çami
Prokop Murra
Muho Asllani
Gaqo Nesho
Zef Loka
Dilaver Bengasi*

SUMMARY SHEET

Title of the decision Decision No. 492, Act No. 436, dated 20.06.1996

Trial panel	Chairperson of the session: Petrit Kaja
	Members of the session Sofije Shilla, Dritan Broci
Case prosecutor	The prosecution body is represented by Mr. Adnand Xhelili and Mr. Shkëlqim Gani.
Session	20.06. 1996
Defendants (6)	Foto Çami, Prokop Murra, Muho Asllani, Gaço Nesho, Zef Loka, Dilaver Bengasi
Attorneys (9)	Artan Hoxha, Kristaq Ngjela, Ali Metaj and Arben Murra, Luan Beri and Bujar Sheshi, Shefqet Muçi, Fatmir Tartari and Muharrem Kushi
Charges	Criminal offenses of “Genocide” and “Crimes against humanity” committed in complicity
Reasoning	All actions committed by the defendants had political and ideological motives.
	Such actions were in violation of the 1946 and 1976 national Constitutions and international Conventions “On Fundamental Human Rights and Freedoms”, ratified by our state.
	The defendants’ activity of internment and exile is illegal, as the decrees they signed (3 decrees of 1949, 1954 and 1979) were in violation of the 1946 and 1976 Constitutions, as well as of international conventions on fundamental human rights and freedoms signed by our country.
	The internment and exile involved minors, children, women and elderly who had not committed any criminal offense.
Decision	Ceasing adjudication of the case concerning the criminal offense of genocide committed in complicity. (Foto Çami, Prokop Murra, Muho Asllani.)
Reasoning for the decision	In this case, we are not dealing with the implementation of a premeditated plan that seeks to partially or entirely destroy a national, ethnic or religious group, accompanied by actions aimed at causing grave physical and psychological harm, etc.

Trials Against the Communist High-Ranking Nomenclature, 1993-1996 73

Mitigating and aggravating circumstances	The commission of the offense in complicity constitutes an aggravating circumstance as provided for under Article 50/gj of the Criminal Code. Their age, health condition and economic and household status constitute mitigating circumstances.
Sentences	Life imprisonment for Foto Çami, Prokop Murra, Muho Asllani. 16-20 years of imprisonment for the other defendants.
Appeals against this decision	1. At the Tirana Court of Appeals, which through Decision No. 564, dated 12.8.1996, decided: To uphold decision no. 492, dated 20.6.1996 of Tirana District Court regarding the legal and guilt definition for all defendants, as well as for the punishment measures against defendants Gaqo Nesho, Zef Loka and Dilaver Bengasi. To amend the decision pertaining to defendants Prokop Murra, Muho Asllani, Foto Çami as follows: • Prokop Murra shall be sentenced to 20 years of imprisonment. • Muho Asllani shall be sentenced to 18 years of imprisonment. • Foto Çami, pursuant to Articles 74 and 53 of the Criminal Code, shall be sentenced to 5 years of imprisonment and, pursuant to Article 59 of the Criminal Code, shall be sentenced to probation, thus suspending the execution of the decision for 5 years. Defendant Foto Çami, who is present in the room, shall be released forthwith. (Tirana, on 3.9.1996) 2. A recourse has been filed against the decision of Tirana Court of Appeals and the acts were submitted to the Court of Cassation, which upon Decision No. 297, dated 29.9.1997, has decided: To repeal Decision No. 492, dated 20.6.1996, of Tirana District Court. 564, dated 12.8.1996, of Tirana Court of Appeals and to dismiss the criminal case in charge of the defendants Foto Çami, Prokop Murra, Muho Asllani, Gaqo Nesho, Zef Loka, Dilaver Bengasi. Their release if they are not in custody for any other crime. Tirana, on 28.1.1999.

REPUBLIC OF ALBANIA
TIRANA DISTRICT COURT

ACT NO. 436 DECISION NO. 492

DECISION
“IN THE NAME OF THE PEOPLE”

The Tirana District Court composed of the trial panel: Chairperson of the session
Petrit Kaja

Member Sofije Zhilla

Member Dritan Broci

assisted by the court secretaries, Ms. Arlinda Muça and Ms. Mimoza Lleshi, on this day of 20.6.1996, at 10.00 hrs, reviewed in a public trial the criminal case with Act No. 436 and Criminal Proceeding No. 651/1 in charge:

On the criminal offense of “Crimes against humanity” committed in complicity, as provided for under Articles 74-25 pertaining to Article 67 of the Criminal Code, the defendants: Gaqo Nesho, Zef Loka and Dilaver Bengasi.

In conclusion, after the submission of evidence files by the trial parties and upon the final discussion in line with Article 378/1, 3 of the Criminal Procedure Code, which in the conclusions presented to the court requested the following:

- The prosecution body, represented by Mr. Adnand Xhelili and Mr. Shkëlqim Gani, requested:

1. The withdrawal of the charge regarding the criminal offense of genocide, as defined under Article 73 of the Criminal Code, against the defendants:

FOTO ÇAMI, PROKOP MURRA AND MUHO ASLLANI.

2. The finding of defendant FOTO ÇAMI guilty of the criminal offense of “Crimes against humanity”, committed in complicity, as provided for in Articles 74-25 pertaining to Article 67 of the Criminal Code and sentencing him to 25 (twenty-five) years of imprisonment.

3. The finding of defendant PROKOP MURRA guilty of the criminal offense of “Crimes against humanity”, committed in complicity, as provided for in Articles 74-25 pertaining to Article 67 of the Criminal Code and sentencing him to 25 (twenty-five) years of imprisonment.

4. The finding of defendant MUHO ASLLANI guilty of the criminal offense of “Crimes against humanity”, committed in complicity, as provided for in Articles 74-25 pertaining to Article 67 of the Criminal Code and sentencing him to 20 (twenty) years of imprisonment.

5. The finding of defendant GAQO NESHO guilty of the criminal offense of “Crimes against humanity”, committed in complicity, as provided for in Articles 74-25 pertaining to Article 67 of the Criminal Code and sentencing him to 18 (eighteen) years of imprisonment.

6. The finding of defendant ZEF LOKA guilty of the criminal offense of “Crimes against humanity” committed in complicity, as provided for under Articles 74-25 pertaining to Article 67 of the Criminal Code and sentencing him to 18 (eighteen) years of imprisonment.

7. The finding of defendant DILAVER BENGASI guilty of the criminal offense of “Crimes against humanity”, committed in complicity, as provided for in Articles 74-25 pertaining to Article 67 of the Criminal Code and sentencing him to 16 (sixteen) years of imprisonment.

Defense attorneys: Artan Hoxha, Ali Meta e Arben Murra, Luan Behri, Bujar Sheshi, Fatmir Tartari, who in coordination with each other, requested the court to find their clients not guilty, namely:

FOTO ÇAMI, PROKOP MURRA, MUHO ASLLANI, GAQO NESHO, ZEF LOKA

and DILAVER BENGASI for the criminal offense of “Genocide” and “Crimes against humanity” committed in complicity, as provided for under Articles 73, 74-25 pertaining to Article 67 of the Criminal Code.

The defendants FOTO ÇAMI, PROKOP MURRA, MUHO ASLLANI, GAQO

NESHO, ZEF LOKA and DILAVER BENGASI denied the charge and pleaded not guilty in their final plea. After deliberating on the case in its entirety in the council room, without the parties present, the Court

F O U N D

The General Prosecution Office of the Republic of Albania, on 9 November 1995 received Lawsuit No. 1997 filed by the National Forum of Albanian Intellectuals with the aim to accelerate the punishment of crimes against humanity, including genocide, for political and ideological motives, the unlawful and unconstitutional activity conducted by the Communist regime from 1945 to 1991, by way of internment, exile and seizure decree-laws against Albanian citizens, in violation of the legal provisions at the time and fundamental human rights and freedoms, and pursuant to Law No. 7895, dated 27.01.1995, Criminal Code of the Republic of Albania, relevant section, Chapter I, “On Crimes Against Humanity”, Articles 73, 74 and 75 of the Law, filed against 36 individuals, including the 5 defendants: Foto Çami, Prokop Murra, Muho Asllani, Gaqo Nesho and Zef Loka.

As per the above, the General Prosecution Office of the Republic of Albania, on 13.11.1995, pursuant to Article 13 of Law No. 7561, dated 29.4.1992 “On Main Constitutional Provisions”, ordered the Tirana District Prosecution Office to initiate criminal proceedings in line with the provisions of the new Criminal Code and Criminal Procedure Code regarding lawsuit no. 1997 for the criminal offenses of “Genocide” and “Crimes against humanity”, as provided for under Articles 74-25 pertaining to Article 67 of the Criminal Code, by ordering the Tirana District Prosecutor to take measures with respect to the lawsuit. Therefore, Tirana District Prosecution Office, pursuant to Law No. 8001, dated 22.9.1995, “On Genocide and Crimes Against Humanity Committed in Complicity in Albania during the Communist Regime for Political, Ideological and Religious Motives”, Article 1 therein, initiated Criminal Proceeding No. 651, dated 17.11.1995, and following the conclusion of the necessary investigations, filed a request for adjudication with the Court regarding Criminal Proceeding No. 651/1 against the defendants: Foto Çami, Prokop Murra, Muho Asllani, Gaqo Nesho, Zef Loka and Dilaver Bengasi, charged with the criminal offenses of “Genocide” and “Crimes against humanity” committed in complicity, as provided for under Articles 73, 74-25 pertaining to Article 67 of the Criminal Code, in the Letter with Protocol No. 837, dated 27.03.1995.

The judicial investigation of the case and the evidence submitted during trial revealed the following:

For several years and at a relatively similar period, the defendants served as dedicated high party and state officials of the totalitarian Communist regime in different districts of the country, specifically:

- Defendant FOTO ÇAMI pursued higher education at the Faculty of Philosophy

(Marxist-Leninist) in the former Soviet Union. At first, he worked at the CC of the former PLA as an instructor and head of Propaganda Department and as an assistant to the former PLA Secretary for Propaganda at the CC; afterward, in 1976, he was appointed PLA's First Secretary for Kruja District, and in the Fall of 1976 he was appointed First Secretary for Shkodra District. In early 1979, he returned to the PLA CC structure. During 1982-1985, he acted as the First Secretary of the Tirana District Party Committee. In 1986, in the 9th PLA Congress, he was elected member of the Political Bureau and CC Secretary for the Propaganda Department.

- Defendant PROKOP MURRA, First Secretary of Shkodra and Tirana District Party Committee and Minister of Defense.

- Defendant MUHO ASLLANI, at first an instructor in the Shkodra District Party Committee during 1964-1968; in 1974, First Secretary of Mat District Party Committee; in 1975, First Secretary of Kukës District; in 1976-1979, Deputy Minister of Agriculture; in 1979, First Secretary of Shkodra District Party Committee; in 1979-1981, Minister of Agriculture; in early 1982, Instructor for Agriculture at the PLA CC. In May 1982-1986, First Secretary of Durrës District Party Committee; in 1986-1989, Secretary of Shkodra District; in 1989 - 4 July 1990, First Secretary of Durrës District Party Committee.

- Defendant GAQO NESHO, in 1970, First Secretary of Pogradec District Party Committee; in 1973, First Secretary of Berat District Party Committee; in 1979, First Secretary of Vlora District Party Committee; until 1991, Deputy Chair of the Party's Central Committee (Revisionism Control).

- Defendant ZEF LOKA, holding state official positions as Vice Director of Tirana Internal Affairs Directorate in 1976; in 1981, Tirana Internal Affairs Directorate's Director; in 1984, Head of Durrës Internal Affairs Branch; in 1987, Director of the First State Security Directorate at the Ministry of Interior; in 1988-1990, Director of Tirana Internal Affairs Directorate. Dismissed due to the embassy events of 2 July 1990.

- Defendant DILAVER BENGASI, in 1973, acted as Deputy Prosecutor at Tirana District Prosecution Office for investigation purposes; in 1974, he was appointed officer and investigator at Tirana Internal Affairs Directorate and later Head of Crimes in Economy Department; in July 1982, he was appointed Head of Tirana Investigation Office, a position he held until September 1983.

In December 1983, he was appointed Deputy Director of the People's Police at the Ministry of Interior; from January 1985 to 18 July 1990, he acted as Director of the Republic's Police, when he was also released from this duty.

- Thus, the defendants in question, having held high party and state official positions during their service, proposed the internment and exile of numerous citizens in the relevant districts they operated in; specifically, they submitted proposal reports for internment, as follows:

- Defendant FOTO ÇAMI signed the Internment Proposal No. 3232/1, dated 16.10.1992, for citizens:

1. Nedije Hazbiu, born in 1920 (wife of Kadri Hazbiu)
2. Petrit Hazbiu, born in 1954 (son)
3. Agron Hazbiu (son)
4. Eleni Hazbiu (Calloni) - daughter (married)
5. Mimoza Hazbiu (Aranitasi), daughter, born in 1951, a French teacher, proposed to be interned in Kurbnesh-Mirdita, signed by defendants F. Çami, Z. Loka and D. Bengasi.

- Defendant PROKOP MURRA:

Proposal for the internment of the citizen:

1. Bashkim Burgaj, Shkodra, on 21.4.1983

II. Proposal for the internment of the citizen dated 21.4.1980

1. Isufe Fusha, born in 1922

2. Meme Fusha, born in 1930

3. Xhevair Fusha, born in 1917

4. Mehmet Fusha, born in 1960

III. Proposal for the internment of the citizen dated 21.4.1980

1. Lazer Shkurta, born in 1930

2. Prene Shkurta, born in 1923

3. Ruke Shkurta, born in 1893

4. Laze Shkurta, born in 1926

5. Gjovalin Shkurta, born in 1939

6. Lush Shkurta, born in 1961

7. Marije Shkurta, born in 1960

8. Veronika Shkurta, born in 1963

9. Liza Shkurta, born in 1937

IV. Proposal report dated 21.04.1980 for the citizen:

1. Xhemalie Hajdari, born in 1930

2. Ferit Hajdari, born in 1950

3. Agim Hajdari, born in 1958

4. Sededin Hajdari, born in 1962

5. Drita Hajdari

V. Proposal for internment dated 21.04.1980 of the citizens (family of Gjeto Dod

Voci):

1. Liljana Dod Voci, born in 1947 (wife), proposed to be arrested, but not approved because of her two 10-year-old children; interned in Pistull village, Shkodra.

VI. Proposal for internment dated 21.04.1980 of the citizen:

1. Rine Deli Ndoci, born in 1907

2. Dile Ded Miraka, born in 1937

3. Luigji Ded Miraka, born in 1948, to intern them in Pistull village, Shkodra.

VII. Proposal for internment dated 2.9.1982 of the citizen:

1. Ikbale Mjollli (Kodra), born in 1931

2. Pranvera Kodra (daughter), born in 1951

3. Genc Kodra (son), born in 1964

4. Artan Kodra (son), born in

VIII. Proposal for internment no. 1882, dated 2.6.1982, of citizens:

1. Liljana Petraj Ziçishti, born in 1935

2. Juljana Petraj Ziçishti, born in 1963

3. Ermira Petraj Ziçishti, born in

Signed by the defendants P. MURRA, Z. LOKA and D. BENGASI.

IX. Proposal for internment dated 21.4.1980 of the citizen:

1. Pjetër Gjoka

2. Tane Gjoka

X. Proposal for internment no. 3017, dated 29.9.1982, of citizens:

1. Dylbere Ismailaga, born in 1926

2. Fatos Ismailaga, born in 1949

3. Haki Ismailaga, born in 1952,

Signed by the defendants P. MURRA, Z. LOKA, D. BENGASI.

XI. Proposal for internment no. 7684, dated 2.9.1982, of citizens:

1. Ritvan Sokoli, born in 1956
2. Xhemile Toptani, born in 1928
3. Kujtim Sokoli

- The defendant MUHO ASLLANI:

I. Proposal for the internment of citizens:

1. Millo Gllavatoviç, born in 1926
2. Liri Gllavatoviç, born in 1932
3. Bato Gllavatoviç

II. Proposal for internment dated 30.09.1981 of the citizen Bilal Qoku, born in 1933.

III. Proposal for internment dated 30.6.1982 of the citizen:

1. Qerim Haznedari, born in 1937
2. Vjollca Haznedari, born in 1950
3. Luftije Haznedari, born in 1905

IV. Proposal for the internment of the citizen:

1. Malgelina Petraj Ziçishti, born in 1927
2. Petrit Petraj Ziçishti, born in 1955
3. Julja Petraj Ziçishti, born in 1903

V. Proposal for internment on 27.9.1982 of the citizen:

1. Naime Haznedari, born in 1929
2. Hamide Haznedari, born in 1931
3. Vera Haznedari, born in 1954

- Defendant GAQO NESHO:

I. made the proposal for internment no. 256/2, dated 16.10.1981, of citizens:

1. Arben Noka, born in 1962, signed by the defendants GAQO NESHO and ZEF

LOKA.

- Defendant ZEF LOKA:

I. Proposal for internment no. 7684, dated 2.9.1982, of citizens:

1. Ritvan Sokoli
2. Xhemile Toptani (niece of Esat Toptani)
3. Kujtim Sokoli, proposed and signed by defendants Z. LOKA and D.

BENGASI.

II. Proposal report for the internment No. 2684, dated 2.9.1984, of the Kodra family.

III. Proposal report No. 1882, dated 2.06.1982 for the internment of the Ziçishti family in Durrës.

IV. Proposal for internment dated 2.10.1981 of the citizens Mërkur Babameta and Zyra Musta.

V. Proposal for internment no. 3363, dated 2.12.1981, of citizens:

1. Mitrofan Krasneski
2. Donika Krasneski, wife
3. Eduart Krasneski, son
4. Henerik Krasneski, son
5. Eleni Krasneski, daughter

VI. Proposal for internment no. 3017, dated 29.9.1982, of citizens:

Ismailaga.

VII. Proposal for internment no. 3232/1, dated 16.10.1982, of citizens of Hazbiu family.

VIII. Proposal for internment dated 23.1.1978 of the citizen:

1. Lumturie Sulçe, born in 1929
2. Dilaver Sulçe (husband)
3. Tefta Sulçe, daughter
4. Violeta Sulçe, daughter
5. Kastriot Sulçe, son
6. Irma Sulçe, daughter, born in 1961

IX. Proposal for internment no. 3363, dated 2.12.1981, of citizens:

1. Ilmi Xhelili
2. Myzejen Xhelili
3. Engjeli Xhelili
4. Irena Xhelili
5. Lindita Xhelili

X. Proposal for internment of Meleqe Xhelili, Avdyl Xhelili and Hodo Xhelili.

XI. Proposal for internment no. 3311, dated 21.10.1980, of citizens:

1. Thanasi Naçi, born in 1930
2. Suzana Naçi, born in 1946
3. Iris Naçi, born in 1968
4. Lonis Naçi, born in 1973
5. Eris Naçi, born in 1976

XII. Proposal for internment of the citizen Albert Bulçari, and proposal No. 2890/1, dated 5.8.1977 for 6 members of Matja family.

Defendant DILAVER BENGASI:

I. Proposal for internment no. 2684, dated 2.9.1982, of citizens:

1. Ikbale Kodra, born in 1931
2. Genc Kodra
3. Pranvera Kodra, born in 1951
4. Artan Kodra, born in 1964

II. Proposal for internment no. 3017, dated 29.9.1982, of citizens:

1. Dylber Ismailaga, born in 1926
2. Fatos Ismailaga, born in 1949
3. Haki Ismailaga, born in 1952

III. Proposal for internment no. 7684, dated 2.9.1982, of citizens:

1. Ridvan Sokoli, born in 1956
2. Xhemile Toptani, born in 1928
3. Kujtim Sokoli, born in 1954

IV. Proposal for internment no. 3232, dated 16.10.1982, of citizens:

1. Hedije Hazbiu, born in 1920
2. Petrit Hazbiu, born in 1954
3. Agron Hazbiu, born in 1959
4. Eleni Hazbiu, born in 1941
5. Mimoza Hazbiu, born in 1951

All mass internment proposals regarding the aforementioned families were carried out by the defendants in question, as evidenced by their signatures on the proposal reports, part of the case file of the present trial, submitted as written evidence, which concern relatively similar periods of time when defendants Foto Çami, Prokop Murra, Muho Asllani, Gaqo Nesho, Zef Loka and Dilaver Bengasi held high party and state official positions.

All actions committed by the defendants had political and ideological motives, aimed at implementing the dictatorship and totalitarian state, as well as eliminating the political adversaries, and they were not carried out as claimed by the defendants and their attorneys based on 3 decree laws, namely the decree law no. 629 of 1949, decree law no. 1906 of 1954, and decree law no. 5912 of 1979, which were in violation of the 1946 and 1976 national Constitutions and international Conventions “On Fundamental Human Rights and Freedoms”, ratified by our state, such as Resolution No. 290, dated 8 December 1948. Thus, the decrees above, such as decree no. 8912, dated 26.06.1979, defining internment and exile as administrative measures, violated the Criminal Code at the time, which foresaw them as complementary punishments instead of primary ones, specifically under Articles 26 and 27 pertaining to Article 17 of the Code, resulting in the internment and exile of various citizens, including minors, children, women and elderly, who had not committed any criminal offense and were denied their fundamental rights and freedoms, such as the right to expression, movement, education and schooling; some of them also lived in dire conditions and lacked education, resulting in the death of several citizens while in internment; freedom of conscience and religion, unionization, right to strike, creativity; infringement of property rights through property seizure and nationalization, etc., equality before the law, right to family, etc.

Consequently, irrespective of the description of the criminal offense commission mechanism, it results that the defendants have fully committed the criminal offense of “Crimes against humanity” in complicity, provided for under Article 74-25 pertaining to Article 67 of the Criminal Code, because with respect to the charges related to the criminal offense of “Genocide” in complicity as provided for under Articles 73-25 pertaining to Article 67 of the Criminal Code, the Court, after reviewing the evidence submitted during trial, concludes that the charges lack the necessary elements of the criminal offense figure for which there cannot be a criminal offense; therefore, objectively, the criminal offense requires the implementation of a premeditated plan that aims to entirely or partially destroy a national, ethnic or religious group, accompanied by actions that aim to cause grave physical and psychological harm. Under such circumstances, without delving any further into the legal analysis of the charges, the Court, as requested by the prosecution body, holds that the charges should be dismissed pursuant to Article 387 of the Criminal Procedure Code and that the defendants should be held criminally liable for the offense of “Crimes against humanity” committed in complicity, as defined under Articles 74 and 25 pertaining to Article 67 of the Criminal Code.

The defendants’ guilt is proved in trial by the written evidence, such as the internment and exile proposal reports mentioned previously, signed by the defendants, included in the case file, with the witness testimonies provided during trial, namely: Mr. Arben Noka, Mr. Shpëtim Matja, Mr. Mitrofan Krasneski, Mr. Petrit Ziqishti, Mr. Emin Haznedari, etc., who explained the serious and irreparable consequences of the acts committed by the defendants, such as the suffering, dire conditions, infringement of the abovementioned fundamental human rights and freedoms, etc., as well as the other submitted written evidence. The criminal offense committed by the defendants, albeit not provided for by the Criminal Code at the time when the defendants committed the crime, does not justify the defendants’ claims in any way, as the criminal offense they are charged with was stipulated in the international Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, signed by our country at the time of the criminal offense, and pursuant to Article 67 of Law No. 7895, dated 2.7.1995, the legislator explicitly established the effects of its extent over time when stating: “There shall be no statutory limitations for the

criminal prosecution of war crimes and crimes against humanity”, irrespective of the time of criminal offense commission, the crime shall be punishable at any time the perpetrators are identified.

The criminal offense constitutes a serious danger to society, as it has violated the legal relations established in line with international criminal law norms and relevant conventions on the observance of life, health, fundamental human rights and freedoms, as established by the witnesses Arben Noka, Shpëtim Matja, Mitrofan Krasneski, Liljana Ziçishti, Emin Hasnedari, who recounted the serious consequences of the defendants’ acts, as well as other evidence included in the case file.

As regards the charges of the criminal offense of “Genocide”, the Court, after reviewing the trial evidence, holds that the charges lack the necessary objective elements of a criminal offense, which requires the implementation of a premeditated plan aimed at partially or entirely destroying a national, ethnic or religious group, accompanied by actions that aim to cause grave physical and psychological harm, etc. Under such circumstances, and upon the request of the prosecutor, the Court holds that the charges should be dismissed pursuant to Article 387/1 of the Criminal Procedure Code.

In imposing the punishment measure, the Court takes into account the social danger of the criminal offense and its perpetrators, the manner of commission and circumstances of the offense, as well as the old age of the innocent citizens harmed by the act of the defendants, the commission in complicity, which constitutes an aggravating circumstance stipulated by Article 50/gj of the Criminal Code, and pursuant to Article 49 of the Criminal Code, taking into account their age, health condition and their economic and household status.

The subject of the criminal offense is an individual of criminal liability and legal responsibility age; in the case at hand, the subjects are the defendants due to the duties and functions they exercised at the time.

Objectively, the criminal offense was committed through the actions of the defendants, by drafting the internment-exile forms described above.

Subjectively, the criminal offense was committed with direct intent, prompted by political, ideological and religious motives, aiming to eliminate their opponents and implement the dictatorship rule.

As regards the complicity, despite the denial of the defendants, it is a valid charge and their roles comprise incitement as intellectual perpetrators because of the proposal reports drafted and signed by them, and approved by the Internment-Exile Central Committee, resulting in the grave consequences for the citizens targeted by them. The complicity is evident and installed *de facto* by the party-state under the principle of class war, against anyone who seeks to divert the course of dictatorship consolidation in Albania. The existence of complicity is the commission of the criminal offense by 2 or more people, which is evident from the internment proposal reports they signed. The strengthening of mutual trust between the defendants highlights the extent of guilt as a necessary element for the existence of the criminal offense figure. Additionally, the existence of the criminal offense figure includes the commission of such acts in violation of the law, as evidenced during the trial, specifically:

The activity of the defendants regarding the internment and exile is unlawful, as the decrees they signed (3 decrees of 1949, 1954 and 1979) were in violation of the 1946 and 1976 Constitutions, as well as of international conventions on fundamental human rights and freedoms signed by our country, such as UN Resolution No. 290, dated 8.12.1948; the defendants’ acts of internment and exile considered to be administrative measures, according

to the “three decrees”, were in violation of the Criminal Code at the time, which defined such measures as complementary, namely under Article 26, 27 pertaining to Article 14 of the Criminal Code and applied only to court-sentenced individuals and not as applied by the defendants against children, women, elderly, etc., who had not committed any criminal offense, for political, ideological, religious, etc., motives, in order to oppress anyone who would oppose the party-state and hinder its implementation.

In imposing the punishment measure, the Court takes into account the serious social danger of the criminal offense and its perpetrators, the considerable number of innocent people affected by the criminal offense, the complicity, which constitutes an aggravating circumstance stipulated by Article 50/gj of the (new) Criminal Code, and pursuant to Article 49 of the Criminal Code, taking into account the age, health condition and the economic and household status of the defendants.

THEREFORE

The Court, pursuant to Articles 381, 387/1, 2 and 390 of the Criminal Code

D E C I D E D

1. To cease the adjudication for the criminal offense of “Genocide” committed in complicity, as provided for under Articles 73-25 pertaining to Article 67 of the Criminal Code charged against the defendants: FOTO ÇAMI, PROKOP MURRA, MUHO ASLLANI.

2. To find defendant FOTO ÇAMI guilty of the criminal offense of “Crimes against humanity”, committed in complicity, as provided for in Articles 74-25 pertaining to Article 67 of the Criminal Code and sentencing him to life imprisonment.

- The sentence commences from the arrest date on 20.01.1996.

3. To find defendant PROKOP MURRA guilty of the criminal offense of “Crimes against humanity”, as provided for in Articles 74-25 pertaining to Article 67 of the Criminal Code and sentencing him to life imprisonment.

- The sentence commences from the arrest date on 15.12.1995.

4. To find defendant MUHO ASLLANI guilty of the criminal offense of “Crimes against humanity”, committed in complicity, as provided for in Articles 74-25 pertaining to Article 67 of the Criminal Code and Articles 56/2 and 55/2 therein, and sentencing him to life imprisonment.

- The sentence commences from the arrest date on 15.12.1995.

5. To find defendant GAQO NESHO guilty of the criminal offense of “Crimes against humanity”, committed in complicity, as provided for in Articles 74-25 pertaining to Article 67 of the Criminal Code and sentencing him to 16 (sixteen) years of imprisonment pursuant to such provision.

- The sentence commences from the arrest date on 15.12.1995 by taking into account the detention time according to the criteria established under Article 57/b of the Criminal Code.

6. To find defendant ZEF LOKA guilty of the criminal offense of “Crimes against humanity”, committed in complicity, as provided for in Articles 74-25 pertaining to Article 67 of the Criminal Code and sentencing him to 20 (twenty) years of imprisonment pursuant to such provision.

- The sentence commences from the arrest date on 15.12.1995 by taking into account the detention time according to the criteria established under Article 57/b of the Criminal Code.

7. To find defendant DILAVER BENGASI guilty of the criminal offense of “Crimes against humanity”, committed in complicity, as provided for in Articles 74-25 and sentencing him to 18 (eighteen) years of imprisonment pursuant to such provision.

- The sentence commences from the arrest date on 18.12.1995 by taking into account the detention time according to the criteria established under Article 57/b of the Criminal Code.

- Procedural expenses to be charged to the defendants.

- An appeal can be made against the decision at the Tirana Court of Appeals within 10 days, starting from the next day of the decision issuance.

- Issued today in Tirana District Court, on 20.6.1996, at 14.00.

SECRETARY
Mimoza Lleshi
(Signature)

JUDGE
Petrir Kaja
(Signature)

APPEALS AGAINST THIS DECISION

An appeal was filed against this decision and the acts were sent for review to Tirana Court of Appeals, which through Decision No. 564, dated 12.8.1996, decided:

To uphold Decision No. 492, dated 20.6.1996 of Tirana District Court regarding the legal definition and guilt of all defendants, as well as the punishment measures against defendants Gaqo Nesho, Zef Loka and Dilaver Bengasi.

To amend the decision pertaining to defendants Prokop Murra, Muho Asllani, Foto Çami as follows:

Defendant Prokop Murra to be sentenced to 20 (twenty) years of imprisonment.

The sentence commences on 18.12.1995, when he was arrested.

The defendant Muho Asllani: To be sentenced to 18 years of imprisonment.

The sentence commences from the arrest date on 15.12.1995.

Defendant Foto Çami, pursuant to Articles 74 and 53 of the Criminal Code, to be sentenced to 5 years of imprisonment and, pursuant to Article 59 of the Criminal Code, to be sentenced to probation, thus suspending the execution of the decision for 5 years.

Defendant Foto Çami, who is present in the room, shall be released forthwith.
Tirana, on 3.9.1996

COURT CHIEF SECRETARY
Flutura Kadiu
(Signature)

NOTE: On Decision No. 492, dated 20.6.1996 of Tirana District Court, pertaining to:

DEFENDANTS: Foto Çami, Prokop Murra Gaqo Nesho, , Zef Loka, Muho Asllani, Dilaver Bengasi,

A recourse has been filed against the decision of Tirana Court of Appeals and the acts were submitted to the Court of Cassation, which upon Decision No. 297, dated 29.9.1997, decided:

To repeal Decision No. 492, dated 20.6.1996, of Tirana District Court and Decision No. 564, dated 12.8.1996, of the Tirana Court of Appeals and dismiss the criminal case in charge of the defendants Foto Çami, Prokop Murra, Muho Asllani, Gaqo Nesho, Zef Loka and Dilaver Bengasi.

Their release if they are not in custody for any other crime.

Tirana, on 28.1.1999

COURT CHIEF SECRETARY

Flutura Kadiu

(Signature)

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Decision No. 601
against the defendants:

*Kiço Mustaqi
Arseni Stroka
Ksenofon Çoni*

SUMMARY SHEET

Title of the decision	Decision No. 601, Act No. 682,
Trial panel	Chairperson of the session: Shyqyri Dylgjeri Judges of the session: Arian Aliaj, Arben Kostandini
Prosecutor of the session	Ilir Cadri
Hearing	24 June 1996, 3 July, 12 July and 17 July 1996
Defendants (3)	Kiço Mustaqi, Arseni Stroka, Ksenofon Çoni
Attorneys (2)	Niko Pogri, Arshin Çela
Charges	For the criminal offense of abuse of power in complicity.
Factual circumstances	The fall of the dictator's bust and the "Merged School" in February 1991. The issuance of two orders in violation of the military rules and regulations.
Decisions	Finding the defendants guilty of the criminal offense of abuse of power in complicity.
Sentences	3-5 years imprisonment
Appeal against the decision	

REPUBLIC OF ALBANIA
TIRANA DISTRICT COURT

ACT No. 682 DECISION No. 601

DECISION
“IN THE NAME OF THE PEOPLE”

The Tirana District Court composed of:

Trial Chair - Shyqyri Dylgjeri

Trial Judge - Arian Aliaj

Trial Judge - Arben Kostandini

assisted by secretary Suela Arapi, in the trial of 24 June 1996, 3 July, 12 July and 17 July 1996, with open doors, reviewed Criminal Case No. 682 pertaining to the defendants.

1. KIÇO MUSTAQI the son of Jani and Vito, born in 1938, in Pece village, Saranda and resident in an unknown address, with Albanian nationality and citizenship, higher military education, married, not previously convicted, tried in absentia, arrested from 21.3.1996 in absentia, defended by attorney Nik Progri.
2. ARSENI STROKA son of Tare, born in 1938, in Golem, Gjirokastra, and residing at an unknown address, of Albanian nationality and citizenship, with higher military education, unconvicted, married with children, prosecuted in absentia since 21.3.1996, arrested, defended by attorney Arshin Çela.
3. KSENOFON ÇONI son of Sokrat and Fereniqi, born in 1949, in Gjirokastra and residing at an unknown address, with higher military education, unconvicted, married with children, prosecuted in absentia, arrested in absentia since 21.3.1996, defended by attorney Nik Progri.

CHARGED WITH: The criminal offense of abuse of power in complicity, as provided for under Articles 248, 25 of the Criminal Code.

The trial panel commenced the trial hearing, administered the necessary evidence, listened to the session prosecutor Ilir Çadri, who requested the following in his final conclusion:

- The finding of defendant Kiço Mustaqi guilty of the criminal offense of “Abuse of power” in complicity with defendants Arseni Stroka and Ksenofon Çoni and sentencing him to 7 (seven) years of imprisonment pursuant to Articles 248-25 of the Criminal Code.

- The finding of defendant Arseni Stroka guilty of the criminal offense of “Abuse of power” in complicity with defendants Kiço Mustaqi and Ksenofon Çoni and sentencing him to 5 (five) years of imprisonment pursuant to Articles 248-25 of the Criminal Code.

- The finding of defendant Ksenofon Çoni guilty of the criminal offense of “Abuse of power” in complicity with defendants Arseni Stroka and Kiço Mustaqi and sentencing him to 5 (five) years of imprisonment pursuant to Articles 248-25 of the Criminal Code.

- The Court listened to attorney Nik Progri, who requested that his client Kiço Mustaqi be found not guilty,

- The attorney also asked that his client Ksenofon Çoni also be found not guilty.
- It listened to attorney Arshin Çela, who also requested that his client Arseni Stroka be found not guilty in absentia,

FOUND

Based on the judicial review of the case, it results that defendants Kiço Mustaqi, Arseni Stroka and Ksenofon Çoni were appointed to state functions, specifically defendant Kiço Mustaqi was Minister of People's Defense, while defendants Arseni Stroka and Ksenofon Çoni were Commander and Commissar of Military Base No. 1200 (Merged School), Tirana.

They are charged by the prosecution body of Tirana District Prosecution Office with the criminal offense of "Abuse of power" in complicity with each other, which constitutes a crime under Articles 248 and 25 of the Criminal Code.

On 20 February 1991, in "Skanderbeg" Square in the center of Tirana, at around 14:00, Enver Hoxha's bust was toppled, an event of which the "Merged School" was notified by its employees, as well as about the fact that the crowd of people was headed from the Square toward the military schools at "Bajram Curri" street, intending to topple the second Enver Hoxha bust located at the center of the schools.

At the same time, while the people were gathering in front of the schools, defendant Kiço Mustaqi ordered the school to undertake military measures and be prepared for full military action.

Defendants Arseni and Ksenofon, being school leaders, gathered the students and notified them of the situation at hand and immediately left to undertake follow-up action.

One such action included the drafting of Order No. 50, dated 20.02.1991 (page 41 of Volume 1 of the investigation file), defining the specific tasks of all faculties, while paragraph 5 therein specifies that all students were to be equipped with military ammunition, followed by the statement that the ammunition was to be obtained from the readiness box of each platoon.

Additionally, a combat scheme was drafted, signed by defendants Arseni and Ksenofon, as well as by the Vice Commander of the School, witness Aleks Andoni. The scheme designated defense region of each faculty within the territory of military schools.

Meanwhile, on the same date, in the afternoon, the people gathered outside of the Merged School walls shouting words, slogans against Enver Hoxha and the school leadership, which were responded to by gunfire in the air.

No specific event occurred during the night of 20 February 1991, although both outside and inside the school territory the situation was very tense.

In the morning of 21 February 1991, at 7:30 a.m., the leaders of the "Merged School", such as department heads, deputy heads, guard service commanders, etc., held a meeting regarding the issues presented by the situation.

Following the meeting, the Minister of Defense, defendant Kiço Mustaqi, was informed.

After the designation of tasks about the situation, defendants Arseni and Ksenofon issued the second Order No. 389, dated 22.02.1996 (page 45 of Volume 1 of the investigation file), paragraph 1 of which states: "Starting from (time, missing), dated 20.02.1991, the School will be ready for military action no. 1".

Regarding the resulting situation, 50% of the Merged School students spent day and night in the school with guns ready and military ammunition on hand for "Kalashnikov" rifles and personal rifles and pistols.

On the same date of 21.2.1991, based on the worsening tensions of the situation, a group of political party representatives arrived at the school, headed by Mr. Abdi Baleta and

Mr. Neritan Ceka, who met with the school leaders and were made aware of the requests of both parties inside and outside the school walls.

The group's arrival reduced tensions but after 3 hours of discussions no mutual consensus was reached, resulting in uncontrolled actions from school students and the crowd.

Part of the school wall was destroyed, its guard was burned, windows were broken and, in response, citizens Lulzim Sulollari, Pëllumb Tahiri and Ismail Çapari were killed.

The situation of the school students was aggravated by the incitement and actions of the school leaders, the Initiator Committee headed by Agim Bajraktari, and naturally, according to the explanations of the witnesses, the school Commissar, defendant Ksenofon Çoni played a very active role to this end.

Continuing with the chronological order of events, on 22.2.1991, school students were gathered and the national anthem was sung while the flag was raised, followed by a spontaneous rally, where different speakers from divisions, brigades, Police Academy, veterans, etc., praised and commended the figure of Enver Hoxha; in addition, 4 heavy machine guns with their relevant ammunition were placed on the terrace of the Academy and Merged School aimed at Enver Hoxha's bust and, on the same day, the Initiator Committee headed by Agim Bajraktari issued ultimatums and requests explicitly outlined in the records of February 1991 and in the detailed information submitted to the Minister of Defense, defendant Kiço Mastaqi, as evidenced in the investigation file no. 1, pages 49-63.

Now, let us look at what specifically makes the defendants guilty.

1. Defendants Arseni Stroka and Ksenofon Çoni issued two orders in violation of the military regulations and rules.

The technical expertise act drafted by Brigadier General Aqif Cikalleshi, Colonel Asllan Bushati and Lieutenant Colonel Kurt Gjika, which results that defendants Arseni Stroka and Ksenofon Çoni violated Decision No. 14, dated 4.12.1984 of the Defense Council, "On the Competence of Military Command and People's Self-Defense Voluntary Forces", as well as Protocol No. 168, dated 27.5.1985, "Regulation of the Regime and Readiness Norms of the Military and People's Self-Defense Voluntary Forces."

Therefore, in reference to Order No. 389, dated 22.2.1991, issued by defendants Arseni and Ksenofon, which mobilized the school for military readiness no. 1, it results (based on the expertise act) that the defendants have exceeded their competence, by taking over the competence of the General Commander of Armed Forces (Ramiz Alia at the time), who was the only one entitled to mobilize Military Base No. 1200, i.e. "Merged School" for full military readiness no. 1.

Witness Ramiz Alia stated that he did not issue any order to mobilize the school for military readiness no. 1, nor did he order any firing of guns.

As regards 21, 22 and 23 February 1991, based on the situation and circumstances, the school should have never been mobilized for military readiness no. 1, as the same decision of the Defense Council clearly states that the mobilization and armament of the school under the divisions initiative (i.e. the Merged School is considered a division) without awaiting the order of superiors is to be carried out by the relevant commanders when over the regions of military duties of units or bases a bombing or sudden machine gun attack by the enemy air force takes place, and when an air assault occurs.

Naturally, the question: "How could the school be mobilized for military readiness when the aforementioned elements, i.e. air bombing or assault did not take place?" arises.

Another element that evidences the guilt of defendants Arseni and Ksenofon is the fact that, upon their Order No. 50, dated 20.2.1991, they ordered the armament of students

with military ammunition obtained from the school depots and stores, exceeding the 0.2 Kl quantity, which is also confirmed by the School's Head of Armament, witness Hysni Jaho.

In addition to the light ammunition for automatic guns, self-reloading rifles, machine guns and pistols, tank machine gun and cannon ammunition etc., was obtained from the ammunition stores, thus preceding the order for military school premises to be equipped with armored transporters, tanks, which upset the crowd gathered outside the 3-meter tall school walls.

Based on the judicial review and statements of citizens Fahri Allushi, Hysen Arapi, Hysni Jaho, Sejdin Brahimaj etc., the crowd, under the pressure of the tank and armored transporters, began to withdraw. Moreover, Military Base No. 326 in Tirana also intervened to de-escalate the situation.

At that moment, two people were killed, police officer Lulzim Sulollari and citizen Pëllumb Tahiri, both of whom, according to the forensic expertise report, died due to serious traumatic shock caused by a 7.62 mm shell.

It is true that school facilities, such as the library, guard post, windows, walls, etc., were severely damaged as stated above, but none of those gathered outside the school territory entered into school premises.

Defendant Arseni, despite ordering the armament of Merged School students, cautioned them to be careful, to not fire at the crowd, but to use other less dangerous objects, such as wood, etc., as also confirmed by the testimony of witness Hysen Arapi before the court.

Evidence review found that the order on the mobilization of the school for military readiness no. 1 was designed from above and ordered by the school leaders, namely by defendants Arseni Stroka and Ksenofon Çoni. In its opening section, the order explicitly states: "For the purpose of full implementation and undertaking of measures to carry out the tasks to be assigned to the school pursuant to the order received from the Minister of People's Defense."

2. This is precisely what incriminates defendant Kiço Mustaqi in the criminal offense he is accused of.

It results that during the entirety of the events at the "Merged School", defendant Kiço Mustaqi was well informed of the tense situation of the military schools, both through the telephone and other channels.

This is noted from the commencement of the situation when, in the information dated 21.2.1991 with record protocol no. 387, its opening section states: "Based on your order...", information delivered to him by defendants Arseni and Ksenofon, followed by the meeting of 22.2.1991 at the Ministry of Defense between him and the Ministry of Defense officials and Tirana Merged School students.

Based on the meeting content, as recorded in pages 67-102 of investigation file no. 1, it results that defendants Ksenofon and Arseni were also present and shared their opinion on the condition of the Merged School.

Upon meeting conclusion, order no. 389, dated 22.2.1991 was drafted, mobilizing the school for military readiness no. 1. It is a fact that the school and its facilities suffered serious damage, but according to the Garrison Service regulation in force at the time, later repealed by the Garrison Service military regulation adopted in 1983, the school leaders, in order to assist in the situation at hand, were only required to strengthen the Garrison Service and double the number of guards with active duty military officers, not to exceed their competence by arming students and academics with military ammunition above the 0.2 Kl kit, which was the cause behind the serious consequence of three people being killed

and several others injured.

Upon reviewing the forensic and ballistics expertise acts, etc., it is noted that the victims, Lulzim Sulollari, Pëllumb Tahiri and Ismail Sapare were killed by

7.62 mm caliber guns used by our armed forces. Moreover, citizens Olta Çakshiri, Agim Allushi etc., suffered serious injury from that type of gun.

Understandably, should it be proved that the death of the victims could be linked to specific individuals, the defendants would have to answer for another more serious criminal offense, that of murder, terrorism, etc., but we have to clarify that the criminal offense pertaining to murder, terrorist acts and violent state property destruction is under investigation.

The defendants are also charged with having committed the criminal offense of "Abuse of power" in complicity.

As regards the complicity of defendants Arseni and Ksenofon, it is evident from the judicial review because every action and order issued by them during the events of February 1991 were carried out jointly; whereas, defendant Kiço Mustaqi is implicated through his active role in issuing orders for action and passive role in allowing the two other defendants Arseni and Ksenofon to act in violation of the law.

Based on the technical expertise act submitted during trial, as well as on the statements given by citizens Asllan Bushati and Xhuvanaq Kolezi, interviewed in the capacity of experts, it results that defendant Kiço has also exceeded his competence regarding the changing of the military regime of the school from the lowest level of readiness to level no. 1, a competence that lies only with the General Commander and the Chair of the Defense Council, Ramiz Alia.

As a consequence of the actions and disputes of the defendants at second level and in view of Article 248 of the Criminal Code, the state suffered economic damage to the extent of the countervalue of having used 7570 military cartridges of different types, amounting to ALL 50,579.5 according to the charge.

Regarding the episode, we can rely on the technical expertise act by experts Xhuvanaq Kolezi, Behar Dine and Aqif Muça, who, in response to the question of whether the utilization of the ammo during the events at the Merged School was necessary, stated that it was not.

Citizen Enver Loko, an officer at Zall Herr military base, subordinate to the Merged School, stated during trial that the amount of 7570 shells did not correspond to reality, as he had been called in at the school after the events and was ordered to fictitiously fire a number of shells he used to use prior to the Merged School events, which once again leads the court to believe that the actions of the defendants were in violation of their regular exercise of state duty.

The guilt the defendants are charged with was proven during trial from the statements given by citizens: Hysen Arapi, Fahri Allushi, Zekman Bode, Riza Shiqerukaj, Hysni Jaho, Ylber Dhrami, Timo Luto, Sokol Terihati, Aleks Andoni, Kostaq Karoli, Drita Avdia, etc, partial statements of citizens: Bashkim Merko, Ali Beqaj, Sejdin Brahimaj, Ahmet Osmani e Aqif Muça, permissible readings with regard to the adjudication of citizens Ramiz Alia, Halim Abazi, Agim Allushi etc., technical expertise acts, forensic expertise act, as well as other numerous written evidence, such as the order, conversation, chronology of school events and, in summary, Criminal Case File No. 190 of 1991.

In determining the type and extent of punishment, the trial panel took into account the criminal offense, its serious consequences to both citizens and the state and, particularly with regard to defendant Kiço Mustaqi, in the capacity of the direct superior to defendants

Arseni Stroka and Ksenofon Çoni, his role in the offense; defendant Ksenofon Çoni, his active role in the events; defendant Arseni, his position and positive influence on the school students, which will constitute a mitigating circumstance in determining his punishment.

The adjudication of defendants Mustaqi, Stroka and Çoni was carried out in absentia pursuant to Articles 140, 247, 344/3, 351 and 352 of the Criminal Procedure Code, the defense for whom was mainly decided by the court and based on Law No. __ dt.__ on fundamental human rights and freedoms.

THUS:

The trial panel, pursuant to Articles 381, 382, 384 of the Criminal Procedure Code,

D E C I D E D

To find defendant KIÇO MUSTAQI guilty of the criminal offense of “Abuse of power” in complicity with defendants Arseni Stroka and Ksenofon Çoni and sentencing him to 5 (five) years of imprisonment pursuant to Articles 248 and 25 of the Criminal Code.

To find defendant ARSENI STROKA guilty of the criminal offense of “Abuse of power” in complicity with defendants Kiço Mustaqi and Ksenofon Çoni and sentencing him to 3 (three) years of imprisonment pursuant to Articles 248 and 25 of the Criminal Code.

To find defendant KSENOFON ÇONI guilty of the criminal offense of “Abuse of power” in complicity with defendants Arseni Stroka and Kiço Mustaqi and sentencing him to 4 (four) years of imprisonment pursuant to Article 248 of the Criminal Code.

This decision may be appealed against at Tirana Administrative Court of Appeals within 10 days.

Tirana, on 19.7.1996

COURT CHIEF SECRETARY

Suela Arapi
(Signature)

JUDGE

Shyqyri Dylgjeri
(Signature)

It is hereby certified that this decision became final on 29.7.1996

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Decision No. 736
against the defendants:

Nazmi Domi
Shkëlzen Bajraktari
Llambi Gegprifti
Veiz Hadëri
Irakli Vero
Agron Tafa
Lenka Çuko
Idajet Beqiri
Sulejman Abazi

SUMMARY SHEET

Title of the decision	Decision No. 736, Act No. 713, dated 28.09.1996
Trial panel	Chairperson of the session: Medi Bici
Members of the session:	Sokol Çomo, Altina Xhoxhaj Case prosecutor Shkëlqim Ganaj
Defendants (9)	Nazmi Domi, Shkëlzen Bajraktari, Llambi Gegprifti, Veiz Hadëri, Irakli Vero, Agron Tafa, Lenka Çuko, Idajet Beqiri, Sulejman Abazi
Attorneys (6)	Vladimir Bineri, Agron Cani, Dino Leli, Zamira Çako, Agim Ibrahimi, Fatmir Breka
Session	28.09.1996
Charges	Criminal offense of “Genocide” and “Crimes against humanity” committed in complicity
Mitigating and aggravating circumstances	Considering the good behavior of the defendants during adjudication, the court deems appropriate the minimum sentence provided for by the law. The Court deems that the defendants in absentia are evading adjudication.
Decisions	The dismissal of the criminal offense of “Genocide”, provided for in Article 73 of the Criminal Code, for all the defendants.
Sentences	15-20 years imprisonment
Appeals against this decision	1. At the Tirana Court of Appeals, which through Decision No. 855, dated 5.11.1996, has decided: Upholding decision no. 736, dated 28.9.1996, of the Tirana District Court. (Tirana, on 21.11.1996) 2. A recourse has been filed against the decision of Tirana Court of Appeals and the acts were submitted to the Court of Cassation, which upon Decision No. 300, dated 29.9.1997, has decided: To repeal Decision No. 736, dated 28.9.1996, of the Tirana District Court and Decision No. 855, dated 5.11.1996, of the Tirana Court of Appeals and dismissal of the criminal case for the defendants Nazmi Domi, Shkëlzen Bajraktari, Llambi Gegprifti, Veiz Hadëri, Irakli Vero, Agron Tafa, Lenka Çuko, Idajet Beqiri, Sulejman Abazi for the criminal offense of “Crimes against humanity”, provided for in articles 74 and 25 of the Criminal Code. (Tirana, on 22.12.1998)

REPUBLIC OF ALBANIA
TIRANA DISTRICT COURT

ACT NO. 713

Decision NO. 736

DECISION
“IN THE NAME OF THE PEOPLE”

The Tirana District Court composed of:

Chairperson of the session	Medi Bici
Member	Sokol Çomo
Member	Altina Xhoxhaj

assisted by judicial secretaries Entela Haxhij and Katerina Denaj, on this day of 28.9.1996, reviewed in public trial the criminal offense pertaining to:

DEFENDANTS: 1. NAZMI DOMI, the son of Mustafa, born in 1936, in Durrës, resident in Tirana, married with children, unconvicted, investigated in absentia.
2. SHKËLZEN BAJRAKTARI, the son of Ajdin, born in 1938, in Shkodra, resident in Tirana, married with children, investigated in absentia.
3. LLAMBI GEGPRIFTI, the son of Pasko and Benderika, born in 1942, in Pogradec and resident in Tirana, investigated in absentia.
4. VEIZ HADËRI, the son of Shemo, born in 1949, in Tepelenë and resident in Vlora, married with children, investigated in absentia.
All four defended by the attorney Vladimir Bineri.
5. IRAKLI VERO, the son of Vangjel and Olimbi, born in 1941, in Vithkuq, Korça, resident in Tirana, defended by attorney Agron Cani (in absentia).
6. AGRON Tafa, the son of Vasil and Kalije, born in Elbasan and resident in Durrës, with Albanian nationality and citizenship, graduated, married with three children, unconvicted, investigated while in exile from 15.02.1995, defended at the trial by attorney Dino Leli.
7. LENKA ÇUKO, the daughter of Todi and Lena, born in 1936 in Fier and resident in Tirana, with Albanian nationality and citizenship, with higher education, married with 4 children, convicted, investigated during house arrest from 9.01.1996. Defended in trial by attorney Zamira Çako.
8. IDAJET BEQIRI, the son of Mane and Faze, born in 1951, in Mallakastra and resident in Tirana, with Albanian nationality and citizenship, higher education (law), married with three children, unconvicted, investigated while in exile from 30.01.1996, defended at trial by attorney Agim Ibrahim.
9. SULEJMAN ABAZI, the son of Abaz and Hedije, born in 1942, in Erseka and resident in Tirana, with Albanian nationality and citizenship, higher education, unconvicted, married with two children, investigated while in exile from 5.01.1996. Defended in trial by attorney Fatmir Braka.

CHARGED WITH: The criminal offense of “Genocide” and “Crimes against humanity” committed in complicity, as provided for under Articles 73, 74-25 pertaining to Article 67 of the Criminal Code.

After an overall examination of the case, the court administered the evidence and heard the conclusions recorded by prosecutor Shkëlqim Ganaj, who requested that:

- Defendant Nazmi Doni is found guilty of the criminal offense of “Crimes against humanity”, committed in complicity, as provided for in articles 74 and 25 of the Criminal Code and is sentenced to 25 years of imprisonment.

- Defendant Shkëlzen Bajraktari is found guilty of the criminal offense of “Crimes against humanity”, committed in complicity, as provided for in articles 25 and 74 of the Criminal Code and is sentenced to 25 years of imprisonment.

- Defendant Llambi Gegprifti is found guilty of the criminal offense of “Crimes against humanity”, committed in complicity, as provided for in articles 25 and 74 of the Criminal Code and is sentenced to 25 years of imprisonment.

- Defendant Veiz Hadëri is found guilty of the criminal offense of “Crimes against humanity”, committed in complicity, as provided for in articles 25 and 74 of the Criminal Code and is sentenced to 20 years of imprisonment.

- Defendant Irakli Vero is found guilty of the criminal offense of “Crimes against humanity”, committed in complicity, as provided for in articles 25 and 74 of the Criminal Code and is sentenced to 20 years of imprisonment.

- Defendant Lenka Çuko is found guilty of the criminal offense of “Crimes against humanity”, committed in complicity, as provided for in articles 25 and 74 of the Criminal Code and is sentenced to 20 years of imprisonment.

- Defendant Sulejman Abazi is found guilty of the criminal offense of “Crimes against humanity”, committed in complicity, as provided for in articles 25 and 74 of the Criminal Code and is sentenced to 15 years of imprisonment.

- Defendant Idajet Beqiri is found guilty of the criminal offense of “Crimes against humanity”, committed in complicity and, pursuant to articles 25 and 74 of the Criminal Code, is sentenced to 18 years of imprisonment.

- Defendant Agron Tafa is found guilty of the criminal offense of “Crimes against humanity”, committed in complicity, as provided for in articles 25 and 74 of the Criminal Code and is sentenced to 15 years of imprisonment.

- The defense attorney, Vladimir Bineri, requested innocence for his clients, Nazmi Domi, Shkëlzen Bajraktari, Veiz Hadëri and Llambi Gegprifti, in absentia.

- The defense attorney, Zamira Çako, requested innocence for the defendant Lenka Çuko.

- The defense attorney, Agim Ibrahim, requested innocence for his client, the defendant Idajet Beqiri.

- Defense attorneys Fatmir Braka, Dino Leli and Agron Cani requested innocence for their clients Sulejman Abazi, Agron Tafa and Irakli Vero.

- The defendants Idajet Beqiri and Sulejman Abazi requested innocence in their last word.

- The defendant Lenka Çuko requested justice.

- The defendant Agron Tafa requested justice as well.

- The defendants Nazmi Domi, Shkëlzen Bajraktari, Veiz Hadëri, Llambi Gegprifti and Irakli Vero were absent.

At the end of adjudication, the court

FOUND

Based on the charges pressed by the Forum of Albanian Intellectuals on countering genocide, as well as based on Law No. 8001 “On genocide and other crimes committed in Albania during the communist rule”, dated 17.11.1995. The Prosecution Office at Tirana First Instance Court has opened the criminal proceeding No. 651 concerning Nazmi Domi, Shkëlzen Bajraktari, Agron Tafa, Llambi Gegprifti, Irakli Vero, Veiz Hadëri, Idajet Beqiri, Lenka Çuko and Sulejman Abazi charged with the criminal offense of “Genocide” and “Crimes against humanity”, committed in complicity, as provided for in articles 73, 74, 25, of the Criminal Code and pursuant to article 67 of the Criminal Code.

Based on the judicial investigation of the case, it resulted as follows:

The defendant NAZMI DOMI, in the capacity of the deputy chair and lead officer at the 8th Branch at the Ministry of Internal Affairs for the period 1980–1982, proposed the internment of the families Haznedari, Manelli, Murati, Kanova, etc.

The defendant SHKËLZEN BAJRAKTARI, in the capacity of the chair of the 8th Branch at the Ministry of Internal Affairs and chief of the investigation office for the Fier district, proposed the internment of the families of Irina Sallaku, Feçor Vrenozi, etc.

The defendant AGRON Tafa, in the capacity of the director of the Tirana Directorate of Internal Affairs for the period 1985–1987, proposed the internment of the families of Nafie Duro, Menush Ferraj, Qako Bulka, Kaliopi Doçi, etc.

The defendant LLAMBI GEGPRIFTI, in the capacity of the chief of the People’s Council Executive Committee of the Tirana district, proposed the internment of the families of Kristaq Foto, Petrit Maçe, among other proposals made with the defendant Agron Tafa.

In 1985, the defendant IRAKLI VERO, in the capacity of the chief of the Executive Committee of the Kruja district, and the defendant Idajet Beqiri, in the capacity of the chief of the Kruja District Court, proposed the internment of the family of Ali Duka, and during this period the defendant Irakli proposed the internment of other families from the Kruja District.

The defendant LENKA ÇUKO, while holding the position of the first secretary of the Party’s Committee for Lushnja district, proposed the internment of the families Merlika, Mustafai, etc.

VEIZ HADËRI, former chief of the Branch of Internal Affairs for Saranda district, proposed the internment of Kristo Vito, Spiro Cavidhi, etc., during the period 1985–1989. Moreover, the defendant Sulejman Abazi, former chief of the Branch of Internal Affairs for Tropoja district, proposed the internment of the families Lata, Nezaj, etc.

Before analyzing the evidence, considering the request of the attorney Fatmir Braka and of some of the defendants of the said case, for which the law, as it was, was implemented, the court deems that firstly, articles 1 and 2 of decree No. 1906, dated 02.8.1954 and decree No. 5912, dated 26.6.1979 of the Presidium of the People’s Assembly of the Republic of Albania, having the same content, shall be cited. In article 1 of decree No. 5912 it is stated: “Internment and expulsion, as an administrative measure, shall be applied against Albanian citizens, foreign citizens and stateless people who have reached the age of 14 years, are responsible and pose a threat to the social order of the Republic of Albania.

- Expulsion of foreign people shall be also carried out through their deportation outside of the Albanian territory.

Whereas in article 2 of this decree it is stated: “Internment and expulsion may also be applied against family members of the escaped persons inside and outside the country”.

- Family members are the persons who lived with the escaped at the moment of the

escape, such as the husband, children, parents, siblings, and other persons or dependents living with the escaped.

- Based on the above provisions, it results that the following conditions shall be met in order to apply the administrative measure of internment:

- Regarding paragraph 1 of article 1, the following shall exist: Age, responsibility and threat to the social order. This article is not concerned with family internment.

- Whereas article 2 requires that: The family member lives with the escaped and is dependent on them at the moment of the escape. Thus, understanding the above provisions, the defendant Nazmi Domi is proven guilty. This is proved by the statements of the witnesses Gafur and Ilir Hazdenari during trial (page 68 and 71 of the court record). Moreover, he is proven guilty based on the proposals dated 27.09.1982, dated 13.08.1982, dated 12.04.1980, 18.07.1980, 19.08.1980 (pages 182–197 of the investigation file). Here we can mention the internment of the Hasnedari family. Contrary to article 2 of decree No. 5912, dated 26.06.1979, 19 persons are interned, and at the moment of the escape of Sabaudin Hasnedari most of them did not live with him or were not born yet, which is a crucial requirement for the implementation of this article.

Not only are the proposals of Shkëlzen Bajraktari for the internment of the family of Irina Sallaku and Feçor Vrenozi contrary to both decrees for internment and expulsion, but the argument used by the defendant is also irrational. Thus, in his proposal on 12.7.1979 for the internment of the Vrenozi family, he stated: “Burbuqe Vrenozi, born on 1960, with lower secondary education, member of the agricultural cooperative, who rarely works, has incited her brothers and father to malicious activities”. Meaning, a 19-year-old girl is interned solely for the influence she had on her father and older brothers; and on 20.12.1977 the defendant proposes the internment of the Russian citizen, Irina Sallaku, and her daughters Elena and Vera, solely because her husband, Xhavit Sallaku, was executed as a soviet spy agent. This concludes that despite the inexistence of legal requirements, Shkëlzen proposed family internment.

The claim raised by the attorney Vladimir Bineri that the actions of the defendant, Veiz Hadëri, regarding his proposal for internment of the families Zafiri and Nika, do not constitute a criminal offense since this is the preparatory phase which is not punished by the criminal law, is deemed fair by the court, because although the proposals of the defendant were made in 1989, they were not implemented. This fact was proved in trials by the witnesses Jani Nika, Mihal Zafiri and Vasil Zafiri (pages 31–33 of the court record).

However, the court deems the defense’s claim regarding the proposals of the defendant on 1985 for the internment of Kristo Vito and Stefan Cavidhi, ungrounded, because not only was the attestation of the Ministry of Internal Affairs, dated 21.09.1996, administered during the hearing, but letter No. 365/2, dated 25.03.1985, regarding the implementation of the decision for internment, is also in the court folder and is signed by the defendant (page 332 of the investigation file). The internment of the two above-mentioned persons was carried out contrary to article 2 of decree No. 5912, dated 26.06.1979. There is numerous evidence proving that the defendants Agron Tafa and Llambi Gegprifti are guilty. Such evidence includes the statements of the witnesses Azem Marku and Petrit Maçe during the trial (page 23 and 73 of the court record). The proposals dated 21.10.1985, the proposal for the internment of the family of Manush Ferraj on 1987, the proposal for the internment of Rubin and Aida Beshiri, the family of Qako Bulka, the Papavrami family, etc., as well as the attestations, dated 6.09.1996 regarding the internment of Skënder Ymeri, Ervehe Ferraj, Nafie Duraj, Thanas Jero, Elmira Llanaj, Jorgji Opari, Rubin Beshiri, Dallandyshe Ferraj and Gaqo Bulka. In his

explanations before the court, the defendant Agron Tafa does not deny the fact that he has proposed internments, but claims to have made these proposals pursuant to the law. His claim is partially just as: The defendant has acted pursuant to the law regarding the case of the internment of Fatmira Ndreu, Jorgji Opari and Qako Bulka, but contrary to the law when proposing the internment of Manush and Zhaneta Ferraj in 1987 (at the time that his brother escaped, they were separated from the family of the escaped Shëndet Ferraj). The proposals for Rudi and Aida Beshiri were also contrary to the law. The defendant, along with the defendant Llambi Gegprifti, has acted likewise for the case of internment of Spiro Rusha, because his daughter, Jolanda Papavrami, who was married to Robert Papavrami for years, refused to return to Albania while being delegated in France. The contradictory actions of the said defendant reveals his subjective side.

Thus, Irakli Vero and Idajet Beqiri are proven guilty. This is proved by the statements of the witnesses Kujtim Duka, Ismail Daci, Sulejman Koni, Gjergj Gjoka during the trial (pages 43, 49, 84 and 87 of the court record). Moreover, the defendants are proven guilty by the proposal dated 23.11.1985 for the internment of the Duka family, whereas the defendant Irakli is also proven guilty by the proposals for the internment of the Gjoka families and the extension of the internment of Lubova and Spartak Manço.

The claim of the defendant Idajet stating: "At the time of the proposal for the internment of the Duka family, I was dismissed from my position as the chairperson of the Court of Kruja", is ungrounded, because in decision No. 7, dated 23.4.1986 provided as evidence by the defendant's defense it is stated that:

- Their malicious actions were disclosed on 22.10.1985 by the Front organization and it was decided to intern this family. This concludes that only one month after the proposal, the Kruja District Internment Committee, where the defendant Idajet was a member, proposed the internment of this family to the Central Internment Committee. Moreover, the claim of this defendant is ungrounded since the signature in the said document is not his. Expertise act No. 452, dated 28.5.1996 and the explanations of the expert Dritan Zoto at the trial prove the opposite. The proposal made by the defendants Irakli Vero and Idajet Beqiri for the internment of the Duka family is contrary to decree No. 5912, dated 26.6.1979, because:

- Firstly, the internment was carried out for the whole family although the first paragraph of article 1 of the above decree does not provide that.

- Secondly, it cannot be stated that Farie Duka and Agim Duka, sentenced to 4 months of imprisonment for offenses and assaults because of duty and 5 months of imprisonment for false testimony, pose a threat to the social order. This is proven by the criminal records included in the file. Thus, one of the crucial conditions provided for in article 1 of the decree, threat to social order, was not applied for the internment of these two persons. On the other hand, pursuant to article 2 of this decree, the proposal for internment is unjustified because no one from this family is an escaped person and in the proposal it is stated that their eldest son, Agim Duka, was separated from them in 1983. Pursuant to article 2 of this decree and due to these indisputable facts, internment is illegal. In the proposal dated 23.11.1985 included in the court folder, it is stated that their son Arben is imprisoned without mentioning the reason for it. Whereas the reason for the internment of the Duka family is explicitly stated in page 10 of decision No. 7, dated 23.4.1986: "In 1985, Arben, the son, was arrested for hostile and malicious group actions, and the investigations continue". Suddenly, investigations and adjudications came to an end; the family of the "enemy" Arben Duka was expelled to the "Skëndërbe" mountain, not because its members had given false testimonies, had opposed the teacher, had stolen

8 years before their internment, but solely for the fact that there was an enemy among them. This was undeniable. The defendants Sulejman Abazi and Lenka Çuko were also proven guilty. The defendant Sulejman was found guilty based on the testimonies of the witnesses Halit Lataj and Mehmet Lataj in trial (page 39 and 42 of the court record) as well as from the proposals made on 31.5.1977, 17.7.1980 and 3.04.1980. The proposal of the citizen Zenun Hajdramataj for internment, before his release from prison, was flagrant during the time he was serving his sentence of 20 years of imprisonment issued by the Court in 1962. On the other hand, the defendant Lenka is proven guilty from the proposals included in the adjudication folder and the attestations, dated 6.9.1996, concerned with the internment of the citizens Artan Mustafai, Arben Mustafai, Mehmet Mustafai, Sabrie Mustafai, Eleni Merlika, Teuta Merlika and Bejo Asllani. The actions of these two defendants are contrary to the above-mentioned decrees. In witness whereof, the Court concludes that most of the actions of the defendants were contrary to the applicable laws in force. Having violated decrees No. 5912, dated 26.6.1979 and No. 1906, dated 2.8.1954, the said defendants violated the rights and freedoms of the citizens, as provided in the constitutional laws. Complicity was also proven during the court hearing. The defendants and the Central Committee had come to an agreement before the commitment of the criminal offense. Some of the defendants, such as Agron and Llambi, or Irakli and Idajet, have collaborated directly with each other. In their defense, the attorneys deny the collaboration of the defendants under the reasoning that they have not communicated with each-other for the commitment of the criminal offense. However, the criminal law provides that agreement between accomplices can also be reached in silence, provided that they synchronize their actions under the same purpose. Is it possible that the Central Committee has carried out all of these internments and expulsions in Albania without the help of the relevant authorities in districts? Therefore, the Court deems that all the defendants are crime accomplices. The legal assertion of the charge in the conclusions is fair because the defendants proposed internment of tens of families and individuals for political and ideological motives, therefore; pursuant to article 74 and 25 of the Criminal Code, the Court deems the legal assertion of the charge fair.

The Court deems fair the other request of the prosecutor on the withdrawal of the charge for genocide, provided for in article 73 of the Criminal Code, although the charge should have been expressed in the end for its dismissal, therefore the Court deems that the provision of article 387/1 of the Criminal Procedure Code shall be applied. Considering that some of the defendants have committed the said crimes a long time ago and article 66 of the Criminal Code provides deadlines for the commencement of the criminal proceedings, the Court emphasizes that pursuant to article 67 of the Criminal Code, these offenses are not subject to prescription.

The defense claims that at the time of its commitment, this offense was not deemed a criminal offense by the law. The Court deems the given claim ungrounded, because: Upon decree No. 1962, dated 9.12.1954 of the People's Assembly, Albania adhered to the convention on stopping and punishing genocide, adapted by the United Nations Assembly, dated 9.12.1948.

Moreover, the Government of Albania adhered to the convention "On the unpredictability of war crimes and crimes against humanity" of the United Nations Assembly, dated 26.11.1958, which entered into force in 1970. Therefore, the Court stated that although there is not a provision titled "Crimes against humanity" in the Criminal Code of 1977, if the provisions are examined in correlation, it results that article 54 of the Criminal Code, interpreted in detail, includes article 74 of the present Criminal Code,

as the above conventions are the source for article 54 of the Criminal Code. On the other hand, there is no other explanation for the fact that the defendants, acting contrary to the decrees on internment and expulsions, interned Albanian nationals the same way as Greek and Russian nationals, which was found from the judicial investigation. In that case, which nationality does this provision cover?

The defense's claim that the defendants have not committed the criminal offense, as it remained in the preparatory phase, is not based on law. Attorney Vladimir Bineri responded to this claim in a good and reasoned manner regarding the case of the proposal made by the defendant Veiz Hadëri for the internment of the Zafiri and Nika families. It cannot be pretended that the offense has remained in the preparatory phase when in fact internment has been executed, because it resulted in the consequence provided in article 74 of the Criminal Code, that is internment for political motives. Examining the above evidence in detail, the Court is satisfied that the criminal offense provided for in articles 74-25 of the Criminal Code has been committed by the nine defendants.

The committed offense poses a serious threat to society, as its consequences were severe. Thousands of people lost their lives on slopes and crags in Albania when they were separated from their relatives because they opposed the totalitarian rule.

Whereas the defendants do not pose the same threat to society because they have not committed any other criminal offenses since then. In sentencing the defendants, the Court has considered that they are married and have children, as well as the fact that among the defendants, nine of them are intellectuals. Considering the good behavior of the defendants during adjudication, the court deems appropriate for their reeducation the minimum sentence provided by the law.

The Court deems that the defendants in absentia are evading adjudication. Pursuant to article 50 of the Criminal Code, the Court considers the commitment of the offense in complicity an aggravating circumstance.

In witness whereof, during the court hearing, the defendants Nazmi Domi, Irakli Vero, Shkëlzen Bajraktari, Lenka Çuko, Llambi Gegprifti, Idajet Beqiri, Agron Tafa, Veiz Hadëri, Sulejman Abazi were proven guilty as they have committed the offense provided in article 74 and 25 of the Criminal Code intentionally and being satisfied for their guilt, the Court deems they have to be held legally liable.

T H E R E F O R E

Pursuant to articles 390 and 387 of the Criminal Procedure Code, the Court

D E C I D E D

1. Defendant SHKËLZEN BAJRAKTARI is found guilty of the criminal offense of "Crimes against humanity", committed in complicity, and pursuant to articles 25 and 74 of the Criminal Code is sentenced to 20 (twenty) years of imprisonment.

2. Defendant NAZMI DOMI is found guilty of the criminal offense of "Crimes against humanity", committed in complicity, and pursuant to articles 25 and 74 of the Criminal Code is sentenced to 20 (twenty) years of imprisonment.

3. Defendant LLAMBI GEGPRIFTI is found guilty of the criminal offense of "Crimes against humanity", committed in complicity, and pursuant to articles 25 and 74 of the Criminal Code is sentenced to 20 (twenty) years of imprisonment.

4. Defendant IRAKLI VERO is found guilty of the criminal offense of "Crimes against humanity", committed in complicity, and pursuant to articles 25 and 74 of the Criminal Code is sentenced to 16 (sixteen) years of imprisonment.

5. Defendant VEIZ HADËRI is found guilty of the criminal offense of “Crimes against humanity”, committed in complicity, and pursuant to articles 25 and 74 of the Criminal Code is sentenced to 16 (sixteen) years of imprisonment.

6. Defendant AGRON Tafa is found guilty of the criminal offense of “Crimes against humanity”, committed in complicity, and pursuant to articles 25 and 74 of the Criminal Code is sentenced to 15 (fifteen) years of imprisonment. The sentence commences on 15.12.1995.

7. Defendant SULEJMAN ABAZI is found guilty of the criminal offense of “Crimes against humanity”, committed in complicity, and pursuant to articles 25 and 74 of the Criminal Code is sentenced to 15 (fifteen) years of imprisonment. The sentence commences on 5.1.1996.

8. Defendant IDAJET BEQIRI is found guilty of the criminal offense of “Crimes against humanity”, committed in complicity, and pursuant to articles 25 and 74 of the Criminal Code is sentenced to 15 (fifteen) years of imprisonment. The sentence commences on 30.1.1996.

9. Defendant LENKA ÇUKO is found guilty of the criminal offense of “Crimes against humanity”, committed in complicity, and pursuant to articles 25 and 74 of the Criminal Code is sentenced to 15 (fifteen) years of imprisonment. The sentence commences from the house arrest date on 9.1.1996.

10. The dismissal of the criminal offense of “Genocide”, provided for in article 73 of the Criminal Code, for all the defendants.

11. The procedural expenses shall be borne solely by the defendants.

An appeal can be made against the decision at the Court of Appeals within 10 days, starting from the day following the decision issuance. For defendants in absentia, this deadline commences from the day of the decision communication.

Announced this day of 28.9.1996.

S E C R E T A R Y

Entela Haxhij Katerina Denaj
(Signatures)

J U D G E

Medi Bici
(Signature)

APPEALS AGAINST THE DECISION

Note: An appeal was filed against decision No. 736, dated 28.9.1996 concerning the defendants Nazmi Domi, Shkëlzen Bajraktari, Llambi Gegprifti, Veiz Hadëri, Irakli Vero, Agron Tafa, Lenka Çuko, Idajet Beqiri, Sulejman Abazi, charged with the criminal offense of “Genocide and crimes against humanity” and the acts have been submitted to the Tirana Court of Appeals for review, which upon decision No. 855, dated 5.11.1996, decided:

Upholding decision no. 736, dated 28.9.1996, of the Tirana District Court.
Tirana, on 21.11.1996

COURT CHIEF SECRETARY

Flutura Kadiu
(Signature)

To the Prosecutor's office

A recourse has been filed against the Tirana Court of Appeals and the acts were submitted to the Court of Cassation, which upon decision 300, dated 29.9.1997, decided:
(IN UNITED COLLEGES):

Nullification of decision No. 736, dated 28.9.1996, of the Tirana District Court and Decision No. 855, dated 5.11.1996 of the Tirana Court of Appeals and dismissal of the criminal case for the defendants Nazmi Domi, Shkëlzen Bajraktari, Llambi Gegprifti, Veiz Hadëri, Irakli Vero, Agron Tafa, Lenka Çuko, Idajet Beqiri, Sulejman Abazi for the criminal offense of "Crimes against humanity", provided for in articles 74 and 25 of the Criminal Code.

Tirana, on 22.12.1998

COURT CHIEF SECRETARY
Flutura Kadiu
(Signature)

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Not guilty decision No. 297

SUMMARY SHEET

Title of the decision	Basic Register No. 271/69, Decision No. 297
Criminal College of the Court of Cassation	Chairperson of the Court of Cassation: Avni Shehu Deputy chairperson: Agim Shkupi, Zef Nika Member: Natasha Sheshi, Vitore Tusha, Vangjel Kosta Petrit Plloci, Agim Gjoleka, Metush Saraçi Bashkim Caka, Tefta Zaka Prosecutor Mihallaq Blea
Defendants (6)	Foto Çami, Prokop Murra, Muho Asllani, Gaço Nesho, Zef Loka, Dilaver Bengasi
Session	29.9.1997
Charge	Crimes against humanity
Decision	Nullification of decision No. 492, dated 20.6.1996, of the Tirana District Court and Decision No. 564, dated 12.8.1996, of the Tirana Court of Appeals and dismissal of the criminal case charged to the defendants; and release of the defendants.
Reasoning	Based on the crime mechanism accepted by the Court and its reasoning, the offense committed by the defendants is more related to the crime of abuse of power, and it was insisted that the defendants have committed the criminal offense of “Crimes against humanity” provided for in article 74 of CC. Both of the Court decisions shall be dismissed as they are unjust and contrary to the requirements of the criminal law, articles 74 and 25 of CC and other legal norms, which should have been taken into consideration for its implementation. Based on our criminal law, first of all, an action shall pose a threat to society, then it shall be illegal, to be considered a criminal offense. The College stated that even if the actions of the defendants constituted a criminal offense, pursuant to article 21 of CC, they should have been considered for diminished responsibility, as their actions were part of their duties provided by the law and other sub-legal acts of that time. This provision has not been mentioned by the courts, not even in charge of the defendants.
Mitigating circumstances	The role, time and condition in which the action was committed play a crucial role in defining the threat to society and its degree. In their decisions, Courts state there have been many cases where the Central Committee did not approve the proposals for internments made by the below Committees, where the defendants acted. Based on other sources it also resulted that the defendants’ proposals were not forwarded.

REPUBLIC OF ALBANIA
COURT OF CASSATION
CRIMINAL COLLEGE

Basic Register No. 271/69

Decision No. 297

DECISION
IN THE NAME OF THE PEOPLE

Criminal College of the Court of Cassation composed of:

Avni Shehu	Chairperson of the	Court of Cassation
Agim Shkupi	Deputy chairperson	“
Zef Nika	“	“
Natasha Sheshi	Member	“
Vitore Tusha	“	“
Vangjel Kosta	“	“
Petrit Plloçi	“	“
Agim Gjoleka	“	“
Metush Saraçi	“	“
Bashkim Caka	“	“
Tefta Zaka	“	“

in the court hearing, dated 29.9.1997 reviewed case No. 271 concerning:

DEFENDANTS FOTO ÇAMI, PROKOP MURRA, MUHO ASLLANI,
GAQO NESHQ, ZEF LOKA, DILAVER BENGASI

CHARGE Crimes against humanity. Article 74 and 25 of the Criminal Code

Upon decision 492, dated 20.06.1996, the Tirana District Court decided: Defendants Foto Çami, Prokop Murra, Muho Asllani, Gaqo Nesho, Zef Loka and Dilaver Bengasi are found guilty of the criminal offense of “Crimes against humanity”, as provided for in articles 74 and 25 of CC.

Upon decision No. 564, dated 12.8.1996, the Tirana Court of Appeals decided: Upholding decision no. 492, dated 20.6.1996, of the Tirana District Court.

Defendant Foto Çami has filed a recourse against the court decision, raising the following causes:

Unjust court decisions. We have acted pursuant to the legal provisions concerning internments and have never acted contrary to the legal framework. Therefore, we request innocence as our actions do not constitute of crime elements.

THE CRIMINAL COLLEGE OF THE COURT OF CASSATION

after hearing the report of member Agim Gjoleka, prosecutor Agim Gjoleka, who requested the withdrawal of the charge and dismissal of adjudication, the defendants’ attorneys, who requested the change of the decisions and the declaration of the defendant as not guilty; and after examining the case in its entirety:

FOUND

On 8.11.1995, the Tirana District Prosecution sent for trial the defendants Foto Çami, Prokop Murra, Muho Asllani, Gaqo Nesho, Zef Loku, Dilaver Bengasi charged for “Crimes against humanity” in complicity, pursuant to articles 74 and 25 of CC.

Upon decision No. 492, dated 20.6.1996, the Tirana District Court and the Court of Appeals found guilty and sentenced the defendants Foto Çami, Prokop Murra, Muho Asllani, Gaqo Nesho, Zef Loka, Dilaver Bengasi for “Crimes against humanity”, as provided for in articles 74 and 25 of CC, describing the criminal offense, committed by the defendants, as follows: The reports proposed by the defendants for executed and approved internments of members of different families, for the period 1979-1985, prompted the Central Committee of Internments and Expulsions to approve most of the internments by taking relevant decisions. Continuing their activity, the districts Committees have implemented and executed the Central Committees’ decisions for the internment of these citizens.

The Court deems such practices were contrary to the general concept of the Constitution and the principles of the legislation at the time of its development. The filed documentation was irregular and incomplete, and did not prove the responsibility of the persons. Although article 22 of the Constitution of 1950 and article 56 of 1976 provided that no one could be interned or expelled unless provided by the law, the practices applied by the Committees and the defendants is not based on the law because the proposals and execution of internments of the citizens were carried out based on suspicions and assumptions without verifying the threat to society and existence of guilt, actually without any motives at all.

Although based on the crime mechanism accepted by the Court and its reasoning, the offense committed by the defendants is more related to the crime of abuse of power, and it was insisted that the defendants have committed the criminal offense “Crimes against humanity” provided for in article 74 of CC.

Both of the Court decisions shall be dismissed as they are unjust and contrary to the requirements of the criminal law, articles 74 and 25 of CC and other legal norms, which should have been taken into consideration for its implementation.

Based on our criminal law, first of all, an action shall pose a threat to society, then it shall be illegal, to be considered a criminal offense.

The role, time and condition in which the action was committed play a crucial role in defining the threat to society and its degree.

The subjective side of the offense is also important.

In this regard, it is of primary importance to discuss on whether the actions of the defendants constitute criminal offenses which pose a threat to society, meaning if they are dangerous and illegal.

In the international criminal law, the status of the international military tribunal of Nuremberg, the convention of 6 December 1948, to which our country has adhered, the crimes against humanity are defined as “Crimes against humanity”, more specifically:

“Murders, exterminations, enslavement, internment and other inhumane violence, committed during war time or persecution for political, racial or religious motives, with the intention of committing, or in connection with, another crime within the jurisdiction of the court regardless of whether these actions are considered, or not, violations according to the law of the country where they were committed. Leaders, instigators, organizers and assistants who have participated in the drafting and execution of the general plan or the conflict for the commitment of crimes that differ from the above-mentioned ones, shall be responsible for all actions committed by someone with the purpose of executing this plan.”

Based on the above, article 74 of the new CC provides that crimes against humanity shall be “Murders, exterminations, enslavement, internments and expulsions and other inhumane violence, committed for political, ideological, racial, ethnical or religious motives”.

In this framework, the actions of the defendants for internments cannot pose a threat to society or be illegal, because as concluded by the details of the investigation and court files, the defendants related to the internment procedure have implemented a legal framework pursuant to the constitution of 1976, article 56, where it is stated: “No person shall be expelled, interned, unless provided by the law”, decree No. 746, dated 10.01.1949, No. 1906, dated 2.08.1954, No. 3027, dated 12.01.1960 and No. 5912, dated 26.06.1979, the regulation on the rights and obligations of interned persons, approved upon the CM Chairpersonship’s decision No. 185, dated 13.7.1979, etc..

Thus, as stated in the international and national law, the absence of these crucial crime elements for “Crimes against humanity”, results in unpredictability of the fact, the court actions, as criminal offense.

Therefore, pursuant to article 328/b of CPC, the case in charge of the defendants shall be dismissed.

Not only that, but on the other aspect of the theoretical explanation of the elements of crimes against humanity, provided for in article 74 of CC, is required the existence of four elements altogether; the absence of one element causes the absence of the crime and as a consequence the absence of criminal responsibility of the subjects.

The object of this crime are the legal relations established in harmony with the international law norms, statute of the international military tribunal of Nuremberg and other international conventions to which our country has adhered.

In the case under adjudication, based on their actions the defendants have not violated these norms, on the contrary, as also accepted in the reasoning of the court for internments and expulsions, the defendants implemented an existing legal framework.

In case this legal framework was not implemented, as stated by the courts, this could constitute another crime element, but not a crime against humanity.

The absence of this element, the object of the criminal offense, results in the legal obligation of the Court dismissing the case, pursuant to letter “dh” of article 328 of CPC.

From the objective perspective it is required that the crime is committed with criminal actions or omissions demonstrated through massive internments, provincial violation offenses, ethnic and religious groups, through the development and implementation of a general criminal plan.

In our case, the defendants never carried out illegal and massive internments against civilian population, without being subject to adjudications; instead they were carried out for small groups of people or individuals in various cities and districts, which, based on the law, do not constitute civilian population.

Thus, these groups were not racial, ethnic or religious groups, as required by the law, which were always subject to review and adjudication in four state levels.

In their decisions, Courts state there have been many cases where the Central Committee did not approve the proposals for internments made by the below Committees, where the defendants acted. Based on other sources it also resulted that the defendants’ proposals were not forwarded.

Pursuant to article 328/dh of CPC, the absence of this crime element, caused the Court to dismiss the case.

From the subjective perspective it is required that crimes against humanity are

committed only directly intentionally, triggered by political, ideological, ethnical, racial motives.

There is no evidence in the investigation and court files to prove that the defendants have intentionally committed crimes for political, ideological, racial, ethnical and religious motives; on the contrary, all evidence administered by the court prove that the defendants wanted to implement the regulations on internments, always for carrying out their duties and implementing laws and sub-legal criteria.

Moreover, the offense of complicity charged to the defendants to increase the degree of their societal dangerousness, does not exist.

Pursuant to article 25 of CC, an agreement between the crime subjects to commit the criminal activity is required for the offense of complicity.

The court deems the criminal offense was committed in complicity with other members of the district committees or with the central levels; and this is clearly concluded through the signing of joint acts of proposal reports, the approval of acts, both in the form of an open agreement and of silent acceptance.

Contrary to the Court's judgement, the proposal reports were not filled-in and signed due to an agreement concluded by the defendants, but for the implementation of the procedure provided for in the legal framework. Their duty consisted solely of verifying and signing the proposals; they were not engaged with approvals and verifications at high committees. Each committee is independent from the others in districts and in the center. This activity was not carried out due to any agreement concluded between them in any form, but for the implementation of the legal and sub-legal acts requirements.

And lastly, the College stated that even if the actions of the defendants constituted a criminal offense, pursuant to article 21 of CC, they should have been considered for diminished responsibility, as their actions were part of their duties provided by the law and other sub-legal acts of that time. This provision has not been mentioned by the courts, not even in charge of the defendants.

Moreover, the prosecutor requested the change of the criminal charge of certain defendants from "Crimes against humanity", provided for in article 74 of CC, to "Abuse of power", provided for in article 248 of CC, which was also noted during the Courts' adjudications. Even if this were to be implemented, pursuant to article 328/d and amnesty in Law No. 8202, dated 27.3.1997, the case would still be dismissed

The prosecutor withdrew the charge of "Crimes against humanity" for some of the defendants. However, pursuant to article 377 of CPC, the College could not approve these actions, because, according to the same article, it results that some cases had been dismissed for all the defendants, as provided for in article 328 of CPC and as described in the reasoning for the decision.

Therefore, based on the above reasoning, decision No. 492, dated 20.6.1996 of the District Court and No. 564, dated 12.8.1996, of the Tirana Court of Appeals shall be quashed and the case shall be resolved, without reexamination, and dismissed for all defendants according to article 442, point 1, letter "a" and point 2 of CPC.

THEREFORE

Pursuant to article 442/1, a, 2, of CPC, the criminal college of the Court of Cassation:

DECIDED

Nullification of decision No. 492, dated 20.6.1996, of the Tirana District Court and Decision No. 564, dated 12.8.1996, of the Tirana Court of Appeals and dismissal of the

criminal case in charge of the defendants Foto Çami, Prokop Murra, Muho Asllani, Gaqo Nesho, Zef Loka, Dilaver Bengasi.

Their release if they are not in custody for any other crime.

Tirana, on 29.9.1997

MEMBER
Mr. NIKA
(Signature)

MEMBER
A. GJOLEKA
(Signed against)

MEMBER
T. ZAKA
(Signature)

MEMBER
M. SARAÇI
(Signed against)

MEMBER
A. SHKUPI
(Signature)

MEMBER
V. KOSTA
(Signature)

MEMBER
P. PLLOCI
(Signature)

MEMBER
N. SHESHI
(Signature)

PRESIDING JUDGE
A. SHEHU
(Signed against)

MEMBER
V. TUSHA
(Signed against)

MEMBER
B. CAKA
(Signature)

REPUBLIC OF ALBANIA
TIRANA FIRST INSTANCE COURT

ACT NO. 1956

DECISION NO. 1018

DECISION
“IN THE NAME OF THE REPUBLIC”

The Tirana District Court composed of:

JUDGE – Arben MICKO

assisted by judiciary secretary, Adela Karaj, this 15th day of March 2002 closed in a public court hearing, the civil case concerning:

<u>PLAINTIFF</u>	Dilaver Bengasi, son of Hysen and Sofije, born in 1944, resident in Tirana, “Mihal Grameno” Street, Building 13, Entrance 4, Apt. 10.
<u>DEFENDANT</u>	Ministry of Finance – represented by Gledis Zaimi – in absentia
<u>OBJECT</u>	Compensation payment for wrongful imprisonment.
<u>LEGAL FRAMEWORK</u>	Article 29/3 of the Constitution of the Republic of Albania, Law No. 8733, dated 24.01.2001, Articles 268, 269 of CPC, Articles 153, 154 of CPC

After examining the case in its entirety, the Court administered the written evidence, in which the plaintiff requested the approval of the lawsuit and the defendant requested the dismissal of the lawsuit.

In conclusion, after reviewing the case in its entirety, the Court

FOUND

The plaintiff, Dilaver Bengasi was sentenced to 18 years of imprisonment by the Tirana District Court upon decision No. 492, dated 20.06.1996, for the criminal offense of “Crimes against humanity”, as provided in articles 74 and 25 of CC. This decision has been upheld by the Tirana Court of Appeals upon decision No. 564, dated 12.08.1996.

Upon decision No. 297, dated 29.09.1997, the High Court nullified the above decisions and dismissed the case against him.

The plaintiff was arrested on 15.12.1995 and released on March 13, 1997, thus serving wrongful conviction (custody) for 454 days.

Pursuant to articles 268 and 269 of CPC, upon release the plaintiff requested compensation in cash by the Department of Finance at the Ministry of Finance in Tirana for wrongful imprisonment.

The case was resolved judicially. Pursuant to articles 268, 269 and 9 of CPC, upon final decision No. 1995, dated 22.05.1998, of the Tirana District Court, the plaintiff Dilaver Bengasi was compensated to the amount of ALL 454.000 for wrongful imprisonment. This decision has been upheld by the Tirana Court of Appeals upon decision No. 1563, dated 18.11.1998.

Based on the content of the above decision it resulted that due to lack of provisions in the legislation, the compensation was estimated referring to article 57 of CC (in the above

provisions of the Criminal Procedure Code it is stated that the compensation amount shall be regulated by a special law). Pursuant to article 57 of CC, which provides de jure the estimation for conversion of custody to imprisonment as a ALL 1000 penalty, or 18 hours of community work, having estimated one day of custody equal to ALL 1000 penalty, the Court compensated the plaintiff with ALL 454.000 for 454 days in custody.

Considering that in criminal law, upon the basis of which the compensation on wrongful imprisonment was calculated, article 57 of CC changed by Law No. 8733, dated 24.01.2001 "On some addenda and amendments to Law No. 7895, dated 27.01.1995, the Criminal Code of the Republic of Albania and this change is of favoring nature, the plaintiff filed the lawsuit subject to adjudication, through which he requests the compensation for wrongful imprisonment in implementation of the new favoring criminal law.

For this purpose, he refers to the universal principle of right, firstly expressed in the provisions of the Constitution – article 29/3, in Article 3/3 of the Criminal Code, according to which, the favorable criminal law has retroactive effect. The right to benefit from this favorable criminal law is not provided (pursuant to article 269/1 of CPC) because the plaintiff submitted the basic request for compensation within the three-year time period.

The current lawsuit is allowed under the general provisions of CC.

The plaintiff Dilaver Bengasi requested monetary compensation, through the lawsuit at adjudication,

1.00 for the days served in prison, considering that after its change, article 57 of CC provides that a day in custody equals ALL 5,000 instead of ALL 1.000.

Based on letter No. 1162, dated 26.10.1998, issued by the General Directorate of Prisons , the plaintiff has served 574 days in prison and shall benefit the amount of ALL 2 296 000.

The defendant's claim that this is a res judicata, is ungrounded because both the object of lawsuit and the defendant have changed (after the issuance of DCM No. 335, dated 2.06.1998, the Ministry of Finance shall be responsible for cases of this nature).

THEREFORE

Pursuant to article 306 et seq. of CPC, the Court:

DECIDED

Approval of lawsuit,

Obligation of the Ministry of Finance to pay the amount of ALL 2 296 000 to the plaintiff Dilaver Bengasi.

Court expenses shall be borne by the defendant.

An appeal can be made against the decision at the Tirana Court of Appeals within 15 days, starting from the day of the decision issuance. For the party in absentia, this deadline starts from the day of notification.

Announced this day of 15.03.2002. (Signature)

SECRETARY

Adela Keraj
(Signature)

JUDGE

Arben Micko
(Signature)

JUDICIAL EXPENSES

Lawsuit registration fee ALL 1.500

TOTAL ALL 1.500

It is hereby certified that this decision became final on 30.03.2002 for the plaintiff and on 24.04.2002 for the defendant, in absentia.

Tirana, on 14.05.2002. (Signature)

CHIEF SECRETARY

Mimoza Lulaj
(Signature)

CHANCELLOR

Toni Gogu
(Signature)









98694/1 A. DHIMITRI
 GJYKIMI I CESHUVES NDAJ TE PANDEHURVE RAMIZ ALIA
 DHE ISH FUNKSIONAREVE TE LARTE TE PARTISE DHE TE
 SHPATIT MONIST. NE FOTO RAMIZ ALIA ME AVOKATIN
 MEROFTES KLEANTHI KOCI.
TIRANE, 27 MAJ 1994



98698/1 A. DHIMITRI
~~SHKIKIMET E CESHUVES NDAJ TE PANDEHURVE RAMIZ ALIA~~
 GJYKIMI I CESHUVES FENALE NDAJ TE PANDEHURVE RAMIZ
 ALIA DHE KEN ISH FUNKSIONAREVE TE LARTE TE PARTISE
 DHE TE SHPATIT MONIST. NE FOTO I PANDEHUR RAMIZ
 ALIA.
TIRANE, 27 MAJ 1994

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ANNEX

I. LIST OF ABBREVIATIONS

1. atty. – attorney
2. P.B. – Political Bureau
3. dob – date of birth
4. DGS – Directorate of Governmental Services
5. DF – Democratic Front
6. A. – Article
7. PC – Party's Committee
8. CC / C. Code – Criminal Code
9. CPC – Criminal Procedure Code
10. CC – Central Committee
11. CCPLA – Central Committee of the Party of Labor of Albania
12. ML - Marxism-Leninism
13. Prot. No. – Protocol Number
14. UN – United Nations
15. PL – Party of Labor
16. PLA – Party of Labor of Albania
17. P.T. – Post & telegraphy
18. Reg. – Register
19. U. – Unit

II. REPORT ON THE GOVERNMENTAL SERVICES' ACTIVITY CONTROL

The report presented by Genc Ruli, the former Minister of Finance and Economy at the time, provides a detailed analysis of expenses, abuses and privileges of the higher leading communist caste in Albania during the period 1988-1991. For instance, it provides the considerable expenses on luxurious villas, private receptions and other expenses, showing the contrast between their life and people's life. Apart from this, it is shown that although people lived in harsh conditions, the privileged caste enjoyed considerable benefits and financial advantages. The report was recorded during the parliamentary session held on July 27, 1991, afternoon.

[...] as appointed by the Government and the Ad-Hoc Parliamentary Committee, I am finally presenting before you the results from the state control carried out by the Ministry of Finance and the State Control Committee regarding the privileges of and the abuse and misuse by the high caste of the Labor Party and state leaders.

As you have been informed, based on the notifications for the control, the Council of Ministers issued a decision, strictly condemning the practice of unscrupulous privileges for tens of decades, as an illegal and anti-national practice, deciding to report and hold legally liable the persons responsible. This act of the Council of Ministers is of essential importance, as it marks the detachment of the new legal state from the previous one, in which corrupted and incompetent leaders not only overlooked people's concerns, but added to them, by cynically abusing their trust and severely damaging the nation's life through their total incompetence and luxury and privileges they lived with.

The results of the state control concern only 2-3 last years due to the circumstances and the time available. However, this control will continue with seriousness and determination to extend even further, revealing the truth about the abuses and misuses of the former party and state nomenclature, to which even today's public opinion is fairly sensitive and revolted.

The control so far was carried out in the former Directorate of Reception, as well as in some other institutions and organizations.

The Directorate of Reception was established in 1956 to serve the lifestyle and activities of the high functionaries of the Labor Party in leadership positions of the People's Assembly and the Government. This directory served mainly to their families, composed of the parents, married children and their families.

The various privileges provided to this caste for years through the Directory of Reception lacked legal basis. The law was replaced by decision No. 39, dated 23.7.1976 of the Political Bureau

"On the treatment of the leading frameworks of the Party and state", supplemented by a letter from the Council of Ministers. The content of these documents was highly secret. They were not disclosed to the public; even administration officers of the Directorate of Reception could not know more than provided by their duties.

Upon this illegal basis, the economic and financial activities of the Directorate of Reception acquired large state funding that in the last 10 years only reached ALL 200 million, out of which a large amount was foreign currency. At the moment, the Directorate has a potential of ALL 183 million of basic equipment and a personnel of 646 employees, for whom it is spent ALL 6,2 million on salaries. The Council of Ministers, judging on the basis of the conclusions of the control of the State Control Committee and the Ministry of Finance carried out for the activity of the last three years, draws the conclusion that the former party leadership had created all the opportunities for itself to be privileged and to benefit, although it was already known that the efforts of the people were being wasted and abused, and deceived by a false and cynical propaganda about the war against privileges, the war against luxury and the war against inequality. Unfortunately, this opportunity was systematically realized both through the implementation of the above-mentioned decision of the Political Bureau, and through the excess and abuse of the rights that this decision allowed.

To begin with, we are presenting the amount of privileges and benefits that were allowed according to the content of the decision of the Political Bureau.

First, the best food products produced in the country, and sometimes imported from abroad were provided and consumed. All 26 beneficiary families were supplied a variety of high quality food products without limitations. During the period September 1989 - September 1990, when the food rationing system was implemented for the entire population, all 26 families consumed every day on average, products such as: 62 kg meat and its byproducts, 13 liters oil, 86 liters milk, 20 liters drinks, wine and beer, 56 kg fruits and vegetables, etc. These quantities of food, even with vouchers in Tirana, would guarantee the supply of 450 families with meat, 110 families with oil, 190 families with cheese and 134 families with eggs.

The highest consumption rate during this one-year period was held by the Hoxha family that was supplied with approximately 2 tons meat, 7 kv salami, 523 liters oil, 3,1 kv butter, 326 liters raki, wine, 250 liters beer, 5,8 tons fruits and citrus fruits, 1,5 kv hazelnuts, peanuts and walnuts, 1,8 kv coffee, etc.

In 1989, the families were supplied with food products at the value of ALL 1,8 million. According to the rule provided in the decision of the Political Bureau, the value of certain meals was deducted from this sum for the service personnel of these families. Moreover, for the three families Hoxha, Alia and Çarçani the expenses for receptions, escorts and dinners that were organized in their houses were also deducted as they were covered by the state; and these amounted to ALL 582 thousand. As a result, ALL 1,2 million were paid by the families, which for individual families are extremely large sums, beyond normal based from their legal income, if we also take into account other living expenses, such as rent, water supply and electricity bills, clothing and so on.

The Hoxha family has only paid ALL 72 thousand out of ALL 367 thousand. The Alia family has only paid ALL 25 thousand out of ALL 133 thousand.

The Çarçani family has only paid ALL 57 thousand out of ALL 91 thousand.

Second, members of the Political Bureau and some members of the Central Committee of the Party spent free meals worth up to ALL 3 per person every day, both for themselves and for every other member in work meetings they organized. For the year

1990 only, ALL 200 thousand were spent in this way. It should be noted that thousands of people were invited and that such meetings were also held in cinemas or ping-pong halls located in “Bllok”, in plenum sessions of the Central Committee, the Presidium, in Party activities, etc. Moreover, receptions were held in stadiums by Kiço Mustaqi, Besnik Bekteshi, Hajredin Çeliku, Llambi Gegprifti, Pali Miska, or during hunting, in places organized by Qirjako Mihali, Hekuran Isai, Llambi Gegprifti, Foto Çami, Pali Miska, Rita Marko, etc. accompanied by companions with salaries and per diems, villas personnel, and spending fuel for cars. Every month, in the offices of the Central Committee, it was spent on average ALL 3 for 200 people, whereas in the plenum sessions of 1990, ALL 20 thousand were spent in the same way. Piro Kondi and the staff of the party of Tirana, spent ALL 1260 in one month for 30 persons.

Third, the state and party caste were provided financial privileges for annual leaves. The members and candidates of the Political Bureau and their spouses benefited ALL 12,5 per day, with a difference of ALL 3,2 from the share for other employees, which was covered by the state. Thus, this sum amounted to ALL 192 per year for each family, and ALL 11 424 for all the families that benefited in the last three years.

Fourth, rent, water supply and electricity expenses were mainly covered by the state. Thus, according to the provisions of the decision of the Political Bureau, families would only pay 50% for rent and electricity, as well as 25% of the value of fuel, but never more than ALL 250 per month. Those who transferred for up to 3 months did not pay. As a result, in 1989 until February 1991 the families paid ALL 180 thousand in total, whereas the state paid ALL 840 thousand or 4,7 times as much. Besnik Bekteshi with 75 thousand ALL, Pali Miska with 61 thousand ALL, Lenka Çuko with 57 thousand ALL, Nexhmije Hoxha with 51 thousand ALL, Pirro Kondi e Prokop Murra with 48 thousand ALL, Adil Çarçani, Hekuran Isai, Llambi Gegprifti, Spiro Koleka, Haxhi Lleshi e Vangjel Çërrava with 42 to 47 thousand ALL spent the most, whereas the other 26 families spent 22 to 40 thousand ALL.

Fifth, the Directorate of Reception has covered considerable expenses for international phone calls of the Alia and Hoxha families and the families of Haxhi Lleshi and Spiro Koleka. Phone expenses for other persons were covered by the Central Committee, the relevant departments and the Council of Ministers. The costs for 19 phone numbers of the family of Nexhmije Hoxha amount to ALL 553 thousand for the last 3 years, ALL 456 thousand for the Alia family, ALL 101 thousand for the family of Spiro Koleka, ALL 58 thousand for the family of Haxhi Lleshi, ALL 56 thousand for the family of Llambi Gegprifti, ALL 46 thousand for the family of Rita Marko and ALL 9 thousand for the family of Themije Thomai for the year 1989 only. In total, excluding expenses covered by the Central Committee and the Council of Ministers, the costs amount to ALL 1,3 million or USD 186 thousand. For the year 1989 only, the Hoxha family had 441 phone calls from and to Paris, thus misspending ALL 195 thousand, 210 phone calls from and to Vienna, misspending ALL 98 thousand, 188 phone calls from and to Rome, 38 phone calls from and to Milan, and other cities such as Ankara, Budapest, Palermo, Berlin, Stockholm. It is surprising that sometimes there were two to three phone calls per day from or to the same place, and some of the calls lasted more than one hour.

For the year 1989, the Alia family spent ALL 251 thousand for 481 phone calls from and to Paris, Rome, Vienna, Geneva, Budapest, Ankara, Torino, Milan and so on.

The unpaid phone call expenses for other families amount to large sums as well. These families abused with the fact that the phone call expenses were covered by the state and had phone calls from and to all main European cities for their personal interests. Therefore, ALL 1,3 million were misspent for the unfair benefits of these families.

Sixth, the Specialty Clinic was another institution offering privileges for the caste of the ruling government. From the year 1988 until the first 4 months of the year 1991 it spent ALL 3,2 million in total, out of which ALL 1,2 million were spent on medication. Based on the Political Bureau's decision, the favored figures received free medication in the value of ALL 377 thousand for the period 1988-1990. This medication was bought in pharmacies in Paris and Vienna and were provided only to the favored figures, not for the people. It was also provided for the benefit of their friends or relatives, at the expense of the state. The Hoxha family received free medication at the value of ALL 38 500, the Çarçani family at the value of ALL 9 500, the family Toska at the value of ALL 14 700, the families Alia, Myftiu, Mihali and Spahiu at the value of ALL 9 000, the Marko family at the value of ALL 6 057, the family Bekteshi at the value of ALL 5 035.

Seventh, the Ministry of Health was also object of benefits and misuse. Detailed information on the misuse in this sector is provided in the report held by the relevant committee in the Parliament.

Eighth, a considerable number of employees, at the service of the families of the members and candidates of the Political Bureau, the Presidium of the People's Assembly, the secretaries of the Party's Central Committee and of other special individuals, received salaries and meals. Each of the above-mentioned families had a service personnel of 2-3 people, whereas 20 people were at the service of the family of Nexhmije Hoxha and 12 for the family of Ramiz Alia. The salary of this personnel amounted to ALL 2,2 million for the last 3 years. More specifically, the salary of the personnel for the Hoxha family amounts to ALL 406 thousand for the years 1988-1990, ALL 260 thousand for the Alia family, ALL 102 thousand for the Çarçani family and ALL 70-75 thousand for the families Çeliku, Çuko, Myftiu, Bekteshi, Isai, Marko, Murra, etc..

Apart from the above, for special services, several employees of the Directory of Reception benefited up to 25% of additional salary, a sum that amounts to ALL 257 thousand for the last 3 years. Apart from the salary and the additional payment, the service personnel of the families also benefited in-kind food products at the amount of ALL 7 every day.

The sum estimated for these food products in the last three years was ALL 584 thousand. This quota was deducted from the value of the food products invoiced to different families. From the verifications carried out in different families, the personnel stated that they had not in fact consumed the set quota, despite of the amount being deducted from the value of the invoices from privileged families.

Ninth, parcels or packages from embassies of different countries of the world were sent to the Directorate of Reception or other initials. At the border crossing points of Rinas, in Tirana and Durrës for the period 1989-1990 only,

1 323 parcels were addressed to the Directorate of Reception, 294 parcels were addressed to "x-31" and the Directorate of Press, whereas 335 other parcels were addressed to other families. These parcels were not inspected at the border crossing point as secretly instructed. This excludes hundreds or thousands unregistered and uninspected packages

imported and exported to different destinations and border crossing points. In these circumstances, the exact number of the parcels as well as their content cannot be concluded. In addition to the packages addressed to the Directorate of Reception, there were also packages for other families, of course without taxation and customs control. Thus, for the years 1989-1990, the family of Nexhmije Hoxha received 294 parcels, the family of Lumturi Rexha 18 parcels, the family of Simon Stefanit 32 parcels, the family of Qirjako Mihalit 25 parcels, the family of Haxhi Lleshi 101 parcels, the family of Lenka Çuko and Spiro Koleka 24 parcels each, the family of Besnik Bekteshi 47 parcels, the family of Shefqet Peçi 9 parcels and the other families received 6 or more parcels each. These parcels might have been the taxes that these families collected from their relatives or acquaintances in embassies or anywhere in the world.

Tenth, considerable sums were spent in the Presidium of the People's Assembly and in some departments for printing and stationery, especially for color feature films and photographs for their leaders and their families. Thus, Rita Marko spent ALL 2 371 on color feature films for the period 1986-1990, whereas the expenses for printing and stamping were covered by the Party's Central Committee or ATA. Every year were spent about ALL 30 thousand on photographs, under the note "Leadership".

Upon special decisions for the non-productive sphere, administrative expenses for office equipment and investments were reduced year after year, while in the Ministry of Agriculture in 1988 Pali Miska spent ALL 300 thousand, in the Ministry of Transport Hajredin Çeliku spent ALL 145 thousand and in the Executive Committee of Tirana Llambi Gegprifti spent ALL 127 thousand for repairs, adaptations and luxurious furnishings of their offices.

Eleventh, the Delegation Park for the years 1988-1990 has provided cars and drivers for a large number of party and state figures and for the five pensioners Lleshi, Peçi, Koleka, Peristeri and Toska. The expenses incurred on this occasion in their favor were exempted from payment, according to the joint instruction, dated 13.3.1972, of the Ministry of Transport and the Ministry of Finance. If these services were invoiced to the beneficiaries, the park would collect an income of ALL 1,8 million. It should be noted that 70% of the expenses incurred concerns only the 5 pensioners. The Institute of Marxist-Leninist Studies has caused significant economic damage to the state. The production and marketing of political books, especially the literature authored by Enver Hoxha, has been carried out in a very large circulation, which for years has created stocks, wasting labor, raw materials, electricity, production capacities and other material values, import revenue. Upon the order of this institute, during the last 3 years, the plan of titles authored by Enver Hoxha was exceeded by 24%, while other titles such as artistic, scientific, and historical, by 90 percent. During this period, 60% of the paper was used for his literature, all imported and of high quality, worth ALL 4,1 million, although it constituted only 16% of the titles published in the printing house. During 1984-1990, ALL 35,9 million were spent on production and circulation for political literature authored by Enver Hoxha, out of which 28,5 million were covered by the income of the printing house "8 Nëntori" and ALL 7,4 million from the State Budget for losses caused by the difference between prices and the total cost. In the Book Distribution Company, there are currently stock books created over the years that amount to ALL 10 million. More than 70% of them are the works, brochures, albums and other political books of Enver Hoxha, Stalin, etc.. The books authored by Enver Hoxha only,

account for ALL 4,6 million, and the album dedicated to him alone is ALL 371 thousand. Apart from these, nowadays, there is political literature in district bookstores, which is thought to be around ALL 30 million worth.

Due to not being put into circulation and in suitable storage conditions, the Book Distribution Company has put political literature at the worth of ALL 0.5 million out of use. The export of book, carried out for Enver Hoxha's literature and that of the Labor Party, is another negative factor to the economic damage caused to the state. The income from this activity for the period 1986-1990 cannot cover ALL 3,1 million incurred expenses such as salaries, transport, bank interests, resulting to a net loss of ALL 0,6 million. The effect of the closure of a thousand stores owned by foreign persons engaged in the trading of these books, as a result of not carrying out the subsequent payment, is ALL 682, while the bank interest for the loans provided for export stock goods amounts to ALL 750 thousand for 5 years only.

The disproportion between the import and export of literature has caused this activity to result in a loss of ALL 3,7 million. The import of foreign literature is carried out for personal subscriptions, which are generally liquidated by them, but in some cases economic damage has been caused to the state. Nexhmije Hoxha has still not payed the subscriptions of ALL 3 064 for the years 1986, 1987, 1988, 1989, whereas the subscriptions for the year 1990 of ALL 2 196 have been unjustly paid by the General Council of the Democratic Front of Albania. In 1987, 1988, 1989, Muho Asllani made a subscription to the magazine "France Football", but the payment of ALL 2 612 has been unjustly carried out by the Party's Committee of the Durrës and Shkodra Districts. Lenka Çuko, like Nexhmije Hoxha, had subscribed to literature unrelated to her profile. These subscriptions are estimated to ALL 1 684 for the period 1989-1990, an amount which has not been paid yet.

The Book Distribution Company had been credited with ALL 20 million, mainly for the stock literature. It goes without saying that the Institute of Marxist-Leninist is the primary cause of the economic damage of ALL 15 million caused to the state, out of which ALL 7,4 million are budgetary funding, ALL 7 million are evidenced stocks and ALL 0,6 million are bank interests for this stock literature.

Privileges, benefits and misuse exceeding the allowed amount, even as a result of the unlawful decision of the Political Bureau.

First, people were living in luxurious villas, furnished contrary to the Political Bureau's decision provisions itself. All 82 residential and vacation villas occupied by the families costed ALL 88 million to the state, while interior appliances costed ALL million 28. The Hoxha family alone had 2 residential villas and 4 vacation villas with a value of ALL 26 million and appliances with a value of ALL 10 million. The other families had one residential and one vacation villa, although the decision does not provide the possession of personal vacation villas. The personal villas of Haki Toska, Spiro Koleka, Vito Kapo, Manush Myftiu, Lenka Çuko, Rita Marko, Hekuran Isai, Pali Miska, Simon Stefani, Hajredin Çeliku, Besnik Bekteshi, etc. cost ALL 1,2 million, with a usable surface area large enough to accommodate 7 to 8 families.

There were no special criteria for meeting the housing needs, but in practice the former leaders deemed and requested additions to their residential areas. Practically, the requests of the former leaders for residential areas and the investment fund for them were

submitted through the Directorate of Reception, the Prime Minister or his deputy, who approved these requests with no hesitation. From the data of the period 1980-1990 it resulted that there have been additions to 17 dwellings, 3 dwellings have been reconstructed and 3 new vacation villas have been constructed in Durrës, for the personal needs of the families, without any motives, and ALL 8 million were spent for this purpose. Thus, in 1988, ALL 657 thousand were spent, adding 3 rooms and 3 bathrooms, for Foto Çami's dwelling, although it only needed roof reconstruction, resulting in a total of 11 rooms and 5 bathrooms, when the family was composed of only 4 people.

Moreover, in 1988, ALL 400 thousand were spent, adding 4 rooms and 3 bathrooms, for Manush Myftiu's dwelling, although it only needed roof reconstruction and wall coating for some premises, resulting in a total of 12 rooms and 6 bathrooms, when the family was composed of only 6 people.

In 1986 when the construction works for Lenka Çuko's dwelling began, she requested intervention in other existing structures of the building and 4 rooms and 2 bathrooms were also added, resulting in a total of 15 rooms and 5 bathrooms.

In 1986, ALL 312 thousand were spent for Besnik Bekteshi's dwelling, adding 3 rooms and 3 bathrooms although there were already 10 rooms and the family was composed of only 6 people.

In 1988, ALL 626 thousand were spent for Simon Stefani's dwelling to add 4 rooms, although it already had 8 rooms and the family was composed only of 8 people.

Unexcused additions have also been done in villas at the beaches of Durrës for vacation days. Thus, in 1986, ALL 400 thousand were spent for Pali Miska's villa, adding 5 rooms and 4 bathrooms, although it already had 4 rooms. In 1987, 3 rooms and 2 bathrooms were added to Hekuran's villa, although it already had 7 rooms. In 1988, 2 rooms and 4 bathrooms were added to Qirjako Mihal's villa, although it already had 5 rooms.

It is worth noting that in decision No. 39 of the Political Bureau, it is not stated that the former leaders have personal villas for vacations. In the act it is expressively stated: "Housing shall be provided to them (the leaders) upon request in the designated vacation centers for vacation". In fact, all former leaders had villas that were used only by them in Durrës beaches. New villas have also been built for new leaders, such as Llambi Gegprift, who built a new villa despite having one at his disposal until 1987. Villas were also built for Pirro Kondi and Vangjel Çërrava. In the living premises of the Hoxha family alone, in the main building, there are appliances at the value of ALL 7,2 million, of which 262 are armchairs, couches and sofas, with a value of ALL 430 thousand, 47 cupboards, with a value of ALL 71 thousand, 556 lampshades, chandeliers and lamps, with a value of ALL 314, 28 refrigerators with a value of ALL 133 thousand, 29 televisions and videocassettes with a value of ALL 178 thousand, 19 tape recorders and radio tape recorders with a value of ALL 73, 65 libraries, wardrobes and bedroom furniture with a value of ALL 448 thousand, 200 woolen rugs with a value of ALL 233 thousand, 3,747 square meters of tapestry and carpet with a value of ALL 900 thousand, and so on; heating, cooling, cleaning appliances, air conditioners, cameras and other devices with a considerable value.

The villas of other families were also furnished with a considerable amount of appliances, although the decision of the Political Bureau for the year 1976 allowed the state to cover expenses for equipment, furniture and items, and their maintenance, only for work

studios, reception rooms and dining rooms, with a value up to ALL 250 thousand, not for other premises, of the children, grandchildren, and so on.

Based on the above decision, out of the ALL 25 million, the value of the appliances in personal residential and vacation villas, the families are entitled to only ALL 6,5 million or only a quarter of what was spent, the rest of ALL 18,5 million are excessive expenses for luxury and for their privileges. Even if the decision of the Political Bureau is taken for granted, depreciating appliances above the allowed rates constitutes economic damage and misuse. From their amortization, calculated for the last 3 years, which amounts to ALL 2,7 million, the Hoxha family is charged ALL 1,4 million, the Alia family ALL 372 thousand, the Çarçani family ALL 105 thousand, the Isai family ALL 102 thousand and so on.

The physical inventory of the appliances of the mentioned families has been completed. Upon delivery of the residential villas, some people emptied and damaged them by taking the installed objects. Thus, the value of the damage caused by the Toska family is ALL 11 thousand, ALL 5 300 by the Myftiu family, ALL 4 300 by the Mihali family and ALL 1 300 by the Murra family.

There were also missing appliances at the worth of ALL 90 thousand for use in apartments, which were compensated along with the above damages.

In addition, upon a special commission, the appliances that were kept by the families were reassessed and the corresponding sum of ALL 750 thousand was collected from them. The rest was stacked up.

Third, the Directorate of Reception has provided rewards for cases of family fatalities more than allowed by the relevant decisions, which act equally for all other citizens. Thus, instead of ALL 500, Foto Çami received ALL 7 500, Llambi Gegprifti received 4 250 and Besnik Bektashi received ALL 900.

Fourth, the three main families have privately arranged lunches and dinners, receptions and constant escorts for friends and colleagues in their homes, which during the period 1988-1990 cost the state ALL 435 thousand. More specifically, Nexhmije Hoxha's family spent ALL 223 thousand on the reception and escort of 5,630 people, which was more than the number of people seen by the President and the Prime Minister.

Fifth, there was significant foreign currency expenditure on luxury clothing and cosmetics. Although there is no special decision to treat the party and state leadership and their families with imported clothing or cosmetics, as well as with special clothing ordered locally, large sums of foreign currency and in ALL were provided to them yearly. Upon the order of the former heads of the Ministry of Foreign Trade, the Ministry of Finance and the General Directorate of the State Bank through Industrial-Impex for the years 1988-1990, 457 thousand dollars were given to the embassies in Rome, Vienna and Paris privately for purchases in dollars in cash at specialty stores and for fashion goods, such as clothing, cosmetics, hunting equipment, household appliances or food. We emphasize that the funds given by the Directorate of Reception and used by the Industrial-Impex through the embassies were out of control. In some cases, the goods abroad were purchased by the users themselves and the payment of their value was delayed by one to three years. Thus, the Hoxha family received 3 300 dollars in the year 1988 and the payment of the value of the goods purchased was made in June 1991. The Çarçani family acted likewise for 1 500 dollars and the family of Qirjako Mihali for 1 000 dollars.

Nowadays, 91 thousand dollars are not justified in these embassies. Only after the on-site inspection is carried out it can be concluded whether this difference and others are misuse, abuses or undocumented expenses. The purchase of clothing and cosmetic items was made at high prices in foreign currency, while the assessment for payment by the beneficiaries was made in local ALL and at extremely low prices. Those who benefited the most, from the difference between the currency spent and the price paid, was the Alia family for ALL 174 thousand, the Hoxha family for ALL 84 thousand, Pirro Kondi for ALL 13 700, Adil Çarçani for ALL 25 200, Qirjako Mihali for ALL 5 500, Llambi Gegprifti for ALL 3 300.

Sixth, the Directorate of Reception treated with gifts of considerable value, in addition to various government and party delegations, personal friends and guests of these families. Similarly, personal gifts were given to their friends abroad and high party and state figures. The amount of gifts given for the period 1987-June 1991 amounts to ALL 301 thousand, out of which ALL 160 thousand were given to state delegations and ALL 141 thousand to private friends.

For medical treatments that were carried out in France, personal gifts were given to foreign doctors. Gifts at the value of ALL 26 thousand were made from the Hoxha family, ALL 24 thousand from the Alia family, ALL 52 thousand from the Çarçani family, ALL 15 thousand from the Muftiu family, ALL 2 600 from the Çërrava family, ALL 2 400 from the Mihali family, ALL 4 400 from the Marko family and ALL 2 600 from the Çami family. The above amounts constitute misuse.

Dear MPs, these were generally some of the data and conclusions of the control exercised so far. More detailed materials were submitted to the investigator in charge of the case of the denunciation of the responsible persons by the Ministry of Finance and the State Control Commission. The government is satisfied that the investigation and court bodies will investigate the case to the end and without hesitation and will judge fairly and decisively both in determining the legal responsibility of these persons, as well as the extent of the misuse and the unjustly benefited amounts, determining the amount of damage that must be compensated by them. The decades-long shameful practice of undeserved and abusive privileges must also be subjected to a judgment in political and moral terms. In this light, this practice is reprehensible for these main elements:

Firstly, in the political deception that high communist leaders have done to the Albanian nation for years, preaching in a cynical and unscrupulous manner, for decades in a row, equality and peace, condemning an entire people to live in shameful poverty, due to their incompetence and anti-national ambitions. On the other hand, these leaders allowed themselves enormous privileges and benefits and in deep contrast with the low living standard of the people.

Secondly, for the lack of any legal grounds in the benefit of favorable treatments from the state. In every democratic and emancipated country in the world, senior leaders of the state are treated and favored for their position, for the state dignity, for the important duty and great responsibility, but these treatments are carried out on a legal basis through a parliamentary approval and being known and transparent to everyone.

On the contrary, the privileging of the high party leadership of the former Albanian

socialist state was carried out through illegal decisions that were taken secretly by them, thus showing the complete disregard and lack of respect that these first-rank citizens showed for the laws and the will of the nation, as well as their intention to keep the true content of the privileges and benefits they allowed themselves as secret as possible, publicly disclosing only their modest salaries, the highest of them being ALL 1 600, while their real income was tenfold from unpaid benefits and rewards or abuses they committed in state property.

It must be clearly borne in mind that the economic damage this caste caused through life privileges and organized abuses are enough to condemn it legally and morally like any other violation of law, right and social norms. But the damage they have caused, through their incompetence, irrational and unscientific management of the economy, which brought the country to this crisis and deep poverty, is truly immeasurable.

By strongly denouncing and condemning these painful phenomena of the past, the Albanian people and today's democratic state further prove that the past ended once and for all and they will not allow for these phenomena to reappear in the future. Thank you!

III. FACSIMILE OF DECISION NO. 16 / 709

REPUBLIKA E SHQIPËRISE

GJYKATA E RRETHIT TIRANË

NR. 709 I RREGJ. TIRANË.

NR. 16 I VENDIMIT.

V E N D I M"NË EMËR TË POPULLIT"

Gjykata e rrethit Tiranë e përbërë prej:

Muharrem Kushi Zv.Kryetar i Gjykatës së rrethit

Maksim Shumipi Nd.Gjyqtar " "

Uk Cenn Nd.Gjyqtar " "

të asistuar nga sekretarët Flutura Kadin dhe Valentina Papi në pjesëmarrjen e prokurorit Teodor Mosko, me data, 8,9,11,12,13,14,21,26 dhe 27.1.1993, shqyrtoi me detyrë të hapura çështjen penale me Nr.709 që u përket të pandehurëve;

1-NEXHMIJE HOKHA, e bija e Tefikut dhe e Naxhijes, e dt.lindjes 1921, lindur në Manastir e banues në Tiranë, e pa denuar, e arrestuar me 4.12.1991. mbrojtur në gjyq nga avokati Dhimitër Beshiri.

A K U Z U A R: Se në bashkëpunim me persona të tjerë ka kryer krimin e përvetësimit të pasurisë shtetërore në shumën 746,192 lekë dhe atë të shpërdorimit të detyrës, duke i shkaktuar një dëm shtetit prej 121,738 lekë, nga të cilat 89,822 lekë në bashkëpunim me të pandehurin Kimo Buxheli, vepra penale këto të parashikuara nga nenet 62,106 e 13 të K.Penal.

2-KIMO BUXHELI: i biri i Delanit dhe i Tikes, i dt. lindjes 1954, lindur dhe banues në Tiranë, i arrestuar me 31.8.1991, mbrojtur në gjyq nga avokati Përparim Çanxhaku.

A K U Z U A R: Se në bashkëpunim me persona të tjerë ka kryer krimin e përvetësimit të pasurisë shtetërore në shumën 3,261,888 lekë dhe atë të shpërdorimit të detyrës, duke i shkaktuar shtetit një dëm ekonomik prej 2,135,682 lekë, vepra këto të parashikuara nga

- 2 -

kuara nga neni 62,106 dhe 13 të K.Penal.

Gjykata pasi dëgjoi të pandehurit, dëshmitarët, ekspertët kontabël, administroi provat shkresore dhe pasi dëgjoi prokurorin e shtetës gjyqësore i cili kërkoi:

1- Të deklarohet fajtorë e pandehura Nexhaije Hoxha për krimin e përvetësimit të pasurisë shtetërore në përpjestime të mëdha në vlerën 752,623 lekë dhe në bazë të nenit 62 të K.Penal të dënohet me 14 vjet heqje lirie.

Detyrimin e të pandehurës të dëmshpërblejë shtetin në shumën 752,623 lekë. Për pjesën tjetër të dëmit t'i njihet personit juridik të dëmtuar e drejta e shpërblimit të dëmit dhe t'i dërgohet shtetja për shqyrtim gjykatës civile. Në fazën e ekzekutimit ti zbritet vlera e dhuratave provë materiale.

2- Të deklarohet fajtorë i pandehuri Kino Buxheli për krimin e shpërdorimit të detyrës dhe në bazë të nenit 106 të K.Penal të dënohet me 4(katër) vjet heqje lirie.

Të deklarohet fajtorë i pandehuri Kino Buxheli për krimin e përvetësimit të pasurisë shtetërore dhe në bazë të nenit 62 të K.Penal të dënohet me 7(shtatë) vjet heqje lirie.

Në bazë të nenit 35 të K.Penal i pandehuri Kino Buxheli të dënohet me 9(nëntë) vjet heqje lirie.

Ti njihet personit juridik të dëmtuar e drejta e shpërblimit të dëmit të shkaktuar dhe padia civile ti drejtohet gjykatës civile.

Gjykata pasi dëgjoi edhe fjalën e mbrojtjes të të pandehurëve dhe të avokatëve mbrojtës të tyre të cilët kërkuan:

E pandehura Nexhaije dhe avokati mbrojtës i saj pafajsi.

I pandehuri Kino Buxheli dhe avokati mbrojtës i tij pafajsi,

V E R E N

- 646 -

- 3 -

E pandehura Nexhmije Hoxha gjatë periudhës 1986 - 1990 ka qenë e ngjedhur në funksione të rëndësishme partiake dhe shtetërore si anëtare e K.Q.të P.Punës, deputete e Kuvendit Popullor, kryetare e P.D. të Shqipërisë dhe, për një kohë të gjatë, drejtoreshë e Institutit të Studimeve M.L. pranë K.Q. të P.Punës.

I pandehuri Kiro Buxholi në prill të vitit 1986 është emruar në detyrën e drejtorit të Drejtorisë së Pritjes, e cila ka pasur për objekt të punës së saj, plotësimin e kushteve të jetesës të ish personaliteteve të larta të partisë e shtetit në periudhën e sistemit njëpartiak.

Të dy të pandehurit organi i prokurorisë të Kreshit të Tiranës i ka derguar për gjykim të akuzuar se: në bashkëpunim me njëri tjetrin dhe me persona të tjerë për të cilët është veçuar qashtja penale kanë kryer veprat penale të përvetësimit të pasurisë shtetërore në përpjestime të mëdha si dhe atë të shpërdorimit të detyrës duke i shkaktuar shtetit një dëm të rëndësishëm ekonomik paraqitur respektivisht nga nenet 62,106 dhe 13 të K.Penal.

Konkretisht e pandehura Nexhmije Hoxha akuzohet për përvetësim të pasurisë shtetërore; se ajo gjatë periudhës 1986-1990 ka shtruar dreka e darka e pritje koktej për persona të ndryshëm në vlerën 506,704 lekë. (12,158 persona janë pritur për dreka e darka me kusht 35 lekë menjëherë dhe 21,662 persona me kusht 3 lekë).

Dreka dhe darka, sipas akt akuzës janë shtruar prej saj edhe në kretë të ndryshme të vendit.

E pandehura akuzohet se ka shpensuar 25,553 lekë që kanë të bëjnë me kushtin ditore 3 lekë, e shpensuar prej saj dhe personave që sipas rastit e kanë shoqëruar; 6439 lekë që përfshijnë 3,2 lekë në ditë të pa paguar për periudhën e pushimeve; për shumën 143,290 lekë që përfaqëson diferencën në çmim të mallrave të blera me valutë në dorë; 25,051 lekë të shpensuara për dhuratat që u ka dhënë mjekëve

- 4 -

me dy raste kur ka dalë për kurin jashtë shtetit përkatësisht në vitin 1986 dhe 1987, dhe 52,160 lekë që është vlera e barnave mjeksore të përdorura prej saj dhe pjestarëve të familjes. Pra akuzohet se ka përfituar shuma 746,192 lekë.

Gjithashtu e pandehura Nexhmije akuzohet edhe për krimin e shpërdorimit të detyrës duke i shkaktuar shtetit një dëm të përcaktueshëm që kaq vlerën prej 121,738 lekë.

Nga hetimi gjyqësor rezultoi se provuar se e pandehura Nexhmije Hoxha krimin e përfitimit të pasurisë shtetërore e ka kryer, por jo në atë shumë që akuzohet nga organi i Prokurorisë,

Për pritjet, drektat dhe dërgat, e pandehura Nexhmije, sikunder doli dhe gjatë gjykimit, ka qenë e udhëzuar të presë, individë dhe delegacione të ndryshme, në përkatësi me funksionet dhe detyrat që ka patur si dhe si bashkëshorte e Enver Hoxhës.

Kjo veprimtari është thelluar fill pas vdekjes së Enver Hoxhës si në raste përvjetorësh, ngjarje historike etj.

Për realizimin e ketyre pritjeve, personeli i shërbimit mbi bazë të porosiive të dhëna nga e pandehura Nexhmije, sipas detyrës ka përgatitur drektat, dërgat, pritje koktej e të thjeshta, dhe për do anë, mbi bazë të përlogaritjeve të bëra, këto shpenzime janë përballuar nga shteti.

Në këto raste e pandehura Nexhmije, këto veprime nga ana subjektive nuk i ka kryer për të realizuar përfitime pasurore e për votë dhe as për persona të tjerë, por se anë e të është bërë e di- gur, sikunder doli në gjatë gjykimit, nga personalitete e larta partiake e shtetërore, se trajtimi i familjes së saj do të bëhej sikunder ishte bërë edhe më parë.

Në lidhje me nxjerrjen e akteve partiake apo shtetërore, të cilat efektivisht nuk kanë datë, e që nëpërmjet tyre do të bënte rregullim kjo veprimtari, ishte detyrë e organeve partiake apo

-5-

- 688 -

antetërore dhe jo e të pandehurës. Kjo e fundit nuk ka për të ardhur doty-
-ria ligjor për të ditur nëse koto akte kishin dalë nga organet kompe-
tente apo jo.

Por e pandehura Haxhiu Haxhiu për koto episode duhet
të përgjigjet vetën për drektën e drektës e shtrëngës për vitin e ri sig-
jantë: në 1 Janar 1936 për 15 persona; në 31 dhjetor 1936 për 26 persona;
në 1 Janar 1937 për 13 persona; në 31 dhjetor 1937 për 24 persona; në 1
Janar 1938 për 15 persona; në 31 dhjetor 1938 për 21 persona; në 1 Janar
1939 për 13 persona dhe në 31 dhjetor 1939 për 27 persona, duke shprehur
në koto koto shprehje 5740 lekë e llogarituar kjo në katon 35 lekë për
person dhe që janë përballuar nga shteti.

Po kështu ajo duhet të përgjigjet edhe për pritjen
e të shprehurës të saj nga burgjet, ku përmendur janë qatë pjesëtarët e
familjes dhe të shprehurës e saj, dhe shuma prej 1905 lekë të tërë përballuar
nga shteti.

E pandehura Haxhiu Haxhiu do të përgjigjet për përveçshin
të parimit antetërore për koto drektë e drektës të shtrëngës prej saj, sepse
si kryefamiljare ishte e detyruar të bënte për llogaritjet mjekë të
shprehurës që përballonin nga shteti dhe ato nga familja, por kjo
të të porositur që ajo i bënte personelit të shprehurës realisueshin
koto pritje.

Për, por dëshmimi nuk preketet në koto shprehje për përveçshin
të të pandehurës Haxhiu Haxhiu dhe personelit të shprehurës për drektën e
llogarit e shprehurës që lort për të cilat koto koto shprehje "drektë e
llogarit mjekë", gjithatë qëllim bindjen në për episode të shprehurës në
lort, në dokumente janë përmendur të cilat 27 shprehje dhe e pandehura
Haxhiu Haxhiu do vepër konkludente të preketet të realisueshin përveçshin pas-
nyje.

Dëshmitarët e dytë të cilat dëshmitarët, për koto, episode
kuptojnë në për koto e viti të ri në koto janë koto pritje koto koto
të shprehurës përveçshin e shprehurës.

- 6 -

E pandehura Nexhmije Hoxha duhet të përgjigjet për përveç tësia të pasurisë shtetërore edhe për episodin e dhuratave që ajo u ka bërë mjekëve kur ka shkuar për kurim jashtë shtetit, të cilat sipas fletës daljen kapin vlerën 25,051 lekë.

Në të vertetë kështu mallra të marra nga e pandehura janë shpenzuar prej saj, në një kohë që kjo e drejtë nuk i takonte, dhe për më tepër, do të përgjigjet për kështu dhurata të tretave ^{pas} jua u ka dhënë në emër dhe për llogari të saj dhe jo të shtetit.

Për diferencat në qmimet e mallrave të blera në valutë në dorë (në 40 raste), që kapin shumën 143.290 lekë, e pandehura Nexhmije nuk duhet të përgjigjet penalisht, por qmimi i mallrave është vendosur nga specialistë kompetentë, të cilët nuk kanë qenë nën influencën dhe nën ndikimin e saj. Siç shpjegon, kështu specialistë, të tarrur me cilësinë e dëshmitarëve, qmimet e mallrave janë vendosur mbi bazë të mandalit të qimeve të asaj periudhe. Në rast se do të rezultonte ndonjë shkelje nga ana e specialistëve, në rastin konkret përsëri do të ndodheshim para detyrimit civil, por jo para përgjegjësisë penale.

Është i vërtetë fakti që e pandehura Nexhmije për periudhën 1986-1990 ka marrë barna mjekësore falas, por një gjë e tillë ka qenë parashikuar në rregulloren e Ish Klinikës Speciale, të miratuar nga ish Ministri i Shëndetësisë dhe në fakt kështu është vepruar për të gjithë anëtarët dhe kandidatët e Komitetit Qendror të Partisë në Punë, ndonëse ata në bazë të vendimit të Byroës Politike nr.1, të vitit 1983 nuk e gëzuan këtë të drejtë.

Pra, e pandehura Nexhmije, në rastin e dhënë, nga ana subjektive nuk ka dashur të përvetësojë pasurinë shtetërore, por ka qenë i detyruar të realizonte një të drejtë që asaj i takonte, sikundër kanë vepruar edhe të tjerët.

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- 7 -

- 100 -

Në lidhje me faktin tjetër, siq përmendet edhe në akt akuzë, se barna falsë kanë marrë edhe pjestarët e familjes së saj, gjykata se provat e administruara nuk arriti në përfundimin që ka arritur organi i prokurorisë. Jo vetëm se në ish klinikën speciale janë gjetur receta në emër të pjestarëve të fa iljes të të pandehurës, ku rezultoi se barnat janë blerë me lekë në dorë, por thënia e dëshmitarëve mbi të cilët mbështetet akuzë, për këtë episod, gjykatënuk i merr të besueshme.

Dëshmitarja Drita Andoni për t'i shpjeguar përgjegjësinë e saj, pse ka qenë kjo e ngarkuar se përgjegjësi materiale, mendohet që të fajësojë të pandehurën Nexhaije, në një kohë që siq deli g atë gjykimit, ajo dhe mjeku Isuf Kalo kanë marrë në mënyrë të vazhdueshme e haptas të kundërligjshme barna nga farmacia që ndodhej në ambientet ku banonte e pandehura dhe i kanë shpënë dhe përdorur në pavionin ku drejtonte mjeku I. Kalo.

Në lidhje me këtë veprimtari, gjatë gjykimit hodhi dritë dëshmitari Ilir Koxheri, i cili paraqiti edhe një fletore personale, në të cilën janë shënuar ditë nga rastet që ai ka shpënë ilaçe nga farmacia në pavion, duke theksuar se kjo veprimtari ka vazhduar deri në vitin 1990. Pra, duke kaluar barnat nga farmacia në pavion, pa dokument dalje, kjo e fuqit efektivisht nuk është shkarkuar dhe rezultati i inventarit ka dalë mbi bazë të fletës hyrjeve dhe shënimeve të bërë për barnat e marxhuara në kartelën klinike të të pandehurës.

Është i vërtetë fakti se deri nga mesi i muajit prill të vitit 1985 nga kjo farmaci janë tërhequr shumë barna mjekësore, por ky veprim është kryer edhe në periudhën e mëvonshme dhe ekziston mundësia reale që abuzime të jenë bërë nga personeli i shërbimit mjekësor, siq është dëshmitarja Drita Andoni e ndonjë tjetër.

Përfundimisht, për këtë episod, mbi bazë të shënimeve të bërë në kartelën klinike të të pandehurës Nexhaije, për periudhën në

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- 8 -

- 701 -

fjalë, pala e dëshuar ka të drejtë të kërkojë në rrugë civile kundërvlefën e barnave të harruara prej saj.

Edhe për diferencën e pa paguar prej 6439 lekë, për periudhën pushimeve, e pandehura Hoxha nuk duhet të përgjigjet penalisht. Në të vërtetë, kuota e ushqimit, për anëtarët dhe kandidatët e Komitetit Qendror të Partisë së Punës, për periudhën e pushimeve, ka qenë 9,3 lekë, aq sa ka qenë e caktuar ngabeshkimet profesionale, por me letër nr.875/1, datë 16.9.1968 të ish zv/kryeministrit A.Garjani për të lartpërmendurit është caktuar kuota 12,5 lekë në ditë.

Si e pandehura Hoxha dhe gjithë anëtarët dhe kandidatët e KQ të P.Punës, diferencën prej 3,2 lekë në ditë nuk e kanë paguar, kjo për faj të drejtuesve të Drejtorisë së Pritjes dhe në të tilla rrethana e pandehura duhet të detyrohet civilisht të shpëtojë shteti në shpesh e mëshpërme, por këtë e zgjidh gjykata civile.

Në lidhje mekrimin e shpërdorimit të detyrës, që binte fjalë për diferencën në inventar dhe vlerën e amortizimit të mallrave që të pandehurës i ishin dhënë në përdorim, prokurori i qështjes hoqi dorë nga akuzat për këtë krim, dhe gjykata, për këtë pjesë, detyrimisht duhet të vendosë pushimin e gjykimit.

Pretendimi i ngritur nga e pandehura dhe avokati mbrojtës i saj se për trajtimin e familjes "Hoxha" ka patur një vendim të veçantë, në të cilin, sipas tyre përcaktohej se "trajtimi bëhej pa kufizime", është i padrejtë. Ky pretendim bëhet me qëllim për t'i shpëtuar përgjegjësisë penale, por edhe sikur të kishte një vendim të tillë, të marra në vitet 60', sikundër pretendohet, ai do të kishte fuqi derisa që gjallë E.Hoxha, i cili mbante detyrën e sekretarit të parë të Komitetit Qendror të Partisë së Punës. Pas vdekjes së tij edhe në këtë kusht të sistemit monopartiak, ky vendim normalisht binte nga fuqia, pse pas vdekjes së Enverit familja nuk duhet t'i gëzojë ato privilegje, të cilat përfitohehin për shkak të detyrës

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- 9 -

- 402 -

Në rrethanat e përmendura më lart e pandehura Nexhaije Hoxha do të përgjigjet për krimin e përvetësimit të pasurisë shtetërore në shumën 32.296 lekë, parashikuar nga neni 62 i Kodit Penal. Në cilësinë juridike të veprës penale mbahet parasysh periudha e kryerjes së saj dhe vlera e monedhës shqiptare.

Fajësiq e të pandehurës rezultim e provuar me tëniet e dëshmitarëve, provat shkresore të administruara gjatë gjykimit dhe aktin e ekspertimit kontabël.

Sipas akt akuzës të paraqitur nga organi i prokurorisë, i pandehuri Kine Buch-li akuzohet për veprat penale të përvetësimit të pasurisë shtetërore, të kryer në interes të të tretëve, në shumën 3.261.888 lekë dhe atë të shpërdorimit të detyrës, pas, po sipas akt-akuzës, me veprimet dhe mosveprimet e tij të kundërligjshme, i ka shkaktuar shtetit një dëm ekonomik prej 2.135.682 lekë.

Prokurori, si përfaqësues i akuzës, në përfundim të hetimit gjyqësor e kufizoi akuzën dhe konkretisht, për përvetësim të pasurisë shtetërore në shumën 62.170 lekë dhe për shpërdorim të detyrës, pranoi se i ka shkaktuar shtetit një dëm ekonomik prej 466.036 lekë.

Sic doli gjatë gjykimit, në bazë të vendimit nr.39 të vitit 1976 të Byrosë Politike të drejtën për të bërë pritje, dreka, darka e kokteji e ka patur edhe Adil Cergani, i cili ka qenë ngarkuar me detyrën e kryetarit të Këshillit të Ministrave. Për realizimin e këtyre pritjeve, pëthuhet se është vepruar në të njëjtën mënyrë si veprime të e pandehura Nexhaije Hoxha, me ndryshimin që për çdo person shpenzohet 25 lekë dhe jo 35 lekë. Për përlogaritjen e këtyre e pensive nga ana e gjuhënierit Paskal Kostari, i pyetur në gjyq me cilësinë e dëshmitarit, nuk janë mbajtur evidencat ditore dhe me majore me qëllim që të përcaktohet saktësisht shuma që do të përballlohet nga shteti për pritjet e organizuara.

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- 10 -

- 703 -

Numi i personave të pritur për dreka e darka, pritje koktej e të
 ngjashme janë pasqyruar në evidencat majore të përpiluara nga kryetari
 , degës së financës, dëshmitarja Kaje Tafaj, por për burimin nga janë
 marrë këto të dhëna, shpjegimet e dëshmitares së mësipërme janë kontra-
 diktorë me ato të dëshmitarit Paskal Kostari. Ky i fundit ka qenë i dety-
 ruar që të pasqyroste me saktësi pritjet e organizuara dhe numrin e pje-
 sëmarrësve në to dhe mbi bazë të këtyre dokumenteve, dëshmitarja Kaje
 Tafaj duhet të bënte përllëgaritjet e shpenzimeve që përballoheshin nga
 shteti dhe eto që do të përballoheshin nga Adil Carqani. Ky veprim sig-
 jërmendëm më lart, nuk është kryer nga dëshmitari Paskal Kostari, por
 gjatë gjykimit deklaroi se për numrin e pritjeve dhe të pjesëmarrësve
 ia shajtur lidhje me dëshmitaren Kaje Tafaj, ndërsa kjo e fundit preten-
 ion se të dhënat për to i morri nga i pandehuri Kino Buxholi.

Organi i prokurorisë pranon në aktakusë se i pandehuri Kino Buxholi
 krijoi e përvetësoi të pasuritë shtetërore e ka kryer në interes të
 personave të tretë, e konkretisht të Adil Carqanit, duke pasqyruar fikti-
 vitet të dhëna të krems në lidhje me numrin e pritjeve dhe të pjesëmarrës-
 ve, e në këtë mënyrë, sipas aktakusës, shumat që do të shpenzoheshin
 nga Adil Carqani janë përballuar nga shteti.

Ky është konkluzioni edhe i përfaqësuesit të akusës në gjyq,
 ndërsa për episodet e tjera të përveçsimit të pasurisë shtetërore prej
 tij u tërhoq akusa.

Gjykata duke i analizuar me objektivitet provat e administruara
 gjatë gjykimit, nuk shpall bindje se i pandehuri Kino Buxholi ka kryer
 krijimin e përvetësimit të pasurisë shtetërore.

Në rastin konkret, për të vetmin episod që akuzohet tashmë ky i
 pandehar, gjykata nuk i morr të besueshme thëniet e dëshmitares Kaje
 Tafaj, e cila në lidhje me këtë akuzë ka përgjegjësinë e saj.

Kjo dëshmitare gjatë gjykimit shpjegoi se i pandehuri Kino Buxholi
 jepte asaj numrin e pritjeve dhe të personave që merrnin pjesë në
 mbledhjen e Carqani dhe se mbi bazë të tyre ajo kryente veprimet përkatëse.

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kyrëshe i shpjegon veprimet dëshmitari Paskal Kostari. Sipas tij, ai mbante lidhje me kryetaren e degës së financës, dëshmitaren Kaje Tafaj dhe jo me të pandehurin Kino Buxheli, siç aludon dëshmitarja e nësipërme.

Shpjegimet e kështij dëshmitari qëndrojnë më afër të vërtetës, sepse normalisht ai lidhej me dëshmitaren Kaje Tafaj, duhet të mbante pra, për analogji, në këtë mënyrë ka vepruar Kaje Tafaj edhe me dëshmitarin Miço Madhi, gushinier i familjes "Hoxha".

Pra, dëshmitarja Kaje Tafaj, si gjatë hetimit edhe gjatë gjykimit të çështjes, qmohet se nuk thotë të vërtetën dhe kjo është e kuptueshme sepse për veprimet e kryera ajo është po aq përgjegjëse sa dhe i pandehuri Kino Buxheli.

Ky i fundit, si drejtor, ka patur të disiplinuar llogaritë e dy familjeve të përmendura më lart dhe të ish presidentit Ramiz Alia pas vetëm këto tre familje kanë patur të drejtën për të bërë pritje në ambientet që kishin në dispozicion. Pra, i pandehuri Kino Buxheli ka nënshkruar në dokumentet vetëm pas përpilimit të tyre nga dëshmitarja Kaje Tafaj. Prandaj parrregullitë e lejuara nga i pandehuri Kino siç është nënshkrimi i tij në pasqyrën e shpenzimeve pa kërkuar dhe pa parë dokumentat e gushinierit, në rastin konkret duhen trajtuar si elementë të shpërdorimit të detyrës dhe jo si elementë të krimit të përvetësimit të pasurisë shtetërore.

Ky nënvizim bëhet nga vetë gjykata, sepse nuk kësqësohet pozita e të pandehurit dhe ky episod u shtohet episodeve të tjera të shpërdorimit të detyrës, për të cilat u spreh dhe prokurori si mbrojtës i akuzës.

Gjithashtu gjatë gjykimit rezultoi e provuar se, i pandehuri Kino Buxheli, duke qenë ngarkuar me detyrën e drejtorit, ka kryer veprime e mosveprime në kundërshtim me përmbushjen e rregullt të detyrës.

- 12 -

- 705 -

Në këtë veprimtari të kundërligjshme i pandehari Kino Baxhel nisur nga motive të ndryshme, siç janë dëshirat për të realizuar sukseset e ish personaliteteve të larta të partisë e të shtetit për një jetë sa në lloqecë dhe, nëpërmjet plotësimit të tyre, të krijonte garanci dhe privilegje edhe për vetë.

Konkretisht veprimet dhe mosveprimet e tij, që vinë nëdesh me përmbushjen e rregullt të detyrës konsistojnë në këto drejtisa :

I pandehuri Kino Baxhel në kundërshtim me kërkesat e ligjit nr.6942, datë 25.12.1984 dhe vendimin e Këshillit të Ministrave nr.70, dt.11.3.1985 "Për administrimin, dokumentimin, qarkullimin dhe ruajtjen e vlerave materiale e monetare" nuk ka kërkuar të bëhen rregullisht inventarët fizik për pajisjet që, ish personaliteteve të larta, u ishin dhënë në përdorim, por janë bërë vetëm inventarë kontabël. Janë lejuar shkelje edhe në qarkullimin dhe lëvizjen e mallrave e veçanërisht me mallrat e biera me valutë në dorë. Në shumë raste këto mallra nuk janë bërë hyrje në magazinën e Drejtorisë në Pritjes, ndikuar ka qenë rregulli, por janë marrë në vilt e banimit, nga personat, pjesëtarët e familjes që i kishin blerë jashtë shtetit dhe veprimet, si për vendosjen e çmimeve dhe për hyrjet dhe daljet, në shumicën e rasteve janë bërë fiktive. Veçanërisht shkelje janë lejuar në vlerësimin e mallrave, siç doli gjatë gjyqimit, anëtarët e komisionit të vendosjes në çmime e peshherë nuk i kanë parë, por kanë vepruar mbi bazë të dokumenteve që u janë paraqitur nga të interesuarit.

Shkelje dhe parregullsi janë lejuar edhe në lidhje me shpenzimet e përballëshesha nga shteti, siç janë rastet e 17 pritjeve në familjen Baxhel dhe me shpenzimet e tre lekshit në ditë. Nga dokumentat e ndodhura në dosje rezulton se për shumën 512.111 lekë, të cilat janë përballuar nga shteti dhe që përfaqësojnë shpenzimet e 3 lekshit, nuk është evidentuar për llogari të kujt është bërë ky shpenzim.

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- 13 -

- 706 -

Në bazë të vendimit të Byrosë Politike të vitit 1976, akteve të tjera partiake dhe letrat e leshuara nga drejtuesit e K.M., të cilat kanë qenë detyruesë për të pandehurin, nëpse vepimtaria e Drejtorisë Pritjes rregullohej kryesisht me akte partiako, kjo e fundit është e detyruar të mobilento disa ambiente të vilave ku banonin ish udhëheqësit e lartë të partisë e të shtetit, duke u pranuar si kufi maksimal 25000 lekë. Ky kriter është shkelur nga i pandehuri dhe vartësit e tij, se gjatë periudhës që ai ka qenë në drejtim, duke plotësuar kërkesat për një jetë lluksoze të ish personaliteteve të larta të partisë e të shtetit, ka lejuar shpenzime të mëdha për mobilimin e ambienteve të banimit. Pasqarta inventari i këtyre paisjeve në vitin 1986 ka qenë 4.183000 lekë ndërsa në fund të vitit 1990 është bërë 6.643000 lekë.

Në drejtim të blerjes së mallrave me valutë në dorë janë lejuar -ar shkelje jo vetëm në drejtim të administrimit të kësaj pasurie, por se në këtë valutë shpesh herë janë blerë mallra që lehtësisht mund të gjendeshin në vend, dhe për më tepër, disa prej tyre si qifte, etj. u kanë kaluar në inventar personave që i kanë blerë, në vend që të arkëtohen kundervleftën e tyre.

Nga i pandehuri kjo nuk është kërkuar që të shpatohen me ragozitet kërkesat e ligjit, lidhur me mallrat dhe artikujt që merreshin nga ish personalitetet e larta të partisë e shtetit, për t'ua dhuruar mjekëve kur ata shkonin për mjekim jashtë shtetit. Siq doli gjatë gjykimit lisa nga këto mallra nuk u janë dhuruar mjekëve, por janë lënë në ambasadë dhe ambiente të tjera, pa përpiluar asnjë dokument, siq ishte rasti me leshmiterin Enver Hiloti. Në këto raste është detyrë e punonjësve të Drejtorisë së Pritjes që për këto mallra, të prisnin dokument, për t'i bërë kërke në ambasadat tona dhe këto të fundit të shlyenin kundervleftën e tyre ndaj D.Pritjes. Këto veprime kanë lënë shtek për abuzime e shpërdorime të ndryshme.

Në lidhje për detyrimet për qirorë e baneses, për drita dhe

- 14 -

ujë janë lejuar shkelje, sepse nga ana e punonjëseve të D.Pritjes me fa-
ture, nuk është pasqyruar detyrimi faktik, por vetëm ai prej 250 lek, kur
një gjë e tillë parashikohet nga Vendimi i B.Politike të vitit 1976.
Ky vendim duhet të bëhet me qellim që shpenzimet që përballsheshin nga
shteti të ishin an më të vogla.

Për rastet e fatkeqsive (të vdekjeve) nga ana e të pan-
dehurit Kino janë lejuar të përballsheshin nga shteti shpenzime të ndry-
shme siç janë; për P.Çamin 3558 lekë, për LL.Gegpriftin 4247 lekë dhe
për L.Gukon 644 lekë, në një kohë që Vendimi i B.Politike bën gjatë veti
për shërbime nga personeli dhe jo për të përballuar sikundër është vep-
ruar.

Gjithashtu nga i pandehuri Kino Buxheli është lejuar që
për periudhën e plazhit, për ish anëtarët dhe kandidatët e K.Q. të P.Fun-
të mos viles detyrimi prej 3.2 lekë në ditë, që ka qenë në fakt shtesë
ne kushtet e ushqimit ditor.

Keto veprime e mosveprime të të pandehurit përbejnë në
vekteteve elementët e krimit të shpërdorimit të detyrës, pas sëhtë cënua-
rende veprimtaria normale e institucionit ku ai drejtohte dhe njëkohësi
shtetit i sëhtë shkaktuar një dëm ekonomik, që sipas ekspertëve të pyetë
gjatë gjykimit kap shumen 488,206 lekë.

Fajqia për veprën penale që akuzohet i pandehuri provo-
het me theniet e dëshmitarëve, provat shkresore të administruara gjatë
gjykimit dhe aktin e ekspertimit kontabel të paraqitur nga ekspertët.

Për sa u thoksua me lart të pandehurit duhet të dekla-
ronen fajtorë për veprat penale; a pandehura Nexhmije Hoxha për atë të
përvetësimin të pasurisë shtetërore dhe i pandehuri Kino Buxheli për
atë të shpërdorimit të detyrës.

Me caktimin e masave të denimit gjykata mban parasysh
shkallën e rrezikshmërisë shoqërore të veprave penale të kryera dhe
atë të votë të pandehurëve.

- 15 -

- 708 -

Për të pandehurën Nexhmije Hoxha gjykata mban parasysh se në veprimtarinë e saj kriminale kanë ndikuar në një farë mase edhe parrregullsitë e lejuara nga personeli i shërbimit dhe i drejtuesit e Drejtorisë së pritjes. Ka parasysh mosheh e saj të thyer dhe gjendjen shëndetësore. Gjithashtu qenjen e saj në detyra të rëndësishme shtetërore e shoqërore në periudhën e kryerjes së veprës penale, në veçanëri të shkronjes "d" të nenit 31 të K.P., e marrë si rrethanë rëndësore.

Për të pandehurin Kimo Buxheli gjykata mban parasysh se në raport me paraardhësit e tij, si, në disa sektore të Drejtorisë së pritjes, ka vendosur rregull dhe disiplinë dhe është munduar të normojë veprimtarinë e saj. Gjithashtu mbahet parasysh se ka qenë nën influencën e ish personaliteteve të larta partiake e shtetërore, të cilët herë pas here i kanë bërë ankesa për të realizuar një jetë lluksoze. Pra, kryerja e veprës penale nën ndikimin e tyre, në veçanëri të shkronjës "d" të nenit 30 të K.P. nën duhet marrë si rrethanë lehtësuese.

Në rrethikshmerinë shoqërore që ai paraqet mbahet parasysh fakti se shkelje e parrregullsi janë kryer edhe nga vartësit e tij dhe se mundësitë e tij për të kontrolluar, deri diku kanë qenë të kufizuara, ndonëse nuk përjashtohet nga përgjegjësia penale.

Se fundi gjykata ka parasysh edhe gjendjen e tij familjare me dy fëmijë të mitur.

Në lidhje me detyrimin civil gjykata ka parasysh për të pandehurin Kimo Buxheli në problemat e fejsisë së tij në fushën civile është i lidhur me atë të personave të tjerë, prandaj ajo nuk mund të zgjidhet në këtë proces penal. Pala e detyruar ka të drejtë të kërkojë në gjykatën civile.

Për të pandehurën Nexhmije Hoxha padia civile për shumën e përveçësuar duhet të zgjidhet, duke zbritur nga shumën e përgjithëshme e përveçësuar vlerën e mallrave prove materiale të dërguara nga dëshmitari Enver Miloti që është 2806 lekë. Për detyrimet etjera të zgjidhen sipas rastit nga gjykata civile.

- 16 -

PËR KETO ARSYE:

- 709 -

Gjykata në bazë të nenit 150 të K.Pr.Penale,

V E N D O S I

1- Të deklarojë fajtorë të pandehurën Nexhmije Hoxha për veprën penale të përvetësimit të pasurisë shtetërore dhe në bazë të nenit 62; 31/d të Kodit Penal e dënnon me 9 (nëntë) vjet heqje lirie.

Pushimin e gjykimit të çështjes për të pandehurën Nexhmije Hoxha për krimin e shpërdorimit të detyrës, parashikuar nga neni 106 ^{pse} të Kodit Penal, prokurori i çështjes hoqi dorë nga kjo akuzë.

Vuajtja e dënimit për të pandehurën Nexhmije Hoxha fillon nga data e arrestimit 4.12.1991.

2- Të deklarojë fajtorë të pandehurin Kino Buxheli për veprën penale të shpërdorimit të detyrës dhe në bazë të nenit 106; 30 /d të Kodit Penal e dënnon me 4 (katër) vjet heqje lirie.

Vuajtja e dënimit për të pandehurin Kino Buxheli fillon nga data e arrestimit 31.8.1991.

Detyrimin e të pandehurës Nexhmije Hoxha të kthejë Drejtorinë në Sherbimeve Qeveritare shumën 29.490 lekë.

Sendet prova materiale; tre copë shalle sadrimor, 4 copë rrugicë leshi, dy copë qantë leshi, një tabaka bakri artistike, një komplet bucele prej druri, tre copë llulla druri, një qantë plasmasi dhe një tabullo (pikturë) të kthehen Drejtorisë në Sherbimeve Qeveritare.

Vëprimin e padisë civile në procesin penal për detyrimin që mund të ekzistojë për të dy të pandehurit dhe zgjidhjen e saj nga gjykata mbi kërkesën e palës në dëmtuar.

Kunder këtij vendimi mund të bëhet ankim dhe protestë brenda 5 ditëve, nga dita e tretë e shpalljes në këtij vendimi, në Gjykatën e Apelit Tiranë.

U shpall sot më 27.1.1993.

SEKRETARE

(Flutura Kushi) (Valentina Fapi)

GJYQTARI

(Muharrem Kushi)

IV. LISTA EMËRORE E TË DËNUARVE

Renditja në listën e mëposhtme është bërë sipas rendit alfabetik dhe jo sipas datës së dënimit.

1. Adil Çarçani
2. Agron Tafa
3. Aranit Çela
4. Arseni Stroka
5. Besnik Bekteshi
6. Dilaver Bengasi
7. Foto Çami
8. Gaqo Nesho
9. Hajredin Çeliku
10. Haxhi Lleshi
11. Hekuran Isai
12. Idajet Beqiri
13. Irakli Vero
14. Kiço Mustaqi
15. Kino Buxheli
16. Ksenofon Çoni
17. Lenka Çuko
18. Llambi Gegprifti
19. Manush Myftiu
20. Muho Asllani
21. Nazmi Domi
22. Nexhmije Hoxha
23. Pali Miska
24. Prokop Murra
25. Qirjako Mihali
26. Ramiz Alia
27. Rita Marko
28. Rrapi Mino
29. Simon Stefani
30. Sulejman Abazi
31. Shkëlzen Bajraktari
32. Zef Loka
33. Zylyftar Ramizi
34. Vangjel Çërrava
35. Veiz Hadëri

V. DETAILED SUMMARY TABLE

File No.	Defendant	Charged with the criminal offense	Date of trial	Sentence (years)	
16	Nexhmije Hoxha	Appropriation of state property	27.1.1993	9	
16	Kino Buxheli	Abuse of power in complicity	27.1.1993	4	
811	Foto Çami	.	30.12.1993	.	
811	Besnik Bekteshi	.	30.12.1993	.	
811	Hajredin Çeliku	.	30.12.1993	.	
811	Lenka Çuko	.	30.12.1993	.	
811	Llambi Gegprifti	.	30.12.1993	.	
811	Muho Asllani	.	30.12.1993	.	
811	Pali Miska	.	30.12.1993	.	
811	Prokop Murra	.	30.12.1993	.	
811	Qiriako Mihali	.	30.12.1993	.	
811	Vangjel Çërrava	.	30.12.1993	.	
505	Adil Çarçani	Abuse of power in complicity	2.7.1994	5	
505	Manush Myftiu	Abuse of power in complicity	2.7.1994	5	
505	Ramiz Alia	Abuse of power in complicity	2.7.1994	9	
505	Rita Marko	Abuse of power in complicity	2.7.1994	8	
505	Simon Stefani	Abuse of power in complicity	2.7.1994	8	
505	Hekuran Isai	Abuse of power in complicity	2.7.1994	5	
505	Aranit Çela	Abuse of power in complicity	2.7.1994	7	
505	Rrapi Mino	Abuse of power in complicity	2.7.1994	4	
505	Zylyftar Ramizi	Abuse of power in complicity	2.7.1994	6	
505	Veiz Hadëri	Abuse of power in complicity	2.7.1994	3	
414	Haxhi Lleshi	Crimes against humanity	24.5.1996	Life imprisonment	
414	Zylyftar Ramizi	Crimes against humanity	24.5.1996	Death sentence	
414	Aranit Çela	Crimes against humanity and Genocide	24.5.1996	Death sentence	
414	Rrapi Mino	Crimes against humanity and Genocide	24.5.1996	Death sentence	
414	Manush Myftiu	Crimes against humanity and Genocide	24.5.1996	Life imprisonment	
492	Foto Çami	Crimes against humanity and Genocide	20.6.1996	Life imprisonment	
492	Prokop Murra	Crimes against humanity and Genocide	20.6.1996	Life imprisonment	
492	Muho Asllani	Crimes against humanity and Genocide	20.6.1996	Life imprisonment	
492	Gaqo Nesho	Crimes against humanity and Genocide	20.6.1996	16	
492	Zef Loka	Crimes against humanity and Genocide	20.6.1996	20	
492	Dilaver Bengasi	Crimes against humanity and Genocide	20.6.1996	18	
601	Kiço Mustaqi	Abuse of power in complicity	17.7.1996	5	
601	Arseni Stroka	Abuse of power in complicity	17.7.1996	3	
601	Ksenofon Coni	Abuse of power in complicity	17.7.1996	4	
736	Nazmi Domi	Crimes against humanity and Genocide	28.9.1996	20	
736	Shkëlzen Bajraktari	Crimes against humanity and Genocide	28.9.1996	20	
736	Llambi Gegprifti	Crimes against humanity and Genocide	28.9.1996	20	
736	Veiz Hadëri	Crimes against humanity and Genocide	28.9.1996	16	
736	Irakli Vero	Crimes against humanity and Genocide	28.9.1996	16	
736	Agron Tafa	Crimes against humanity and Genocide	28.9.1996	15	
736	Lenka Çuko	Crimes against humanity and Genocide	28.9.1996	15	
736	Idajet Beqiri	Crimes against humanity and Genocide	28.9.1996	15	
736	Sulejman Abazi	Crimes against humanity and Genocide	28.9.1996	15	

	Sentence (type)	Financial penalty (in ALL)	Date of Appeal I	Sentence after Appeal I (in years)	Date of recourse	Sentence after recourse (in years)	File No.
	Imprisonment	29,490	17.5.1993		26.8.1993		16
	Imprisonment	.	.	.	.	.	16
	.	.	.	.	.	.	811
	.	.	.	.	.	.	811
	.	.	.	.	.	.	811
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	.	.	.	.	.	.	811
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	.	.	.	.	.	.	811
	.	.	.	.	.	.	811
	Probation	667,727	5.9.1994	.	30.11.1994	.	505
	Probation	424,464	5.9.1994	.	30.11.1994	.	505
	Imprisonment	1,174,167	5.9.1994	8	30.11.1994	5	505
	Imprisonment	275,873	5.9.1994	6	30.11.1994	5	505
	Imprisonment	188,869	5.9.1994	.	30.11.1994	6	505
	Imprisonment	413,082	5.9.1994	.	30.11.1994	4	505
	Imprisonment	.	5.9.1994	5	30.11.1994	4	505
	Imprisonment	.	5.9.1994	.	30.11.1994	3	505
	Imprisonment	.	5.9.1994	.	30.11.1994	5	505
	Imprisonment	.	5.9.1994	.	30.11.1994	2	505
	Imprisonment	.	24.7.1996	5	29.9.1997	Release	414
	.	.	24.7.1996	Life imprisonment	29.9.1997	Release	414
	.	.	24.7.1996	25	29.9.1997	Release	414
	.	.	24.7.1996	25	29.9.1997	Release	414
	Imprisonment	.	24.7.1996	5	29.9.1997	Release	414
	Imprisonment	.	12.8.1996	Probation	29.9.1997	Release	492
	Imprisonment	.	12.8.1996	20	29.9.1997	Release	492
	Imprisonment	.	12.8.1996	18	29.9.1997	Release	492
	Imprisonment	.	12.8.1996	16	29.9.1997	Release	492
	Imprisonment	.	12.8.1996	20	29.9.1997	Release	492
	Imprisonment	.	12.8.1996	18	29.9.1997	Release	492
	Imprisonment	.					601
	Imprisonment	.					601
	Imprisonment	.					601
	Imprisonment	.	5.11.1996	20	29.9.1997	Release	736
	Imprisonment	.	5.11.1996	20	29.9.1997	Release	736
	Imprisonment	.	5.11.1996	20	29.9.1997	Release	736
	Imprisonment	.	5.11.1996	16	29.9.1997	Release	736
	Imprisonment	.	5.11.1996	16	29.9.1997	Release	736
	Imprisonment	.	5.11.1996	15	29.9.1997	Release	736
	Imprisonment	.	5.11.1996	15	29.9.1997	Release	736
	Imprisonment	.	5.11.1996	15	29.9.1997	Release	736
	Imprisonment	.	5.11.1996	15	29.9.1997	Release	736

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Dr. Jonila Godole is the executive director of the Institute for Democracy, Media & Culture (IDMC) since 2014, and lecturer at the Department of Journalism and Communication, Faculty of History and Philology. After studying Albanian language and literature, she graduated on Political Sciences at the "J. W. Goethe" University in Frankfurt am Main, Germany. Her areas of scientific research include political communication and the role of media in collective memory. She has published a monograph on Albanian journalism in transition, several books as author and co-author, as well as tens of scientific articles in the country and abroad. In 2019, Jonila Godole was honored with the Golden Decoration for services rendered to the Republic of Austria by the Federal President Alexander Van der Bellen. And in 2022 she was awarded the "Order of Merit" by the German Federal President Frank-Walter Steinmeier for her contribution in the field of memory.

Kastriot Dervishi has studied History and Geography at the "Aleksandër Xhuvani" university in Elbasan. He was a member of the High Council of Archives at the General Directorate of Archives, member of the Scientific Council at the National Historical Museum and currently he is a member of the Scientific Council at the Institute for the Study of Communist Crimes and Consequences. He has published 21 historical studies and documentaries summaries as well as several articles in the Albanian press on the communism period in Albania. In 2007, he was awarded the first prize "Lumo Skëndo" for bibliophilia

CIP, Cataloging in Publication, Tirana National Library

Institute for Democracy, Media & Culture

Trials Against the Communist High-Ranking Nomenclature:
1993-1996 / Institute for Democracy, Media & Culture;
compiled by Çelo Hoxha, Jonila Godole, Kastriot Dervish. -
Tirana: IDMC, 2024.

152 pp. ; 17.6 x 25 cm.

ISBN 9789928465412

1. Tranzicioni demokratik 2. Gjyqe 3. Politika dhe qeverisja 4.
Vendime gjyqësore 5. Dokumente 6. Shqipëri [1. Democratic
transition 2. Trials 3. Politics and governance 4. Judicial
decisions 5. Documents 6. Albania]

343.13(496.5) "1993/1996" (093.2)



ISBN 978-9928-465-41-2



9 789928 465412 >