

## **The Analysis of Criminal Liability of Military Members as Perpetrators of Premeditated Murder (*Moord*) against a Car Rental Owner**

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**Abstract.** *Premeditated murder is a grave criminal offense and is classified as a grave crime because it directly violates the constitutional right to life as one of the most fundamental and non-derogable human rights. This study aims to provide an in-depth analysis of the criminal liability of military personnel involved as perpetrators of premeditated murder, using a normative juridical method through a case approach and an examination of the court's decision. The discussion focuses on the application of general criminal law provisions to active soldiers tried within the military court system, which has its own distinctive characteristics. The findings show that although the two defendants played different roles one carried out the shooting directly while the other issued the instruction both were considered to share a common will and awareness in committing the criminal act. The court determined that the elements of intent and premeditation were fulfilled, rendering both defendants equally responsible. The author argues that when viewed through the lens of criminal law doctrine, which emphasizes a calm and deliberate mental state as an indicator of premeditation, the defendants' psychological condition, which was influenced by situational pressure, may give rise to different interpretations of this element. Nevertheless, the court's decision affirms that military status does not exempt an offender from criminal liability and may even serve as an aggravating factor, as the conduct is deemed to undermine the discipline, honor, and integrity of the armed forces.*

**Keywords:** *Court; Criminal; Liability; Military; Personnel.*

### **1. Introduction**

Criminal liability is a fundamental aspect of the Indonesian criminal law system, as it enables the state to determine whether an individual deserves to be sanctioned for acts that violate criminal provisions. This foundation is important not only from a normative standpoint but also practically, in ensuring a fair, proportional, and due process-compliant judicial process. Understanding criminal liability focuses not only on the existence of unlawful acts but also on

the appropriateness of holding an individual accountable for their actions. This aspect underpins the determination of whether an act can be legitimately and justly subjected to criminal sanctions. According to Simons, the capacity for responsibility is a psychological condition that indicates when an individual is fit to be held criminally accountable, both from a general perspective and from the viewpoint of the individual offender (Prasetyo, 2010: 85). This capacity is demonstrated by the awareness that one's actions are against the law, as well as the ability to control one's will to align actions with this understanding. As a result, the capacity for responsibility is crucial for the state in determining whether an act deserves criminal sanctions, ensuring that the penal process is based on a clear and legally accountable foundation. This concept has developed within the framework of a modern rule-of-law state, which emphasizes that punishment should not be merely repressive, but must also be oriented toward substantive justice. Fair and proportional punishment requires a correspondence between the severity of the sanction and the characteristics of the offender, the degree of culpability, and the consequences resulting from the offense. This principle also serves as a meeting point between criminal acts and the legitimacy of state-imposed punishment, so that the penalties imposed not only fulfill the requirements of legality but also reflect the justice that is alive in society.

One form of criminal act that carries heavy liability under Indonesian criminal law is murder. The articles in the Criminal Code distinguish several types of murder offenses, including ordinary murder and premeditated murder. The difference between these criminal acts lies in the element of 'premeditation.' Premeditated murder is considered a more serious form of crime due to the aggravating factor within the offense, which serves to indicate an increased severity of the violation as well as a higher level of moral accountability that the perpetrator must bear (Iriyanto & Halif, 2021: 20). The 1945 Constitution of the Republic of Indonesia, Article 28A, explicitly states, 'Everyone has the right to life and the right to defend their life and livelihood.' According to the Universal Declaration of Human Rights, the right to life is one of the most fundamental human rights (Uddin et al., 2023: 15). This indicates that protecting human life is a universal principle that underpins the formulation of criminal sanctions for offenses against life. Article 340 of the Indonesian Criminal Code (KUHP) explicitly stipulates that murder committed with premeditation is punishable by death, life imprisonment, or a maximum imprisonment of twenty years. In the criminal act of premeditated murder, the element of planning is only considered satisfied if the aspects of intent, timing, and the circumstances of execution are cumulatively fulfilled, all of which play a role in determining the degree of culpability (Orvalla, 2023). The fulfillment of these elements is essential to the proof process and also influences the judge's consideration in imposing a sentence on the offender.

Data from the Badan Pusat Statistik records a significant increase in homicide cases in Indonesia, rising from 854 cases in 2022 to 1,129 cases in 2023 (Badan Pusat Statistik, 2024: 18). In another perspective, Amnesty International reported 55 cases of alleged extrajudicial killings in 2024, most of which were perpetrated by law enforcement officers and the military

(Amnesty International Indonesia, 2025). In alignment with this, the National Criminal Information Center (Pusiknas) of the Indonesian National Police's Criminal Investigation Agency recorded 1,074 individuals reported in homicide cases throughout 2024 (GoodStats, 2025). Although statistical data has not explicitly distinguished between premeditated homicide categories, the general increasing trend in homicide cases nonetheless reflects the urgency and relevance of this issue in the context of the protection of the right to life.

In practice, the criminal act of premeditated murder often does not occur in isolation. Still, it is preceded by a series of other actions that reflect a certain relationship or interest between the perpetrator and the victim. The actions that occur before the murder can indicate the presence of a motive and a pattern of intent that strengthen the suspicion of planning. Thus, murder is not only viewed as a single event that results in the loss of a life, but also as the culmination of a series of conscious and sequential actions carried out by the perpetrators. This becomes an important basis for assessing the extent to which criminal liability can be imposed on each party involved. Situations like this often raise issues when the acts are committed not by just one person, but involve several parties with different roles in a single series of criminal actions. If a criminal offense is committed by more than one person, a juridical issue arises regarding how to determine the form of criminal responsibility of each individual involved. Article 55 of the Criminal Code explicitly stipulates that anyone who commits, orders, participates in, or advocates the commission of a criminal offense can be held accountable. This allows judges to prosecute all parties involved, even if their roles are not the same. This application enables judges to hold all perpetrators accountable, regardless of their direct involvement in the principal act.

The complexity of legal issues increases when the perpetrators of criminal acts come from military institutions. This is because military personnel are essentially positioned as the frontline defenders of national sovereignty as well as protectors of society. In this position, the public places high expectations that every soldier consistently upholds discipline and moral values. However, in reality, military members are also ordinary humans who are not immune to mistakes or emotional impulses, just like others. Moreover, in their daily lives, they also interact with the surrounding community, so there remains the possibility of being influenced by negative factors (Sianturi, 2000: 5). Thus, the potential for committing legal violations is fundamentally equivalent to that of the general public, and when such incidents occur, juridical issues arise concerning the form of criminal accountability these individuals face under the law.

This research aims to fill the gap in academic studies concerning the construction of criminal liability for perpetrators of premeditated murder, which in the course of events also involves participation in the handling of the victim's property. The research object is derived from an actual case handled by the military court, in which the perpetrators were active military personnel proven to have committed murder against the owner of a car rental business. Premeditated murder in this case is also not like typical premeditated murder which is carried

out in relatively controlled and calculated conditions, but rather it began with an act of receiving stolen goods which then developed into a non-conductive situation, culminating in a shooting. In the first-level verdict, decision number 25-K/PM.II-08/AL/II/2025, the panel of judges sentenced two defendants to life imprisonment and dismissal from military service, for being legally and convincingly proven to have committed premeditated murder and receiving stolen goods together.

This case is interesting to examine because it concerns the criminal liability of the perpetrators. Although only one defendant fired the shots, both were charged as principal perpetrators under Article 340 in conjunction with Article 55 of the Criminal Code. The judge's consideration of the application of Article 55 raises questions about the limits of the involvement of defendants who did not directly shoot and its compatibility with criminal law doctrine and the principle of proportionality. According to Sudarto (2007), punishment must take into account the element of fault and the level of involvement of each perpetrator, even if the act was committed jointly. The element of *planning* is also important to examine because unfavourable conditions can affect the assessment of initial intent. The case of the murder of a rental owner in Tangerang reflects the legal complexity of combining premeditated murder and receiving stolen goods by active military personnel, while also raising issues of evidence, punishment for participation, and the application of the principles of proportionality, legality, and *lex specialis* in military courts.

## **2. Research Methods**

This research used a normative legal method, which examined principles, legal doctrines, and relevant legislation related to the core issues (Soekanto & Mamudji, 2003: 13). The methodological approach consists of the statutory approach by reviewing the Criminal Code (KUHP), the Military Criminal Procedure Code (KUHPM), and Law Number 31 of 1997 on Military Courts and the case approach through an in-depth analysis of Decision Number 25-K/PM.II-08/AL/II/2025 (Qomar & Rezali, 2020: 47). The data sources include primary legal materials in the form of legislation and court decisions, secondary legal materials such as books, journals, and scholarly articles, and tertiary legal materials including legal dictionaries and encyclopedias. The data were collected through library research and analyzed descriptively and analytically by employing grammatical, systematic, historical, and teleological methods of interpretation. Through this methodological framework, the study aims to explain and evaluate the construction of criminal liability in cases of premeditated murder committed by active military personnel.

## **3. Results and Discussion**

### **3.1. Criminal liability of military personnel as perpetrators of premeditated murder against a rental business owner in the decision Number 25-K/PM.II-08/AL/II/2025**

In the process of law enforcement, criminal liability is not merely a technical issue, but rather a reflection of substantive justice that determines who is deserving of bearing the criminal burden for an act. Criminal liability is understood as the continuation of the objective reproach inherent in a criminal act to the perpetrator who subjectively meets the requirements for being punishable for their action. In this sense, a criminal act is not only viewed as a violation of legal order, but also contains a moral element in the form of blame that can be personally attributed to the perpetrator (Tanjung, 2013). A person can only be held criminally responsible if they commit an act that fulfills the elements of a criminal offense and have the capacity for responsibility, meaning they can recognize their actions and understand the legal consequences of those actions.

In the context of military personnel, criminal liability has distinct characteristics, because in addition to being subject to the Criminal Code, they are also bound by the Military Penal Code and the military judicial mechanisms. This positions soldiers as legal subjects who are not only personally accountable for their actions but also responsible for violations of discipline and the honor of the institution. Therefore, the analysis of criminal liability for soldiers must be viewed from two legal dimensions simultaneously, namely general criminal law and military criminal law. Article 2 of the Military Penal Code (KUHPM) explicitly states that if a criminal act is not regulated in the KUHPM, then the provisions of the Criminal Code (KUHP) apply to military personnel. This means that a soldier can still be held accountable under the KUHP if the criminal act they committed falls under the category of general offenses and is not directly related to military service interests.

The premeditated murder case carried out by two military personnel against a car rental business owner, as reported in Decision Number 25-K/PM.II-08/AL/II/2025, serves as a concrete example of the application of this concept. In this case, two Indonesian Navy soldiers, namely Bambang Apri Atmojo (Defendant-1) and Akbar Adli (Defendant-2), were charged with the criminal act of premeditated murder as regulated under Article 340 of the Criminal Code in conjunction with Article 55 paragraph (1) number 1 of the Criminal Code. Both defendants were found to have jointly planned and executed the murder of Ilyas Abdurrahman, a car rental business owner. In this case, the application of Article 340 of the Criminal Code to military personnel is legally valid because the act committed does not constitute a violation of military duties, but rather a general criminal offense. The trial is conducted through the military court as stipulated in Article 9 of Law Number 31 of 1997, which stipulates that the military court has the authority to adjudicate criminal acts committed by military members. Accordingly, the military legal system continues to operate in terms of judicial proceedings, while the basis for criminal liability refers to the provisions of general criminal law.

The panel of judges in this case affirmed that the criminal liability of the defendants is based on the fulfillment of all elements of the crime of premeditated murder, as well as the active involvement of both in the events that caused the death of the victim. From the examination results in court, it was revealed that Defendant-1 was the party who directly fired the firearm,

resulting in the death of victim Ilyas Abdurrahman and injuring victim Ramli. Meanwhile, Defendant-2 played a role by handing over the service firearm under his responsibility, cocking it, locking it in a ready-to-fire position, and giving orders to Defendant-1 to be prepared to shoot when confronted by the victim and his group. The firearm possession by Defendant-2 was not without reason, as his status as an ADC of the Pangkolinlamil granted him access to Kopaska's organic Arex Zero 2 weapons along with ammunition officially recorded in the assignment permit. Although Defendant-2 did not directly fire shots, the panel of judges assessed that his involvement demonstrated a unity of intent and joint action with Defendant-1 in the criminal incident. The judges stated that both defendants committed the act together, thereby considering them to have equal responsibility for the consequences that ensued.

In addition to premeditated murder, this case also demonstrates the involvement of the defendants in the crime of receiving stolen goods as regulated in Article 480 of the Criminal Code. The main element of this offense is the act of buying, renting, accepting as collateral, or storing an item that is known or reasonably suspected to be the result of a criminal act. Court facts indicate that on January 1, 2025, all three defendants were involved in the transaction of purchasing an orange Honda Brio with license plate B 2696 KZO, which was offered by witness Rohman. Defendant-2 made a payment of IDR 40,000,000.00, while Defendant-1 and Defendant-3 were present and, after the transaction was completed, also took possession of the vehicle. In fact, the car was only accompanied by the vehicle registration certificate (STNK) without the ownership book (BPKB), priced cheaply, and had a leasing/rental status. This condition clearly gave the defendants reasonable grounds to suspect that the vehicle was problematic, yet the transaction was still carried out.

Based on these facts, the panel of judges stated that the three defendants can be held accountable for the crime of receiving stolen property, as all were involved in the process of transaction and possession of the vehicles. The difference lies in the imposition of criminal liability for causing the death of the owner of the rental business, where Defendant-1 and Defendant-2 were also sentenced for premeditated murder, whereas Defendant-3 was only held accountable for receiving stolen property. With this construction, the judges emphasized that although the roles of the defendants were not identical, each involvement still generated criminal liability in accordance with the proven offenses. The series of events demonstrates a close connection between the acts of receiving stolen property and premeditated murder. The involvement of the defendants from the outset illustrates a unified intent that ultimately led to actions resulting in the victim's death. Criminal accountability in this case is regarded as a single nexus of actions that are interrelated.

The judge emphasized that the defendants acted jointly in committing the criminal act, and thus both are considered to bear the same degree of responsibility for the consequences arising from their actions. This construction aligns with the doctrine of criminal law regarding medeplegen (acting together), which states that if there is conscious and active cooperation between perpetrators, then all of them can be regarded as principal offenders (dader), not



merely accomplices (*medeplichtige*) (Lamintang, 2013: 514). Simons stated that *medeplegen* can be described as a form of perpetration; anyone who participates in committing an act is also regarded as a *dader*. When several people together commit an act that is punishable, they mutually constitute *mededaders* of one another (Simons, 1992).

As a perpetrator, co-perpetrator, or individual participating in the commission of a punishable act, one must possess all the elements or attributes required by law to be deemed a perpetrator. Based on this principle, it can be understood that the element of participation is not solely determined by who performs the final act, but also by those who, from the outset, share the intent and contribute to the realization of the criminal offense. Therefore, even though Defendant II did not fire the shots, their criminal responsibility is equivalent to that of Defendant I. Under this legal construction, it is evident that the judges positioned Defendant I and Defendant II as principal perpetrators based on a unity of intent within a joint criminal act. Projodikoro, referring to Hazewinkel Suringa and the decision of the Dutch Hoge Raad, explains that participation in a criminal offense requires a shared intent among the perpetrators and the actual execution of that intent through joint actions (Sinurat, 2024: 76). This illustrates that criminal liability is not solely imposed on the individual who directly executes the act, but may also extend to others who play an active role in the sequence of criminal events.

Criminal liability in this case is further grounded in the fulfillment of the element of fault (*schuld*), which is characterized by *dolus* or intent. The panel of judges found that the defendants' actions were carried out with full awareness, without coercion or pressure from any party. Article 340 of the Indonesian Penal Code (KUHP) was applied due to the presence of deliberate intent and prior planning in the act of taking another person's life, while Article 480 KUHP was applied because the defendants knowingly possessed items derived from a criminal act. In their defense, the defendants' legal counsel argued an excuse of excessive self-defense (*noodweer exces*), claiming that the shooting occurred because the victim and his group obstructed and acted aggressively. However, the panel of judges rejected this argument. Based on the available evidence and witness testimony, there were no circumstances that genuinely endangered the defendants' lives to the extent that shooting became the only option for self-protection. Furthermore, no psychological disorders or extraordinary external pressures were found that might have impaired the defendants' mental capacity. The shooting was carried out with conscious preparation and was disproportionate to the perceived threat, as stipulated in Article 49 of the Indonesian Penal Code (Julaiddin & Prayitno, 2020: 34). Therefore, there were no justifying or excusing grounds that could eliminate the unlawful nature or culpability of the defendants.

The judges' consideration also emphasized the distinction in each defendant's role to determine a fair construction of punishment. Although both were deemed to share equal criminal responsibility, the court assessed the degree of each defendant's concrete contribution to the incident. In this case, Defendant-1 acted as the direct executor, while

Defendant-2 prepared the means and directed the occurrence of the shooting. Nevertheless, since their actions were interrelated and carried out with a shared intent, there was no basis to treat either as a mere accomplice. Both were regarded as principal perpetrators in the premeditated murder.

In the realm of military law, the enforcement of criminal responsibility for soldiers who committed general crimes holds significant importance for maintaining military discipline and honor. Members of the armed forces are bound by their military oath and the Sapta Marga, which demand absolute obedience to lawful orders and regulations. When a soldier abuses military authority and facilities for personal gain resulting in a criminal act, such conduct not only violates criminal law but also tarnishes the integrity and reputation of the military institution. Therefore, the application of Article 340 of the Indonesian Penal Code to military personnel who committed premeditated murder was an appropriate measure to uphold the principle of justice while preserving the integrity of military law. From the verdict, it can be observed that the panel of judges regarded military status as not a justification for exemption from criminal responsibility. This reflects the principle of equality before the law, which applies equally to all citizens, including members of the armed forces. The author views the stance of the military court in sentencing both defendants as a strong affirmation that there is no legal immunity for anyone who violates another person's right to life. Thus, the enforcement of criminal law against soldiers who committed offenses represents a concrete manifestation of the idea that members of the armed forces remain citizens subject to national legal norms.

This case also demonstrated that the construction of criminal liability within the military justice system remains inseparable from the general principles of national criminal law. Although military law allows certain procedural and jurisdictional adjustments, it does not alter the essence of criminal responsibility itself. The principle of justice continues to serve as the fundamental basis for sentencing, whether applied to civilians or to soldiers who breach the law. The decision in this case further exemplified the principle of proportionality, in which the judges assessed the roles, degrees of culpability, and consequences of each defendant's actions. The imposition of life imprisonment on Defendant-1 and Defendant-2 was based on their active involvement in premeditated murder and the act of concealing stolen goods, whereas Defendant-3 was sentenced only for the latter due to his more limited role. The dismissal of the two main defendants from military service also reflected the court's concern for maintaining discipline and preserving the honor of the military institution, extending beyond the scope of ordinary criminal punishment.

### **3.2. The Judge's Considerations in Sentencing Military Personnel for the Premeditated Murder of a rental business owner in Decision Number 25-K/PM.II-08/AL/II/2025**

In the criminal justice system, the judge's considerations are the main basis for determining the type, severity, and form of punishment to be imposed on the defendant. These considerations are not only based on normative provisions in the law, but also include legal,



sociological, and philosophical aspects that must be combined proportionally. Judges are required to explore the values of justice that exist in society, balance the interests of victims, perpetrators, and the wider community, and ensure that the verdicts handed down have a strong legal basis and are accountable. In practice, the process of passing judgement is not only carried out by strictly applying the law, but also through careful consideration of the facts of the case, the evidence, and the proven elements of the crime. Therefore, judges have significant discretion in determining the verdict so that it reflects not only formal justice, but also substantive justice. In addition, there is also the principle of proportionality, which requires judges to weigh various factors, such as the degree of guilt, the motive for the act, and the social impact caused (Bhakti et al., 2017: 5). That way, the sentence imposed can be considered reasonable and proportionate, neither too heavy nor too light.

In exercising this discretion, judges not only assess the facts and evidence, but also carefully interpret each element of the offence so that the verdict truly reflects substantive justice. This is particularly important in cases of premeditated murder, where each element has profound meaning and is interrelated in determining the criminal liability of the perpetrator. The elements of premeditated murder in Article 340 of the Criminal Code include four main elements. First, 'anyone' means any person as a legal subject who can be held criminally responsible. Second, 'intentionally' confirms the perpetrator's will and awareness to cause a certain consequence, namely taking the life of another person. Third, 'with prior planning' implies that there is a time lag between the intention and the act, allowing the perpetrator to think, weigh up the options and make a conscious decision before carrying out the act. Fourth, 'taking the life of another person' is the ultimate consequence of the perpetrator's actions, namely the loss of the victim's life. These four elements must be proven together in order for an act to be classified as premeditated murder.

The panel of judges then assessed each element of premeditated murder in this case as stipulated in Article 340 of the Criminal Code, starting with the first element, namely 'anyone' referring to the legal subject who can be held criminally responsible. In this case, the panel of judges ruled that the two defendants, Klk Bah Bambang Apri Atmojo and Sertu Bah Akbar Adli, were active Indonesian Navy soldiers who were legal subjects according to Articles 2–9 of the Criminal Code. Based on the results of the trial, both were declared physically and mentally fit and capable of taking responsibility for their actions. Thus, the element of 'anyone' was deemed to have been fulfilled. The second element, 'intentionally', reflects the perpetrator's conscious desire to take another person's life, accompanied by consideration and opportunity to think before the act was carried out. The panel of judges interpreted the element of 'intentionally' as the perpetrator's awareness and intention regarding the consequences of their actions, as explained in the *Memorie van Toelichting* (Explanatory Memorandum) that intent means desiring and being aware of an action and its consequences. In this case, the defendants' intent was demonstrated through actions that were consciously carried out, resulting in the death of the victim.

The assessment of the third element concerning 'premeditation' in this case did not follow the general pattern that usually occurs over a long and structured period of time, but rather arose in a rapidly developing situation that nevertheless involved awareness, intent, and concrete actions that led to the loss of the victim's life. In criminal law, the element of premeditation can be dynamic and highly dependent on the factual context of a case. The interpretation of this element is not always uniform, as each case has its own complexities that require the judge's discernment in assessing. The existence of *voorbédachte rade* or 'premeditation' is an important aspect in premeditated murder. This element distinguishes between ordinary murder and premeditated murder, as it indicates a preconceived intention, rather than a spontaneous reaction to a situation. Criminal law experts generally interpret this element of planning through three main indicators, namely: the time gap between the intention and the act, the opportunity for the perpetrator to think consciously, and the existence of preparatory acts prior to the commission of the crime.

This element is crucial because it indicates a higher degree of culpability, which consequently leads to the imposition of a heavier criminal sanction compared to ordinary murder. Such a condition requires judges to be meticulous in determining whether there was a lapse of time, an opportunity for calm reflection, and a deliberate intent formed prior to the act (Iriyanto & Halif, 2021: 25). These elements serve as the determining factors in assessing whether a criminal act can be classified as premeditated murder or not. The judges' considerations in this case demonstrate a difference in interpretation between the doctrinal understanding of the element of "premeditation" in criminal law and the factual circumstances that occurred in the field. In Decision Number 25-K/PM.II-08/AL/II/2025, the panel of judges concluded that this element had been fulfilled, even though the shooting took place rapidly and under tense conditions at the Jakarta–Merak toll road rest area. This assessment was based on a series of preparatory actions carried out prior to the shooting, which, according to the judges, were sufficient to indicate the presence of premeditation.

To understand how the element of premeditation was debated in this case, it is necessary to examine in greater detail how the defense arguments were presented and subsequently responded to by the panel of judges. The position of the defense in this case is significant, as it serves as the key distinction between actions carried out consciously and with prior intent, and those that were spontaneous reactions to situational pressure. The defendant's legal counsel, in their plea, raised objections to the first primary charge under Article 340 of the Criminal Code in conjunction with Article 55(1) of the Criminal Code. They asserted that the shooting was a spontaneous reaction in a panic situation, not a premeditated act. The defendants did not know the victim or the witnesses beforehand, so there was no initial intention to commit murder. According to the defendants' legal counsel, the shooting was carried out solely to protect Defendant 2, who was being pinned down, beaten, and shouted at as a thief by a group of rental car owners who wanted to take back their car. Defendant-1 admitted to firing two warning shots from inside the Daihatsu Sibra car with the aim of dispersing the crowd and

saving his colleague. Therefore, the legal counsel argued that the elements of premeditated murder were not fulfilled, as the action was spontaneous and a form of self-defence.

However, in his reply, the Military Prosecutor rejected this argument and asserted that all elements of the crime had been legally proven based on the evidence provided under Article 184 of the Criminal Procedure Code. The evidence was reinforced by the consistent testimony of 19 witnesses, the victim's medical examination results, Indomaret CCTV footage, eyewitness videos, and physical evidence in the form of firearms, ammunition, and the vehicle used. Based on all of this evidence, the Military Prosecutor concluded that the charge of premeditated murder had been proven, and therefore requested that the panel of judges reject the defence counsel's plea as legally unfounded.

The panel of judges assessed this by referring to the series of actions taken by the defendants. The judges found that since the first ambush, Defendant 2 had taken initial action by cocking and locking his weapon in firing position as a form of anticipation of a possible attack. At the rest area at Km 45 of the Jakarta-Merak Toll Road, Defendant 2 then handed the weapon to Defendant 1 while instructing him to shoot in the event of a further attack. The panel viewed these instructions and the fact that the weapon was ready for use as an indication of a time lag between the intention and its execution, as well as evidence of deliberate preparation. The series of actions, from cocking the weapon, handing over the weapon with instructions, to the targeted shooting, was considered by the panel of judges to be a conscious and measured action. It was not merely a panic reaction, but showed that there was an opportunity to think and make decisions before the act was carried out. Therefore, the panel concluded that the element of 'premeditation' in premeditated murder was fulfilled in this case.

The facts of the trial also show that during the incident, Defendant-1 saw Defendant-2 being pinned down and beaten by several people from the victim's group. In this situation, Defendant-1 fired two shots from inside the car towards the crowd. When the warning shots were ignored, he got out of the car and approached the scene. After hearing the command 'shoot, shoot' from Defendant 2, he fired at Mr Ramli, who was still holding Defendant 2 from a distance of about two metres. The shot hit the victim in the stomach and caused the crowd to disperse. After the shot, Mr. Ilyas Abdurrahman approached Defendant-1 from behind and tried to grab the gun. At a distance of about one metre, Defendant-1 reflexively turned around and fired one shot, hitting Mr. Ilyas in the right chest, causing the victim to fall inside the Indomaret shop. The situation at the location developed rapidly, culminating in the shooting of Mr. Ilyas Abdurrahman by Defendant-1. In these circumstances, Defendant-2's position cannot be separated from the final outcome, as his initial order triggered a series of events that led to the victim's death.

Based on these facts, the panel of judges concluded that the element of 'taking the life of another person' had been fulfilled. In addition, the panel of judges assessed that the incident showed cooperation and unity of intent between Defendant-1 and Defendant-2. Defendant-2

played a role in handing over the weapon and giving the order to shoot, while Defendant-1 carried out the order by shooting the two victims. According to the panel, this action demonstrated the active involvement of both defendants together in a series of events, at the same time, place, and object, and both were aware of the intent of their actions. With this line of reasoning, the panel of judges essentially interpreted the existence of the elements of intent and planning through the actual actions of the defendants, particularly in the series of events leading up to the shooting. This assessment is important to compare with the opinions of criminal law experts who have different approaches in understanding the meaning of 'premeditation' in the crime of premeditated murder.

This comparison will provide an overview of whether the judges' considerations are in line with the prevailing doctrine or whether they show differences in interpretation in its application. Criminal law experts have quite diverse views on the element of 'premeditation' in premeditated murder.

Adami Chazawi explains that the element of planning can be considered fulfilled if three main conditions are met, namely: (1) the decision to kill is made in a calm state, without haste, and without intense emotion; (2) there is sufficient time between the emergence of the intention and its execution; and (3) the execution is carried out in a calm manner. This view emphasises the existence of a mature internal deliberation process before the perpetrator commits the act (Chazawi, 2001: 45). Laden Marpaung also emphasises that even though the time available may be short, the perpetrator must still have space to think and fully realise the consequences of their actions. This shows that planning is not always synonymous with lengthy preparation, but rather a process of awareness and consideration (Yeni et al., 2017: 3). According to Rummelink, the concept of *dolus premeditatus* or an act carried out with prior planning is used in legal practice to rule out certain psychological circumstances, such as actions triggered solely by momentary emotions. However, if the perpetrator has time to think and does not show excessive emotion, the judge can assess the existence of an element of calm planning, even if the calmness is situational (Rummelink, 2003: 78).

Meanwhile, S.R. Sianturi argues that the element of planning can be considered fulfilled if the perpetrator has sufficient time to consider the timing, method, and tools to be used, even if they are not in a calm state or over a long period of time (Sianturi, 1983: 60). R. Soesilo adds that the existence of a period of time, even if it is short, which allows the perpetrator to think calmly and even cancel their intention, is sufficient to indicate the existence of planning. The views of these experts essentially confirm that the element of 'premeditation' can be seen not only from the objective aspect of the existence of preparatory actions, but also from the subjective aspect of the perpetrator's mental state and awareness before committing the act (Soesilo, 1996: 15). Based on the views of these experts, it can be said that the judge's consideration in Decision Number 25-K/PM.II-08/AL/II/2025 has a different focus. The judge placed more emphasis on the fulfilment of the element of 'premeditation' in terms of the objective aspect, namely the existence of a time lag and preparatory actions before the shooting occurred. This can be seen from the judge's assessment of Defendant 2's actions in

cocking and locking the weapon in a firing position, then handing the weapon to Defendant 1 while instructing him to shoot if there was an attack. In addition, the initial shots fired into the air before the shots that hit the victim were also considered a series of conscious actions that preceded the execution.

According to the author, although the panel of judges declared that the element of planning had been fulfilled, there were aspects that gave rise to academic debate. Based on the facts of the trial, it can be said that the shooting was not carried out in a calm manner, but rather in a situation of commotion, mass pressure, and the urge to immediately overcome a situation that was considered threatening. This condition is contrary to the planning requirements emphasised by Adami Chazawi and some experts, who emphasise that the execution of an act of premeditated murder should be carried out in a calm atmosphere as a reflection of internal consideration before acting. A calm state of mind describes a situation in which a person does not act hastily, is not under pressure, and is not overcome by strong emotions. This means that the decision to commit murder is made after careful consideration of the risks and consequences, rather than spontaneously (Chazawi, 2001: 32). Defendant-1 fired in a rapidly developing moment, while defendant-2 gave the instruction to 'shoot' in a heated situation. Thus, even though there was preparation of the weapon and a pause before the shooting took place, the psychological condition of the perpetrators at the time of the act did not fully reflect the stable state of mind required by the subjective approach.

If we adhere to the doctrine that emphasises the requirement of a stable state of mind when the perpetrator carries out their intention, then the judge's interpretation could potentially be considered as not fully reflecting the subjective nature of the element of 'premeditation'. The preparation of weapons does indicate anticipation and conscious prior action, but the execution process carried out under situational pressure may be an indicator that the decision to shoot developed spontaneously as a reaction to the situation, rather than being entirely the result of a well-thought-out plan. Thus, the judge's considerations in this case are not entirely contradictory, but rather emphasise an objective approach over the subjective approach emphasised by experts. This approach shows a tendency to broaden the interpretation of the element of 'premeditation' in judicial practice, which in this context is understood as an attempt by judges to adjust the application of doctrine to the factual dynamics in the field.

The judge's considerations in the sentencing stage not only assess the elements of premeditated murder, but also non-legal aspects such as motive, consequences of the act, and aggravating and mitigating factors. This approach shows that sentencing is not solely based on the fulfilment of the elements of the offence, but also takes into account the context of the act and the character of the defendant as a whole, in line with the provisions of the Judicial Authority Act (Waluyo, 2023). The defendants' motive was assessed to have stemmed from their desire to obtain material gain through an illegal car rental transaction, and the heated situation at the rest area led Defendant II to order Defendant I to shoot if there was any resistance, which then resulted in a fatal shooting. As a result of these actions, the victim, Ilyas

Abdurrahman, died, Ramli was injured, and the victim's family suffered trauma and the TNI's image was damaged in the eyes of the public. Aggravating factors included violations of humanitarian values, military discipline, and damage to public trust, while mitigating factors included a cooperative attitude, admission of guilt, surrender, remorse, and a clean criminal record. Based on all these considerations, the panel of judges sentenced both defendants to life imprisonment under Article 340 in conjunction with Article 55(1) of the Criminal Code, as well as an additional penalty of dismissal from military service for serious violations of military discipline and honour.

#### 4. Conclusion

Based on the results of the analysis, criminal liability for military personnel in Decision Number 25-K/PM.II-08/AL/II/2025 reflects the balanced application of the law between certainty, justice, and proportionality. The panel of judges assessed each defendant based on the degree of fault, role, and consequences of their actions, applying Article 340 of the Criminal Code in conjunction with Article 55 (1) of the Criminal Code and Article 480 of the Criminal Code to emphasise that all perpetrators remain responsible despite their different roles. The imposition of life imprisonment and dismissal from military service on the two main defendants demonstrates the judges' efforts to uphold criminal law while maintaining the honour of the Indonesian National Armed Forces. The element of 'planning' was assessed from an objective perspective in terms of preparation and the time interval before the shooting, rather than from the subjective perspective of the experts' calm state of mind, as the facts of the trial proved that there were conscious and measured actions. In addition, the judge also considered non-legal factors such as the motive, consequences, and attitude of the defendants so that the verdict was not merely retributive, but also reflected the justice and moral responsibility that every TNI soldier must uphold.

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