



**Number: X-K/07/474 - 13**

**Sarajevo, 19 November 2009**

***IN THE NAME OF BOSNIA AND HERZEGOVINA!***

*The Court of Bosnia and Herzegovina, Section II for Organised Crime, Economic Crime and Corruption, the Panel comprising Judge Branko Perić, as the Presiding Judge, and Judge Esad Fejzagić and Judge Nenad Šeleda, in the criminal case against Muhamed Mahmutović, for the criminal offence of Organised Crime in violation of Article 250(1) of the Criminal Code of Bosnia and Herzegovina (hereinafter the CC of BiH) in conjunction with the criminal offence of Smuggling of Persons contrary to Article 189 (1) and (2) of the CC of BiH, and in conjunction with the criminal offence of Illicit Trafficking in Narcotic Drugs contrary to Article 195(2) of the CC of BiH, following the Indictment of the Prosecutor's Office of Bosnia and Herzegovina No. KT-160/08 dated 9 September 2008 and the plea agreement dated 5 November 2009, having held a plea hearing and the hearing for the pronouncement of the sentence, in the presence of the Prosecutor of the Prosecutor's Office of Bosnia and Herzegovina Božo Mihajlović, the Accused Muhamed Mahmutović and his Defence Counsel Nedžad Sarajlija, on 19 November 2009, rendered and publicly pronounced the following*

**VERDICT**

***The Accused,***

***MUHAMED MAHMUTOVIĆ aka Hamo***, son of Mehmed and Esma, née Dizdarević, born on 22 March 1981 in the settlement of Gornja Barska – Municipality of Cazin, Bosniak, citizen of BiH, completed three grades of primary school, unskilled worker by profession, unemployed, single, no children, permanently residing in Cazin, Gornja Barska bb, convicted by the Judgement of the Court of BiH of the criminal offence of Smuggling of Persons referred to in Article 189 of the BiH Criminal Code.

**IS GUILTY**

***Because:***

*together with Hamzić Adis, Kovač Selmin, Štrbac Dalibor, Malkić Našid, Sadiković Hamid, Zečević Miomir, Miljković Dragan, Šupić Branislav, Mustafa Ćatić, Emrulai Muadin, Karajić Azmir, Šarić Fadil, Zubac Miodrag, Šišković Jovo, Mrkajić Radivoje, Uzunović Nermin, Mrkajić Velibor, Karajić*

*Atif, Karajić Damir, Šabić Zejid and four other persons together and with other persons known to them, organised the transfer of citizens of the Republic of Albania and citizens of Serbia from the territory of Kosovo (hereinafter: migrants) to other countries which they were not citizens of, in which they did not have their stay approved or a registered place of residence, failing to meet the requirements for the entry and stay in those countries in accordance with the laws of those countries, in contravention of the UN Convention against Transnational Organised Crime, in contravention of Article 6 of the Protocol against the Smuggling of Migrants by Land, Sea and Air, and in contravention of Article 10 of the Act on Movement and Stay of Aliens and Asylum (Official Gazette, No. 29/03 and 4/04), as follows: by connecting and arranging with each other, connecting and arranging with other persons, connecting and arranging with persons who had arranged with the migrants to organise their transfer to other countries for an agreed amount of money, connecting and arranging with persons who organised the transfer of migrants to other countries and offered a monetary compensation for the transfer of migrants, connecting and arranging with members of other structured groups that organise transfer of migrants to other countries for a monetary compensation, individually and by associating into structured groups with the aim of transferring migrants, they arranged, organised the transfer of migrants, transferred migrants from the Republic of Montenegro, via the territory of Bosnia and Herzegovina, to the Republic of Croatia and other countries of Western Europe, out of gain – with a view to obtaining a monetary compensation they agreed on among themselves or with the organisers per migrant – person in an amount ranging from 50 € to 1000 €, and that the accused: Muhamed Mahmutović, together with Branislav Šupić, Zejid Šabić and another person, together with other persons known to them, contrary to Article 53 of the Law on Prevention and Combat of the Abuse of Narcotics (Official Gazette of BiH No. 8/06), performed illicit trafficking in narcotics – substances which are on the List of Narcotics, Psychotropic Substances, Plants from which Narcotics and Precursors can be obtained (Official gazette of BiH No. 8/06 and 103/08), trafficked in a psychotropic substance (hereinafter: marijuana), as follows: by connecting and arranging with each other, connecting and arranging with other persons involved in illicit trafficking in narcotic drugs, and connecting and arranging with structured groups that organised and were involved in illicit trafficking in narcotic drugs, individually and by associating into structured groups with a view to illicit trafficking in narcotic drugs, out of gain for the purpose of acquiring monetary or other gain comprising the difference between the purchase and selling price, or for the purpose of the compensation obtained for the services performed in trafficking in narcotic drugs, and they therefore became*

*members of a structured group within the meaning of Article 1, Paragraphs 18 and 19, of the Criminal Code of Bosnia and Herzegovina, and through concerted and connected actions in the period between June 2007 and April 2008, they organised the transfer of an undetermined number of migrants from the Republic of Montenegro to Bosnia and Herzegovina and from Bosnia and Herzegovina to the Republic of Croatia, and definitely those migrants named in all Counts of the Indictment, and in the period between December 2007 and March 2008 they were undoubtedly involved in illicit trafficking in marijuana and arranged illicit trafficking in narcotic drugs as follows:*

### **3. MUHAMED MAHMUTOVIĆ, together with two other persons,**

*After the Accused Muhamed Mahmutović and another person had made several mutual contacts with persons known to them by the name of Zijo, Jaro and another person, with the aim of reaching an agreement on organisation and transfer of migrants from Bosnia and Herzegovina to the Republic of Croatia, and with the aim of reaching an agreement for the purpose of obtaining marijuana with a view to selling it in the Republic of Croatia and the Republic of Slovenia, the Accused Muhamed Mahmutović, together with two other persons, with each other and together with persons known to them by the name of Zijo and Jaro, as members of a structured group, in December 2007 and early January 2008, agreed with each other that they would jointly organise the transfer of migrants from Bosnia and Herzegovina to the Republic of Croatia, whereby the Accused Muhamed Mahmutović, together with another person, would transfer migrants from Velika Kladuša to the Republic of Croatia for the price of 250 to 300 Euro per person, while Zijo and Jaro, together with one of the abovementioned persons, would organise the transfer of migrants from Mostar to Velika Kladuša, for the price agreed with organisers, and that with each other, they would organise the buying, delivering and selling of marijuana in Bosnia and Herzegovina, and that they would jointly organise the delivering and selling of marijuana in the Republic of Croatia and the Republic of Slovenia, as follows: one person would ensure the buying and delivering of marijuana at an agreed price, while the accused Muhamed Mahmutović, together with another person, would ensure the selling of marijuana to buyers in the Republic of Croatia and the Republic of Slovenia, while Zijo and Jaro, persons known to them, would transfer and deliver marijuana between the above-mentioned person tasked with ensuring deliveries of marijuana, another person and Muhamed Mahmutović, after which the person in charge of ensuring deliveries of marijuana, delivered a of a smaller quantity of marijuana as a sample, so Zijo and Jaro delivered a*

*sample to the Accused Muhamed Mahmutović and another person, with the view for the Accused Muhamed Mahmutović and another person to arranging the selling of marijuana upon the sample received to buyers in the Republic of Croatia and the Republic of Slovenia, which they had found according to the previously described collusion.*

**4. THE ACCUSED MUHAMED MAHMUTOVIĆ, together with BRANISLAV ŠUPIĆ and three other persons known to him and others,**

*Having reached the agreements described under Count 1, toward the beginning of January 2008, the Accused Muhamed Mahmutović and two other persons, as members of a structured group, with each other and persons known to them by the name of Zijo and Jaro, arranged the buying of 10 kg of marijuana, at a price corresponding to the value of a passenger motor vehicle of type 3 "Golf" make, number plates KA-687-EI, the price of which they mutually estimated at the value of 6 kg of marijuana, and 1,500.00 € for 4 kg of marijuana, after which one the above-mentioned persons organised the buying and delivering of marijuana, in the way that this person and the person by the name of Branislav Šupić, as members of a structured group involved in illicit trafficking in narcotic drugs, mutually arranged the buying of 4 kg of marijuana with deferred payment, and in the way that the same person who organised the buying and delivery bought 6 kilograms of marijuana from a person known to him, whereafter, on 9 January 2008 in Stolac, that same person delivered 6 packages of marijuana to a mediator who introduced himself as "Hamo's man", which they mutually assumed to have weighed 6 kg, took over 1,500.00 € for the payment of the 4 kg of marijuana from the mediator, and mediated to see the mediator, Hamo's man, together with Jaro, make contact with Branislav Šupić with a view to taking over the 4 kg of marijuana, whereafter, on 9 January 2008, Branislav Šupić handed over 4 packages of marijuana at the agreed place to the mediator Hamo's man and Jaro, which they mutually assumed to have weighed 4 kilograms, whereafter, on 10 January 2008, the mediators Zijo and Jaro transferred the 10 packages of marijuana from Mostar to Velika Kladuša, whereafter the accused Mahmutović Muhamed took over all the 10 packages from the mediators, which they mutually assumed to have weighed 10 kg, whereafter the accused Mahmutović Muhamed handed over to the mediators the passenger motor vehicle of type 3 "Golf" make, number plates. KA-687-EI for the payment 6 kg of marijuana, and returned to the mediators 4 packages of marijuana he had not managed to sell, whereafter Zijo and Jaro, transferred to Mostar the aforementioned passenger motor vehicle and 4 packages of marijuana that the Accused Muhamed Mahmutović did not manage to sell, and following prior*

*agreement, Jaro handed over the aforementioned passenger motor vehicle to the person who had organised and buying and delivery of marijuana, and following prior agreement, on 11 January 2008, he then handed over the aforementioned vehicle to the accused Šupić Branislav instead of the monetary payment for the 4 kg of marijuana that he had previously bought from Branislav Šupić with deferred payment, whereafter, a certain person, following prior agreement, with mediation of other persons, he mediated and arranged for one person to buy 4 kg of marijuana at a price of 400 € per 1 kg, whereafter, following prior agreement, Zijo and Jaro again transferred the 4 packages of marijuana from Mostar to Velika Kladuša, whereafter, on 17/18 January 2008, with mediation of the same accused person, Zijo and Jaro handed over 4 packages of marijuana to the person and the person known to him with a scar on his face, which they mutually assumed to have weighed 1 kg each. The person and the person known to him with a scar on his face paid 800 € to Zijo and Jaro for 2 packages of marijuana, and returned 2 packages of marijuana to Zijo and Jaro, since Zijo and Jaro did not agree to deferred payment, and then the accused and Zijo and Jaro exchanged their telephone numbers and agreed to buy, sell and deliver marijuana, which he would transfer to the Republic of Croatia and sell to buyers in the Republic of Croatia.*

**9. THE ACCUSED MUHAMED MAHMUTOVIĆ, together with AZMIR KARAJIĆ, MUADIN EMRULAI and two other persons, and jointly with others,**

*After the migrants – citizens of Albania: Arton Gjokaj, Aleksander Gyelaj, Gyrsel Zaganjori, Besnik Cubi, Agron Hoti, Hamit Manaj had arranged with persons from Albania known to them that those persons would organise their transfer from Albania to Italy for an amount ranging from 2,500 € to 3,500 €, and after those persons – the organisers had organised their transfer from the Republic of Albania and transferred them to the Republic of Montenegro, the accused: Muhamed Mahmutović, Azmir Karajić, Muadin Emrulai, together with two other person and with other persons known to them, by connecting and arranging with persons who organised and paid the transfer of migrants, connecting and arranging with persons who organised and carried out the transfer of migrants for a monetary compensation, connecting and arranging with other persons known to them with a view to transferring migrants, through mutual agreement and association into groups of several persons with the aim of transferring migrants, as members of a structured group, for the purpose of acquiring monetary gain, which they agreed on among themselves*

*and with the organisers, organised the transfer of the migrants from the Republic of Montenegro, via the territory of Bosnia and Herzegovina, to the Republic of Croatia, with the aim for organisers to organise the transfer of migrants from the Republic of Croatia to the Republic of Italy, in the way that the accused: one of the aforementioned persons together with organisers in the Republic of Montenegro known to him, and with other persons known to him in Bosnia and Herzegovina, arranged to organise the transfer of migrants and manage the transfer of migrants from the Republic of Montenegro to the Republic of Croatia, whereafter, that same person with persons known to him – organisers in the Republic of Montenegro and other persons known to him in Bosnia and Herzegovina, arranged that those persons, for an agreed monetary compensation, would organise the transfer of the migrants from the Republic of Montenegro to Bosnia and Herzegovina, to Mostar, whereafter: Muhamed Mahmutović and another person agreed that the latter person, for an agreed monetary compensation, would organise the transfer of migrants from Mostar to Velika Kladuša, and organise the accommodation of migrants in Velika Kladuša until the person secures the payment of the agreed monetary compensation, and once the agreed monetary compensation is paid, that he would organise the transfer of migrants from Velika Kladuša over to the Republic of Croatia to Zagreb, whereafter the Accused Muhamed Mahmutović and another person, following a prior arrangement with Zijo and Jaro, mutually agreed that Zijo, for an agreed monetary compensation, would organise the transfer of migrants from Mostar to Velika Kladuša, whereafter, the accused Muhamed Mahmutović, Azmir Karajić, Muadin Emrulai and another person, mutually agreed that Azmir Karajić, for an agreed monetary compensation, would organise the takeover and accommodation of migrants in Velika Kladuša, and would organise the transfer of migrants from Velika Kladuša to the Republic of Croatia, after the person who had agreed to manage the transfer of migrants from the Republic of Montenegro to the Republic of Croatia ensured the payment of an agreed monetary compensation, and that the person by the name of Muadin Emrulai would organise the takeover of migrants once they are transferred to the Republic of Croatia to Zagreb. Therefore, following the previously described arrangements, on 22 February 2008, the person managing the transfer jointly with organisers from the Republic of Montenegro and with persons known to him from Bosnia and Herzegovina, in an undetermined manner, transferred migrants from the Republic of Montenegro to Bosnia and Herzegovina across the state border in a location where there is no designated state border crossing, in an undetermined manner, transferred migrants from the state border to Mostar, and at an unidentified location, he accommodated migrants, until their transfer from Mostar to Velika Kladuša is organised following prior*

*arrangements. Thereafter, following the previously described arrangements, one person and Zijo organised the transfer of migrants from Mostar to Velika Kladuša, whereby, following the instructions received from the former person Zijo took over migrants and once he took over migrants, he organised for a person by the nickname of Cole to transfer migrants from Mostar to Velika Kladuša, whereafter, following the previously described arrangement, migrants were transferred to Velika Kladuša, so the accused Muhamed Mahmutović, Zijo and another person met in Velika Kladuša, and managed the transfer of migrants in Velika Kladuša, ensured contact between Cole and Azmir Karajić, and jointly observed police control points and thus secured the transfer and takeover of migrants, whereafter the accused Azmir Karajić and Cole established contact, so Azmir Karajić boarded the vehicle which Cole used to transfer migrants, and directed Cole to drive towards a location where the accommodation of migrants had been organised, until the transfer of migrants from Velika Kladuša to Zagreb is organised, so Azmir Karajić, while performing these actions, he noticed a police escort so he jumped out of a moving vehicle and escaped, so the authorised officials of the Border Police of Bosnia and Herzegovina caught Cole and his companion in act, and apprehended them together with migrants, whereafter, the accused Muhamed Mahmutović, Zijo and another person fled, whereby the person informed Muadin Emrulai that the deal failed, since migrants were busted – arrested together with the drivers.*

***18. THE ACCUSED MUHAMED MAHMUTOVIĆ, together with ATIF KARAJIĆ, DAMIR KARAJIĆ and another person, with each other and jointly with other persons***

*After the migrants – citizens of Albania: Koci Kastiot, Buci Mevlud, Sulollari Ajet, Zani Ruke had arranged with persons from Albania known to them that those persons would organise their transfer from the Republic of Albania to the Republic of Italy for an amount of 3,000 € per person, and after those persons – the organisers had organised their transfer and transferred them from the Republic of Albania to the Republic of Montenegro, the accused Muhamed Mahmutović, Atif Karajić, Damir Karajić and another person, jointly and with other persons known to them, by connecting and arranging with persons who organised and paid the transfer of migrants, connecting and arranging with persons who organised and carried out the transfer migrants for a monetary compensation, connecting and arranging with other persons known to them with a view to transferring migrants, through mutual agreement*

*and association into groups of several persons with the aim of transferring migrants, as members of a structured group, for the purpose of acquiring monetary gain, which they agreed on among themselves and with the organisers, organised the transfer of the migrants from the Republic of Montenegro, via the territory of Bosnia and Herzegovina, to the Republic of Croatia, with the aim for organisers to organise the transfer from the Republic of Croatia to the Republic of Italy, in the way that one person, as an organiser, jointly with other persons known to him in the Republic of Montenegro and jointly with persons known to him in Bosnia and Herzegovina, agreed to organise the transfer of migrants, for an agreed monetary compensation, from the Republic of Montenegro to Bosnia and Herzegovina to Velika Kladuša, whereafter, the Accused, the person and the person known to him as an organiser mutually agreed that the person, for an agreed monetary compensation, would organise the takeover and accommodation of migrants in Velika Kladuša, and the transfer of migrants from Velika Kladuša to the Republic of Croatia, to Zagreb, while organisers would organise the transfer of migrants from Zagreb to the Republic of Italy, whereafter the accused Muhamed Mahmutović, Atif Karajić, Damir Karajić and another person mutually agreed that Atif Karajić and Damir Karajić, for an agreed monetary compensation, would organise the takeover and accommodation of migrants in Velika Kladuša, until their transfer from Velika Kladuša to the Republic of Croatia is organised, and that Atif Karajić, together with another person, would organise the transfer of migrants from Velika Kladuša to the Republic of Croatia to Zagreb. Following the previously described arrangements, Atif Karajić took over migrants from persons who had transferred migrants from the Republic of Montenegro to Velika Kladuša in an undetermined manner, and accommodated migrants in an organised accommodation, the so-called abandoned house, whereafter, following the previously described arrangement, Atif Karajić, together with another person, attempted several times to transfer migrants to the Republic of Croatia in order for that person, together with Atif Karajić, to transfer them in a vehicle to Zagreb, which attempts failed due to constant controls by the police of the Republic of Croatia, whereafter Atif Karajić and another person gave up on transferring migrants until they find another way to organise the transfer of migrants from Velika Kladuša to the Republic of Croatia, whereafter, Damir Karajić, following a previously described arrangement, transferred migrants from the so-called abandoned house to his house until the transfer of migrants from Velika Kladuša to the Republic of Croatia is otherwise organised, whereafter, migrants were found by the authorised official persons in the house of Damir Karajić, and were apprehended together with Damir Karajić, and their*

*transfer from Bosnia and Herzegovina to the Republic of Croatia was thus prevented.*

***Whereby, by the actions described under Counts 3, 4, 9, 18 committed the criminal offence of Organised Crime referred to in Article 250, Paragraph 1, of the Criminal Code of Bosnia and Herzegovina, in conjunction with the criminal offence of Conspiracy to Perpetrate a Criminal Offence referred to in Article 247 of the CC of BiH in conjunction with the criminal offence of Smuggling of Persons referred to under Article 189, Paragraphs 1 and 2 of the Criminal Code of Bosnia and Herzegovina, and the criminal offence of Illicit Trafficking in Narcotic Drugs referred to in Article 195, Paragraph 2 of the Criminal Code of Bosnia and Herzegovina***

***Therefore the Court, in application of Articles 48, 49, 50 of the CC of BiH, pronounced***

***THE TERM IN PRISON IN DURATION OF 2 (TWO) YEARS  
AND 6 (SIX) MONTHS***

*Pursuant to Article 41, Article 46 and Article 47 of the CC of BiH, and pronounced him, as an accessory punishment, a*

***F I N E***

***In the amount of 2000.00KM (two thousand convertible marks)***

*The fine is to be paid within 6 (six) months as of the day of the Verdict becoming final. Should the Accused fail to pay the fine, pursuant to Article 47, Paragraph 3 of the CC of BiH, the fine shall be substituted by imprisonment in such a way that, each 50 (fifty) KM started, shall be substituted by one day of imprisonment.*

*Pursuant to Article 56 of the CC of BiH, the time he had spent in custody shall be credited towards the pronounced imprisonment, from the day of his apprehension on 24 March 2008 to 20 June 2008, the day of termination of custody following the Decision of the Court of BiH, No. X-KRN-07/747 as of 20 June 2008.*

*In accordance with Article 126b, Paragraph 5, of the Criminal Procedure Code of Bosnia and Herzegovina, prohibiting measures ordered under the*

*Decision of the Court of BiH No. X-KRN 07/474 dated 18 July 2008, shall be terminated in relation to the Accused.*

*Pursuant to Article 188, Paragraph 4 of the Criminal Procedure Code of Bosnia and Herzegovina, the Accused shall be exempted from reimbursement of costs of criminal proceedings, which shall be paid from the budget of the Court..*

### ***R e a s o n i n g***

*Under the Indictment No. KT-160/08 dated 9 September 2008, the Prosecutor's Office of Bosnia and Herzegovina charged Muhamed Mahmutović with the criminal offence of Organised Crime referred to in Article 250, Paragraph 1, of the Criminal Code of Bosnia and Herzegovina, in conjunction with the criminal offence of Smuggling of Persons referred to in Article 189, Paragraphs 1 and 2, of the Criminal Code of Bosnia and Herzegovina, in the manner as described under Counts 9 and 18 of the Indictment, and by the act described under Count 3 of the confirmed Indictment, the criminal offence of Illicit Trafficking in Narcotic Drugs referred to in Article 195, Paragraph 2 of the CC of BiH, and by the acts described under Count 4 of the Indictment, the criminal offence of Illicit Trafficking in Narcotic Drugs referred to in Article 195, Paragraph 2 of the CC of BiH.*

*The Indictment was confirmed by the Preliminary Hearing Judge of the Court of BiH on 11 September 2008.*

*On 5 November 2009, the Accused Muhamed Mahmutović and his Defence Counsel Nedžad Sarajlija reached a plea agreement with the Prosecutor of the Prosecutor's Office of Bosnia and Herzegovina Božo Mihajlović. According to Article 2 of the Plea Agreement, pursuant to Article 275 of the CPC of BiH, the Prosecutor amended the legal qualification of the Indictment, hence the Accused is charged with and admitted to the commission of the criminal offence of Organised Crime referred to in Article 250, Paragraph 1 of the CC of BiH, in conjunction with the criminal offence of Conspiracy to Perpetrate a Criminal Offence referred to in Article 247 of the CC of BiH in conjunction with the criminal offence of Smuggling of Persons referred to under Article 189, Paragraphs 1 and 2 of the CC of BiH, and the criminal offence of Illicit Trafficking in Narcotic Drugs referred to in Article 195, Paragraph 2 of the CC of BiH.*

*According to the Plea Agreement, the Accused Muhamed Mahmutović agreed to be pronounced a compound prison sentence in the range from 2 (two) years to 4 (four) years for the described acts. Furthermore, in view of the criminal offence he is charged with under the amended Indictment and to which he admitted, the Accused accepted that the Court determines and pronounces also an accessory punishment – fine in the amount up to 5,000 KM, in application of Articles 41, 46 and 47 of the CC of BiH.*

*The Court considered the mentioned Agreement in terms of Article 231 of the CPC of BiH, and accepted it at a hearing held on 19 November 2009, after having found that the Agreement was reached voluntarily, consciously and with full understanding. There is sufficient evidence on the guilt of the Accused, and the Accused is aware of the possible consequences of entering the plea agreement, including consequences in terms of costs of criminal proceedings.*

*Before the Court, in a clear and conclusive manner, the Accused pleaded guilty to the offence charged, and confirmed that he was not subjected to any pressures to enter the agreement at the time of plea bargaining, and that he had entered the agreement in the presence of his Counsel.*

*The Court inspected the evidence corroborating the Indictment, presented by the Prosecutor and tendered into evidence in the case No. X-K-07/474-1, to find that the Accused is indeed guilty of the acts and offences he admitted to. The Prosecutor on the case additionally tendered the following exhibits: Record on examination of the Accused Zejid Šabić dated 27 October 2009 and 28 October 2009, and records on examination of the Accused Muhamed Mahmutović of the Prosecutor's Office of BiH dated 25 March 2008, 28 May 2008 and 9 June 2008. The Court considered the cited exhibits in ruling on the admission of the plea agreement.*

*Following the admission of the plea agreement, at a sentencing hearing, the Court heard submissions of the Prosecutor, the Accused and his Defence Counsel in terms of facts and circumstances of importance for criminal sanctions. Having reviewed all relevant evidence and the degree of liability of the Accused, the Court pronounced him guilty of the criminal offence of **Organised Crime referred to in Article 250(1) of the CC of BiH, in conjunction with the criminal offence of Smuggling of Persons contrary to Article 189 (1) and (2) of the CC of BiH, and the criminal offence of Illicit Trafficking in Narcotic Drugs contrary to Article 195(2) of the CC of BiH, all in conjunction with Article 53 of the CC of BiH, establishing that the***

*Accused acted with an intent (he was aware of his deed and desired its perpetration) and with mental capacity.*

*In deliberation on the proposed criminal sanction, in terms of mitigating circumstances on the part of the Accused, the Court took into consideration his guilty plea that he committed the criminal offence as charged, and accepted to testify before the Court of BiH. Bearing in mind these facts and his poor financial standing, coupled with the fact that he is coming from a dysfunctional family and must provide for his three underage sisters who are still in school, and his honest remorse and his solemn promise that once he is done with serving his time, he would lawfully provide for his family, the Court pronounced him a single sentence in duration of 2 (two) years and 6 (six) months imprisonment and a fine, as an accessory punishment, in the amount of 2000 KM. In deliberation on the sentence within the agreed framework, the Court set the punishment below the limit prescribed by the law, since the mitigating circumstances in their entirety amount to highly extenuating circumstances allowing for the punishment prescribed under the law to be reduced up to one year, in terms of Articles 49 and 50 of the CC of BiH.*

*In pronouncement of the fine, the Court ordered that the Accused shall pay the fine within 6 months following the final decision, as deemed adequate given the financial standing and family situation of the Accused. Should the Accused fail to pay the pronounced fine within the given deadline, pursuant to Article 47(3) of the CPC of BiH, the fine shall be substituted by imprisonment pursuant to Article 47(3) of the CPC of BiH in such a way that each daily amount of 50 KM started shall be substituted by one day of imprisonment.*

*The Court inferred that the pronounced criminal sanction is commensurate with the gravity of the committed criminal offence and the degree of criminal liability of the Accused, and shall meet the purpose of pronouncement of criminal sanctions referred to in Articles 6 and 58 of the CC of BiH, as well that the very threat of enforcement punishment shall have an educational purpose not only upon the Accused, but potential perpetrators too.*

*Pursuant to Article 56 of the CC of BiH, the time the Accused Muhamed Mahmutović had spent in custody, from the day of his apprehension on 24 March 2008 up to the Decision of the Court of BiH No. X-KRN-07/474 dated 20 June 2008 terminating custody, shall be credited towards the sentence of 2 (two) years and 6 (six) months imprisonment.*

*Pursuant to Article 188 (4) of the CPC of BiH, the Court relieved the Accused of costs of criminal proceedings, considering that by paying the costs, he would endanger his sustenance, that is, sustenance of persons he is providing for.*

**Record-keeper:**  
**Elma Karović**

**JUDGE**  
**Branko Perić**

**LEGAL REMEDY:** *Criminal sanction cannot be appealed, but the Verdict may be appealed on other grounds, within 15 days as of it being delivered.*

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*I hereby confirm that this document is a true translation of the original written in Bosnian/Serbian/Croatian.  
Sarajevo, 1 February 2010  
Selma Đonlagić, Certified Court Interpreter for English.*