



**Number: S1 2 K 002919 10 Ko**  
**(Ref.: case no. X-K-10/918-1)**  
**Sarajevo, 15 October 2010**

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

The Court of Bosnia and Herzegovina, Judge Anđelko Marijanović as the Preliminary Hearing Judge, with the participation of the Legal Advisor-Assistant Mirela Gadžo as the Record-taker, in the criminal case against the accused Elvir Husarić and Nermin Smajlović, for the criminal offense of Illicit Trafficking in Narcotic Drugs in violation of Article 195, paragraph (2) as read with paragraph (1) of the Criminal Code of Bosnia and Herzegovina (hereinafter: the CC of BiH), ruling on the Indictment issued by the Prosecutor's Office of BiH, No. KT-539/09 of 3 August 2010, confirmed on 20 August 2010, following the sentencing hearing held on the basis of a Plea Agreement, No. KT-539/09, entered into on 24 June 2010 by and between the Prosecutor's Office of BiH and the accused Nermin Smajlović represented by his Defense Counsel Kerim Čelik, and of a Plea Agreement, No. KT-539/09, entered into on 2 July 2010 by and between the Prosecutor's Office of BiH and the accused Elvir Husarić represented by his Defense Counsel Ismet Beganović, in the presence of the Prosecutor Sena Uzunović of the Prosecutor's Office of BiH, the Accused and their Defense Counsels Salčin Džanić, Ismet Beganović and Safet Radušević, rendered and publicly announced on 15 October 2010 the following

### **VERDICT**

#### **The Accused:**

- 1. Elvir Husarić** a.k.a. Husara, son of Muhamed and Emina née Sinanović, born on 27 June 1976 in Tuzla, residing in Srebrenik, at Duboki Potok bb (no number), father of two underage children, auto mechanic by occupation, Bosniak by ethnicity, national of Bosnia and Herzegovina, Personal Identification Number (PIN): 2706976183301, indigent, previously convicted four times, viz.: Verdict No. K-62/04 of 9 June 2004, handed down by the Court of BiH, for the criminal offense punishable under Article 215(2) of the CC of BiH, sentencing him to 1 (one) year imprisonment, 3 (three) years suspended sentence; Verdict No. 28 0 K 008 953 09 K of 26 August 2009, handed down by the Gradačac Municipal Court, for the criminal offense punishable under Article 293(2) of the CC of the Federation of BiH (FBiH), imposing on him a fine of KM 600.00; Verdict No. 096-0-K-09 000378 of 13

November 2009, handed down by the Municipal Court of the BiH Brčko District, for the criminal offense punishable under Article 367(2) of the Criminal Code of Brčko District, sentencing him to 3 (three) months imprisonment, 2 (two) years suspended sentence; Verdict No. 03 O K 001 938 10 Kps of 2 April 2010 handed down by the Tuzla Cantonal Court, for the criminal offense punishable under Article 210(4) of the CC of FBiH in concurrence with the criminal offense punishable under Article 52(1) of the Cantonal Law on Possession and Carrying of Weapons and Ammunition, imposing on him a single prison sentence of 1 (one) year and 1 (one) month, not served yet, no proceedings are pending for a different criminal offense, under the Decisions of the Court of BiH, No. X-KRN-10/918 of 9 April, 5 May 2010 and 1 July 2010 in custody from 8 April until 20 August 2010, the custody terminated by the Court's Decision No. X-KRN-10/918-1 of 20 August 2010, replacing it with the following prohibiting measures: temporary seizure of all valid travel documents issued in his name, prohibition of issuing new passports in his name, as well as the prohibition on the use of any identity card to cross the state border, ban on visiting certain places, ban on meeting with certain persons, and obligatory occasional reporting to the relevant government authority.

2. **Nermin Smajlović**, son of Šemsudin and Fadila née Kovačević, born on 10 December 1976 in Tuzla, residing in Lukavac, at Radnička bb Street, municipality of Lukavac, welder by occupation, married, father of one underage child, indigent, Bosniak by ethnicity, national of Bosnia and Herzegovina, PIN: 1012976182679, no proceedings are pending for a different criminal offense, under the Decisions of the Court of BiH, No. X-KRN-10/918 of 9 April and 5 May 2010 in custody from 7 April until 1 July 2010, custody terminated by the Court's Decision No. X-KRN-10/918 of 1 July 2010, replacing it with the following prohibiting measures: temporary seizure of all valid travel documents issued in his name, prohibition of issuing new passports in his name, as well as the prohibition on the use of any identity card to cross the state border, and ban on meeting with certain persons;

## **ARE GUILTY**

### **Of the following:**

#### **Elvir Husarić and Nermin Smajlović - together**

As members of an organized group in terms of Article 1 (18) of the CC of BiH, which also included several persons from BiH and the Republic of Croatia, known to them, 4 (four) persons from the Republic of Albania, known to them, and a person nicknamed Kum from the Republic of Montenegro, known to them; the group

was formed for the purpose of a direct commission of the criminal offense of illegal sale, transport, intercession in further international sale, shipment and delivery of the narcotic drugs Marijuana-Skunk, which under the Convention on Psychotropic Substances of 1971 and the Decision on the List of Narcotic Drugs (Official Gazette of RBiH, No. 2/02 and 13/94) declared a narcotic drug whose trade is forbidden pursuant to the Law on Production and Trade of Narcotic Drugs (Official Gazette of RBiH, No. 2/92 and 13/94) and the Law on Prevention and Suppression of the Abuse of Narcotic Drugs (Official Gazette of BiH, No. 8/06), they made arrangements and organized the transport, and take-over, of the narcotic drug Skunk in the quantity of approx. 155 kilograms from the Republic of Albania to Bosnia and Herzegovina via the Republic of Montenegro, and the Republic of Croatia as the final destination, inasmuch as they:

- late in March and early in April 2010 the accused Elvir Husarić, according to previous arrangements with the person they knew, from the Republic of Montenegro, with the nickname Kum; the arrangements were made originally in a phone conversation between the accused Nermin Smajlović, who acted according to Elvir Husarić's instructions, and Kum, and they were finalized at the meeting at a OMV gas station in Sarajevo on 20 March 2010 attended by Elvir Husarić, Nermin Smajlović and Kum, when they arranged details and mode of transport of the narcotic drugs, whereupon Elvir Husarić and Nermin Smajlović together proceeded with the implementation of the arrangements for the transport of approx. 155 kilograms of the narcotic drugs Cannabis-Skunk from the Republic of Albania to Bosnia and Herzegovina, with the aim of transporting them to the Republic of Croatia and delivering them to buyers who were not precisely identified from the Zagreb area. Firstly, through his acquaintance Mirsad Junuzović from Srebrenik Elvir Husarić got in touch with Žarko Matić from Tešanj who placed an advertisement selling his truck, *Iveco* make, yellow color, number plate: 726-T-043, and after having established that this truck had a relevant license for transporting goods across state borders, having withheld the actual reason for 'buying' the truck, and with the guarantee offered from Mirsad Junuzović whom Žarko Matić knew from before, Husarić talked Žarko Matić into extending the validity of the vehicle registration which was due to expire, justifying that request by an alleged non-payment of contributions by Husarić, for which purpose he paid the amount of EUR 1000.00 to Matić, and Matić did so; the Accused took all these actions with the aim of transporting the narcotic drug Skunk by a vehicle which is in no way related with the Accused. Then Elvir Husarić and Nermin Smajlović took over the said truck from Žarko Matić under the pretext of testing it before the purchase. On 5 April 2010, in a shoe factory yard in Modriča, they attached to the said truck a semitrailer, *Krone* make, SBP 24 model, number plate: 259-K-434 formally owned by Samir Hamidović from G. Rahić, Brčko municipality, but actually owned by Ramiz Bjelić from Srebrenik with whom Elvir Husarić had business relations in the past. So, with Bjelić's consent Elvir Husarić's used this semitrailer, which had a false floor with hidden space-bunkers intended for transporting of illegal goods which was well known to Elvir Husarić. On the same day, following Husarić's instructions, Nermin

Smajlović drove the truck, *Iveco* make, yellow color, number plate: 726-T-043 and the semitrailer, *Krone* make, SBP 24 model, number plate: 259-K-434, to Stara Bila where, in the yard of a saw mill *M-Kasumović d.o.o.*, Travnik, 36.084 cubic meters of sawn timber were loaded for the *Roli* Company, Laç, Albania. This timber transport served to conceal the actual purpose of driving to Albania, i.e. loading and transporting of the narcotic drug Cannabis. The sawn timber transport was arranged by Kum. After the loading, the truck was driven to the customs terminal in Dolac, Travnik where the customs formalities were completed. Thereafter it proceeded to the Republic of Montenegro and entered it at the Klobuk border crossing at 00:10 a.m. on 6 April 2010. At 07:40 a.m. of the same day he met Kum in a coffee shop of a Euro Petrol gas station in Danilovgrad in order to arrange the take-over and further transport of the narcotic drug. At 09:30 of the same day he entered the Republic of Albania at the Božaj border crossing. After the sawn timber had been unloaded in Skadar, in accordance with the previous phone arrangement, he came to a place near the town of Skadar to a hall the location of which was known to him from before, where three NN persons of Albanian nationality brought the narcotic drugs in a blue van placed in 5 (five) sport bags and they loaded them in the hidden compartment of the semitrailer having known the location of the compartment and the way in which it could be opened. Then Nermin Smajlović drove back to the Republic of Montenegro where at 9:40 p.m. of 6 April 2010 he met Kum again at the Euro Petrol gas station in Danilovgrad whereupon he proceeded to the Ilino Brdo / Klobuk border crossings, reaching them at 11:00 p.m., where official persons of the SIPA-Tuzla Regional Office found in the hidden compartment 150 (one hundred fifty) packages of herbal substance wrapped in the PVC foil which weighed 155.568 g altogether. a forensic analysis found that it was a narcotic substance *Cannabis Sativa L* listed under Item 13 of the Table 1 – ‘Prohibited substances and plants’, the trade of which is prohibited under Article 19 of the Law on Prevention and Suppression of Drug Abuse (BiH Official Gazette No. 08/06).

**Consequently,**

The accused Elvir Husarić and Nermin Smajlović became members of the organized group formed for international sale, transfer and delivery of narcotic drugs and, as the co-perpetrators and members of that group, they arranged for and realized the take-over and transport, to wit the illegal international sale, transfer and transport from Albania via Montenegro to Bosnia and Herzegovina of 155.568 g of the narcotic drug *Cannabis Sativa L*, in other words of substances or preparations declared as narcotic drugs under the relevant regulations.

**By doing so,**

They, as the co-perpetrators, committed the criminal offense of Illicit Trafficking in Narcotic Drugs in violation of Article 195, paragraph (2) as read with paragraph (1) of the CC of BiH.

**Therefore**, applying the aforesaid statutory regulations and pursuant to Articles 39, 42, 48 of the CC of BiH, this Court

### **SENTENCES**

**the accused Elvir Husarić to 3 (three) years and 8 (eight) months imprisonment**

Pursuant to Article 56 of the CC of BiH, the time the Accused Elvir Husarić spent in custody **from 8 April 2010 to 20 August 2010** shall be credited towards the imposed prison sentence.

Pursuant to Article 188(1) of the Criminal Procedure Code of Bosnia and Herzegovina (hereinafter: the CPC of BiH), the Accused Elvir Husarić is obliged to reimburse the costs of the criminal proceedings in the amount of KM 100.00 (one hundred Convertible Marks), within 30 (thirty) days of the date the Verdict becomes final, under the threat of forced execution.

Based on the aforesaid statutory regulations and pursuant to Articles 39, 42, 48 of the CC of BiH, this Court

### **SENTENCES**

**the accused Nermin Smajlović to 3 (three) years imprisonment.**

Pursuant to Article 56 of the CC of BiH, the time the accused Nermin Smajlović spent in custody **from 7 April 2010 to 1 July 2010** shall be credited towards the imposed prison sentence.

Pursuant to Article 188(1) of the CPC of BiH, the accused Nermin Smajlović is obliged to reimburse the costs of the criminal proceedings in the amount of KM 100.00 (one hundred Convertible Marks), within 30 (thirty) days of the date the Verdict becomes final, under the threat of forced execution.

Pursuant to Article 195(4) of the CC of BiH, 155.568 g of the narcotic drug *Cannabis Sativa L.*, generated by the perpetration of the criminal offense, that has been temporarily seized from the Accused against the Receipt on temporary seizure issued by SIPA-Tuzla Regional Office, No. 17-15/1-5-34/10 dated 7 April 2010, shall be forfeited.

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

In its Indictment, No. KT-539/10 dated 3 August 2010, the Prosecutor's Office of Bosnia and Herzegovina charged Elvir Husarić and Nermin Smajlović with

the criminal offense of Illicit Trafficking in Narcotic Drugs under Article 195 paragraph (2) as read with paragraph (1) of the CC of BiH.

The Indictment was forwarded to the Court on 17 August 2010 and confirmed on 20 August 2010.

On 24 June 2010 the accused Nermin Smajlović, represented by his Defense Counsel Kerim Čelik, concluded the Guilty Plea Agreement with the Prosecutor's Office of BiH, No. KT-539/09, wherein he admitted to committing the criminal offense of Illicit Trafficking in Narcotic Drugs in violation of Article 195, paragraph (2) as read with paragraph (1) of the CC of BiH, as stated in the above mentioned Indictment issued by the Prosecutor's Office of BiH.

Also, on 2 July 2010 the accused Elvir Husarić, represented by his Defense Counsel Ismet Beganović, concluded the a Guilty Plea Agreement with the Prosecutor's Office of BiH, No. KT-539/09, wherein he admitted to committing the criminal offense, as stated in the above mentioned Indictment issued by the Prosecutor's Office of BiH.

The aforesaid Plea Agreements were forwarded to the Court along with the Indictment of the Prosecutor's Office of BiH.

Pursuant to Article 231 of the CPC of BiH, the Court considered the foregoing Plea Agreements wherein the Accused admitted that they had committed the criminal offense at issue.

The Agreement concluded between the accused Elvir Husarić and the Prosecutor's Office of BiH proposes that this Accused be sentenced to not less than 3 (three) and not more than 4 (four) years imprisonment for the criminal offense of Illicit Trafficking in Narcotic Drugs in violation of Article 195, paragraph (2) as read with paragraph (1) of the CC of BiH, while the Agreement concluded between the accused Nermin Smajlović and the Prosecutor's Office of BiH proposes that this Accused be sentenced to 3 (three) years imprisonment for the same criminal offense.

When considering the Plea Agreements at the hearing held on 15 October 2010, the Court established that, having been previously informed of possible consequences including those related to potential claims under property law and costs of the criminal proceedings, both Accused had entered into the Agreements voluntarily, knowingly and with understanding,.

The Court also established that there was sufficient evidence to prove the guilt of both Accused, as well as that they had understood that in this way they waived the right to a trial and that they were not allowed to file an appeal from the decision on criminal sanctions that would be imposed on them.

During the main trial and at the hearing for consideration of the Plea Agreements, the Prosecutor's Office of BiH produced the following documentary pieces of evidence: Order for Sampling issued by the Prosecutor's Office of BiH, no. KT-539/09 of 21.04.2010; Letter of the Federal Police Administration (FPA), no. 09-14/1-1-04-5-2308 of 28.04.2010; Record of Sampling drawn up by the State Investigation and Protection Agency (SIPA) – Mostar Regional Office, no. 17-13/1-7-04-1-150-2/10 of 27.04.2010; Order for forensic examination of psychoactive substances presence in the subject material issued by the Prosecutor's Office of BiH, no. KT-539/09 of 21.04.2010; Letter of FPA no. 09-14/1-1-04-5-2308 of 30.04.2010; Findings and Opinion of FPA-Forensics and Logistics Center, no. 09-14/1-1-04-5-2308 of 30.04.2010; Photo-documentation of FPA, no. 09-14/1-1-04-5-2308 of 29.04.2010; Report on Criminal Offense made by SIPA-Tuzla Regional Office, no. 17-15/1-5-POD/PT-04-1-178/08 of 07.04.2010; Order of the Court of BiH, no. KPP-70/09 of 12.02.2010, determining special investigative actions, surveillance and interception of communications (Nermin Smajlović); Letter of SIPA-Tuzla Regional Office, no. 17-15/1-5-POD/PT-04-1-178/08 of 24.02.2010; Order of the Court of BiH, no. KPP-70/09 of 03.03.2010, extending the performance of special investigative actions, surveillance and interception of communications (Elvir Husarić *et al.*); Order of the Court of BiH, no. KPP-70/09 of 10.03.2010, extending the performance of special investigative actions, surveillance and interception of communications (Nermin Smajlović); Letter of the Prosecutor's Office of BiH, no. KT-539/09 of 23.04.2010; Letter of SIPA, no. 17-09/7-04-7-739-1324/09 of 24.05.2010, DVD no. 14 – SEAT 14-2 and SEAT 14-1, DVD no. 15 – SEAT 15-1, DVD no. 16 – SEAT 15-3; Letter of SIPA, no. 17-09/7-04-7-739-811/09 of 26.02.2010; Transcript no. 17-09/7-04-7-739-806/09; Transcript no. 17-09/7-04-7-739-807/09; Transcript no. 17-09/7-04-7-739-805/09; Transcript no. 17-09/7-04-7-739-809/09; Transcript no. 17-09/7-04-7-739-810/09; Letter of SIPA no. 17-09/7-04-7-739-904/09 of 03.03.2010; Transcript no. 17-09/7-04-7-739-889/09; Letter of SIPA no. 17-09/7-04-7-739-949/09 of 08.03.2010; Transcript no. 17-09/7-04-7-739-928/09; Letter of SIPA no. 17-09/7-04-7-739-978/09 of 12.03.2010; Transcript no. 17-09/7-04-7-739-974/09; Letter of SIPA no. 17-15/1-5-POD/PT-04-1-178/08 of 30.03.2010; Motion to issue order for carrying out special investigative action, surveillance and interception of communications of the persons concerned and of the transport means and objects related to them (NN driver of *Iveco* truck, plate number: 726-T-043), put forward by the Prosecutor's Office of BiH, no. KT-539/09 of 31.03.2010; Order of the Court of BiH, no. KPP-70/09 of 31.03.2010, extending the performance of special investigative actions, surveillance and interception of communications ((NN driver of *Iveco* truck, plate number: 726-T-043); Letter of SIPA no. 17-09/7-04-7-739-1066/09 of 29.03.2010; Transcript no. 17-09/7-04-7-739-1062/09; Transcript no. 17-09/7-04-7-739-1063/09; Letter of SIPA no. 17-09/7-04-7-739-1100/09 of 31.03.2010; Transcript no. 17-09/7-04-7-739-1085/09; Transcript no. 17-09/7-04-7-739-1086/09; Transcript no. 17-09/7-04-7-739-1099/09; Transcript no. 17-09/7-04-7-739-1095/09; Transcript no. 17-09/7-04-7-739-1096/09; Transcript no. 17-09/7-04-7-739-1097/09; Transcript no. 17-09/7-04-7-739-1087/09; Order of the Court of BiH, no. KPP-70/09 of 16.03.2010, for carrying out special

investigative action, surveillance and interception of communications of the persons concerned and of the transport means and objects related to them (Nermin Smajlović and others); Letter of SIPA no. 17-09/2-04-7-127-9/09 of 24.03.2010; Report on surveillance written by SIPA, Operative Support Service, Department for Operative and Technical Surveillance, no. 17-09/2-04-7-127-8/09 of 23.03.2010; Report on contact written by SIPA, Operative Support Service, Department for Operative and Technical Surveillance, no. 17-09/2-04-7-127-8-1/09 of 23.03.2010; Report on contact written by SIPA, Operative Support Service, Department for Operative and Technical Surveillance, no. 17-09/2-04-7-127-8-2/09 of 23.03.2010; DVD attached to Surveillance Report no. 17-09/2-04-7-127-8/09 of 23.03.2010; Letter of SIPA – Tuzla Regional Office, no. 17-15/1-5-POD/PT-04-1-178/08 of 20.04.2010; Official Note of SIPA – Tuzla Regional Office, no. 17-15/1-5- 176/10 of 22.03.2010; Official Note of SIPA – Sarajevo Regional Office, no. 17-14/1-5- 272/10 of 12.04.2010; Letter of SIPA no. 17-09/7-04-7-739-1264/09 of 22.04.2010; Transcript no. 17-09/7-04-7-739-1248/09, Transcript no. 17-09/7-04-7-739-1240/09, Transcript no.17-09/7-04-7-739-1249/09, Transcript no. 17-09/7-04-7-739-1229/09, Transcript no. 17-09/7-04-7-739-1257/09, Transcript no. 17-09/7-04-7-739-1258/09, Transcript no. 17-09/7-04-7-739-1259/09, Transcript no. 17-09/7-04-7-739-1260/09, Transcript no. 17-09/7-04-7-739-1263/09, Transcript no. 17-09/7-04-7-739-1261/09; Letter of SIPA no. 17-09/2-04-7-127-17/09 of 13.04.2010; Surveillance Report written by SIPA, Operative Support Service, Department for Operative and Technical Surveillance, no. 17-09/2-04-1-7-127-13/09 of 09.04.2010; Report on contact written by SIPA, Operative Support Service, Department for Operative and Technical Surveillance, no. 17-09/2-04-1-7-127-13-1/09 of 09.04.2010; DVD attached to Surveillance Report no. 17-09/2-04-1-7-127-13/09 of 09.04.2010; Letter of SIPA no. 17-09/7-04-7-739-1307/09 of 28.04.2010; Transcript no. 17-09/7-04-7-739-1273/09, Transcript no. 17-09/7-04-7-739-1274/09; Request of Prosecutor's Office of BiH, no. KT-539/09 of 05.04.2010 for legal assistance to the Supreme State Prosecutor's Office of the Republic of Montenegro; Request of Prosecutor's Office of BiH, no. KT-539/09 of 17-03.2010 for legal assistance to the Supreme State Prosecutor's Office of the Republic of Montenegro; Letter of the Supreme State Prosecutor's Office of the Republic of Montenegro, no. MTN br.5/10 of 10.05.2010; Order of the Supreme State Prosecutor's Office of the Republic of Montenegro, no. MTN br.5/10 of 05.04.2010; Report of the Montenegro Police Administration, no. 03-051/10-SP.1687 of 07.05.2010, on carrying out of the M.T.N. /unknown extension – transl. note/ surveillance of transport and delivery of the item being the subject of the criminal offense; DVD 'Drina'; Letter of the Montenegro Police Administration no. 240/10-1354 of 30.03.2010; Order of the Higher Court in Podgorica, no. M.T.N. br. 5/10 of 19.03.2010; Transcript no. 25035128, Transcript no. 25035173, Transcript no. 25037738, Transcript no. 25042001, Transcript no. 25052082, Transcript no. 25084393, DVD 'Jovo' 19.03. – 07.05.2010; Order of the Court of BiH, no. KPP-70/09 of 31.03.2010, ordering the special investigative action, surveillance and interception of communications (Elvir Husarić and others); Letter of Indirect Taxation Authority no. 05/4-07-1-419-634/10 MS 44/10 of 08.06.2010; Single Customs Document no. AB 0231743 of 07.04.2010; Delivery Note / Invoice issued

by the *M-Kasumović* Company, no. 37/10 of 05.04.2010; Export Shipping Instruction of the *M-Kasumović* Company, no. 106/10 of 05.04.2010; CMR form no. 356457 of 05.04.2010; Official Note of SIPA – Tuzla Regional Office, no. 17-15/1-5-176/10 of 22.03.2010; Dispatch Note issued by the Konjic Police Department, no. 02-02/4-2-275/10 MS of 14.06.2010; Order no. 17-15/1-5-POD-PT-04-1-178/08 of 07.04.2010, to search dwellings, other premises and personal property (Nermin Smajlović); Record of searching the dwellings, other premises and personal property, no. 17-15/1-5-5/10 of 07.04.2010 (Nermin Smajlović); Receipt on temporary seizure of objects, no. 17-15/1-5-34/10 of 07.04.2010; Letter of SIPA – Tuzla Regional Office no. 17-15/1-5-POD/PT-04-1-178/08 of 22.04.2010; Photo-documentation of SIPA no. 17-13/1-7-04-1-10/10 of 07.04.2010; Letter of SIPA no. 17-09/7-04-7-739-1322/09 of 07.05.2010; Transcript no. 17-09/7-04-7-739-1308/09; Transcript no. 17-09/7-04-7-739-1310/09; Transcript no. 17-09/7-04-7-739-1313/09; Transcript no. 17-09/7-04-7-739-1311/09; Transcript no. 17-09/7-04-7-739-1314/09; Transcript no. 17-09/7-04-7-739-1317/09; Transcript no. 17-09/7-04-7-739-1315/09; Transcript no. 17-09/7-04-7-739-1316/09; Letter of the Federal Retirement and Disability Insurance Company (PIO/MIO) no. FZ 10/2-35-4-4911-01/10 of 08.04.2010; Letter of the Brčko District Police no. 14.04-04.8-5947/10 of 06.05.2010; File of the semitrailer, number plate: 259-K-434; Official Note of SIPA – Tuzla Regional Office no. 17-15/1-5-315/10 of 01.06.2010; Letter of SIPA – Tuzla Regional Office no. 17-15/1-5-POD/PT-04-1-187/08 of 09.07.2010; Photo-documentation of SIPA no. 17-14/1-7-74/10 of 10.06.2010; Witness Examination Record for Žarko Matić no. 17-15/1-5-76/10 of 15.04.2010 and no. KT-539/09 of 17.06.2010, drawn up by SIPA – Tuzla Regional Office; Photo-album no. 539-09-7; Contract no. 01/09 of 01.05.2010 concluded by and between the RDA Company d.o.o., Tuzla and Nermin Smajlović (photocopy); Witness Examination Record for Samir Hamidović no. 17-15/1-5-111/10 of 31.05.2010, drawn up by SIPA – Tuzla Regional Office; Witness Examination Record for Dušan Mihajlović no. 17-15/1-5-112/10 of 31.05.2010, drawn up by SIPA – Tuzla Regional Office; Witness Examination Record for Ilija Kuzmanović no. 17-15/1-5-115/10 of 02.06.2010, drawn up by SIPA – Tuzla Regional Office; Witness Examination Record for Ramiz Bijelić no. KT-539/09 of 08.06.2010, drawn up by the Prosecutor's Office of BiH (under Article 273 of the CPC of BiH); Letter of SIPA – Tuzla Regional Office no. 17-15/1-5-POD/PT-04-1-178/08 of 09.07.2010; Witness Examination Record for Selvedin Kasumović no. 17-15/1-5-125/10 of 07.07.2010, drawn up by SIPA – Tuzla Regional Office; Witness Examination Record for Dževad Smajlović no. 17-15/1-5-126/10 of 07.07.2010, drawn up by SIPA – Tuzla Regional Office; Letter of Tuzla Canton Ministry of Interior – Tuzla Police Administration, no. 08-02/4-1-04.7-3268/10-DS of 30.04.2010 (Criminal Record Certificates for Elvir Husarić and Nermin Smajlović); Suspect Examination Record for Nermin Smajlović no. KT-539/09 of 19.05.2010; Suspect Examination Record for Elvir Husarić, no. KT-539/09 of 29.04.2010.

At the sentencing hearing, the Prosecutor of the Prosecutor's Office of BiH moved that the proposed sentences be imposed on the Accused considering that on the part of both Accused there exist mitigating circumstances. For the accused Elvir

Husarić the Prosecutor said that he was a family man, father of two underage children, that he had cooperated with the Prosecutor's Office and admitted to committing the criminal offense. In respect of the accused Nermin Smajlović, the Prosecutor said that he was a family man, father of one underage child and that he had cooperated with the Prosecutor's Office and admitted that he had committed the criminal offense. The Prosecutor especially underlined that by cooperating with the Prosecutor's Office the Accused considerably facilitated the investigation in the case no. KT-539/09 in one part of which the investigation of other persons is ongoing and the Accused committed themselves to testifying in relation to these persons as well. The Prosecutor's Office holds that the sentences proposed will achieve both special and general prevention purposes.

The Defense for the accused Elvir Husarić proposed the 3 (three) years imprisonment which is adequate to the crime committed, especially having regard to the fact that he entirely admitted to committing the criminal offense and the manner in which he committed it. Moreover, he provided the Prosecutor's Office with the facts about the existence of some other criminal offenses and attached the pieces of evidence thereto. Also, the Defense pointed to the personal circumstances of the Accused and that he fulfilled most of his obligations arising from the Agreement.

The Defense for the accused Nermin Smajlović agreed with the foregoing statements by the Prosecutor's Office of BiH.

*Noting the pieces of evidence individually listed above and bringing them into mutual relation, and considering the admission of the guilt by the Accused, the Court established that the Accused had committed the criminal offense of Illicit Trafficking in Narcotic Drugs in violation of Article 195, paragraph (2) as read with paragraph (1) of the CC of BiH in the manner as described in the Operative Part hereof. So, having established that all the statutory requirements set forth in Article 231(6) of the CPC of BiH have been satisfied, the Court accepted the Plea Agreements and found the accused Elvir Husarić and Nermin Smajlović guilty.*

Pursuant to Article 39, 42 and 48 of the CC of BiH, the Court sentenced the accused Elvir Husarić to 3 (three) years and 8 (eight) months imprisonment for the criminal offense at issue, complying thereby primarily with the statutory framework prescribing the sentence for the aforesaid criminal offense as well as with the consensual proposal by the parties, as stated in the Plea Agreement they entered into.

As for the mitigating circumstances on the part of the accused Elvir Husarić, the Court found that he was a family man, father of two underage children, that he had admitted committing the criminal offense at issue, showed his repentance and promised to cooperate with the Prosecutor's Office. Regarding the aggravating circumstances on the part of this Accused, the Court found that he had been repeatedly convicted, which made the Court decide to impose the 3- year and 8-month imprisonment on the Accused.

Furthermore, when meting out the sentence to the accused Elvir Husarić, the Court took into account his conclusive contribution to the perpetration of the criminal offense at issue because it was him who organized and managed the narcotic drugs delivery and that the accused Nermin Smajlović acted exactly in accordance with his instructions.

Pursuant to Article 39, 42 and 48 of the CC of BiH, the Court sentenced the accused Nermin Smajlović to 3 (three) years imprisonment for the criminal offense at issue, which is the statutory minimum sentence for the criminal offense of Illicit Trafficking in Narcotic Drugs in violation of Article 195, paragraph (2) as read with paragraph (1) of the CC of BiH, as proposed by the parties in the Plea Agreements.

As for the mitigating circumstances on the part of the accused Nermin Smajlović, the Court found that he was a family man, father of one underage child, that he had admitted committing the criminal offense, showed his repentance and promised to cooperate with the Prosecutor's Office.

The Court found no aggravating circumstances on the part of the accused Nermin Smajlović.

When deciding on the criminal sanctions imposed on both Accused, the Court considered that it was commensurate to the gravity of the committed criminal offense, and the level of the Accused's criminal responsibility, judging that thus the purpose of the criminal sanctions will be achieved, which sanctions are aimed at general and special prevention, to wit: preventive influencing the others to observe the legal system and deterring a perpetrator from committing criminal offenses.

Pursuant to Article 56 of the CC of BiH, towards the imposed prison sentence the Court credited the time the accused Elvir Husarić spent in custody from the date of his apprehension, ordered under the Decisions of the Court of BiH, no. X-KRN-10/918 dated 9 April, 5 May and 5 July 2010, that is, **from 8 April 2010 to 20 August 2010**, when the custody of the above named Accused was terminated by the Court's Decision no. X-KRN-10/918-1 of 20 August 2010.

Applying the same Article, towards the imposed prison sentence the Court credited the time the accused Nermin Smajlović spent in custody from the date of his apprehension, ordered under the Decisions of the Court of BiH, no. X-KRN-10/918 dated 9 April and of 5 May 2010, that is, **from 7 April 2010 to 1 July 2010**, when the custody of this Accused was terminated by the Court's Decision no. X-KRN-10/918-1 of 1 July 2010.

Mindful of Article 195(4) of the CC of BiH, which expressly provides the forfeiture of narcotic drugs, the Court forfeited from the Accused 155.568 g the narcotic drug *Cannabis Sativa L*, temporarily seized against the receipts issued by

SIPA, no. 17-15/1-5-34/10 of 7 April 2010, generated by the commission of the criminal offense, in accordance with Article 74(1) of the CC of BiH.

Pursuant to Article 74 of the CC of BiH, the Court will render a new decision on forfeiting the semitrailer, *Krone* make, SBP 24 model, plate number: 259-K-434, which was used in the commission of the criminal offense at issue.

Also, pursuant to Article 188(1) of the CPC of BiH, the Court ordered the Accused to pay the costs of the proceedings in the scheduled amount of KM 100.00 within 30 (thirty) days from the day when the Verdict becomes final, under the threat of forced execution, considering that the said amount shall not affect the subsistence of the Accused.

**Record-taker:**  
**Legal Advisor-Assistant**  
**Mirela Gadžo**

**Preliminary Hearing Judge:**  
**Judge**  
**Andelko Marijanović**

**LEGAL REMEDY:** An appeal from this Verdict may be filed with the Panel of the Court's Appellate Division within 15 (fifteen) days following the receipt hereof. As this Verdict was handed down on the basis of the Guilty Plea Agreement, no appeal lies from the criminal sanctions.