N.B.: This translation into English from Italian is subject to revision during subsequent phases of proofreading, and thus should be considered as an intermediate rather than a final version. It is a free translation of the Italian original on which it is based and is being provided at this time for the convenience of interested parties who do not read Italian. Although every effort has been made to ensure its accuracy, in the event of a discrepancy between it and the Italian original, the latter shall be considered as accurate and the English-language translation as erroneous.

SENTENCE OF THE COURT OF ASSIZES OF APPEAL OF PERUGIA

(PRESIDED OVER BY DR. CLAUDIO PRATILLO HELLMANN)

IN THE MURDER OF MEREDITH KERCHER

Translated from Italian into English
by www.perugiamurderfile.org
February 17, 2012

[1]

IN THE NAME OF THE ITALIAN PEOPLE

THE COURT OF ASSIZES OF APPEAL OF PERUGIA

SENTENCE
Dated October. 3, 2011

Submitted on

December 15, 2011

Composed of the [following] Magistrates:

Dr.	Claudio PRATILLO HELLMANN	Presiding judge
Dr.	Massimo ZANETTI	Advising judge
Mr.	Fabio ANGELETTI	Lay judge
Ms.	Simonetta RANIERI	Lay judge
Ms.	Anna CALISTI	Lay judge
Ms.	Paola NATALIZI	Lay judge
Ms.	Federica MACELLARI	Lay judge
Ms.	Antonella MASCIOVECCHIO	Lay judge

Has pronounced the following

S E N T E N C E

Published by reading of the disposition of the verdict [*dispositivo*]

In the case

Against

l) Amanda Marie KNOX, born in Seattle (USA) on July 9, 1987

- Arrested on November 6, 2007

- currently detained in the Perugia prison for this matter [*P.Q.C.*]

- Released [*R.L.*] at the hearing of October 3, 2011

- FREE PRESENT

[2]

2) Raffaele SOLLECITO, born in Bari on March 26, 1984

- Arrested on November 6, 2007

- currently detained in the Terni prison for this matter [*P.Q.C.*]

- Released [*R.L.*] at the hearing of October 3, 2011

- FREE PRESENT

ACCUSED

(A) – (into which count C has been absorbed)
of the felony offence under Articles 110, 575 and 576 paragraph 1 section 5, in relation to the offence under (C), and 577 paragraph 1 section 4, in relation to Article 61 sections 1 and 5, Criminal Code, for having, in complicity[1] amongst themselves and with RUDY HERMANN GUEDE, killed MEREDITH KERCHER, by means of strangulation and consequent breaking of the hyoid bone and a deep wound to the left anterior-lateral and right lateral of the neck, by a cutting weapon to which count (B) [applies], and thus meta-haemorrhagic shock with appreciable asphyxial component due to [*secondario*] the blood-loss (derived from the cutting injuries present in the left anterior-lateral and right lateral regions of the neck and of the contemporaneous abundant aspiration of haematic matter), and profiting from the nocturnal hour and of the isolated location of the apartment leased by the same KERCHER and the same KNOX, in addition to two young Italian women (FILOMENA ROMANELLI and LAURA MEZZETTI), apartment located in Perugia, at Number 7, via della Pergola, committing the deed for futile reasons, while GUEDE, in complicity with the others, committed the offence of sexual violence.

(B)
of the offence under Article 110 Criminal Code, Statute 4 110/1975, for having, in **[3]** complicity amongst themselves, carried out of SOLLECITO's home, without justifiable motive, a large cutting knife, 31 cm long in total (seized from SOLLECITO on November 6, 2007, Exhibit 36).

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[1] *Concorso* (translated as "complicity") is a term in Italian law indicating that the actions and realised intentions which resulted in the event that occurred were shared, in such a way that there is shared legal responsibility for the crime. It is a technical term with its own jurisprudence, and is divided into sub-categories for the several kinds of *concorso* codified into law, each with different meanings. The possibilities include: having a role in the chain of causes that produce a crime, planning an action committed by others, sharing an intention different from the actual crime, lending moral support, being necessary to an action, or bringing support while not being unnecessary. For murder, the concept can be compared with the old common law felonies of murder-in-company, and robbery-in-company.

(C) – (merged into count A)
of the offence under Articles 110, 609-bis and ter, section 2, Criminal Code, for having, in complicity with RUDY HERMANN GUEDE (GUEDE being the material executor, in complicity with the co-accused), forced MEREDITH KERCHER to submit to sexual acts, with manual and/or genital penetration, by means of violence and threats, constituting actions of restraint productive of lesions, in particular to the upper limbs and to the lower limbs and in the vulvar zone (ecchymotic suffusions [=bruising] on the anterior-lateral face of the left thigh, lesions in the vestibular area of the vulva and an ecchymosed area on the anterior mid-third of the right leg), as well as in the usage of the knife under (B).

(D)
of the felony under Articles 110, 624 Criminal Code, because, in complicity amongst themselves, to procure for themselves an unjust profit, in the circumstances of time and place under counts (A) and (C), they possessed themselves {… omitted … } of two mobile phones, belonging to MEREDITH KERCHER, removing them from her possession ([this] deed must fall under Article 624-bis Criminal Code, taking into account the reference to the place of execution of the offence contained under count (A) here mentioned)

(E)
[4] of the offence under Articles 110, 367 and 61(2) Criminal Code, for having, in complicity amongst themselves, simulated the attempted theft with forced entry into the room of the apartment at Number 7, via della Pergola, occupied by FILOMENA ROMANELLI, breaking the glass of the window with a rock taken from the vicinity of the habitation which came to be left in the room, near to the window, for the purpose of securing impunity for themselves from the felonies of murder and sexual violence, attempting to attribute the responsibility to persons unknown having entered, for these purposes, into the apartment.

All deeds having occurred in Perugia, during the night of November 1 and 2, 2007.

Furthermore, [regarding] AMANDA MARIE KNOX:

(F)
of the offence under Articles 81 paragraph, 368 paragraph 2 and 61(2) Criminal Code, because, with multiple criminal actions executed under the same criminal design, knowing him innocent, with accusation arising during the course of declarations rendered to the Flying Squad and to the [police officers at] Police headquarters [*Questura*] in Perugia on November 6, 2007, falsely inculpated DIYA LUMUMBA called "Patrick" in the offence of murder against the young woman MEREDITH KERCHER, with the view of obtaining impunity for all and in particular for RUDY HERMANN GUEDE, because he was black, like LUMUMBA.
In Perugia, during the night of November 5 and 6, 2007.

APPELLANTS

the Public Prosecutors of the Public Prosecutor's Office of Perugia and the accused, through the verdict handed down on December 4-5, 2009 by the Court of Assizes of Perugia by which Amanda Marie KNOX and Raffaele SOLLECITO were declared guilty of the offences charged against them under count (A), in **[5]** said offence being absorbed the felony charged under count (C), as well as under count (B), (D) being limited to the mobile phones, and (E) and, as regards Amanda Marie KNOX, also the misdemeanour offence ascribed to her under count (F), offences all subsumed under the rubric of continuation and, excluding the aggravating factors under Articles 577 and 61(5) Criminal Code, both were conceded generic mitigating circumstances equivalent to the residual aggravation.
They were condemned to a penalty of 26 years' imprisonment for Ms KNOX and to the penalty of 25 years' imprisonment for Mr SOLLECITO (base sentence [*p.b.*]for the continuation [being] 24 years' imprisonment) as well as each to pay the court and prison custody costs.
Amanda KNOX and Raffaele SOLLECITO were declared prohibited in perpetuity from holding Public Office and in a state of legal interdiction for the total duration of the penalty.
They were ordered, Amanda Marie Knox and Raffaele SOLLECITO equally, to pay compensation, jointly, for damages in the matter of the joined civil parties John Leslie Kercher, Arline Carol Lara Kercher, Lyle Kercher, John Ashley Kercher and Stephanie Arline Kercher, damages to be determined in a separate hearing and an immediate executive provisional [payment] of 1 million euros each was granted in favour of John Leslie Kercher and Arline Carol Lara Kercher and of 800,000 euros each in favour of Lyle Kercher, John Ashley Kercher and Stephanie Arline Kercher, in addition to pre-established reimbursement, value-added tax and lawyers' pension fund [*CPA*] as per law;
Amanda Marie KNOX was ordered to recompense damages in the matter of the joined civil party Patrick Diya Lumumba, to be determined in a separate hearing and an immediate executive provisional payment **[6]** of 10,000 euros.
Amanda Marie KNOX was ordered to make restitution of the court costs of Patrick Diya Lumumba, amounting in total to 40,000 euros in addition to pre-established [=fixed-priced] reimbursement, value-added tax and lawyers' pension fund [*CPA*] as per law.
Amanda Marie KNOX and Raffaele SOLLECITO were ordered to pay damages in the matter of the constituted civil party Aldalia Tattanelli, to be determined in a separate hearing, and Lyle Kercher, John Ashley Kercher and Stephanie Arline Lara Kercher and to the same, an immediate executive provisional payment of 10,000 euros was granted.
The accused were ordered jointly to make restitution of court costs for the civil party Aldalia Tattanelli, amounting in total to 23,000 euros, in addition to pre-established reimbursement, value-added tax and lawyers' pension fund [*CPA*] as per law.
Confiscation of the instruments and proceeds of crime [*corpi di reato*] was ordered.
With appearance of the civil parties [*PP. CC.*]:

(1) JOHN LESLIE KERCHER, born at Balham (British Citizen) on December 11, 1942, resident at xxxxxxxxxxxxxxxxxxxxx (United Kingdom) (father), represented and defended by Counsellor Francesco MARESCA of the Florentine Bar, with address for service at the office of Counsellor Maresca at Via Dè Vecchietti, 1, Florence;

(2) ARLINE CAROL MARY KERCHER, born in Lahore (British Citizen) on November 11, 1945, resident at xxxxxxxxxxxxxxxx (United Kingdom) (mother), represented and defended by Counsellor Francesco MARESCA of the Florentine Bar, with address for service at the office of Counsellor Maresca at Via Dè **[7]** Vecchietti, 1, Florence;

(3) JOHN ASHLEY KERCHER, born in London (British Citizen) on October 21, 1976 (brother), represented and defended by Counsellor Francesco MARESCA of the Florentine Bar, with address for service at the office of Counsellor Maresca at Via Dè Vecchietti, 1, Florence;

(4) LYLE KERCHER, born in Greenwich (British Citizen) on July 3, 1979 (brother), represented and defended by Counsellor Francesco MARESCA of the Florentine Bar, with address for service at the office of Counsellor Maresca at Via Dè Vecchietti, 1, Florence;

(5) STEPHANIE ARLINE LARA KERCHER, born in London (British Citizen) on July 21, 1983 (sister), resident at xxxxxxxxxxxxxxxxx (United Kingdom) (sister), represented and defended by Counsellor Serena PERNA of the Florentine Bar, with address for service at the office of Counsellor Perna at Via Dè Vecchietti, 1, Florence;

(6) DIYA LUMUMBA called PATRICK, born in Kindu (Zaire) on May 5, 1969, resident at xxxxxxxxxxxxxxxx, represented and defended by Counsellor Carlo PACELLI of the Perugian Bar, with address for service at the office of Counsellor Pacelli at Via Cacciatori delle Alpi, 8, Perugia;

(7) ALDALIA TATANELLI, born at Tuoro-on-Trasimeno on March 12, 1925, resident at xxxxxxxxxxxxxx, Rome, represented and defended by Counsellor Letizia MAGNINI of the Perugian Bar, with address for service at the office of Counsellor Magnini at Via Vermiglioli, 16, Perugia.

SUBMISSIONS OF THE PARTIES

The parties submitted separate briefs [*verbale*].

[8] CASE HISTORY

On November 2, 2007, shortly after 1 PM, the body of British student Meredith Kercher was discovered in the building in via della Pergola 7, in Perugia. [Meredith was] born in

London on December 28, 1985 and she had come to Italy in the late summer of 2007 as part of the Erasmus project to attend courses at the University for Foreigners in Perugia.
The lifeless body was lying on the floor in the bedroom that Meredith Kercher occupied in the property of Mrs. Aldalia Tattanelli, rented out to Meredith Kercher and three other females: Amanda Marie Knox (a young woman who came from the United States to attend a course at the University for Foreigners), Filomena Romanelli and Laura Mezzetti.
Having completed the investigation, the Prosecutors' Office of Perugia initiated criminal proceedings, for the murder of Meredith Kercher and for other connected crimes, against Knox, Raffaele Sollecito, a student at the faculty of Computer Engineering at the University of Perugia, who had formed over a few days a close romantic relationship with Knox and was at the time about to graduate, and Rudy Hermann Guede an Ivorian citizen, but resident in Perugia since childhood.
In reality, at first, to be arrested, as a consequence of the "spontaneous" statements given by Knox before her own arrest, was also Diya Lumumba (at whose bar [*locale*] Knox worked occasionally) as the physical perpetrator of the murder but after, as the veracity of the alibi supplied was established, he was exonerated.
Precautionary detention in prison was ordered for all the defendants, [a measure] which, as a matter of special interest here, was maintained despite their respective appeals [and] even though shortly after their detention [*la sua attuazione*] a piece of circumstantial evidence [*indizi*] against Raffaele Sollecito, regarded as decisive until then, was discarded: the attribution to him of a shoe print **[9]** stained in blood, discovered close to the body of the victim. The [shoe] print was subsequently attributed, instead, with certainty to Rudy Guede.
At the pre-trial hearing the civil parties were the family of Meredith Kercher, Mrs Aldalia Tattanelli and against Knox alone, also Diya Lumumba with reference to count F (crime of criminal slander [*calunnia*]).
The preliminary hearing came to a close on October 28, 2008.
Rudy Guede's case was resolved in a fast-track trial, which he had requested. For Amanda Marie Knox and Raffaele Sollecito, the preliminary hearing judge [*GUP*] of the Tribunal of Perugia ordered them to stand trial before the Court of Assizes of Perugia for the court hearing of December 4, 2008.
The defendants were remanded to stand trial for the following crimes:

A) Multi-aggravated murder of Meredith Kercher, in complicity [*concorso materiale*] with Rudy Guede:

B) The offence of carrying the knife (exhibit 36 of the following account) allegedly found to be the murder weapon, taken from Sollecito's home without justification.

C) The offence of sexual assault, in complicity with Rudy Hermann Guede in the role of physical perpetrator, to the detriment of Meredith Kercher, hypothesis aggravated under the art. 609 ter nr 2 P.C. given the theorized usage of knife of which count B was utilized to mark the conducts of violence and threat;

D) [The] offence of the theft of property belonging to Meredith Kercher (two cell phones, a sum of money and two credit cards from British banks);

E) The offence under art. 367 P.C. with the aggravating circumstance of the teleological nexus, assuming that the defendants had simulated an attempted burglary inside the bedroom of Meredith Kercher's and Amanda Knox's housemate (Filomena Romanelli) with the aim to attributing it to **[10]** unknown persons, that broke into the apartment, the responsibility of the murder and the presumed sexual assault suffered by Meredith Kercher;

F) To Amanda Knox alone the crime of criminal slander [*calunnia*] to the detriment of Diya Lumumba known as "Patrick", charged as a continuation of the crime [*nella forma continuata*] since the asserted false accusations, in regards to the culpability of Lumumba in the murder of Meredith Kercher, were contained in further statements made by Knox to the investigators on November 6, 2007 and in a memorial handed over to the police on November 6, 2007; aggravated crime under art. 61, n. 2 P.C. expecting that, with that false accusation, it was presumed that Amanda Knox tried to gain impunity for herself, for Sollecito and even for Rudy Hermann Guede.

The trial started on January 16, 2009 (after the first hearing was adjourned from the December 4, 2008 to this date) stretching over almost a year.

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With its guilty verdict of December 4-5, 2009, the Court of Assizes of Perugia - after having rejected various requests to expand the inquiry [*richieste istruttorie*] during the trial with rulings that -- as we will later see – were contested by the defence counsel of the accused – found Amanda Marie Knox and Raffaele Sollecito guilty of the criminal charges brought against them under count A), into which offense the crime under count C) was incorporated, B) and D) limited to the cell phones, and E) and to Amanda Knox alone also guilty of the crime under count F), while it acquitted them of the charge under count D), regarding other items and sums of money, with the formula "because the fact does not exist" [*il fatto non sussiste*].
Unified with liability for the perpetuation of the crimes for which they were found guilty, ruled out the aggravating circumstances under Art. 577 and 61 n. 5 of the Penal Code, and granted the general mitigating circumstances [held to be] equivalent to the remaining aggravating circumstance, sentenced Amanda Marie Knox to 26 years imprisonment and Raffaele Sollecito to 25 years imprisonment (fixing the penalty base for the purposes of the continuation in 24 years in prison) in addition payment of proceedings costs and to the **[11]** additional taxes by law; furthermore condemned them jointly and severally liable to pay the damages and to refund the legal costs in favour of the plaintiffs (the family of Meredith Kercher and Aldalia Tattanelli) and Amanda Knox alone to pay also damages in

favour of Patrick Diya Lumumba, to be paid separately, but granting a provisional sum immediately enforceable of significant amounts.

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The motivations of the sentence is reported in as many as 425 pages (the last 3 record the disposition of the verdict [*dispositivo*]), pages that were for the most part used to represent the case history in detail, as well as the context in which the facts occurred, but the reasons the Court of Assizes reached that decision can be briefly summarized as follows:

Falsity of the alibi

The Court [of first instance], from a narrative point of view as well, starts precisely from this first fact, which was described for the first time both during the course of the trial as well as in the concluding evaluations: it is not true - the Court held - that Amanda Knox and Raffaele Sollecito spent the night between November 1 and 2 in his house: "No element" – a verbatim quote from the sentencing report - "however, confirmed that Amanda Knox and Raffaele Sollecito were not to be found, late in the evening of that November 1, in the house on via della Pergola".
In particular, the Court points out: that there is no proof that Raffaele Sollecito's computer had been used after 9:10 PM and until 5:32 AM of the following day; that they had been seen around 10 PM and up until about 11 PM in the little square in front of the University for Foreigners (located near to via della Pergola) by the witness Antonio Curatolo (who was to be considered credible according to the Court precisely because he, being essentially a tramp, usually frequented that place, and therefore was well acquainted with its routines, but also because, in order to establish the timing of his recollection, he traced it back to particular circumstances **[12]**, such as the departure that evening, during which he saw Amanda Knox and Raffaele Sollecito, of young people heading for discotheques aboard buses organized by the disco managers [*titolari*], as well as the sight of "people dressed in white, Policemen, Carabinieri…" the following morning (the Forensic Police personnel, who were entering and exiting during the inspection of the house on via della Pergola). The Court also pointed out: that the deep sleep into which the two allegedly sank after their dinner contrasted with Amanda Knox's early-rising habits and with the fact that the two had planned to go on an outing to Gubbio, to the extent that Raffaele Sollecito's father called his son at 9:24 AM to find out whether they had left; that the SMS sent by the father the [previous] evening was received by Raffaele Sollecito only the following morning at 6:02 AM (as was shown by the phone records), which led it to be held - according to the Court - that Raffaele Sollecito had kept his phone switched off until that time of the morning; that early in the morning, furthermore, Amanda Knox was seen near the grocery shop owned by Mr Quintavalle, who recognized her, in a statement made, however, a year after the fact.

Simulation of the breaking of the window

Secondly, still from a narrative point of view, the Court of first instance places the supposed window breaking simulation in Romanelli's room. According to the Court of first instance, the purpose of the staging was to mislead investigators about the means of entry into the dwelling by the perpetrator of the crime.
The belief that a mise-en-scène had taken place derives - according to the Court of first instance - from various facts noticed during the inspection of the home: the glass that apparently ended up on top of the things moved by the hypothetical intruder, since the objects, had they been rummaged through after entrance into the room, should have been on top of the glass fragments and not beneath them; the fact that no signs of climbing were seen outside on the wall (a nail driven into the outer wall was completely straight and undamaged whereas a possible climb (difficult [since] **[13]** the window [is] positioned 3 metres above) would have had to entail displacement or at least bending of such a nail; the difficulty of breaking in with a stone considering that the shutters, left ajar by Romanelli because they were difficult to close due to the swelling of wood, would have to be opened first.
The simulation of the break in- the Court of first instance points out - could be carried out only by those who had an interest in excluding another much easier means of entry (with the main door key) and, therefore, by those who had access to the key: obviously not the victim but not the other roommates (Filomena Romanelli and Laura Mezzetti) because it is certain that they were somewhere else (Mezzetti with her family in Montefiascone, Romanelli in Perugia but in another house with the boyfriend and other friends) and therefore, only Amanda Knox, which, considering that the main door had not in any way been forced, suggests - argues the Court of first instance - it was just Amanda Knox, who was with Raffaele Sollecito, but not at his house but the house in via della Pergola, to let Rudy Guede into the house, in fact - the Court of first instance states - Amanda Knox and Rudy, who was also attracted to her, already knew each other.
The Court of first instance attempts to formulate different hypotheses about the course of the meeting that evening between Raffaele Sollecito and Amanda Knox, on the one hand, and Rudy Guede, on the other: if he had come alone when they were already in the house or if they all three were together in via della Pergola: as well as about the purpose of Rudy Guede in entering that house; whether to be in company of the other two or to spend the night or just to go to the bathroom (as he had done other times, but in the apartment located on the floor below and occupied by several young men). But, among these hypotheses, the Court of first instance opts for the three young people having met at around 11 PM in the square in front of the University for Foreigners and then together to directly to via della Pergola.
[14] The Court of first instance, however, does not attach significance to the fact that at other times and in other places Rudy Guede had entered precisely through windows to steal.

Complicity in the crime

It having been established, for the reasons summarized above, that the three were in the house on via della Pergola during the night between November 1 and 2, 2007, the Court held that Amanda Knox and Raffaele Sollecito had participated with Rudy Guede in carrying out the murder of Meredith Kercher, in the first place because, otherwise, they would have had no reason - according to the thinking of the Court - to set up a false alibi, such as setting up a simulated break-in of the window, but then also because of the evidence drawn from the autopsy and genetic investigations.

In particular:

Lesions

Since Meredith Kercher, when she was attacked, was still awake and up, and not undressed at all (as was evidenced by the clothing that was found on her, by the place where her body lay at the time it was found, as well as by the location of objects and of bloodstains) it should be held - the Court observed - that the aggressor could not have acted alone, also because Meredith Kercher's physical constitution (agile and strong) and the fact that she had previously practiced martial arts (karate) would have enabled her to defend herself in a more adequate way from a single aggressor, whereas, on the contrary, the lack of significant lesions, such as are normally found on the arms of persons who have been attacked by someone with a knife (so-called defence wounds), showed that she, despite the conditions (physical and placement) highlighted, was not able to carry out any effective resistance: the aggressors clearly had an easy task precisely because there were three of them.
The Court added that an aggressor, on his/her own, could not have undressed the young woman and carried out the sexual acts [which had been] revealed by the results of the vaginal swab (Rudy Guede's DNA), after **[15]** having lain her on a cushion, nor, above all, [could he/she have] cut the bra clasp, since that action - necessarily carried out from behind the young woman - required the use of both hands: which, in the hypothesis of a single aggressor, would have given the young woman a chance to wriggle free.
But, above all, it was the diverse morphology of the lesions inflicted and their number and [the way they were] scattered that confirmed - according to the Court - the complicity [*concorso*] of all three.
The different [paths of the] stab wounds [*tramiti*] to the right (4cm) and to the left (8cm) were explained by the difference in the blades (one of which was entirely compatible with that of the knife sequestrated in Raffaele Sollecito's home, exhibit 36), which were grasped, evidently, by different individuals also because - the Court observed - otherwise it would have been necessary to hypothesize that the aggressor continuously moved in order to strike the young woman from different positions: a completely unlikely hypothesis since the situation could, on the contrary, be explained by the fact that each participant in the

attack struck the young woman from the place in which he/she was positioned.

Genetic investigations

The Court, fully agreeing with the conclusions put forth by the Prosecution consultants and by the Forensic Police (to the extent that it held that it would be superfluous to carry out the expert examination requested by the defendants' defence teams), held that the outcome of the genetic investigations carried out on exhibit 165b (the bra clasp) and on exhibit 36 (the knife seized in Raffaele Sollecito's house) constituted further elements of proof of the defendants' guilt. On the first [exhibit] - according to the Forensic Police - was found Raffaele Sollecito's DNA; on the second [exhibit] Amanda Knox's DNA on the handle and Meredith Kercher's on the blade.
The objections put forward by the defendants' defence teams, on the basis of observations made by their own technical consultants [*C.T.*], about the credibility of such investigations (with regard to the complete lack of certainty about the exclusion of contamination, and to the unreliability of the method used), will be discussed **[16]** later, in setting out the reasons for appeal. It is sufficient here to observe that the Court of Assizes, however, found assistance in convincing itself about the credibility of the above-mentioned results in the fact that, essentially, those results were compatible - in its opinion - with all the other circumstantial evidence highlighted above.
It is clear that if, for the sake of argument, the DNA found on the clasp is actually Raffaele Sollecito's, this [piece of] evidence, while yet remaining such, is of particular significance: and the same can be said for the DNA found on the handle and on the blade of the knife seized at Raffaele Sollecito's house, provided it is certain that this is actually one of the weapons used by the aggressors.
In particular, it should also be remembered that the Court explained the availability [i.e. readiness-to-hand] to Amanda Knox, at the moment of the crime, of the knife seized from Raffaele Sollecito's house (and which certainly - as is patently obvious - did not form part of the [set of] knives with which the kitchen in the house on via della Pergola was equipped) in this way: since Amanda Knox, for work reasons, had to go out alone even at night, Raffaele Sollecito had probably given her that knife for self-defence purposes, a knife that she could carry in her capacious handbag, and thus on the evening of the crime she was able to find that knife at her disposal.
Thus, according to the Court, the results of the genetic investigations were consistent with all the other [pieces of] evidence.
The Court did not then consider it necessary to go ahead with a genetic review, requested by the defendants' defence teams, on the traces (presumably traces of sperm) present on the cover of the cushion, which was found under the young woman's pelvis when her body was removed, for the reason - the Court explained - that, since it was clearly evident that Meredith Kercher had an active sex life, it would have been irrelevant to determine the nature of those traces, or to have identified which person had left them, largely because - as the consultants explained - it is not possible to determine the date when these

DNA-containing traces were left.

Biological traces

[17] The Court gave relevance, as [circumstantial] evidence, to the biological traces found in the small bathroom, near to the bedroom of Meredith Kercher and of Amanda Knox and generally used by both young women.
Although it was not possible, in this case also, to determine the moment in which such traces were left, the Court held, given the distribution of the traces throughout the bathroom, that they clearly represented the sequence the events unfolded in: it is logical - the Court observed - that the murderer had gone to that bathroom in order to wash the victim's blood off himself/herself since the bathroom was next to Meredith Kercher's room.
Hence, the fact that traces of Meredith Kercher's blood were found on the light switch, which must have been switched on before the washing-up, as well as on the wall close to the bathroom [*d'ingresso*] door; hence the tracks, left by a blood-covered foot, were found on the small bath mat and also, and above all, the fact that traces of blood, containing Amanda Knox's and Meredith Kercher's DNA, mixed together, were found in the sink and in the bidet: "and" as written in the sentencing report "seems to highlight the sign of an action of cleaning of hands and of feet [which was] carried out in the sink and in the bidet, and activity that, through the action of scrubbing, entailed the cleaning [off] the victim's blood and could entail the loss of exfoliation cells of the person who was cleaning themselves: the two biological traces thus blending themselves in that single trace described by Dr Brocci and which, because of the presence of blood, took on a pale [faded] red colour, like diluted blood."
Furthermore the Court, although no DNA belonging to Raffaele Sollecito was found in the bathroom, held that the footprint found inside the bathroom had been made precisely by Sollecito, also in consideration of the fact that the prints of shoes that, coming from Meredith Kercher's room and heading towards the door of the apartment, are entirely compatible with shoes of a model and size that Rudy Guede must have used, since an empty shoe box was found in his apartment.
[18] Therefore - the Court observed - if Rudy Guede had gone away immediately with his bloodied shoes, the above-mentioned footprint and the other traces found in the bathroom lead to believe that Amanda Knox and Raffaele Sollecito, after the slaying of Meredith Kercher, had gone together into the bathroom to clean the blood off themselves.

Traces revealed by luminol

The Court holds that all the traces revealed by luminol, present both in Amanda Knox's room as well as that of Romanelli, having considered that no other susceptible substances had been revealed in an analogous mode and given the context, are traces of blood left

behind by Amanda Knox and Raffaele Sollecito during their movements inside the house, for the purpose of looking outside from Amanda Knox's room as well as from Romanelli's, to make sure that there were no people present in the street, being alarmed by the fact that Meredith Kercher's scream and the presence of a parked car in the vicinity (which Raffaele Sollecito had had the means to notice already when he was in the little *piazza* in front of the University) could have attracted somebody's attention.

Concluding judgement of the Court of Assizes

The Court of Assizes holds that, with the adduced facts, the data concerning the activity on Meredith Kercher's mobile phones, which show the presence of these mobile phones [*degli stessi*] at via della Pergola up until 10:13 PM but instead in via Sperandio the following day at 10:13 AM, is coherent.
And so the Court places Meredith's [*della stessa*] [time of] death a few minutes after 11:30 PM, finding this timing confirmed – so says the Court of Assizes – in the data revealed [*rilevati*] by the autopsy (thanato-chronology).
But – so says the Court – even the behaviour shown later (the fact that Amanda Knox went, in the earliest hours of the morning, to Mr Quintavalle's shop to acquire cleaning products) constitutes further evidence of particular gravity, also because [it is] denied by the accused [Knox], given the urgent need to **[19]** clean the house on via della Pergola And also the fact that Amanda Knox had called – on her say so, to carry out the search for Meredith Kercher – only one mobile phone and not the other one as well: the Court of Assizes, in fact, holds that she did not have the need to call the other phone knowing full well what had happened, while the call evidently only had the aim of finding out whether or not the phones, thrown away together, had been discovered.

Motive

In conclusion the Court of Assizes perceives the difficulty of explaining a conduct so cruel in the absence of a plausible motive and, premeditation being excluded, holds that what occurred be either, on the one side of the coin, the outcome of a series of chance events and, on the other side, an extreme choice in experimentation, of choosing evil for evil's sake: in the Court of Assizes' opinion, Raffaele Sollecito and Amanda Knox, finding themselves with a free evening (Amanda Knox no longer needing to go to work and Raffaele Sollecito no longer needing to accompany a friend to the bus station), took themselves to Amanda Knox's house where, perhaps after having consumed stupefying substances, busied themselves in making love in her room. But in the same residence there was also present Rudy Guede (either because he went there together with the other two or because he was let in afterwards), who, after having been in the bathroom (and having left his own faeces in the toilet without flushing), comes to find himself immersed in an atmosphere laden with erotic solicitations: Amanda Knox and Raffaele Sollecito in her

room making love and a girl, Meredith Kercher, alone in her own room, who thus becomes a predestined object of desire. Rudy Guede, rejected by her, rather than fleeing, perseveres in the attempt to realise his intent … but at this point, evidently attracted by the commotion, Raffaele Sollecito and Amanda Knox run into in Meredith Kercher's room and here, instead of defending her, side themselves with Rudy Guede to try out this new emotion: eros and violence, to which – according to the Court – they had already been exposed, and in particular Raffaele, as revealed by a reading of books and watching films of that kind, as well as the use of **[20]** stupefying substances. The wounds and the murder were neither predetermined nor intended as the direct outcome of their actions but accepted, however, as the foreseeable evolution of the same.

Hence the culpability of both the accused on all counts (murder, simulation of a crime, abusive carriage of a knife, theft of the mobile phones).

As regards the offence of *calunnia* to the detriment of Patrick Lumumba, the Court observes that, since obviously Amanda Knox well knew how things had gone, she was clearly aware of his total innocence, neither were there elements available such as to support her affirmation concerning her having accused Patrick Lumumba because she was in some way convinced that this is what the Police wanted from her: to name in any case a culprit.

In fixing the penalty, the Court held the crime of sexual violence merged within the more serious crime of murder as a special aggravation, while it excluded aggravation of the lesser [crime] by the consideration that Meredith Kercher, in the moment in which she came to be attacked, was in her own room, awake and still clothed, in a condition of full consciousness and of a complete capacity to react; and it also excluded the aggravation of futile motives because it was contested in a totally generic manner.

For both of the accused, it recognised general mitigation because of their extreme youth, absence of a prior criminal record, without pending charges, and a conduct of life that, apart from personal use of stupefying substances, was appreciably meritorious (engaged in studies, in work, helpful towards others) and, lastly, far from their respective families, from the control and proximity of whom they would still have had need.

The generic mitigation was held equivalent to the special aggravation contested.

The Court, having joined the offences into the ambit of continuation and, in determining the penalty, obviously holding the crime of murder as the most serious count [*quello*], therefore, imposed 25 years on Raffaele **[21]** Sollecito and 26 years on Amanda Knox (she, in fact, answering to the charge of *calunnia* as well) in addition to the subsidiary penalties by law and to the payment of court costs (24 year minimum; increased to 24 years and 6 months for the staging; to 24 years and 9 months for the carrying of the knife; to 25 years for the theft and increased, lastly, for Amanda Knox, by an additional year for the *calunnia*).

The Court has, lastly, sentenced the accused to compensatory damages against the constituted civil parties, to be determined in a separate hearing, recognising, also, provisional payments of significant amounts and liquidating the costs in appreciable measure in consideration of the complexity and duration of the trial.

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An appeal was quickly lodged against the judgement by the defence of Amanda Knox (counsellors Luciano Ghirga and Carlo Dalla Vedova) and of Raffaele Sollecito (counsellors Luca Maori and Giulia Bongiorno) but also [by] the Public Prosecutor, while the counsel for the relatives of Meredith Kercher, joined as civil parties (John Kercher, Arline Kercher, Lyle Kercher, John Ashley Kercher, Stephanie Kercher), (counsellor Francesco Maresca and counsellor Serena Perna, presented a memorandum affirming the validity of the judgement's reasons.
At the foundation of the respective challenges and appeals they have submitted grounds which will be examined later [in this report].
Counsellor Letizia Magnini for the civil party Aldalia Tattanelli and counsellor Carlo Pacelli for the civil party Diya Lumumba, while present, have not presented briefs.
As mentioned, the Kercher civil party counsel, counsellor Francesco Maresca and counsellor Serena Perna, have presented a memorandum to reaffirm the validity of the reasons for the judgement.
[22] In particular, about the simulation of the crime of theft, they argue that, in their view, it is impossible that there had really been an introduction into Filomena Romanelli's room via the window, excluding this possibility through the lack of any kind of trace on the wall beneath the window; the presence of a nail, lacking any deformation, situated in the same wall; the absence of pieces of glass found beneath the window [on the outside]; [and], confirming the simulated activity, the presence of pieces of glass on top of objects, and not underneath, inside Romanelli's room.
About the accused being acquainted and the existence of complicity amongst themselves in the crime, in addition to affirming the facts already presented by the Court of Assizes in the reasons for the sentence (plurality and collocation of the wounds; traces revealed by luminol, biological traces and genetic traces of Rudy Guede on the small strap of the victim's bra and of Raffaele Sollecito on the bra clasp), they observe that, in reality, Rudy Guede and Raffaele Sollecito met through Amanda Knox and that the understanding could have also been instantaneous, coming together in the imminence of the murder. They add that Rudy Guede's choice not to respond during [his] examination and the objection of Amanda Knox and Raffaele Sollecito's counsellors to the acquisition of declarations made by Rudy Guede to the Public Prosecutor concur in confirming the participation of all in the commission of the crime.
About the autopsy aspects, they recapitulated all the aspects that constituted the object of the autopsy ascertainment to show the accuracy of the reconstruction made by the Court of Assizes (in particular, about the time of death, about the necessary participation of multiple persons in the commission of the murder, about the compatibility of the seized knife with some of the important wounds inflicted on the victim).
About the footprints, they observe that those recovered from the inside of the residence reveal the presence of Amanda Knox and Raffaele Sollecito at the scene of the crime. These are prints that in the scientific view cannot be classed as usable for positive comparisons but, however, are useful for negative comparisons, in the sense that, based on these prints,

one cannot reach a certain identification **[23]** but one can, however, arrive at a certain exclusion on the basis of the compatibility, or not, of these prints with a specific subject. The Scientific Police (Inspector Rinaldi and Chief Inspector Boemia) were able, thus, to exclude that the footprints could be attributed, in contrast to the shoe prints, to Rudy Guede, while they were judged compatible with the characteristics of Amanda Knox (imprints recovered from her room and from the corridor) and of Raffaele Sollecito (imprints recovered from the small mat in the bathroom and in the corridor).
In summary, the counsellors of the aforesaid civil parties conclude in the confirmation of the participation of all the accused in the facts as reconstructed during the trial.
The Public Prosecutor, in his own cross [*incidentale*] appeal, complains of the "erroneous exclusion of aggravation under Article 61 (1) Criminal Code (having acted through abject and futile motives) – an absolute defect in the reasoning": [the Prosecutor] maintains that the Court of Assizes should not have clearly [*apoditticamente*] excluded the aggravation, but should have inquired into the merits to appraise itself of its substantive nature – exactly those same arguments espoused by the Court in merit of the motive "choice of evil for evil's sake [*male per il male*], desiring to have a new experience of eros and violence" – should have induced to recognise the above-mentioned aggravation.
[The Public Prosecutor] also complains about the "erroneous concession of generic mitigating circumstances under Article 62-bis Criminal Code": [the Public Prosecutor] maintains that the facts on which the Court based its decision to recognise generic mitigation are not in reality suited to this end and for each of them formulates observations directed to reducing their significance.
Therefore, the Public Prosecutor asks that the measure of the penalty be redetermined [*donde la necessità di rideterminare la misure della pena*].

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The grounds for appeal presented by the defence teams of the two accused with their appeal request, and the later added grounds, while technically distinct and characterised by customised argumentation **[24]** can, in any case, be illustrated conjointly, at least in their broad outline, inasmuch as they touch on the same points and are supported by analogous argumentation.
Even before presenting specific grounds for nullity or the exigency of propounding particular case-related procedures, raised at first instance but not admitted by the Court of Assizes, the criterion followed in general by the Court of Assizes was objected to: in the appellants' view, the Court of Assizes, starting with a belief manifested from the first pages of the judgement concerning the falsity of the version proposed by the accused, would have ended with attributing probative value to facts that in themselves were nothing if not unreliable (for a series of reasons also proffered by the parties' technical consultants), such as the results of the technical investigations effected by the Scientific Police, rather than, on the contrary, autonomously weighing the reliability and the relevance of these results, and then verifying its consistency in light of the version put

forth by the accused. And so, following this erroneous path, they would have ended up reaching an affirmation of culpability, more in the order of a probabilistic kind, rather than on objective and significant probative facts such as to exclude any reasonable doubt about the culpability or not of the accused.
The exigency of having to reach a decision beyond all reasonable doubt and the necessity of starting from unique appreciably objective facts justify – in the appellants' view – the request to re-open oral argument and the admission of the means of solicited proof.
Above all, [the appellants] argue for the need to order a genetic examination from the moment that, in light of the observations formulated by the parties' consultants, the tests carried out by the Scientific Police (Dr Stefanoni) cannot be held to be reliable, being carried out according to procedures not in total conformity to international scientific protocol. In particular, as concerns the traces asserted to be recovered from the seized knife, to have carried out the procedure to **[25]** identify the DNA even though the quantity of the trace was much lower than that considered sufficient to obtain a reliable result (in English, low copy number); and, as concerns the trace on the bra-clasp, attributed to Raffaele Sollecito, to have held the result reliable without taking into account the probable numerous contaminations, such as to alter it, due to how the little piece of bra with the clasp was recovered. It must be kept in mind, in fact, that this item, definitely identified during the course of the first crime scene inspection, when it was found under the pillow on which Meredith Kercher was lain, was then literally lost sight of, and went completely unnoticed during the course of the investigations up until, around 40 days later, during the course of another crime scene inspection, it was found in the same room but located elsewhere, at about a metre's distance [away] and underneath a mat.
But, in any case, they censure almost all the passages in the judgement, as it appears from the presented grounds of each defence, appealing the verdict and the orders with which the Court of Assizes of first instance had rejected the formulated procedural requests.

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This Court, after having examined and determined the merits of the appeal against the orders made by the Court of Assizes at first instance – as appears from the provisions on record – ordered the partial re-opening of oral argument, above all with the aim of carrying out a genetic examination and to hear further witnesses.
Lastly, in the current hearing, the summing up being concluded and taking notice of the declarations of the two accused, [this Court] has decided as per the Disposition of the verdict [*dispositivo*].

REASONS FOR THE DECISION

Since, as observed at the outset of the trial[2], the only fact that is objectively certain,

[2] i.e.: Judge Zanetti's opening statements

indisputable and that has not been discussed[3] (in the sense that, having the appellants essentially argued against [*censurato*] every part of the [previous] ruling, there is nothing that must not be discussed) there is the need to reexamine, in light **[26]** of what emerged at the first level trial and this Court's [*presente grado*] further acquisitions [of evidence], all the circumstantial evidence on which the Court of first instance based its guilty verdict.

Judgement relating to Rudy Guede

Before undertaking a re-examination of the outcomes from the first instance trial, and the examination of the latest acquisitions [of evidence] in the current appeal following the partial re-opening of oral argument, it is necessary to observe that the strength of the weighing of these outcomes on the part of this Assizes Court of Appeal is not impeded in any way by the sentence pronounced by this same Court, constituted differently [=in alternate coram], in the matter of the co-accused Rudy Guede, dated December 22, 2009, becoming irrevocable following the rejection of the appeal by Cassation.
The Procurator-General [i.e. Chief Prosecutor in Appeal] and counsel for the civil parties opened affirming that the Court of Cassation, in its rejection of Rudy Guede's appeal, had placed "insurmountable hurdles" in front of this Assizes Court, as regards the reconstruction of the facts and the weighing of the probative outcomes and, also having at the end of the debate repositioned this argumentation, in the sense of holding this sentence [as] only one of the facts to be weighed, they have, in any case, re-affirmed the particular relevance of this fact.
It is quite obvious that said sentence is not absolutely binding, since a restriction [*vincolo*] of this sort would contrast not only with the norms of positive law regulating the efficacy of penal sentences in other judgements (Art. 654 Criminal Procedure Code), but also with all the fundamental principles of justice, guaranteed by the Constitution (Art. 111), considering that the current accused would come to be subjected to the effects of a verdict pronounced in a judgement to which they remained extraneous.
But, in truth, such sentence, entered [into the court record] under Article 238-bis Criminal Procedure Code and thereby utilisable under a probative aspect only as one of the other weighable elements under Article 192 paragraph 3 Criminal Procedure Code (per Cass. Sect. 2 Judgement 16626 of February 28, 2007 hearing (submitted May 2, 2007) Rv. 236550; **[27]** Sect. 3, Judgement no. 8823 of January 12, 2009 hearing (submitted February 27, 2009) Rv. 242767), appears already of itself particularly weak, from the moment that the trial, which pertained to Rudy Guede, had been carried out under the fast-track procedure, so that the judges who tried [*conosciuto della posizione*] Rudy Guede did not have at their disposal, notwithstanding the particular complexity of the case, at least with regard to the current defendants, neither the first trial's nor this Court's acquisitions [of evidence], and, in particular, the results of the expert review which was carried out.

[3] The report contains an error in this line. The "fact" [*elemento*] that is "objectively certain, indisputable and that has not been discussed" is not mentioned.

Furthermore, it is the same Court of Cassation that, in the judgement invoked by the Procurator-General and by the civil party counsel, warns: "In the meantime it is now necessary to escape the attempt, pursued by the overall setting of the defence, but out of place in the context of this decision, to involve the Court in supporting the thesis of the responsibility of others, namely Raffaele Sollecito and Amanda Knox, for the murder aggravated by the sexual assault of Meredith Kercher. The decision to which this court is called concerns uniquely the responsibility of Guede regarding the deed with which he is charged".

And so, the re-examination of the outcomes from the first instance trial, and the subsequent acquisitions [of evidence] during oral argument in the current appeal, do not confirm the hypothesis that more than one person was necessarily involved in the crime.

This hypothesis, as appears from a reading of the December 22, 2009 judgement, was shaped by substantially accepting all the arguments presented by the Prosecution and in particular holding the following items to be certain:

– that the DNA, recovered by the Scientific Police from the bra-clasp in the murder room, be attributed to Raffaele Sollecito and that this DNA had been left behind precisely during the occasion of the murder; **[28]**

– that the DNA, recovered by the Scientific Police from the blade of the knife seized in Raffaele Sollecito's house, be attributed to Meredith Kercher and that it had been left behind during the occasion of the murder;

– that the wounds present of the body of Meredith Kercher, by their number and their directions, as also by their various characteristics (length of wound, width, etc.), could not have been occasioned by a sole aggressor but by multiple aggressors;

– that the absence of defensive wounds on Meredith Kercher's hands and arms confirm the necessary participation of more than one person in the aggression;

– that the ingress into the interior of the via della Pergola apartment had been allowed by the only person who, in that moment – apart from Meredith Kercher – had the means of doing so, that is to say, by Amanda Knox, the Court of Assizes of Appeal having held that the ingress through the window, by means of breaking of the glass, was no more than a mise-en-scène to falsely lead the investigations towards unknown authors of an attempted theft.

However, the analysis of each of the individual elements, on which the complicity hypothesis rests, leads one to doubt the necessary participation of more than one person in the perpetration of the charged felonies and to exclude, moreover, that, even under this single aspect (complicity of persons), the judgement concerning Rudy Guede could represent a determinative element of weight for the purpose of ascertaining the responsibility of the current defendants; and in any case, even assuming the hypothesis of the necessary complicity of persons as being true, the judgement does not, through this, assume any determinative probative value in recognising the current defendants as Rudy Guede's accomplices.

From which it follows that the above-mentioned [*tale*] judgement, agreed with [by this Court] as far as Rudy Guede's responsibility is concerned (which certainly does not cease to exist [*viene meno*] by holding the single-agent hypothesis the most [*maggiormente*]

reliable) since the evidence against him is numerous and unambiguous (his DNA found not on one trace [*reperto*] but on multiple traces, including the vaginal swab, the footprint on the pillow and **[29]** the blood on the sports top worn by the victim, the shoe prints but also his prior behaviour, accustomed to entering into other's apartments to rob, armed with a knife, as well as molesting young people), does not assume any probative relevance at all as regards ascertaining the responsibility of the current defendants.

Calunnia

The "spontaneous" declarations rendered by Amanda Knox on November 6, and the memorandum written by her subsequently, have been added to the case file.
This Appeal Court, while confirming on this point the decision of the Court of first instance, has however specified that these declarations, while usable in the suit for criminal slander [*calunnia*] brought by Patrick Lumumba, cannot be used in the trial for the other crimes concerning Meredith Kercher because, as was also asserted by the Court of Cassation (sentence number 990/08 from April 1, 2008), these documents are subject to absolute nullity since they were produced in the absence of a lawyer by a person who had already assumed the status of a suspect.
These "spontaneous" declarations thus cannot be included among the evidence against the present accused, concerning the crime of homicide aggravated by sexual violence (and also concerning the other crimes connected to this one), excepting only the subsequently written memorandum.
In these declarations, Amanda Knox indicated that Patrick Lumumba was the perpetrator of the homicide, and placed herself in the house at via della Pergola without, however, attributing any active participation to herself other than that of confused and terrified spectator.
According to the hypothesis of the prosecution, Amanda Knox, at that point exhausted from the long interrogation, and above all demoralized by having learned from the people interrogating her that Raffaele Sollecito had, so to speak, abandoned her to her destiny, denying the alibi **[30]** that he had offered her up to then (having spent the whole night together at Sollecito's house), supposedly resorted to a final defence effort, representing more or less what actually happened in the house at via della Pergola, but substituting Patrick Lumumba for Rudy Guede in the role of protagonist: "one black for another", to quote the Prosecutor.
This Court does not share the hypothesis of the prosecution.
In order to evaluate the real meaning of the "spontaneous" declarations and the memorandum written almost immediately afterwards, it is important to take account of the context in which the former were given and the latter was written.
The obsessive length of the interrogations which took place day and night and were conducted by several people questioning a young and foreign girl, who at that time did not understand or speak the Italian language well at all, ignorant of her own rights and deprived of the advice of a lawyer, to which she would have been entitled since she was

by then in fact accused of serious crimes, and assisted furthermore by an interpreter who – as pointed out by the lawyer Bongiorno – instead of limiting herself to translating also tried to induce her to force herself to remember, explaining to her that maybe, because of the trauma she had undergone, her memories were confused, makes it altogether understandable that she found herself in a situation of significant psychological pressure – calling it stress would appear reductive – such as to raise doubt about the actual spontaneous nature of the declarations. A spontaneity that surges forth strangely in the middle of the night, after hours and hours of interrogation: the so-called spontaneous declarations were given at 1:45 AM (in the middle of the night) of November 6, 2007 (the day following the beginning of the interrogation) and again at 5:45 AM, and the memorandum was written a few hours later.

To show that Amanda Knox, at the police station in the days following Meredith's murder, was absolutely not disturbed, the testimonies of some of the police officers and some of the other girls who had also been summoned there were recalled: Amanda and Raffaele – according to their statements – were exchanging caresses, and Amanda, while waiting, also allowed herself to be seen doing some gymnastic moves.

[31] In reality, however – apart from the fact that the caresses, simple signs of tenderness between two lovers, could have been a way of comforting each other, and apart from the fact that those same gymnastic exhibitions could also have been a way of exorcising the climate of anxiety and fear that had caught everyone up, a way to find a bit of the ordinary normality that had been destroyed by what had happened – apart from all these considerations, it is observed that these testimonies refer to the beginning of the time spent at the police station and not to the late night (1:45 AM and 5:45 AM) when the so-called "spontaneous" declarations were rendered; which, contrary to the hypothesis of the prosecution, tends to prove that Amanda Knox, who had no reason at the beginning to be scared, entered into a state of stress and oppression as a consequence of the interrogation and the way it took place.

The Prosecutor, obviously to support the absolute legitimacy of putting the so-called spontaneous declarations in writing, at the hearing of March 13, 2009, asked Ms. Donnino (the interpreter present at the moment of the "spontaneous" declarations, called at the hearing as a witness): "is it your understanding that Amanda Knox asked at the beginning that also the questions should be written down? … Is it your understanding that she asked that the questions and answers be written down in her mother tongue, which is English, rather than in Italian?...".

Ms. Donnino answered these questions in the negative.

But could one really expect that a twenty-year old foreign girl, placed under interrogation for hours by the police, have the promptitude and lucidity, even the courage to formulate such requests, or, even before that, to assume that she would be able to formulate them?

Beyond the formal aspect, the context in which the declarations were rendered was clearly characterized by a psychological condition which clearly became, for Amanda Knox, an unbearable weight: the witness Donnino refers to a real actual emotional shock of Amanda Knox that took place at the very moment in which the story of her exchange of messages with Lumumba came out.

Now, since Lumumba really was not involved in the homicide, the emotional shock cannot be considered as having been caused by seeing herself caught (doing what, exchanging a **[32]** message with a person that had nothing to do with the crime?) but rather, from having at that point reached the maximum [point] of emotional tension.
In that context, it is understandable that Amanda Knox, yielding to pressure and fatigue, hoped to put an end to this situation by giving to the people interrogating her exactly what they basically wanted to be told: a name, a murderer.
But why precisely Patrick Lumumba? Because the police had found a message on Amanda Knox's cell phone, sent by her to him on November 1, "*ci vediamo dopo*", which could also signify the intention of actually seeing each other later to go somewhere, perhaps to via della Pergola. Whence the insistent questions on the subject of this message, on the meaning of the message and on the person it was sent to.
By "feeding" that name to the people interrogating her so harshly, Amanda Knox hoped, probably, to put an end to the pressure, now a veritable torment after so many long hours, while adding details and constructing a brief story around that name was certainly not very difficult, if for no other reason than that many details and many inferences had appeared already the day following [the crime] in many newspapers, and were circulating all over town, considering the small size of Perugia.
Furthermore, the very manner in which the story was told, contained not only in the written record of the spontaneous declarations but also in the memorandum written immediately after, seems to be the confused narrative of a dream, albeit a macabre one, rather than the description of an event that actually happened; and this [*il che*] confirms the state in which Amanda Knox found herself at the moment in which she made the spontaneous declarations and wrote the memorandum, and excludes the possibility that the true purpose of the ones or the other could have been to conceal the name of the true perpetrator, [a name that was] theoretically known to her as a co-perpetrator [*concorrente*]: that of Rudy Guede.
It is in fact not at all logical to assume that Amanda Knox, if she had actually been an accomplice [*concorrente*] in the crime, could hope that giving Patrick Lumumba's name – whom, in such a case, she should have **[33]** known to be absolutely unconnected with the crime, and even physically far from the scene of the crime – could have somehow benefited her position, as it would have been easier for her, if anything, to indicate the true name of the perpetrator while insisting on her own total uninvolvement. After all, she lived in that house and found herself at the moment of the crime in her own room, perhaps really spending some time [*intrattenendosi*] with Raffaele Sollecito as the Court of first instance held; it would have been a perfectly normal circumstance, and would not have conferred any responsibility on her for a crime committed by others in the next room.
So, for Amanda Knox, had she been in the house at via della Pergola at the time of the crime, the easiest way to defend herself would have been to indicate the real perpetrator, [who was] in any case present inside the house [as well], because this would have made her credible, rather than indicating a person absolutely unconnected with the event, whom she could not have any reason to hope would not have an alibi, and thus be able to prove that the story she gave police was false.

This Court thus holds that Amanda Knox indicated Lumumba as the perpetrator only because at that moment, as those who were interrogating her were insisting on an explanation of the message she had sent him, it seemed to her like the shortest and easiest way to put an end to the situation in which she found herself.
From this, it follows that, in what concerns the murder, not only the "spontaneous" declarations cannot be used, but in reality, neither can the memorandum written later, given that even though it is procedurally usable, it does not deserve to be considered as reliable materially, as it does not represent the true manner of the event.
Apart from the fact that in that memorandum Amanda Knox does not indicate either herself or Raffaele Sollecito as the perpetrators, but writes of a total confusion and of not being able to recall what she was being asked: the only thing she is sure of is that she and Raffaele were not involved in the crime.
[34] Textually thus (translated from English[4]): "In these flashbacks that I'm having, I see Patrick as the murderer, but the way the truth feels in my mind, there is no way for me to have known because I don't remember FOR SURE if I was at my house that night."… and also "The questions that need answering, at least for how I'm thinking are:
1. Why did Raffaele lie? (or for you) Did Raffaele lie?
2. Why did I think of Patrick?
3. Is the evidence proving my pressance [sic] at the time and place of the crime reliable? If so, what does this say about my memory? Is it reliable?
4. Is there any other evidence condemning Patrick or any other person?"

This Court holds, however, that there are no substantial facts that indicate [*per ritenere*] that Amanda Knox, when she made the spontaneous statements and wrote the memorial, while being in a state of considerable psychological pressure and stress, was also in a state of mind that she was unable to understand [what she was doing] or to form an intent [i.e., to do what she did knowing what she was doing and doing so of her own free will]. Therefore, having accused of such a serious crime a person she knew to be innocent, she must nonetheless answer to the crime of *calunnia*, for which, psychologically, it is not necessary to have a specific goal, in particular that of obtaining one's own impunity (a charged aggravating circumstance); rather, a generic criminal intent [*dolo generico*] is sufficient, and thus also the mere aim of getting out of a personal situation that was particularly oppressive.
According to the prosecution hypothesis, it would be contradictory to consider Amanda Knox guilty of the crime of *calunnia* and to absolve her of the other crimes, since – thus they argue – Amanda Knox could only know that Lumumba was innocent of the crime of murder because she herself had participated in that crime, and thus knew who the real murderers were; if she had not participated in the crime or had not been present at the moment of the crime in the house at via della Pergola, she could not have known that Lumumba was innocent.
This argument cannot be accepted [*condiviso*]: the circumstances under which Lumumba's name came out during the police interrogation (a message sent to him and found in

[4] The report says "*tradotto dall'inglese*". However, we have inserted the text that was originally written in English.

Amanda Knox's telephone) and the lack of any evidence [*elementi*] connecting Lumumba to Meredith Kercher, could allow Amanda Knox, even if actually innocent herself and far from the **[35]** house in via della Pergola at the time of the crime, to be aware of the complete uninvolvement of Lumumba, and thus, of the criminal slander [*calunnia*] that she was committing by indicating him as the murderer.
There is thus no contradiction in holding that she is guilty of the offense of *calunnia*, but nevertheless excluding the aggravating circumstance under article 61, no. 2 of the Penal Code.
Taking into account the criteria established by article 133 of the Penal Code, and acknowledging, for the reasons already explained by the first-level Court (lack of criminal record, young age, commitment to studies etc.), the general mitigating circumstances [as] equivalent to the aggravating circumstance under article 368 second paragraph of the Penal Code [and] considering the particular seriousness of the crime that was the object of the *calunnia*, it is equitable to determine the penalty for the crime of *calunnia* as three years of imprisonment.
The civil suit ruling concerning this crime thus remains applicable [*ferme*] and the defendant is sentenced to the payment of court costs incurred at the present level by Patrick Lumumba.
To summarize, the crime of *calunnia* was committed [*sussiste*], but without the aggravating circumstance under article 61 n. 2 of the Penal Code, having committed [*consumazione*] the crime of *calunnia* cannot be considered as evidence against Amanda Knox in deciding as to the other crimes with which she was charged [*contestati*].

Statements by Rudy Guede

However much it may surprise, Rudy Guede has never been questioned in the ambit of the present trial about the facts which took place on the night between November 1 and 2, 2007 in via della Pergola: neither previously under article 210 of the Code of criminal procedure [*c.p.p.*], nor afterwards under article 197 bis *c.p.p.*, so that, apart from the reliability or otherwise of this person, statements made in such capacity, about the principal facts of the trial, do not exist.
The first time that Rudy Guede appeared before the Court of the Assizes in the ambit of the criminal trial against Amanda Knox and Raffaele Sollecito was only when, the defence **[36]** for the accused having seen admitted by this Court as witnesses Mario Alessi and other detainees, in relation to what was said to them in prison by Rudy Guede about the non-involvement of the two present accused in the carrying out of the crimes to which they are called to answer, his examination was requested by the Prosecutor General, in rebuttal, on such alleged confidences. In other words, the Prosecutor [*P.G.*] did not request the admission of Rudy Guede so that he could answer on the facts of that night (if he was alone or together with the present accused or with others, what was the actual unfolding of the incident in its details etc.) but only to prove that he had not made any disclosure to Mario Alessi and the other fellow prisoners.

Notwithstanding the admission as a witness of Rudy Guede within the limits of such facts (alleged confidences in prison), the defence of the accused attempted, given the presence at last of Rudy Guede in the hearing (the hearing of June 27, 2011) before the Court and the same accused, to ask some questions directly regarding the facts of that night, and not only about the alleged confidences to the fellow prisoners.
But in reality, even before the same Rudy Guede asserted that he did not wish to answer about the facts of that night, the defence counsel who was representing the aforesaid [Guede], lawyer Saccarelli, and the PG, (even if, having spoken off-microphone, his words do not appear in the transcripts), whom the lawyer for the civil party Maresca supported in full, recalling the limits of the cross-examination, opposed any questions being formulated directly concerning the facts which took place that night, instead of only the exchanges which took place between Alessi and the other detainees called to give evidence (Castelluccio, De Cesare, Trincia).
It is sufficient to cite an extract from the transcripts to realise all of this:
"DEFENCE LAWYER BONGIORNO – President, one thing must be said, that since we have just heard a reading, a letter has just been read in which my client and Amanda are explicitly accused, [and as] I am cross-examining, I believe that it is my right to at least say to Mr Guede, after years that we have been pursuing him, whether he wishes to tell us the truth about this murder.
[37] WITNESS – May I reply? Well, from what was read in the letter I think that I am here today to reply in [*come*] criminal proceedings to the statements, the false statements of Mario Alessi, and therefore, as is written in the letter, all that I had to say I have already said to the Judges, to the Prosecutors, to my lawyers, therefore I do not intend to answer on this subject...
PROSECUTOR GENERAL - May I make just one clarification? The witness said straight away that he did not intend to answer questions concerning the murder, it is useless that the defence should continue trying, hoping that he may unwillingly say something [*che si possa distrarre su questa decisione...*]".
But, then, any statements made by Rudy Guede on the facts of that night could not be used against the present accused, in consideration of the principle of article 111, paragraph 3 of the Constitution (the right of the person accused of a crime to question before a judge or to have questioned the persons who make statements against him or her) and the prohibition made by the same article 111, paragraph 4 of the Constitution and by article 526, paragraph 1 *bis c.p.p.* (the guilt of the accused cannot be proved on the basis of statements made by anyone who, of his/her free choice, has always voluntarily avoided examination on the part of the accused or his defence counsel). And, in this context, even statements contained in a letter must be held to be included in the ambit of this prohibition, [a letter] signed by the person who declares not to wish to answer questions put by the accused or his/her defence, on facts represented in such letter, since this prohibition accommodates the same defence need, [which is] safeguarded by law [*norma*] and guaranteed constitutionally.
But in any case, notwithstanding the procedural [*formale*] obstacle, it must be observed, from a substantive point of view, that, to confirm that Rudy Guede had not made any

disclosure to Alessi and to the other detainees, the Prosecutor General asked Rudy Guede whether he confirmed having written a letter himself, in which the present accused themselves are indicated as the perpetrators, and it is furthermore true that Rudy Guede confirmed this, explaining that he had written that letter as a reaction against the revelations about the alleged – and according to him non-existent – disclosures made in prison to Alessi and to the others.

[38] But, apart from the consideration that confirming a letter written to one's own defence counsel is certainly not the same as answering precise questions on the facts under consideration, it must be observed that from the answers, given in the hearing by Rudy Guede, it appears that he did not indicate in Amanda Knox and Raffaele Sollecito those responsible for the crime for having personally seen them in the act of committing it, but only because this is and always has been his idea. Thus word for word, as appears in the transcripts:

"DEFENCE COUNSEL DALLA VEDOVA – And therefore, Mr Guede, when you write word for word that it was 'a horrible murder of a gorgeous, marvellous girl who was Meredith by Raffaele Sollecito and Amanda Knox' what exactly do you mean? Had you ever said this?

WITNESS – Well I have never said it explicitly in this way, however, I have always thought it.

DEFENCE COUNSEL DALLA VEDOVA – Well why did you write it?

WITNESS – I wrote it because it was a thought which has always been in my mind [*dentro di me*].

DEFENCE COUNSEL DALLA VEDOVA – But therefore it is not true.

WITNESS – No, it is absolutely true.

DEFENCE COUNSEL DALLA VEDOVA – And can you better elaborate that? What do you mean?

WITNESS – It is absolutely true.

DEFENCE COUNSEL DALLA VEDOVA – Do you confirm this circumstance? As a party? [*Da parte?*] (=as someone who was there)

WITNESS – Well, I with the ... well, as I have told you before, this is a thought that has always been in my head, it's a thought which however in the end I decided to put in writing, hearing certain absurdities, in my opinion, and I accept all the responsibility, hearing a puppet manipulated by certain people, that's all. Thus, if I have written those words it's because they exist, I've always had them inside me. It's not for me to decide who killed Meredith, in the statement I made at my trial, I have always said who was there on that cursed night in that house, therefore I think that I am not saying anything new, I have only put in writing **[39]** my thoughts and I have made them tangible, that's all. Therefore I don't see to what other question I must answer...".

Thus, even from a substantive point of view, the indication of responsibility contained in the acquired letter does not represent the result of the description in a circumstantial way of an actual event, verified by the writer and referred to in detail, but only the expression of a personal conviction, based on what facts it is not known, given the absence in the present trial of statements on the part of Rudy Guede.

Furthermore [*ma, del resto*], the Court of the Assizes in the sentence of December 22, 2009 affirmed not being able to accept the reconstruction of the events used in that trial by Rudy Guede because "... - thus verbatim - among the half-truths which came out, little by little over time [*a formazione progressiva*], of the mouth of the accused, his accounts have often been crammed with surreal lies, even lying about the smallest details (for example, in the questioning before the Prosecutor, he denies being known by the nickname of baron, while his friend Benedetti, in the Skype conversation, on page 83 of the transcripts, had explained that the boys [with whom he played] basketball called him the baron because of his resemblance to the player Baron Davis), so as to result in a version completely incompatible with the reality of the facts as perceived and heard...".

Even the Appeal Court of the Assizes which judged Rudy Guede, therefore, although arriving at a different conclusion about the complicity with Amanda Knox and Raffaele Sollecito (not involved in that judgement however) held Rudy Guede to be an unreliable person, and this reputation of unreliability can be confirmed in the light of his behaviour in the present trial, where he confirms having written a letter, in which he has indicated Amanda Knox and Raffaele Sollecito as the perpetrators, and yet in a completely ambiguous way: instead of providing details, he refuses to answer on the facts of that night, claiming that that has always been his thought and that "...however it's not up to me to decide who killed Meredith...".

[40] Therefore, among the evidence against the two accused, the testimony given at the hearing of June 27, 2011 by Rudy Guede cannot be included because it is unreliable, nor can the contents of the letter written by him and sent to his lawyers.

On the contrary, the contents of the chat between Rudy Guede and his friend Giacomo Benedetti on the day of November 19, 2007, also listened to by the Police, can be considered in favour of the two accused.

In reference to the usability of the transcription of that chat, listened to by the Police with agreement of Rudy Guede's friend, Benedetti, it must be observed that it is [*trattasi*] a document that was added to the Court record [*acquisito agli atti*] with the consent of all the parties and not in conflict with any rule of positive law, as pointed out by the Appeal Court of the Assizes which judged Rudy Guede, all the more so that in the case under consideration it is not a matter of statements to be used against the person from whom they originate, gathered in hypothesis in violation of the defensive guarantees, but, on the contrary, [a matter] of statements to be used in favour of the two present accused, as a mere historic fact and not as a means of investigation.

So, in the course of that chat with his friend, while he was abroad, where he had fled after the fact, Rudy Guede does not indicate in any way Amanda Knox and Raffaele Sollecito as the perpetrators. And at that moment, whether he was abroad, and therefore in a certain manner in safety, or whether because he was convinced that he was in conversation with his friend alone, perhaps his only real friend, he would not have had any reason to keep quiet about such a circumstance. Which leads it to be believed, he being, on the contrary, certainly the perpetrator, on his own or in complicity with others (here it is of no concern) of the crimes carried out in via della Pergola, that if Amanda Knox and Raffaele Sollecito had also participated, that he would at that moment have revealed this to his friend.

Nor can it be believed that keeping silent about such a circumstance, even if supposedly true, could have been because of the necessity to distance them from suspicion in order to try not to be involved himself too, since, being aware that at that moment they had **[41]** already been arrested, he would not have had a motive to cultivate the hope that, by keeping quiet about that circumstance in the conversation with his friend, he could in some way alter the legal situation of the other two and, therefore, favour his own personal situation, having a reason, on the contrary, to fear that they, if [they had been] actually present with him in via della Pergola, could have, having now been arrested, accused him and him alone of carrying out the crimes in an attempt to exonerate themselves, maybe admitting their presence in that house and all the while [claiming] that they were not involved in the carrying out of the crimes. With the consequence that he would have had an interest in attributing to them, at the time of the chat with his friend, the responsibility for what had happened in via della Pergola: this is why the Rudy Guede of that chat seems more credible and this is why Rudy's not having attributed to them, in the chat, the responsibility for the murder represents an element of a certain consistency in favour of the two present accused.

In that chat, furthermore, Rudy Guede states that he was in via della Pergola between 9:00 PM and 9:30 PM; and this fact [*il che*], which significantly [*di molto*] brings forward the time of death of Meredith Kercher in respect of that held in the sentence under appeal, does not reconcile with the prosecution hypothesis in regard to the present accused who, even with the desire to recognise as credible some elements held by the prosecution in support of its own hypothesis, at that time were certainly at the house of Raffaele Sollecito and not at via della Pergola. Even on this point, Rudy Guede, notwithstanding his tendency to lie, would not have had any motive to do so: once he confessed to his friend that he was present anyway in the house at via della Pergola at the moment of the crime, even if he were not responsible for it, he had no necessity to bring forward the time of its carrying out to 9:00 – 9:30 PM.

On the other hand, the statements made later by Rudy Guede (in the present trial, however, not usable for the reasons argued) appear to be less credible, in that they were made in a different context from the first disclosures to a friend, when defensive strategies or even a mere desire for social retaliation [*rivalsa sociale*] could have induced him to represent the facts differently from those which actually took place.

[42] Witness statements of Alessi, Aviello, Castelluccio, De Cesare, Trincan

These persons, all at present imprisoned for various reasons, were called to testify: Aviello about what he claimed to be his direct knowledge about the death of Meredith Kercher; the others about the disclosures which Rudy Guede is supposed to have made to them in prison about the non-involvement of Amanda Knox and Raffaele Sollecito in the commission of the crime.

This Court has called these persons to testify, on the request of the defence counsel of the accused, in the profound conviction that it was not possible a priori, before having heard

them, to exclude their reliability merely in consideration of their personalities and their being themselves detained for serious crimes.
Now, a posteriori, the hearing of them leads the Court to hold all of them unreliable: Aviello because of the lack of any objective confirmation (as it thus emerges also from the testimony of the Police official, Dr Chiacchiera); the others because no facts indicative of a friendly relationship came to light, [a relationship] arising in prison between them and Rudy Guede, such as to render a disclosure believable, on his part, about the actual unfolding of the event.
The belief in his unreliability exonerates [the Court] from calling the witness Aviello again – as requested by the Prosecutor General – for the purpose of permitting a retraction, already directly made to the Prosecutor [*P.M.*], since it would be completely irrelevant to the purposes of the present trial.
If these testimonies cannot be considered as evidence in favour of the present accused, this does not mean, however, that they can be considered – as argued by the prosecution – as circumstantial [evidence] against them. That these witnesses decided to report such circumstances, hypothetically in favour to the accused, either spontaneously or solicited by others is of no importance; it is certain that there is no evidence to maintain that it was the present accused, arrested a very few days after the event and, therefore, held in prison for years, to plot such a plan, so that the unreliability of **[43]** these witnesses cannot be considered as confirmation that the defendants provided a false alibi.

Curatolo

The presence of Amanda Knox and Raffaele Sollecito in Piazza Grimana, between the hours of 9:30 PM and 11:30 PM of November 1 represents – according to the prosecution hypothesis - circumstantial evidence against them, as it reveals the alibi provided by them as false (having remained in Sollecito's apartment) and therefore, through this false alibi, [evidence] of their guilt in the crimes with which they are charged.
In fact it would be a weak element of circumstantial evidence, even if supposedly true, in that in itself alone it is not suitable to even prove a presumption of guilt, since the false alibi, although certainly usable as circumstantial evidence, is certainly not on its own sufficient to prove guilt, an explanation for it possibly being found in other purposes and motives. It could be the fear of not being believed even though innocent: in the case under investigation, for example, if they had been present inside the house in via della Pergola and all the same not involved in the commission of the crime.
A guilty finding for the charged crime cannot, obviously, be the result of the false alibi alone, on the contrary it must be the result of a demonstration of guilt beyond all reasonable doubt, through certain proof and also through a body of circumstantial evidence, in the ambit of which the untrue alibi can assume some importance [*proprio momento*] but not at all primary importance.
The fact of the false alibi, even if supposedly true, would then lose any relevance if the time of death (the fixing of which represented a really complex problem from a medical

[*medicolegale*] point of view) should be located between 9:00 PM and 9:30 PM (a time during which even according to the prosecution it is certain the two young people were at Sollecito's place) or even **[44]** simply before 11:30 PM, Curatolo having testified to the presence of the young people in Piazza Grimana in that period of time.
But this is not at all certain.
The presence of Amanda Knox and Raffaele Sollecito in Piazza Grimana between 9:30 PM and 11:30 PM on November 1 was, in fact, reported solely by the witness Curatolo, whose reliability this Court very much doubts for the following considerations.
In the first place, the deterioration of his mental faculties, revealed by his answers before this Court in the course of his testimony (hearing of March 26, 2011) resulting from his way of life and his habits.
He is a tramp, who at the time was living on the streets, while today he is detained serving a sentence for dealing in drugs, and who, when questioned about why he had chosen that way of life (sometimes, in fact, such a choice is made for idealistic reasons), replied: "Because ... I am actually an anarchist however I read the Bible and became a Christian anarchist ... and thus I chose this ...".
However – the Court observes – this idealistic incentive to follow the example of Jesus (word for word "...in order to lead the life of Jesus I have chosen to live this way of life...") has not prevented him from committing many crimes, so that, questioned about the types of crimes [he has] committed, he replied: "Several, several, well some previous convictions for drugs, some previous for political reasons...".
Neither has it prevented him from selling drugs, nor using them himself, so that, questioned on this point, he replied: "I've always used drugs" and to the question "even in 2007? 'Yes,' and on what sort of drug '...I've used heroin' adding immediately afterwards 'I wish to make it clear that heroin is not hallucinogenic...' ".
Today he claims that he no longer uses drugs because – as noted – he is serving a prison sentence, but, asked to clarify whether he knows he is detained for **[45]** a definitive conviction, he replied in this way: "I don't know [*boh*], I haven't yet understood anything about it, but I think so ... they arrested me and took me to prison".
Now, it cannot be absolutely excluded that such a person, who tends to cloak his own choice of life-style in idealistic values (Christian anarchist) all the while taking heroin and above all dealing in it, and who is so confused that he does not even know whether he is in prison under a definitive conviction or not, could, all the same, have reported, as a witness, facts actually perceived and could have recognised in the two present accused the young people seen that evening in Piazza Grimana. But, certainly, in evaluating the reliability or otherwise of the witness [we] must proceed with particular caution, in light of his personal circumstances [which have been] highlighted.
Curatolo, questioned in the hearing of March 28, 2009 (in the first instance trial), stated that he had seen the present accused lingering in Piazza Grimana, discussing intently with each other, between 9:30 PM, when he had arrived in Piazza Grimana, and "before midnight", when, once the buses had left (about ten minutes after), which were taking the young people to the nightclubs [discos], he himself left [the *piazza*] to go and sleep in the park.

When facing some questions and challenges from the Prosecutor, the times reported were then altered in a less exact way – 9:30 PM/10 PM/11:30 PM – but in reality, while the initial time was explained by the witness on the basis of the presence (evidently checked [by him]) of the clock in Piazza Grimana and of his own [watch], the final detail was still linked to the departure of the buses from Piazza Grimana to go to the discothèques (the times of the bus departures are: between 11:00 PM and 11:30 PM, according to the witness Brughini in the hearing of March 26, 2011; between 11:15 PM and 11:30 PM, [according to] the witness Pucciarini in the hearing of March 12, 2011; between 11:30 PM and midnight, [according to] the witnesses Bevilacqua and Ini Gaetano in the hearing of March 12, 2011, [who are] particularly reliable as they are the owners of the bus lines which undertake the shuttle service for the discothèques. Thus there is no doubt that – according to what the witness Curatolo reported – he saw the two young people at least up until after 11:30 PM.

[46] The main problem, however, is about which day – still according to his version – the witness saw the two young people: October 31 or November 1?

He did not indicate the day referring to the calendar (October 31 or November 1) but accompanied what he reported about the two young people by referring to circumstances which would permit him to determine it.

In fact, he declared that the evening he saw the two young people there were lots of masked people, young people playing jokes, there was "a din" [*casino*] (his precise words at the hearing of March 28, 2009, "There were other people however who were making a bit of a din, it was holiday time..."), and he again noted the presence of masked people, of young people playing jokes and "din" in the hearing of March 26, 2011 before this Court (and in fact he replied in the affirmative to the question of Counsel Bongiorno, put in just these terms) and he also recalled (both in the hearing of March 28, 2009 and before this Court in the hearing of March 26, 2011) that there were buses which were taking the young people to the discothèques, so much so that he pegged his stay in Piazza Grimana up until about ten minutes after the departure of those buses, the time always indicated as 11:30 PM - midnight.

According to the defence of the accused such circumstances (not withstanding whether or not the two young people seen by the witness were really the present accused) would prove that the day when the witness saw what is reported was October 31 and not November 1, considering that the masks were worn to celebrate Halloween, which falls in fact on the night between October 31 and November 1, and not on the night between November 1 and November 2; and considering, again, that the buses for the discothèques could only have been present on the evening of October 31 and not on the next one. In fact, practically all the discothèques, open all the night between October 31 and November 1 precisely because it was it was Halloween, understandably remained closed the evening after, the night between November 1 and November 2, because of the predictable lack of clients the day straight after the holiday.

[47] According to the Prosecutor General and the civil party (and also according to the first instance Court of the Assizes) on the other hand, since the witness also claimed , both in the hearing of March 28, 2009 and also before this Court in the hearing of March 26, 2011, that the day after the evening when he saw the two young people in Piazza Grimana

he had been struck by the coming and going near via della Pergola of Carabinieri and men dressed in white, who looked like "Martians" to him, (obviously the officers of the Scientific Police wearing overalls), the evening when he saw the two young people must have necessarily been that of November 1, before the on-the-spot investigation of the Scientific Police of the crime scene, which took place on the same day as the discovery of the body (November 2). In fact, an unusual event like the coming and going of the Carabinieri and the Scientific Police was such as to remain definitely imprinted in Curatolo's mind and, however, still according to the Prosecutor General and the civil party, it is not true that all the discothèques were closed on the evening of November 1 2007 and that there were no buses to take young people to the discos.

Now, however, all the managers of the major discothèques (Red Zone, Etoile, Gradisca), called to testify before this Court (Brughini hearing of March 26, 2011; Mandarino hearing of March 12, 2011; Pucciarini hearing of March 12, 2011) confirmed that, indeed, the discothèques remained open the night between October 31 and November 1, 2007, precisely because Halloween was being celebrated, and not on the night after as well, because it would not have been commercially viable, and that, consequently, the buses which took young people to the discothèques, picking them up in Piazza Grimana, were working that night and not the following one.

The owners of the two bus lines (Bevilacqua, Ini Gaetano and Ini Rosa hearing of March 12, 2011) also confirmed this fact.

That the major discothèques, the only ones, which in the main had provided shuttle services also because of their location far from the historic centre, remained closed is also evident from the statement of the SIAE official, Ciasullo (hearing of February 12, 2011), while the opening of the discothèques of minor importance, situated in the centre of Perugia and thus not necessitating **[48]** the shuttle service, which is not furthermore organised by them, is reported in the testimony of Dr Napoleoni and of the SIAE official.

Now, however, that some small discothèques in the centre were open on the evening of November 1 as well counts for little, it being on the other hand certain that the bigger ones were closed, [those] far from the centre, to which alone was linked the service provided by the buses: considering, above all, that these were large buses, suitable for transporting at least 50 people at a time (according to the witness Bevilacqua hearing of March 12, 2011) and, therefore, clearly designed to go to the large discothèques far from the centre. And since the fact referred to by Curatolo (departure of buses carrying young people) is such, even because of the way in which it was described (there was "a din"), to exclude the possibility of connecting this to one small and more modest shuttle bus, it must be concluded, logically, that his account, about the context in which he saw the two young people in Piazza Grimana, refers specifically to the evening of October 31 and not to that of November 1.

The Prosecutor General, however, argued that in Perugia the discothèques were in the habit of organising the so-called "Thursdays for students" and that, November 1 being precisely a Thursday, it could have happened that there were lots of young people present that evening and also buses to undertake the shuttle service. But, in reality, there is no proof that such "Thursdays for students" (the aim of which was to give a reason, in weeks

which on the other hand would not have offered any encouragement to celebrate at the discothèque) were organised in the year 2007 and, above all, in the light of the statements given by the discothèque owners and by the owners of the lines which managed the shuttle services (all people whose reliability there is no reason to doubt), it must be held that these Thursday student evenings were moreover overshadowed by a holiday now quite entrenched even in our country, that is Halloween. Thus, there was no reason to celebrate that Thursday as well, the day after Halloween.

It is, consequently, obvious that the statement made by Curatolo presents two facts contradictory in themselves: his having seen the two young people in Piazza Grimana the evening before the on-the-spot inspection **[49]** of the Scientific Police and [his] having, moreover, at the same time, placed the episode in the context of the Halloween holiday, that is the evening of October 31.

Less significant, in the aim of situating the incident in time, is the fact that the paving of the Piazza is remembered by Curatolo as being wet because of the cleaning up of the market which had been held, precisely, on October 31 (it being a holiday on Thursday) and which, consequently, would have been done the following morning.

Apart from the fact that there is no proof that the cleaning up of the market was done on Thursday (also because it was a holiday), it seems difficult that the wet ground [*bagnato*], deriving from the cleaning of the Piazza, would have stretched out over the whole day; and then it appears more likely to attribute it to the rain which certainly had occurred, as was also affirmed by the Public Minister, Dr Mignini on the basis of statements made by some witnesses (Marco Zaroli, Dr Napoleoni). Even if, evidently, in the evening the rain had already ceased in Piazza Grimana, even if it continued to rain nearby the Faculty of Engineering, the two places being further apart than, in a direct line, Piazza Grimana is distant from the St Egidio Airport, where according to the meteorology records that day it had not rained.

It is opportune to cite the words of the witness Zaroli in the testimony made in the hearing of February 6, 2009: "... I remember that it was raining when I left Engineering to go to Meredith's and Filomena's house. The rain was quite strong, I don't remember anything else...".

Therefore, he remembers that it was raining at the time he left the Faculty of Engineering and not still when, after dinner, they went out of the house in via della Pergola, he, Filomena and other friends, to go to the cinema, when it is logical to hold that, if it had rained at that time, he would have remembered it.

[50] From Zaroli's statement, nevertheless, the proof of rain in progress in Piazza Grimana, near via della Pergola, cannot be deduced, such as not to permit Curatolo to stop at the bench and [not to permit] the two young people, seen by Curatolo, to spend time together in deep discussion.

However, what it does show that there is [*si evince*] great confusion in the memory of the witness.

In fact, the Prosecutor General himself, Dr Costagliola, while claiming that, for the purpose of locating the episode in time, what is important is the connection with the on-the-spot-investigation of the Scientific Police, he recognised that Curatolo had confused

the two days (October 31 and November 1) (this verbatim in his closing arguments of September 23, 2011): "It is therefore evident that the tramp confused the two events, the night of Halloween and the sighting of the accused ..." and the Public Minister Dr Mignini also, even while showing the relevance himself as well - as he defined it decisive, of the connection with the sighting, the day later, of the Scientific Police, admitted that for Curatolo time has a very relative value (thus verbatim in his rebuttal of September 30, 2011: "... It is clear that this tramp, for this tramp it is clear that time does not have the same meaning as for us, this is clear ...").
But then – this Court wonders – how can one say with certainty that the memory refers to November 1 and not to October 31[5]?
But, above all, how can one affirm that Curatolo's mnemonic capacities may be such as to allow him to really remember the course of events and even to remember that it really was the two present accused [he saw]?
Nor are the statements made by other witnesses about Curatolo's well-known presence in Piazza Grimana any use in overcoming the noteworthy doubts about his credibility, because this presence, put in doubt by nobody, does not make up for the gaps and contradictions [which have been] pointed out.
Furthermore, once it has been accepted that the date of the episode was that October 31 and not November 1, it would appear more logical to position the sighting of the two young people in that context, and therefore on October 31, precisely because contemporaneous to the sighting, rather than the next day, **[51]** in that it is before the arrival of the Scientific Police, but thus necessarily extrapolated from context.
Therefore, this Court does not recognise the statement made by the witness Curatolo as credible, it not having been possible to place any confidence in verification of the episode and, above all, in the identification of the two young people as the present accused.

Quintavalle

Another piece of evidence [*uno degli elementi*] on which the Court of first instance based its conviction of guilt is represented by the testimony of the witness Quintavalle, owner of a grocery store in Corso Garibaldi, not far from Sollecito's house but also just a few minutes from via della Pergola: he in fact asserted that he saw, early in the morning of November 2, a young woman enter his store after having waited for it to open, whom he later recognized as Amanda Knox. According to the prosecution (and to the Court of first instance), this circumstance proves that, contrary to the alibi she gave, she did not sleep at Sollecito's house until late in the morning, but went very early to Quintavalle's store, as she urgently needed to acquire a cleaning product suitable to clean the house in via della Pergola of her own traces and those of Raffaele Sollecito, before the police could intervene and take samples, since it was inevitable that sooner or later the alarm would be given because of what had happened.
In reality, even under the assumption that the circumstance is true, this would be a weak

[5] Correction: the report incorrectly states "dicembre". Changed from "December" to "October".

piece of circumstantial evidence, incapable in itself of proving guilt even presumptively; but in any case this Court holds that the testimony of the witness is not very reliable, in particular in what concerns the identification of the early-morning client with Amanda Knox.

Indeed, it must be recalled that Mr. Quintavalle, interrogated by the police who were searching for useful information in the days immediately following the commission of the crime, when the newspapers and media were already following events on a large scale, did not mention the girl who was waiting for the store to open, precisely on that **[52]** morning of November 2, [the girl] who entered inside when it had just barely been opened to the public and went over to the part of the store where cleaning and home products were displayed (even if – according to the same Quintavalle – she went out without buying anything). Nor did he come forward in the following days or months to tell [police] about this circumstance. In fact, he presented himself to the police only a year later, following intense urging by a young apprentice journalist who lived near his store, declaring that he was convinced, mainly due to the colour of the eyes (blue) and the complexion (very pale), that the girl who had entered his store that morning was precisely Amanda Knox.

Now, what actually happened more than a year before Quintavalle presented himself to the police is absolutely not irrelevant, for the purpose of evaluating the reliability of the witness, especially from the point of view of the genuineness of his memories and the exactness of the identification.

In fact, this was not a witness who came forward one year after the event that is the object of his testimony only because he [finally] became aware of the relevance of his testimony; nor was it a witness in whom the will to come forward in order to recount circumstances whose relevance he had known from the beginning matured only slowly, after having had to overcome within himself certain personal motivations which had dissuaded him from coming forward earlier. No: rather, this was a witness who – taking into account what he himself explained – took a year to convince himself of the precision of his perception, and the exactness of the identification of Amanda Knox with the girl that he saw, although he was able to appreciate the relevance of his testimony already in the days immediately following the murder.

Indeed, from the testimony of Inspector Volturno at the hearing of March 13, 2009, it turned out that Quintavalle and his employees and other shopkeepers in the area were shown photographs of Raffaele Sollecito and Amanda Knox, and were asked in particular to mention any possible purchases of cleaning products on the part of the couple, as this was a precise focal point of the investigation. Thus, Quintavalle cannot maintain that he did not mention what he saw on the morning of November 2 to Inspector **[53]** Volturno because he did not think it was a relevant circumstance.

Verbatim from the written record of the hearing of March 13, 2009:

"QUESTION: Did you perform an investigation of the death of Meredith Kercher?

ANSWER: Yes.

QUESTION: Do you remember what kind of verifications you did? First list them and then describe them.

ANSWER: Well [*praticamente*], the first verification I made had to do with two bottles of Ace bleach that were seized at Raffaele Sollecito's house on November 16, 2007. Immediately after they were seized, I went around the stores in the area of Raffaele Sollecito's house, trying to understand where they could have been bought, and to this end, I showed the photograph of Raffaele Sollecito and the photograph of Amanda Knox.
After a few days, we tracked the store down, which was a Conad-Margherita located at the start of Corso Garibaldi, where both the owner and the cashier recognised Raffaele Sollecito and Amanda Knox in the photos we showed them. Raffaele Sollecito was a regular client of this store, whereas the girl had been seen there two or three times in his company.
QUESTION: Together with Sollecito?
ANSWER: Yes, yes, in his company. In that store, we also asked if by chance they had noticed anything in the days immediately preceding or right after the murder, if they recalled that these people had purchased this product, but they didn't remember…".
In any case, as the event was now in the public domain and Amanda Knox had been arrested already on November 6, 2007, he [Quintavalle] had a reasonable motive to recount what he had seen, already at the moment when Inspector Volturno requested information.
Furthermore, his employees, who were also inside the store on the morning of November 2, 2007, and who, however, did not notice anything particular, stated that he indicated to them, in the days immediately following the event, his doubts about the **[54]** identification of Amanda Knox with the young girl he had seen entering into his store: he did not express any certainty to them that it was her, but only the possibility.
But then, how can it be held that this certainty, which did not exist in the immediately following days, when memories could have been easier [to recall] and more genuine, increased over the course of the year, when representations of the event and its protagonists were all over the media and the urgings of the apprentice journalist, perhaps particularly excited at the possibility of a scoop, could have really somehow compromised the genuineness of the memory, letting a conviction take root which the direct perception of the event had not rooted [so deeply]? Or better, the certainty was surely added at the subjective level, considering the firmness of Quintavalle in his testimony in front of the Court of first instance; but how can this be said to have been based on a correct perception of events and a precise identification with the girl that he saw entering the store?
But these doubts about the reliability of the testimony increase if it is also taken into consideration that – according to Quintavalle's own statements – he only caught a glimpse of the girl, first out of the "corner of his eye" and then from a bit nearer for a few moments, but never from the front (verbatim from the hearing of March 21, 2009: "Yes, then she entered, I saw her let's say like this, three quarters left, three quarters of the left side. I didn't see her from the front…") and there is no indication that the grey coat which – according to the witness – the girl was wearing was ever owned by Amanda Knox.
The Prosecutor [*P.M.*] observed that the witness could have confused a grey coat with a white and black striped sweatshirt which Amanda did own, but this is a mere conjecture which cannot be confirmed by anything, as the form and texture of a coat with respect to a

sweatshirt are very different.
But it seems even stranger that Amanda Knox who, according to the arguments of the Prosecutor [*P.M.*], urgently needed to purchase cleaning products to clean up the house in via della Pergola, so much so as to **[55]** wait in the early morning for the store to open, entered to go to the part of the store where cleaning and house products were displayed, which was surely well stocked, and then left without having purchased anything. Indeed, Quintavalle asserts that she left without having purchased anything.
Verbatim from the hearing of March 21, 2009: "…If they had asked me…also because, I repeat, I, when the young lady came into my store, I did not see her leave with anything, because when she passed by and passed by again, when she left and I saw her, out of the corner of my eye I saw her leaving, I did not see that she had a shopping bag or anything in her hands.
PRESIDING JUDGE [*PRESIDENTE*]: You are speaking of the morning of November 2?
ANSWER: The morning of November 2. I don't know if she bought anything, I don't know. My cashier doesn't remember if she bought anything, I am not able to say whether she bought something or not…".
If one wanted to maintain that perhaps Quintavalle is wrong, because she actually did purchase something, it would be correct to observe that if he could be wrong on this point, and also about the clothing she was wearing, then he could also be wrong about the identification of the young woman [*giovane*] as Amanda Knox.
Finally, the testimony of the witness Quintavalle does not seem reliable, and, in any case, represents an extremely weak piece of circumstantial evidence.

Time of death

The Court of Assizes of first instance has acknowledged the difficulty in precisely fixing the time of death based merely on autopsy criteria. Since not all the accurate data is available, the time span within which the death of Meredith Kercher can be placed based on such criteria remains very widely outlined: between 9 PM and 9:30 PM of November 1, 2007, and the early hours of November 2. 2007. However, in reconstructing the sequence of events the Court of first instance assessed it was able to fix the time of death based on other elements, in particular **[56]** the harrowing scream, which was reported to be heard [*sarebbe stato udito*] by witness Capezzali and by witness Monacchia right – according to the Court – at around 11:30 PM.
Actually, witness Capezzali – as a reading of the transcript of her testimony given at the hearing of March 27, 2009 clearly shows – was not able to pinpoint an exact time, not having checked a watch (which in fact she never checks it, as she herself declared), but she only provided some very approximate indication, saying she went to sleep at about 9-9:30 PM, and she woke up about two hours later to go to the toilet (the time interval, however, was said to be of only two hours because that is the usual one for her night-time awakenings). And it was in that very situation that she heard the scream shortly followed by the clatter [*rumore*] of footsteps on the metal [*ferro*] stairs which lead to the parking lot

below, and the tramping over the gravel driveway in front of the house in via della Pergola.
As a matter of fact, the witness said that she did not look out [*affacciata alla finestra*] the window to see what was going on, but she managed to place the sources of those noises thanks to her detailed knowledge of the surrounding area.
What casts doubt on the accuracy of her memory is the fact [*considerazione*] that the witness herself said that she learned on the following day, from some young people who were passing by her house while she was busy housecleaning, the news that the night before a girl had been killed at the cottage in via della Pergola: what cannot be understood, in fact, is how it could be possible for her to learn about this news in a moment (morning of November 2, 2007) when the crime had not yet been discovered by the police.
Nevertheless, this Court has no real [*davvero*] reason to doubt the credibility of the witness concerning the scream and the sounds she heard at night, given the spontaneity and self-confidence she showed in relating them but, however, [this Court also] points out the extreme ambiguity of the reported facts as clues for determining the time of death, due to [*sia per*] the vagueness of the time when the witness heard them, when a precise temporal determination would be of great importance [*rilevanza*] (half an hour more or half an hour less is anything but unimportant), and due to the fact that [*sia perchè*] the source of those noises is not certain at all since **[57]** Mrs. Capezzali had at other times heard screams (even though they were not as harrowing as the one [heard] that night), and night-time noises, given that - as stated by the witness herself - [she lives] close to a parking lot that is frequented by young people and ”junkies” where rowdiness, arguments and the comings and goings of people are common.
The Court of Assizes of first instance, moreover, believes that it can place the time of death at around 11:30 PM, because what was heard by Mrs. Capezzali - especially the harrowing cry - was corroborated by the testimony given by witness Monacchia, [who] also testified in the hearing of March 27, 2009.
But, in reality, a reading of the transcript of Monacchia’s [*quest’ultima*] testimony does not allow the time of the scream to be pinpointed at 11:30 PM, rather than at 11 PM or even before.
In fact, the witness Monacchia - whose reliability is not in doubt, – also because she admitted with great sincerity that she presented herself to the investigators after about a year only because she was repeatedly encouraged by a young trainee journalist (the same one who persuaded Quintavalle to present himself to the investigators, he too a year later) –explained that she went to sleep at 10 PM on November 1 and that she was awakened after a while by two people discussing aloud, a man and a woman who were speaking in Italian, without being able to perceive any particular dialectal accent, and she added that soon after she heard a loud scream of a woman, of which she could not however locate the source with certainty.
The witness was not more accurate about the time, she could not connect it to objective data, but in her first testimony [*verbale*], when she presented herself to the investigators (the transcript of November 8, 2008 used for the indictment) she mentioned [*aveva indicato*] "... at about 11 PM".

Monacchia's statements therefore increase the ambiguity, as circumstantial evidence, of Capezzali's statements instead of resolving it.
Finally, the Court of Assizes of first instance states that "…a confirmation of sorts of this could be the testimony given by Ms Dramis, who said that she heard "running steps" at around **[58]** 11.30 pm that same November 1 on via del Melo, which is very near, almost an extension of the alleyway of the house on via della Pergola…". But an integral reading of the transcript of that testimony (which was also given at the hearing of March 27, 2009) shows even more uncertainty than that present in [*rappresentati*] the other two witnesses. Dramis, in fact, said that she went to sleep at around 11-11:30 PM, and that she woke up later (without being able, however, to specify how much later, while not excluding that it could have been 11:30 PM) due to the noise of quick footsteps, but she could not specify their direction, nor if they were produced by one or more persons, and she also noted that such events are not at all uncommon in this place.
This is the reason why she presented herself to the investigators after one year, and only because she was urged by a young trainee journalist (the same one who induced the other witnesses): the fact that such events are not uncommon had evidently lead her not to give any special weight to [that particular] event.
We find ourselves, therefore, confronting a piece of circumstantial evidence (scream and footsteps) [which is] extremely weak for its ambiguity, since it cannot even be placed with certainty in time.

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This Court subscribes to the opinion of the Court of Assizes of first instance about the impossibility of determining more precisely, within the period of time between 9-9:30 PM of November 1 and the early hours of November 2, 2007, the time of death, on the basis of medical criteria alone; but it does not hold that the element constituted by the scream, heard by Ms Capezzali and by Ms Monacchia, because of the ambiguity of its meaning and because of the impossibility to place it precisely [*collocarlo puntualmente*] in time, can have a special regard compared to other evidence which seems to lead to moving the time of death forward by more than one hour. The first piece of evidence is represented by what Rudy Guede told his friend Benedetti during the chat of November 19, 2007, the usability of which, in the context of these proceedings, has already been discussed.
[59] In fact Rudy Guede, while confiding to his friend in a moment when he did not know that the police was also listening in, and while talking about a point (the time of the assault) which he had no reason to lie about, given that he stated he was present at the time in the house of via della Pergola 7 albeit denying his responsibility, he indicates a time between 9 PM and 9:30 PM. And this, even considering the approximation of the information and a possible mistake in observing the time by the same Rudy Guede, does not allow [the Court] to hold that the aggression, and then the death, occurred at around 11 PM, since a possible mistake or an approximate reading of the time by Guede cannot entail a discrepancy of almost two hours between the time indicated by Guede and the one assessed by the Court of first instance [which was] based on the scream heard by

Capezzali (by Mrs. Capezzali and not by Mrs. Monacchia since as shown above, the witness Monacchia did not provide a precise indication of the time when she woke up disturbed by the noise of two people arguing).
As a second point, the phone calls, or the attempted phone calls, which are found having been made from Meredith Kercher's phone (the one she used to call England with) deserve to be taken in account in the problem of locating the time of death because of some peculiarities. They are – as remarked by attorney Bongiorno during the discussion and [*ma*], before [her], by Sollecito's technical consultant, Mr. Pellero – calls or attempted calls that, not being answered, are not registered in the phone records, which record the phone calls that actually took place, but were detected through the analysis of the cell phone.

That said [*ebbene*], the latest phone activity is as follows:
8:56 PM Meredith calls her home in England but she does not receive an answer;
9:58 PM the number 901, used to access [*corrispondente*] the answering machine, is dialled but the call is interrupted before the voice mail's welcome message could end; but then the telephone immediately stops [*si blocca*];
[60]
10 PM a number is dialled, which is the number of a bank (it is the first number in the mobile's phone book, Abbey) but nobody is called because the required international country code is missing;
10:13 PM a GPRS (Internet) connection is established [*registrata*], lasting 9 seconds, to the IP address 10.205.46.41, which could be related to the reception of a multimedia message [MMS], not necessarily requiring human interaction, or to an Internet connection, but lasting only 9 seconds, too short to use any service, and this could be explained with an involuntary connection, or with a sudden interruption;
Now, it is clear that the attempt to call home was made by Meredith Kercher herself since, understandably, she wanted to speak to [*sentire*] her family at the end of the day, before going to sleep. But she had no reason to attempt to call the other numbers: the first one, 901, probably the answering machine, hanging up before accessing her voice mail would not be explainable, since she might as well not have tried to access her voice mail at all; she certainly had no reason to dial the bank number (Abbey) at that time of night and moreover without the required country code; the last one, even more incomprehensible if indeed dialled with the intention of accessing the Internet, but – as mentioned – that could be related to an incoming MMS [Multimedia Messaging Service].
But another oddity is that Meredith Kercher, if she was assaulted only one hour later, as hypothesized in the appealed decision, did not attempt to call her family again after a few minutes (had she done so, there would have been a trace in the cell phone).
Therefore, attorney Bongiorno set forth [the scenario] in which a sudden event occurred after her attempt to call her family which prevented her from making another call: and such event can't be anything but being victim of an aggression [*subire un'aggressione*]. Otherwise we could have had found in the cell phone the record of the number 901 dialled at 9:58 PM, but not also [*addirittura*] that one of the bank dialled at 10 PM: that makes it

reasonable to assume that it was another person, not accustomed to that **[61]** mobile phone, the one who dialled that number, in particular he dialled the first name of the telephone list to which the number was linked, maybe as an attempt to switch the phone off instead of using it. As for the last connection [*registrazione di traffico*], the one [which occurred] at 10:13 PM, it was noted that this could have been an incoming MMS, not requiring any human interaction; or a connection to the Internet, likewise done by mistake presumably by someone who, not used to that mobile phone, had however gained possession of it.
The Court of first instance did not attribute any significance to these occurences, explaining everything as moments of relaxation during which Meredith Kercher, at home alone and yet lying on her bed, would let herself absent-mindedly [*soprapensiero*] toy with the phone, and explained that the not completed call to [her] voice mail was in line with Meredith's thrifty character, and the same for the deletion of the MMS without connecting to the Internet to open it.
This reasoning of the Court of Assizes of first instance is, however, a sheer conjecture which does not find corroboration in any objective fact and, anyway, does not explain why Meredith Kercher did not attempt to call her family again fifteen-twenty minutes after the first attempt, as it would have been natural.
But rendering the explanation put forth by the Court of first instance even less convincing [*condivisibile*] is the consideration that that same Court in its ruling held that it was the assailant who removed Meredith's trousers and underpants, [and] certainly the bra, which was cut for that purpose. And thus is it actually likely [*verosimile*] that, as the young woman had just returned home with the intent to go to bed early because she was tired, having celebrated Halloween the night before, and bearing the thought that the following morning she would have to go to class at university (as she had told her friend Sophie Purton), instead of undressing and going to bed, she remained dressed, maybe lying on the bed relaxing – as the Court stated – but dressed, instead of undressing and go to bed as was her declared intent? Is it logical that, even while having intention to go **[62]** to sleep early, she remained instead dressed, doing nothing for more than an hour so to be surprised by the aggressor in that state after 11 PM?
Thus, it is more consistent with the intentions stated by the young woman, and with the oddities of the above-mentioned phone calls, to hypothesize that in fact the attack, and hence the death shortly thereafter, occurred much earlier than the time held by the Court of first instance: certainly not later than 10:13 PM.
The latter highlighted facts and considerations, seem more relevant than those based on the scream heard by witness Capezzali, because of the ambiguity of the meaning to be attributed to the scream (which in an area attended by young people and "junkies" could have had even some other source) while, instead, the facts highlighted show a closer connection with the actions and the intentions of the victim in that circumstance.
It is also obvious that if, hypothetically (and contrary to the assessment of unreliability of the witness formulated by this court) should we attribute reliability to the testimony given by witness Curatolo, the two current defendants, for this very reason alone [*per ciò solo*], would be exculpated, since, according to the witness, they were certainly in Piazza

Grimana at that time and not at the house on via della Pergola at that hour.

Murder Weapon

As recalled in the narrative section, the Court of first instance held that the knife seized in the home of Raffaele Sollecito was the weapon, or more precisely, one of the weapons, used to commit the murder.
From the reading of the sentence, it appears clearly that the cornerstone of the reasoning of the Court of first instance in the reconstruction of the event is represented by the genetic investigations made by the police, and by the consistence they held to exist with the other circumstantial evidence [*elementi indiziari*] they had acquired.
[63] In particular, in what concerns the knife that was seized, the Court of first instance holds that this knife is compatible at least with the larger wound inflicted on Meredith Kercher, and then explains how it happened that at the moment of the murder this knife, which was known to form part of [the furnishings of] Raffaele Sollecito's apartment, was available in the house at via della Pergola.
Now, however, setting aside the genetic analysis (these will be discussed soon, and the reasons for which this Court shares the conclusions of the court-appointed experts [*Collegio Peritale*] holding the results given by the Scientific Police to be unreliable will be explained), there remains in reality no objective element signifying the fact accepted [by the Court of first instance] that the above-mentioned knife was used in committing the murder.
In the first place, in fact, the said knife was not held to be compatible with other wounds present on the body of Meredith Kercher, clearly inflicted by a smaller knife, so that the Court of first instance had to hypothesize the use of several knives and the presence of several attackers, otherwise the seized knife would not have been compatible with the wounds.
In the second place, on the bed sheet in the room of the victim, a bloody print was found which clearly corresponds to a smaller knife.
But also the large wound (in the left laterocervical region of the neck) – the one which, according to the Court of first instance, would have been caused by the knife under consideration, could not, according to the defence consultants, have been caused by that knife, as the depth of the wound is significantly shorter (8 cm compared to the 17.5 cm of the blade) and the presence of a bruised area bordering the wound, corresponding to the entrance of the blade, would signify that the handle of the knife struck that spot, the blade having been introduced to its full length.
[64] These arguments, in reality, appear more convincing than the ones developed by the consultants for the Prosecutor [*P.M.*] – who explain that [bruised area] with a direct action of the attackers' hands – which doesn't seem compatible with the precise placement of those bruises in relation to the wound, and even less with the explanation proposed by the attorney for the civil party, counsellor Perna, during the rebuttal: it would have been produced not by the contact with the knife handle at that point but with the fingers of the

hand [of the person] holding the knife. But indeed, a longer blade such as that of the seized knife would, according to logic, have kept the hand at a greater distance from the victim's body, as it is not likely that the hand would have been nearer to the blade than the handle itself.
Furthermore – observe the defence consultants, in particular Prof. Torre – since the larger wound is, in reality, a consequence of reiterated blows, so as to be widely diastasized laterally, it seems even more difficult to hypothesize that a knife with a 17.5 cm blade was introduced several times to a depth of only 8cm.
But in truth, it is not necessary to decide, for the purpose of excluding a relationship between the seized knife and the murder, whether the attackers were really more than one and whether the weapons used were one or several. This is not necessary, since (still setting aside the genetic investigations) there are no particular elements, signs specifically left on the body by that knife, and the accepted compatibility – according to the consultants for the Prosecutor [*P.M.*] – is not even one in the strict sense, as the experts appointed by the preliminary investigation judge [*GIP*] only ascertained the "non-incompatibility" of the seized knife with the wounds present on the body of the victim, basing their evaluation on the consideration that a blade 17.5 cm long can, however, cause a wound with a depth of 8 cm, and that it was a single-bladed knife with a pointed end. This is an evaluation of "non-incompatibility" which, on the probative level and even on the purely circumstantial level, is equivalent to nothing, as these properties are shared by a very great number of knives commonly in use.
[65] And also the explanation given by the Court of first instance for the presence in the house at via della Pergola at the time of the crime of a knife which belonged to the house of Raffaele Sollecito is in itself unlikely and deprived of any objectively appreciable confirmation.
Excluding premeditation or in fact even the most minimal planning aimed at commission of the crime (never hypothesized by anyone, not by the Court of first instance or even by the Prosecutor [*P.M.*]), the presence of the above-mentioned knife in the house at via della Pergola is explained by the possibility that Amanda Knox normally carried a knife of those dimensions in her capacious bag for reasons of personal defence, as she had to go out late in the evening to go to work. No proof has been given of such habits, however, and it seems really strange that a young girl, after having undertaken a trip abroad first to Germany and then to Italy and certainly used to going out alone at night for some years already, would have waited to arrive in Perugia and to meet Raffaele Sollecito (whom she met just one week earlier) to start feeling afraid of going out after dinner to walk to work in a provincial town, and decide to accept the invitation of Sollecito to carry for personal defence a knife of such dimensions in her own bag, with the very real risk of being arrested and incriminated for illegal carrying of a knife.
And also, making the whole idea very unlikely according to any criterion of normality that the knife could have been the murder weapon, is the consideration of the manner in which it was found: in the kitchen drawer of Raffaele Sollecito's home, together with other knifes and cutlery for domestic use.
Is it really probable that two young people, certainly shaken by what had happened, but

still two normal young people, "good guys" [*bravi*] one should even say (involved in studies, helpful to others, to use the words of the Court of first instance, very young, and yet already ready to accept the strain of work), after having participated in **[66]** such a barbarian murder would not only have had the cold and diabolical mind to not get rid of the knife, but would have put it back with the other cutlery in the kitchen where it came from, and also the hardness of soul (and stomach) to go on using that cutlery, even that very knife, to prepare meals in the days following the murder?
This Court holds that it cannot share the arguments of the Prosecutor [*P.M.*] on the explanation of their not getting rid of the knife: because it had been inventoried at the time when the house was rented, and also not to pay the cost (a few euros) of buying it again.
The lack of a knife from the inventory would certainly have represented a minor risk with respect to hiding the murder weapon in the house, whereas the spending of a few euros in the face of such a necessity, that of not letting the murder weapon be found, would have been an insignificant cost, not even worth taking into consideration.
It is true, thus, that the only element which could reasonably relate the knife to the crime committed in the house at via della Pergola is represented by the results of the genetic investigation performed by the Scientific Police, which will however be held unreliable below.

Genetic expert review of exhibits 36 and 165b

The Court of First Instance held that it was able to recognize the present appellants as guilty of the charged crimes on the basis of a series of pieces of evidence, amongst which a position of particular importance is occupied by the tests performed by the Scientific Police on the knife seized at Sollecito's house (exhibit 36) and the clasp of the bra worn by the victim, found in the murder room (exhibit 165b).
And indeed, according to the Scientific Police, the DNA profile of Amanda Knox was present on the handle of the knife and that of Meredith Kercher on the blade, whereas the DNA profile of Raffaele Sollecito was present on the bra clasp.
[67] From this, in spite of the difficulty of explaining how a knife that belonged to Sollecito's kitchen ended up in the house at via della Pergola, the conviction arose that that knife was the murder weapon, or more precisely one of the murder weapons, and that the responsibility must be attributed to Amanda Knox who had obviously held it since she left her own DNA on the handle, and also to Raffaele Sollecito who, at the moment of the attack that culminated in the murder must necessarily have been in Meredith Kercher's room, intent on trying to rip off her bra from the back since he left his own DNA on the clasp.
This is, certainly, circumstantial evidence [*elementi indiziari*], but it obviously holds a central position with respect to other evidence which is also circumstantial [*indiziari*], since if it is true that the DNA on the bra clasp can be attributed to Raffaele Sollecito, then this piece of evidence, although still exactly that, is particularly relevant, and the same can be said for the DNA found on the handle and the blade of the knife seized at Raffaele

Sollecito's house, insofar as it is certain that the knife was one of the weapons used by the attackers.
Already in the first instance, the defence of the accused and their consultants had argued against [*censurato*] the correctness of the procedures used by the Scientific Police for many reasons, concerning their manner of both collecting evidence and performing genetic analyses, and the reliability of the conclusions that they formulated. But they requested in vain from the Court the permission to have their objections on these points resolved via an independent technical expert examination, whence the renewal of this request subject to partial renewal of the evidentiary hearings [*istruttoria dibattimentale*].
By a decree dating from December 18, 2010, this Court, in ordering the independent expert review, explained the reasons underlying the need for this measure: the identification of the DNA on certain exhibits, and its attribution to the accused, is particularly complicated due to the objective difficulty for people without scientific knowledge to make evaluations and select options on particularly technical matters, without the advice of a court-appointed expert.
The fact that this question is particularly complicated is also due to that which was observed on this point by the Court of First Instance. In fact, in confirming the **[68]** reason for which the request for an independent expert review [*perizia d'ufficio*] was rejected per art. 507 c.p.p., the Court wrote textually: "…At this point it must also be observed that with respect to the various interpretations given by each side, this Court could have decreed an expert review and appointed suitable experts, as was in fact requested by the defence. However, on closer inspection, we would then simply have found ourselves confronted with yet another interpretation, which would have fully or partially confirmed one or the other of the interpretations already presented, and the main problem of interpretation would still remain; for this reason, it was decided not to have recourse to an independent review ex article 507 c.p.p…".
In substance, this is like saying that the question, which is already complicated given the opposing evaluations [of the evidence] by the Scientific Police on the one hand and the defence consultants on the other, would have ended up by becoming even more complicated due to the possible formulation of a third evaluation by the expert who could have been appointed by the Court, which would surely one have partially or fully confirmed one of the different positions, so that the Court might just as well solve the problem directly by itself.
In fact, the Court of First Instance decided to solve a scientific controversy that it itself recognized as being particularly complicated, based on scientific evaluations directly formulated by that same Court. Contrarily, this Court of Second Instance does not hold that the personal knowledge of either the professional or the lay judges is sufficient to allow them to resolve a controversy on a scientific matter, meaning to resolve it properly on a basis of scientific criteria, without the advice of experts [*periti di propria fiducia*] appointed by the Court, and able to perform the task entrusted to them in the context of full debate between the parties [*nel pieno contraddittorio delle parti*].
Indeed, once the effective validity of this kind of material evidence is ascertained, the evaluation of its relevance is suitable matter, and even a duty, for the Court; a problem

that it can solve by using the instruments of juridical argument. But the ascertainment of that validity, above all when it requires complex scientific knowledge and investigative procedures that are **[69]** particularly technical, while not actually lying formally outside of the scope and duty of the Court, cannot really be confronted and resolved without the advice of people expert in this domain.

Nor is the ability and duty of ordering an expert review to resolve problems which are too complicated for the knowledge that can be asked of either professional or lay judges in any way diminished by the mere fact that during the course of the investigations, the results of the Scientific Police were obtained by methods that cannot be repeated, without a pre-trial evidence collection phase [*incidente probatorio*] having been requested: firstly, because the unrepeatability does not actually derive from the methods that were used but in the fact that this test is really unrepeatable, and secondly because the methods used are not enough to fill the holes in the judge's knowledge, since he does not become less ignorant simply because the testing was done in a certain manner. In any case, this is exactly the reason for which article 244 *c.p.p.* allows judges to order an expert review [*perizia anche d'ufficio*].

In the case under discussion, furthermore, precisely because during the hearings of the first instance the evidence collection and testing done by the Scientific Police were criticized by the defence consultants, both for the methods used and for the results obtained, based on arguments that deserve particular attention both because of their depth and because they were made by professors and technicians of undoubted competence [*indubbio rispetto*], the use of an independent expert review [*perizia di ufficio*] appeared indispensable to this Court in order to ascertain the reliability of the above-mentioned pieces of circumstantial evidence [*elementi indiziari*].

The expert review was entrusted to a team of university professors at the Faculty of Forensic Pathology [*Medicina Legale*] of one of Italy's most prestigious universities (*La Sapienza*): Professor Vecchiotti, whose particular expertise lies in the domain of forensic genetics (as appears from her titles, the subject she teaches, and her experience of former cases), and Professor Conti, who as a pathologist is also an expert in the domain: because of the complicated nature of the material under review, it was necessary to ensure competence in forensic pathology and not just in genetics. Both experts deserve the full confidence of the Court, both professionally and humanly.

[70] Both the structures employed for the analyses and the team members themselves deserve complete confidence, given their university level that allows them to be considered absolutely adequate for answering the questions and performing the type of testing required.

In fact, to the question that was asked, after an accurate investigation performed in the presence of both sides [*nella pienezza del contraddittorio delle parti*], the experts concluded with the following response:

"Based on the considerations explained above, we are able to respond as follows to the inquiries posed at the assignment hearing:

"Having examined the record and conducted such technical investigations as shall be necessary, the Expert Panel shall ascertain:

1. whether it is possible, by means of a new technical analysis, to identify the DNA present on exhibits 165b (bra clasp) and 36 (knife), and to determine the reliability of any such identification"

- The tests that we conducted to determine the presence of blood exhibit 36 (knife) and exhibit 165B (bra clasps) yielded a negative result.

- The cytomorphological tests on the exhibits did not reveal the presence of cellular material. Some samples of exhibit 36 (knife), in particular sample "H", present granules with a circular/hexagonal characteristic morphology with a central radial structure. A more detailed microscopic study, together with the consultation of data in the literature, allowed us to ascertain that the structures in question are attributable to grains of starch, thus matter of a vegetable nature.

[71] - The quantification of the extracts obtained from the samples obtained from exhibit 36 (knife) and exhibit165B (bra clasps), conducted via Real Time PCR, did not reveal the presence of DNA.

- In view of the absence of DNA in the extracts that we obtained, with the agreement of the consultants for the parties, we did not proceed to the subsequent amplification step.

2. "if it is not possible to carry out a new technical analysis, shall evaluate, on the basis of the record, the degree of reliability of the genetic analysis performed by the Scientific Police on the aforementioned exhibits, including with respect to possible contamination."

Having examined the record and the relevant documents, we are able to report the following conclusions regarding the laboratory analyses performed on exhibit 36 (knife) and exhibit165B (bra clasps):

EXHIBIT 36 (KNIFE)

Relative to the genetic analysis performed on trace A (handle of the knife), we agree with the conclusion reached by the Technical Consultant regarding the attribution of the genetic profile obtained from these samples to Amanda Marie Knox.

Relative to trace B (blade of the knife) we find that the technical analyses performed are not reliable for the following reasons:

1. There is no evidence that scientifically confirms that trace B (blade of knife) is the product of blood.

[72] 2. The electrophoretic profiles exhibited reveal that the sample indicated by the letter B (blade of knife) was a Low Copy Number (LCN) sample, and, as such, all of the precautions indicated by the international scientific community should have been applied.

3. Taking into account that none of the recommendations of the international scientific community relative to the treatment of Low Copy Number (LCN) samples were followed, we do not accept the conclusions regarding the certain attribution of the profile found on trace B (blade of knife) to the victim Meredith Susanna Cara Kercher, since the genetic profile, as obtained, appears unreliable insofar as it is not supported by scientifically validated analysis;

4. International protocols of inspection, collection, and sampling were not followed;

5. It cannot be ruled out that the result obtained from sample B (blade of knife) derives from contamination in some phase of the collection and/or handling and/or analyses performed.

EXHIBIT165B (BRA CLASPS)

Relative to exhibit165B (bra clasps), we find that the technical analysis is not reliable for the following reasons:

1. There is no evidence that scientifically confirms the presence of supposed flaking cells on the exhibit;

2. There was an erroneous interpretation of the electrophoretic profile of the autosomic STRs;

[73] 3. There was an erroneous interpretation of the electrophoretic profile relative to the Y chromosome;

4. The international protocols for inspection, collection, and sampling of the exhibits were not followed;

5. It cannot be ruled out that the results obtained derive from environmental contamination and/or contamination in some phase of the collection and/or handling of the exhibit."

In explaining why this Court of Appeal has decided to adopt the conclusions formulated by the expert team, the Court first observes that the reasons underlying this adoption cannot, in their essence, be scientific, because if they were, they would fall into the contradiction that, having appointed an expert team to make up for the understandable lacunae in the knowledge of a field which is particularly complicated from the scientific and technological point of view, would then erect itself, for reasons that are not clear, as a supervisor of a scientific and technical debate, even identifying by itself a criterion to

evaluate technical-scientific evaluations in order to decide which hypothesis is better than the others. No, this is obviously impossible, because of the requirement of non-contradiction and because of a duty to avoid a presumptuous stance.
Rather, the reasons for which this Court adopts the conclusions formulated by the expert team are juridical and logical in nature.
It is, in fact, a matter of explaining why the judges accept certain conclusions, and obviously the arguments developed by the expert team to illustrate them are persuasive and useful in coming to these conclusions, which do not consist in the resolution of a purely technical and scientific controversy, but in the recognition or non-recognition of penal responsibility.
[74] Well, in what concerns exhibit 36 (the knife), the expert team, after proceeding to take samples on swabs and perform the DNA extraction, in itself certainly correct and not criticized by anyone, found [*ha ritenuto*] that the DNA extracted during the course of the expert operations and quantified according to currently used methods was not useful, because of the fact that the quantity was too scarce to perform the successive steps represented by the amplification and the electrophoresis. Thus, they passed to the second part of their task, namely the evaluation of the level of reliability of the genetic tests performed by the Scientific Police on the exhibit, with attention to the possibility of contamination.
The expert team illustrated the principles accepted by the scientific community, recalling the phases through which the scientific procedure is supposed to pass in order to make it possible to recognize the genetic profile of a subject in a trace present on an exhibit (swabbing, extraction of the DNA, quantification, amplification, electrophoresis, and interpretation of the resulting graph), and the problems, at the present level of knowledge of the science, connected to the nature of the exhibit, the manner of conservation, the greater or smaller quantity of DNA extracted, and the precautions that must be adopted in order to guarantee that the results deduced from it are not actually the product of possible contamination.
On this last point it is useful to report textually some phrases from their report: "…Budowle B. et al (2009) call for prudence, and suggest the use of LCN exclusively in cases of identification of missing people (including the victims of mass catastrophes), and for research purposes. The above cited authors, however, advise against the use of present methods in LCN analysis in penal trials, since the methods, the technology and the present recommendations are not yet able to overcome the problems characterizing LCN identification [*tipizzazione*].
In particular, because by definition LCN identification [*tipizzazione*] cannot give results that are reproducible, so that the same result cannot be attained even if the same sample is analyzed a **[75]** second time, the method cannot be considered reliable [*robusto*] according to accepted standards (Budowle B. et al., 2009).

"3. Problems associated with low template quantities

The problems that arise from the analysis of sub-optimal quantities of template DNA in a PCR are numerous, and these problems become even more apparent when the template quantity is reduced. Moreover, the interpretation of mixtures has yet to be well defined.
The fundamental issues of the low template quantity problem are the following: stochastic effects, the detection threshold, profile interpretation, allele drop-out and heterozygous peak imbalance, stutter, contamination, replicate analysis, appropriate controls, and limitations of use.

3.1 Stochastic effects: Due to the kinetics of the PCR process, a low quantity of starting template will be subject to stochastic effects. In fact, during the first cycles, the primer may not bind in the same way for each allele at a given locus, and therefore a significant imbalance between allelic products may be noted or, in some cases, the total loss of one or both alleles. In other words, an LCN DNA template in a PCR may show stochastic amplification phenomena, visible both as a substantial imbalance of two alleles at a given heterozygous locus, and as allelic drop-out or an increase in stutter (Gill P. et al., 2000; Whitaker J.P. et al., 2001; Kloosterman A.D. et al., 2003; Smith P.J., Ballantyne J., 2007; Forster L. et al., 2008; Budowle B. et al., 2009).

3.2 Detection threshold: Usually, it is recommended that quantities of DNA able to reduce stochastic effects to manageable levels be used for the PCR. However, since differences in the quantification of the template and possible inaccuracies in the pipetted volume may influence the amount of DNA actually present in the PCR, a stochastic interpretation threshold **[76]** must be used for STR typing results (Minimum Interpretation Threshold "MIT", Budowle B. et al., 2009)."

As the PM criticized the fact that in the report produced by the expert team, they listed principles and problems dealt with by scholars in this subject, we observe that this constitutes a necessary part [*momento necessario*] of performing the task entrusted to them, since the components of the Court (professional and lay judges) should be furnished with the minimal conceptual instruments necessary to comprehend at least the difficulty of the questions.
After this, the expert team proceeded to examine whether or not the operations performed by the Scientific Police were in conformity with the methods accepted by the scientific community.
And, while they accepted the recognition of the genetic profile of Amanda Knox on the handle of the knife, in consideration of the fact that the quantity of the extract was sufficient to make it possible to arrive at the end of the successive phases of amplification and electrophoresis and to produce a reliable profile, they denied the reliability of the result presented by the Scientific Police relative to the asserted presence of Meredith Kercher's DNA on the blade of the knife.
In fact, the expert team showed, firstly, that in the tests performed by the Scientific Police, the phase of quantification of the extraction was missing, while this phase is in fact indispensable for the reliability of the result, given that "…the determination of the quantity of DNA" (textually from p. 45 of the experts' report) "present in a sample is

fundamental for most analyses based on PCR, because a too large quantity can provoke the appearance of extra peaks or peaks that are off the scale for the measuring techniques, whereas a too small quantity of template can provoke phenomena of allelic drop-out, given that the PCR reaction will be invalidated by stochastic phenomena. The PCR amplification can also fail due to the presence of inhibitors extracted together with the DNA of the sample, or **[77]** degradation of the DNA, or insufficient quantities of DNA, or a combination of all these factors…".

Furthermore, since the best results are obtained when the DNA template is added in the quantity corresponding to the range indicated in the kit, one can understand the necessity of making the extract preventively and not redetermining it a posteriori, as the operation is entirely useless at this point. Moreover, Dr. Stefanoni of the Scientific Police, after having - obviously because of an understandable memory slip - asserted in front of the GUP that she had made the quantification of the extract discussed here using Real Time PCR (a system that makes it possible to precisely quantify the extract before proceeding to amplify it), she then explained that for that extract she did not use Real Time but Fluorimetro Qubit, which gave a result of "non interpretable", but which was considered by Dr. Stefanoni to be nevertheless just as useful to pass to the next phase, at the outcome of which she claimed to recognize the genetic profile of Meredith Kercher in the trace.

Now, according to the expert team, the most probable hypothesis is that if the sample submitted to amplification had been correctly quantified by the Real Time PCR method, it would have shown up as LCN (Low Copy Number), considering the fact that the electrophoretic graph presents peaks below the threshold of 50 RFU, and the allelic imbalance (Hb=phi_a/phi_b<0.60) indicative of a Low Copy Number sample. This means that it was of a quantity insufficient to yield reliable results if treated in the same way as a larger quantity, and thus, it should have been treated only using particular techniques [*accorgimenti*] advised by the authors who have confronted the problems inherent to LCN samples, techniques [*accorgimenti*] which, however, were not followed or not precisely followed by the Scientific Police.

These techniques [*accorgimenti*] concern every phase of the procedure, from the collection to the quantification to the amplification to the interpretation of the graph derived from the electrophoresis, and they are designed to maximally reduce the risk of contamination in every phase (a risk **[78]** which is understandably increased when lower quantities of DNA are examined), such as for example the occurrence of stochastic phenomena and errors in the interpretation of the profile.

Among these techniques [*accorgimenti*], one is particularly relevant for the reliability of the result is the analysis of the replicates. "…The most commonly used approach to designate an allele in an LCN sample" (textually from p. 89 of the report) "requires the subdivision of the sample into at least two parts, and recording only those alleles which are common to at least two replicates (Gill P. et al., 2000; Gill P., 2001; Gill P. et al., 2007). The advantage of this approach is that if drop-in occurs randomly and infrequently, observing an allele several times increases the reliability that it actually derives from the sample under examination (assuming that no contamination happened during the sampling phase).

Most scientists who work with LCN stress the need to perform 2-3 replications, and state that an allele must be observed at least twice to be denominated as such (Taberlet P. et al., 1996, even invoke up to 7 replications to increase the reliability of allele denomination): allele redundancy in replicates is therefore the cornerstone of reliable LCN typing.
However, the exact number of replications, the number of times an allele is observed, and the degree of reliability (quantitatively or qualitatively) needs to be better defined.
In practice, it needs to be considered that performing more than 2-3 replications is often not possible; therefore most interpretation guidelines and degree of reliability assertions must be applied and declared based on the analysis of 2-3 replicates.
Common sense would suggest that dividing a sample into multiple parts increases the limitations of LCN typing, (Budowle B. et al., 2009) and that every possible effort should be made to concentrate as much template as possible into a single reaction: however, to date, allele redundancy is the only accepted approach.
[79] Up to now, studies on dilutions and redundancy have been based on laboratory control samples, which are completely different to samples originating from items from real cases, which possess undetermined (and often degraded) quantities of DNA, and which may contain PCR inhibitors that can also affect allele drop-out."
Now, the fact that the extract obtained by the Scientific Police belongs in the category of LCN cannot be subject to doubt, both because the limits that characterize this category are objective reference parameters for the whole of the scientific community, as asserted also by the defence consultants (who, aside from their role in the present trial, are all scholars and professionals of clear renown, who can certainly not be led in the role they are playing [*dal ruolo rivestito*] to assert the existence of principles and concepts that are scientifically wrong), and also because the consultants of the civil party and even Dr. Stefanoni have confirmed them, as well as Prof. Novelli, another consultant of the PM, and these also could not be led in the role they are playing [*dal ruolo rivestito*] to make assertions which are contrary to the accepted principles of the scientific community. But it is just as certain that at least one of the most relevant techniques [accorgimenti] (apart from the problems connected to the evidence collection and to the lack of records of every phase of the analytic process) was not followed: the sample was not subdivided into at least two parts each subjected to treatment in order to determine [*registrare*] the presence or not of the same alleles in the two parts.
Dr. Stefanoni explained that, considering the scarcity of the sample, she decided not to divide it in order to analyse its biological nature; she preferred to concentrate everything in one sample and attempt to obtain a result, in the conviction that subdivision into several parts would not have permitted any result to be obtained at all.
Instead, to make up for the lack of subdivision into parts, she proceeded to a second electrophoretic run on the same amplified sample, and compared the two graphs, the one from the first run and the one from the second run, but this was a second-best solution [*palliativo*], given **[80]** that as asserted by Prof. Tagliabracci, defence consultant for Sollecito, at the hearing of September 6, 2011, the repetition of the run using the same amplified sample is certainly not equivalent, in terms of reproducibility of the experiment and thus confirmation of the reliability of the result, to the treatment of two separate

amplified samples; the identity of the result between two different amplified samples being indeed indicative of the reliability of the result from the scientific point of view.
Furthermore, the same Dr. Stefanoni, before this Court, cross-examined by the lawyer Dalla Vedova at the hearing of September 6, 2011 as to whether she agreed with an important author such as Batler on the necessity, for the reliability of the result in an LCN sample, of replicating the amplified sample, recognized that yes, she agreed with that scholar, but only in the case where she could have preventively qualified the amplified sample as LCN, whereas in fact, having used both the Fluorimeter and Real Time, she was absolutely not able to classify the amplified sample as LCN.
But the point here is not to criticize the procedures of Dr. Stefanoni: it is not a matter of deciding whether she did well or not to pass to the subsequent phases without first having precisely quantified and classified the sample, and in particular without having divided it into parts: it is only a matter of evaluating the reliability of the result that is not reproducible, once it is settled that it was indeed a case of LCN.
Prof. Tagliabracci himself explained that it is not a matter of criticizing the methods of the Scientific Police, but only of evaluating the reliability of the result from a scientific point of view, and thus its usability for probative purposes [*a fini probatori*]. Verbatim from the transcription of the hearing of Sept. 6, 2011: "…I think that probably the jurors and anyone here in this room who is not an expert in forensic genetics has seen the big problems with the validity of this technique in the face of a rather inflamed controversy between the experts, the consultants of the PM, and now you can also add in the undersigned. This controversy comes, essentially, from two different approaches. I could even say two philosophies, two schools of thought on genetic investigations. Two approaches and two different philosophies: the philosophy that requires a certain and reliable result, a solid and robust result **[81]** that can be used without any problems even in rather complicated and lengthy procedures, and the one that tries to obtain some result [no matter what], we just have to have some result to bring home, and these are the two different philosophies… This problem doesn't only exist in Italy; there's an international debate on this problem which originates precisely in a case mentioned [*illustrato*] by Prof. Vecchiotti, in New York, following the trial in which very low quantities of DNA were used at trial for the first time; from this a debate was born that has been going on through many issues of an international journal of forensic genetics, and is not yet over. But this debate turns essentially on the fact that what is, what are the limits, what is the reliability of an analysis performed in such critical conditions, concerning the quantity of DNA, critical concerning the quantity and probably also the quality of DNA which could be altered or degraded, further complicating matters.
Well, as I will soon say and as some here have already said, the international society of forensic genetics has taken an overall position that was expressed in one of the latest articles in that journal, in which it is asserted that a DNA trace below these levels can still be considered, as long as it can be repeated more than once, so as to have a result which is confirmed by repeated amplifications.
I am, I adhere to, let's say, to classical forensic genetics, and I think that one can't go beyond a certain limit. But, however, if you do go below a certain limit, it's necessary to

take important precautions, it's necessary to adopt procedures and techniques [*accorgimenti*] which avoid the risk of obtaining false positive results, results which can inculpate a person who left his biological material in large quantities but at some other time. So it's necessary to proceed with caution in order to have a result that can be accepted as reliable even when the quantity of DNA is low.

[82] Certainly, however, it is necessary to follow a correct methodology in every phase of the investigations, independently of the quantity of DNA that will eventually be found and analyzed. And in the present case, as recalled in the expert report by Prof. Vecchiotti and Dr. Conti - which I obviously accept, in particular as many of the ideas expressed in this report were also expressed by me during the course of the trial of first instance - it is necessary to follow a series of steps and to use a correct methodology. And, it we are verifying [checking] the work that was done by the laboratory [*servizio*] of the Scientific Police, well, we cannot say that the procedures followed were correct and suitable so as not to create any problems regarding the final result. The pieces of evidence we considered were essentially the bra clasp and the trace 36b on the knife…".

In substance, this Court holds that the risk of obtaining a result that is not particularly reliable, not having been obtained via correct methodology (in particular because two amplifications were not done) though the quantity of extract was small (LCN), it could be accepted merely for orienting purposes in a 360° investigation – as one says – but cannot be accepted when it is a question of basing a proof of guilt beyond every reasonable doubt on the result of the genetic expertise.

It turns out, in fact, also from the declarations of Dr. Stefanoni, that in the presence of a small quantity of extract, less than the one suggested by the kit as ensuring a good result, it is necessary to lower the threshold of sensitivity of the machine, but this increases the presence of stochastic phenomena which only a comparison between the graphs of more than one amplification could reveal, and makes it impossible to exclude that a particular profile, even if hypothetically actually attributable to an individual, actually arises from contamination that occurred during one of the phases of the collection and analysis procedures.

Now, Prof. Novelli and also the Prosecutor stated that it is not sufficient to assert that the result comes from contamination; it is incumbent on one who asserts contamination to prove its origin.

[83] However, this argument cannot be accepted, insomuch as it ends up by treating the possibility of contamination as an exception to the civil code on the juridical level.

Thus, one cannot state: I proved that the genetic profile is yours, now you prove that the DNA was not left on the exhibit by direct contact, but by contamination. No, one can't operate this way.

In the context of a trial, as is well-known, it falls to the PM who represents the prosecution before the court (the terminology is used in Art. 125 of the implementing provisions of the Code of Criminal Procedure), to prove the viability of all the elements on which it is based, and thus, when one of these elements is completed by a scientific element represented by the result of an analytic procedure, the task is also to prove that the result was obtained using a procedure which guarantees the purity [*genuinità*] of the exhibit from the moment

of collection right through the analysis.
Regarding above all the identification of a genetic profile in an exhibit, it is important that the entire procedure be followed with complete observance of the rules dictated by the scientific community, which are not, to be sure, juridical rules (it is not a law of the State, as Dr. Stefanoni observed), but which do represent a guarantee of the reliability of the result. And since these rules also contain precautions necessary in order to avoid possible contamination, one can understand that the respect of these precautions cannot simply be assumed, but must be proven by anyone who bases his accusations on this result.
Thus, when there is no proof that these precautions guaranteeing that the result is not the fruit of contamination were respected, it is absolutely not necessary to also prove the specific origin of the contamination.
We deduce from this that for our purposes, the result obtained by the Scientific Police cannot be accepted as reliable, since it is the product of a procedure which did not follow the techniques [accorgimenti] indicated by the International Scientific Community, or in any case its **[84]** reliability must be seriously weakened, so much so as to make it necessary to find confirmation in other elements independent of the scientific analysis.
This also explains why the expert team did not proceed farther in analyzing the sample that it collected itself from the blade of the knife: the quantity was found to be again LCN, and altogether insufficient to make two amplifications possible, so that if they had proceeded further, the independent experts [*periti d'ufficio*] would have committed the same error as the Scientific Police. And on the other hand, it seems clear from the ideas explained above that because the necessity of dividing the sample into two or more parts holds for every single trace, its aim being to guarantee the reliability of the result of the analysis of that trace, it is not by analyzing two different traces that are both LCN, without treating either of them with the proper procedure to guarantee the result, that one can think to make up for the lack of repetition in the procedure for each single trace: the sum of the two results, both unreliable due to not having been obtained by a correct scientific procedure, cannot give a reliable result, apart from possible analogies.
In truth, Prof. Novelli did argue that there do exist systems that can analyze such low quantities, even if they are still in an early state [*stato di avanguardia*]. However, the Court holds that this fact of being in an early, still practically experimental state excludes the possibility of basing any conviction of guilt on a result obtained by the application of such systems, since the Judge can only base his convictions on technical systems and scientific knowledge that are fully consolidated in the particular historical period in which he is called to judge, not on other ones which are still in the experimental phase. This is necessary in order to reach a decision of guilt beyond every reasonable doubt.
Adherence to the rules created by the scientific community is thus the main guarantee of reliability of a result, and this leads this Court to accept the conclusions of the expert team, in conformity with the above-mentioned rules.
[85] It must also be observed that, since the unreliability of the scientific result makes the evidence that should be represented by that result materially unreliable [*insussistente nella sua materialità*] before any decision on its meaning can be made (it is not possible to be half-scientific: the result is scientifically exact or it is not, precisely in the sense of a result),

so that once a result is held to be unreliable, any recourse to placing it in the context of the other evidence [*risultanze processuali*] for the purpose of clarifying its significance should be precluded. In the present case, even when the above-mentioned result is placed in the context of the other evidence [*risultanze processuali*], what remains definitively proven is precisely its unreliability.

In the first place, the cytomorphological investigations performed by the expert team on the blade of the knife did not evince the presence of cellular material: in particular there was no trace of blood. Certainly, the presence of grains of starch on the blade found after a detailed microscopic examination, whose structure shows that they arise from vegetal material, and which are located particularly at the place where the blade is inserted into the handle, reveals that the knife was not washed, so that the absence of blood on the knife cannot be attributed to washing.

Prof. Torre, defence consultant for Knox, explained and demonstrated with a short experiment illustrated in a report whose truth was not contested by the consultants for the Prosecutor nor by those of the civil party, that the grains of starch, present in many alimentary vegetables, are easily removable by a simple process of washing with water, which shows, precisely, that the knife had not been washed when it was seized. Furthermore, these grains of starch having a very large capacity of absorption if placed in contact with liquid, they would probably have absorbed the blood on the knife it had been used to wound or kill, whereas in fact, the grains observed did not prove to contain any blood.

In the course of the discussion, the PM proposed as an explanation of the presence of grains of starch on the blade that these grains could have been left from the type of glove used **[86]** by the Police, which are powdered with vegetal starch. But this last-minute assertion is not confirmed by objective elements [*elementi obiettivi di causa*], and furthermore the placement of the grains of starch (mostly at the place where the blade is inserted) makes this argument very unpersuasive.

It does, however, remain solidly established that either the knife was not washed, or that after having been so badly washed as not to have removed the presumed trace of DNA attributed to Meredith Kercher, it was used again for culinary purposes after the commission of the crime, which really seems a little bit too much.

In the second place, the presence of the DNA of Amanda Knox on the handle of the knife, which can be explained by the fact that she was generally visiting Raffaele Sollecito's place, staying there sometimes also to eat, and presumably helping him on those occasions, confirms that the knife was not washed, or, hypothetically, that it was used again for culinary purposes after the commission of the crime, given that the point where her analyzed trace was found, only on the handle, is not at all incompatible (contrarily to the assertions of the PM) with a normal domestic use, as the knife could be held in various ways also for domestic use according to the various necessities.

In the third place, we recall that we already explained above the reasons for which, apart from the genetic traces, no other elements remain that are being objectively remarkable, and really relevant and apt to prove that the knife seized at Sollecito's house is the weapon, or at least one of the weapons, used in the commission of the crime.

Then, considering that the Court of First Instance was clearly induced to identify the knife as the crime weapon precisely by the fact that they accepted the results of the Scientific Police on this point as reliable, even while other elements [*profili di per se soli*] turned out to be of ambiguous significance (in particular the compatibility with the wounds), and the explanation they gave for the presence of the knife in the house at via della Pergola at the moment of the crime is actually quite peculiar, all of which diminishes that reliability for the reasons explained above, or at least weakens it **[87]** greatly, so that it cannot be deduced [*surrogato*] from elements to which only the accepted reliability ever made it possible to give any value.
In conclusion, the evidence represented by the DNA of Meredith Kercher on the blade of the seized knife cannot be held as valid [*sussistente*].

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Concerning the genetic profile of Raffaele Sollecito, indicated by the Scientific Police as being present on the clasp of the bra worn by the victim, it is observed that the expert team could not extract from the hook (or from the other hook, as there were in fact two hooks) any DNA useful for analysis. This was probably a consequence of the manner in which the clasp was stored: the experts found the hooks covered with a crusty red-brown material, probably arising from the oxidation of the salts of the extraction solution used by the Scientific Police, and from rusty elements in the metal itself.
The expert team went on to evaluate the procedures followed by the Scientific Police, and revealed both errors in interpretation of the graph and, again, the lack of the precautions that are considered necessary to avoid any possible contamination.
We again call upon the arguments above on the necessity of observing rules and criteria set out [*consolidati*] by the Scientific Community in order to arrive at a reliable result for evidentiary purposes (and not merely purposes of orientation). But we also add that in the case under examination, it is even more necessary to respect those rules and criteria, if possible, given that we are in the presence of what is certainly a mixed trace, of a mixture of DNA left by several contributors, even if they are not identified. In fact, as explained by Prof. Tagliabracci as well as by the expert team, the trace, while substantial, nonetheless ends up being exposed to problems of interpretation, which do not exclude the possibility of contamination, when it is fractioned out, so to speak, between the various contributors.
[88] Even people who are not particularly familiar with this area can easily realize why.
The identification of a genetic profile is quite different and more complicated than, say, reconstructing a photograph. It is not a matter of reconstructing the blacks and whites of a faded photo or recomposing the pieces of a torn photo in order to recognize an individual having a distinct physiognomy that can be judged even with the ordinary sense of sight. Instead, here it is a matter of transforming via complex technologies and procedures the components of the DNA in the trace, characterized by peaks of various heights (alleles) placed in various positions, so as to "pair" peaks having a particular height and position, thus obtaining a profile that can be compared to a profile obtained with the same system, but whose origin is known to be a particular individual.

Since it is a matter of a graph produced by complicated procedures and technologies that are sensitive to many factors, it is easy to understand how in the presence of a mixture (a sample coming from the contributions of two or more individuals), the problem of designating a particular profile, so of identifying in the graph the peaks which must be paired together and distinguishing them from those which are not relevant and from other pairs, turns out to be particularly complicated, and very often the possibility of different but equally plausible pairings cannot be excluded.
Now, it is quite true that in this graph, apart from the profile of the victim (the main contributor), a profile that can be attributed to Sollecito is also present, but this is not a guarantee that this profile is actually correct, given that in reality, if one takes other peaks into account that are also present in the graph but were not considered by the Scientific Police, it is possible to arrive at a different conclusion.
[89] Nor does the biostatistics calculation performed by Prof. Novelli for the purpose of confirming the attribution of the profile to Raffaele Sollecito appear able to overcome this difficulty, given that the biostatistics calculation, while understandably valid for excluding that another individual having a profile very close to Raffaele Sollecito's might have left his own DNA in the house at via della Pergola (an error due to a chance compatibility discussed by Prof. Novelli on p. 13 of his comments), does not seem usable to exclude the configuration of the profile of Raffaele Sollecito based on a different choice of pairings than the one actually used.
The mixed nature of the trace should have led to a different calibration of the machine, in order not to lose the relevance of peaks that might have been relevant. But, as the PG observed in his closing speech, how could Dr. Stefanoni know a priori that the trace she was studying was mixed?
But here, again, the problem is not to decide whether Dr. Stefanoni a priori performed her job well or badly in regulating the machine to a high threshold, but only to decide whether or not the result is reliable. No one, even a posteriori, can get rid of the fact that the trace, which was quite substantial altogether, was not substantial with respect to each minor contributor.
But the reliability of the result indicated by the Scientific Police is, in this case, further undermined by the methods of collecting evidence, which were such as to make it impossible to guarantee the purity of the exhibit; in fact they were such as to make it impossible to exclude that the DNA which hypothetically belongs to Raffaele Sollecito ended up on the bra hooks, not because Raffaele Sollecito left it there by direct contact on the occasion of the alleged attack on Meredith Kercher, but because it was transported there accidentally by other individuals who frequented the crime scene.
It is opportune to recall that in fact, the bra clasp with the piece of material of the bra to which is was attached and which was cut off from the rest of the garment, was found under the body of the victim during the search performed on November 2, and even photographed there, but then (presumably because it was forgotten or thought not to be important since the whole rest of the bra **[90]** was available, according to the assertions of Dr. Stefanoni before the GUP) it was not collected and analyzed.
But the clasp turns out to have been collected for analysis only one and a half months later,

on December 18, and in fact when it was finally collected for analysis, it was found in a different part of the room, near the desk, under a small rug and one or one and a half meters away from the place where it was seen during the first search.
Interrogated on this point, Dr. Stefanoni declared that she did not know the why or the how of this movement, nor could she say how many people had entered into the house at via della Pergola 7 between the first search and the one on December 18, nor what entrances had taken place.
Well, apart from the fact that Prof. Conti, projecting a photo still from the film of the operations performed by the Police, showed that when the bra clasp was collected during the search of December 18, the gloves worn by the technicians of the Scientific Police already showed traces of staining located at the tips of the fingers with which they picked it up; apart from this, because of the difficulty of precisely evaluating the nature of the shadow from a photograph, which could be interpretable as a possible sign of previous staining, and apart from the fact that from seeing the film, the bra clasp turns out to have been collected and then replaced on the ground more or less at the same point in order to be photographed; apart from all this, then, it is certain that between the first search by the Scientific Police, directly after the discovery of the crime, and the second search by the same Police on December 18, the house at via della Pergola was the object of several other searches directed towards seeking other possible elements useful for the investigations, during which the house was turned topsy-turvy, as is clearly documented by the photographs projected by the defence of the accused, but actually made by the Scientific Police. And understandably, these searches **[91]** were made without the precautions that accompany the investigations of the Scientific Police, in the conviction that at that point the exhibits that needed to undergo scientific analysis had already been collected.
In this context, it is probable that the DNA hypothetically belonging to Raffaele Sollecito may have been transported by others into the room and precisely onto the bra clasp, via contact with the hands or even contact between objects and clothing on which it was already present (for example inside the sink, as observed by Dr. Gino), as in fact this manner of transporting DNA is not such a very unusual occurrence. The fact that it is not an unusual occurrence is proven by studies cited by the expert team and also by the defence consultants, to which the consultants of the PM and the civil party made no objection as to their scientific validity, but only as to whether there was any concrete proof of contamination in the present context.
Furthermore, the same Dr. Stefanoni (pp. 221, 228) admitted that it is not possible to date the moment at which DNA is deposited, nor to determine the chronological order in which traces are left one on top of another.
This Court, then, holds that beyond the ambiguous interpretation of the traces already discussed above, it accepts the hypothesis of probable contamination: because during the collection of the exhibit none of the precautions necessary to guarantee the purity of the exhibit were respected, because it would seem very difficult for Raffaele Sollecito to have left his DNA only on the bra hook without leaving any on the parts of the material of the bra that were easier to grasp, and even necessary to grasp for the purpose of removing or tearing off the bra from the body of the young woman; because it is not realistic that

Raffaele Sollecito (but also Amanda Knox), hypothetically equal protagonists with Rudy Guede, participated in the attack inside a room which was not very large, without leaving DNA and prints on any other parts of her body or on objects or clothing, there where, contrarily, Rudy Guede, who is certainly guilty, left DNA and prints inside the room and on parts of the body of the victim (in particular in her vagina) and on her clothing (sweatshirt and **[92]** bra material) and objects present there. It cannot be reasonably maintained that the lack of DNA and prints from the present accused, at least in the room where the murder took place, was due to an activity of quick cleaning on the part of the pair, as it is impossible to hypothesize that during a cleaning activity that must have been quick by the very circumstances in which it took place, the two would have been able to distinguish their prints from those of Rudy Guede in such a way as to eliminate the former and leave the latter, probably in order to let Rudy Guede shoulder all the responsibility. And in any case, the area did not turn out to have been washed, given the presence of dust, hairs and traces of dirt…

It must also be observed that since the back strap of the bra was cut, as well as both shoulder straps, probably by Rudy Guede, who left his DNA on the material, there would have been no reason to go and grasp precisely the bra clasp in that circumstance.

And again, the statistical study – this time "visioned" [*visionato*] by experts in probability calculations, as written by Prof. Novelli in his own comments on the expertise (p. 27) – is not valid to exclude the relevant probability of contamination, given that it is a study which only refers to cross-contamination between exhibits analyzed within a laboratory, and thus does not appear to take into account the complete circumstances in our concrete case, and in particular the peculiar manner and timing of the collection.

In the opinion of this Court, contamination did not occur during the successive phases of treatment of the exhibit in the laboratory of the Scientific Police, but even before its collection by the Scientific Police.

It is worth noting that during a hearing in which he was interrogated by the PM on the probability of contamination in the collection phase, Prof. Novelli did not, in fact, have any exhaustive answer to give; he spent most of the time considering the exclusion of contamination in the laboratory, so much that the Judge actually pointed out to him on that occasion that the answer was not relevant since the question concerned the preceding phase, of collection. Only at the end did Prof. **[93]** Novelli finally assert, in order to exclude the probability (not actually the possibility) of contamination, that [if the trace were from contamination] the presence of other individuals would also have been found (but in reality, the DNA of other unidentified individuals was actually present on the bra hook), or else Sollecito's DNA would also have been found on other objects (but Sollecito's DNA was certainly present in the rest of the house, so much so as to have been found, for example, on a cigarette stub, so that it cannot be excluded that it was also present on other objects.

In any case, on the subject of the burden of proof of the origin of the contamination, we call upon the arguments expressed above to refute the hypothesis that the burden of proof of the origin falls upon the accused who asserts the contamination; rather, contrarily, the person maintaining the accusation based on that result must prove that the procedures,

and even before that, the collection phase were performed in respect of the methods and precautions necessary to avoid the occurrence of contamination, which according to what was noted above was not the case in the present situation.
This removes the possibility of using this evidence [*quale elemento indiziario*] to prove [*certo*] the presence of Raffaele Sollecito's genetic profile on the bra clasp.

Bathmat footprint

Until the afternoon of November 2, 2007, the Scientific Police, in the person of Gioia Brocci – a police officer [*assistente capo*] serving at the Police Headquarters in Perugia – took samples in the small bathroom, the one next to Meredith's room, used by her and by Amanda
There (see p. 100 of the sentencing report) Ms Brocci noted, among other things, the presence of a bathmat, which she defined as "stained with haematic substance containing an impression of a shape which morphologically could resemble a foot".
According to Dr. Patrizia Stefanoni – biologist working in the Forensic Genetics section of the Scientific Police of Rome – the haematic traces on the bathmat, analysed using three samples, belonged to the victim (p. 198 of the sentencing report).
[94] On May 12, 2008, the Public Prosecutor entrusted to Dr Lorenzo Rinaldi (engineer and chief technical director of the National Police , director of three of the sections into which the Identification Division of the ERT is divided and to Pietro Boemia, chief inspector of the ERT of Rome, a consulting assignment one of whose objects was to compare the footprints taken from the suspects (Sollecito, Knox and Guede) with the footprint on the bathmat and identified as exhibit 9F, letter A. The technical investigation they performed is amply discussed on pages 361 and following [of the sentencing report].
There we read that among the various deposits of haematic substance found on the mat, the one designated by the letter A can be clearly distinguished as morphologically ascribable to a print from a bare right foot, in which it is possible to make out the big toe, the metatarsus and a part of the plantar arch, although the heel is entirely missing.
According to the measurements made by the Prosecutor's consultants, this print has the following measurements:
the big toe, 33 mm wide and 39 mm long;
the metatarsus, 99 mm wide and 57 mm long.
Following comparisons with Raffaele Sollecito's footprint, the consultants arrived at a judgement of <u>probable identity</u>.
In their view, in fact, the footprint on the bathmat presents above all a marked analogy with Sollecito's with regard to the relevant dimensions of the big toe: the width (30 mm for Sollecito, 33 mm on the bathmat) and the length (37 mm and 39 mm respectively).
This comparison was made by superimposing on each of the comparison footprints and also on the bathmat footprint a grid marked in centimetres, called the "L.M. Robbins grid ", oriented so that the vertical axis coincides with the right profile of the foot and the horizontal axis with the tip of the big toe.

Once these measurements were made, the consultants then noted various further points of analogy of dimensions between Sollecito's reference print and the one on the mat:
plantar arch: 40 mm compared to 39 on the bathmat:
[95]
size of the metatarsus measured at various points: identical values of 99 mm, 92 mm and 75 mm.
distance between the tip of the big toe and a determined *green point* at the start of the plantar arch: 93 mm for Sollecito's foot, 92 mm on the mat.
The sentencing report showed agreement with the conclusions of consultants Rinaldi and Boemia, in spite of their assertion that because of the lack of the highly individualising elements represented by the minute details of the papillary ridges, the print on the bathmat should only be considered useful for negative comparisons, but not for positive comparisons (sentencing report p. 362). And this in spite of the fact that these same conclusions were logically opposed in the expert report for Sollecito by Professor Francesco Vinci.
Still considering what can be read in the sentencing report (from p. 376), the latter emphasized two highly individualizing morphological elements of Raffaele Sollecito's right foot, clearly visible in the reference print taken on a piece of paper after inking..These are the non-existent point of contact of the second toe (which is in the so-called hammer toe position) resulting from a slight case of hallux valgus of the right big toe, and the also non-existent point of contact of the distal [according to Hellmann – in error for the proximal] phalanx of the big toe, represented by the relevant absence of continuity in the print mentioned above between the big toe and the ball of the foot.
The sentencing report states that according to Professor Vinci, the bathmat footprint contains an indication of the point of contact of the second toe, unlike what was just explained about the reference print taken from Sollecito. This would lead to calculating the width of the big toe as about 24.8 mm, rather than the 30 mm as measured by Rinaldi and Boemia.
The defence consultant reached this conclusion by showing a break in continuity between the haematic stain representing the big toe and a much smaller spot which would be the print of the second toe.
Still in the sentencing report, one reads that Professor Vinci applied the "Robbins" grid using a different method, placing the reference line just under the metatarsus (the zero **[96]** point of the grid in the horizontal direction with the whole front part of the foot above it), with the result that all the points of interest (for example the tip of the big toe and the so-called bump, or the external right contour of the bathmat print) are outside of the outline obtained from Sollecito's foot.
The Court of first instance (p. 379) held the starting point of Professor Vinci's reasoning could not be supported, namely the operation of detaching the small haematic spot which has the effect of drastically reducing the measurement of the width of the big toe. In the appeal brief, using Professor Vinci's results, Raffaele Sollecito's defence criticised the conclusions of the Court of first instance on the probable attribution of the bathmat print to the accused, with arguments which will be set out here further on together with their

evaluation by this Court.
First of all, it is impossible not to agree that the first judge absolutely avoided making a decision about a very relevant point, although he diligently reported the observations about it by Professor Vinci.
He then had emphasized an obvious morphological particularity of Raffaele Sollecito's right foot, namely the practically non-existent point of contact of the distal [according to Hellmann, in error for the proximal] phalanx of the big toe, represented by the relevant absence of continuity between the big toe and the sole in the reference print taken by inking the sole of the foot and then placing it on a piece of paper placed on a smooth surface.
Simple visual examination of the photographs of the bathmat, present in the case file, precisely in the Rinaldi-Boemia technical report, makes it clear that, on the contrary, in the bathmat print the big toe and the metatarsus are united in a single haematic stain.
Now, since the contact of the foot with blood took place on the floor of Meredith's room, namely on a flat and rigid surface, the distal (according to Hellmann in error for the proximal phalanx of the big toe of the right foot, which does not touch the surface, would not have been able to become stained, and thus it would not have even been able to leave the very visible trace on the bathmat.
[97] Still from the morphological point of view, Professor Vinci also maintained that, unlike Sollecito's reference print, the bathmat print shows point of contact of the distal phalanx of the second toe.
Attentively examining the black and white images on pages 26 and 27 of the technical report, one remains convinced that this conviction is well founded. In fact, one notes there a round trace flanking the one made by the big toe which is in a slightly lower position than the tip of the big toe itself.
We have already seen that the sentencing report does not accept this "detaching operation" (thus defined on p. 379), and concerning this, one reads there that "*the base of the material in the disputed point shows (in this small portion of the mat, the terry towelling also presents a protuberant curlicue) that the trace of blood is a single unit on all of the curl, and is uniformly linked, forming a single unit with all the other parts of the material on which the big toe made contact, for which reasons the proof that that mark is purported to be the mark of the second toe (missing in the morphology of Sollecito's foot) appears totally weak and unsatisfactory.*"
Except that, if the big toe of the bathmat print really was this way, it would not have a strongly triangular shape, with a tip much narrower than the base, as Sollecito's does, but would be substantially quadrangular.
Still concerning the assertions of the first judges, in fact, the tip would be the widest point of the big toe, so much so that they argue as follows (still p. 379): "*Finally, although it is possible to agree that in the calculation of the width of the big toe (of approximately 30mm.) the point of measuring may fall in an unstained place, nevertheless a comprehensive view of the bathmat clearly shows why this was done. In fact, considering that (see attached photo 17 of the ERT showing a complete view of the bathmat print) the small region under discussion is part of the tip/dome of the big toe, the point on the right extremity of the toe giving the 30mm measurement lies along the line descending perpendicularly from that tip, without any widening.*"

[98] This is in sharp and irreparable contrast with what leaps to the eye in observing the comparison print left by Sollecito's right foot, in which the big toe goes up in a strongly triangular shape to the tip.
Consequently, Professor Vinci (p. 59) excluded the correctness of the reference point used by Rinaldi and Boemia, placed by them well outside of the limit of the reddish coloured spot attributable to haematic material, which determined the print from the big toe, precisely because they were convinced that the small spot, in fact left by the distal phalanx of the second toe, was actually an integral part of the tip of the big toe itself.
If instead the effectively visible margin is chosen, the diameter across the big toe turns out to be 24.9 mm instead of 30mm.
The Court of first instance concludes its argument with the passage on page 380: *"Finally, there is one data item which the Court has uncontrovertibly adopted: the same images of the bathmat (proposed by Professor Vinci: note by author), shown in deepened colours by the lighting equipment of the Crimescope, do actually increase the impression of solidity of the size of the big toe (and also of the metatarsus), and augment the perception of the unity with the rest of the small mark whose detachment was suggested. The consequence is that the Court does not hold as practicable the alternative version aimed at confuting or undermining the judgement of probable identity formulated by the Scientific Police, which instead finds itself strengthened."*
However, this is no more than a mere subjective impression, lacking in any logical, let alone technical-scientific support, and as such it is unsuitable for overcoming the objective data expressed just above.
But these are not the only morphological differences between the bathmat print and the foot of the accused.
As can be read on p. 45 of his report, Professor Vinci also took care to line up the footprints, taking as a line of reference the base of the forefoot, as it is particularly clear and visible in the bathmat print. This made it possible for him to observe: the different width of the point of contact of the first metatarsal bone, the different width of the whole forefoot *"shown in Sollecito's print by the* **[99]** *projection outside of the first yellow reference line of the salience of the metatarsophalangeal articulation of the second toe"; the different position of the tip of Sollecito's big toe "which goes well over the second yellow reference line lined up with the tip of the trace of the big toe visible on the bathmat print."* On p. 50, finally, the different axial angle of inclination of the big toe on the bathmat print from that of Sollecito is brought into relief., and on p. 53, the different positions of all the toes.
The sentence of first instance completely avoided not just examining all of these prospects], but even mentioning them.
On the other hand, on p. 19 of their report, Rinaldi and Boemia objectively emphasized some points of considerable discrepancy in the dimensions of the bathmat print and Sollecito's reference print, which are actually in opposition with their conclusion of probable identity. Neither does anything of this appear in the sentencing report.
As this Court must reach a conclusion on this topic, it holds that the bathmat print made with Meredith's haematic material has no value as a piece of circumstantial evidence against the accused Sollecito.
The circumstance, raised by the Prosecutor's consultants Rinaldi and Boemia cited in the

sentencing report, of its being useful only for negative but not for positive comparisons, the incontrovertible morphological differences with the reference footprint taken from Sollecito, the differences in dimension supported by Professor Vinci and the ones raised by the said Rinaldi and Boemia make it impossible to accept the evaluation of the first instance of probable identity between the two footprints.
At this point, it is worth developing some considerations about the possible ownership of the bathmat print.
Therefore the circumstance that the police discovered the presence of bloody and clearly visible shoeprints must be mentioned; starting from Meredith's room, these *"went towards the front door, becoming fainter and fainter, becoming progressively less well-defined and* **[100]** *almost filiform. However, there were no visible prints of bare feet"* (this appears in the sentencing report, p. 186).
These prints were confirmed to have all been made by Rudy Guede's left shoe (sentencing report p. 359).
Now, it was seen that the footprint on the bathmat was on the other hand made by a right foot.
Even without entering into comparisons which are not within the competence of this Court, which is charged only with dealing with Knox and Sollecito, the possibility that the bathmat print was made by Rudy Guede's right foot remains open and to all intents and purposes unexplored.
As a result of the different metric evaluation of the latter, based on the well-founded observations of Professor Vinci, the dimensional elements of Guede's foot are no longer incompatible with the ones left with Meredith's blood on the textile of the bathmat.
Thus, it cannot be excluded that Guede, after having left the print from photo 104 on the pillow (sentencing report p. 359) and, perhaps, also that of photo 105 (sentencing report pages 366-367), suddenly lost his right shoe during the violent aggressive manoeuvres to which he subjected Ms Kercher, thus staining his foot with blood, which he took care to wash in the small bathroom located immediately to the left of the door of Meredith's room. Otherwise, his right shoe should also have left some haematic trace during his exit which in fact it is likely that he made along the corridor, however with his right foot unshod, but now washed free of blood.

Footprints revealed by luminol with a useful biological profile

It was during the second inspection at the cottage in via della Pergola 7, carried out by the ERT[6] [experts] of the Scientific Police on December 18, 2007, that spraying with luminol was performed on the floor of the corridor and of the kitchen/living-room, the bedrooms of Amanda Knox and Filomena Romanelli, and the large bathroom.
[101] Chief Inspector Ippolito took photographs of the traces of bare footprints detected only in the corridor/living room and in Amanda Knox's bedroom. While taking the pictures he did not use fluorescent metric ribbons, which would have been useful for the

[6] *Esperti Ricerca Tracce* = trace search experts

subsequent measurement of the photographed footprints ([first instance] sentencing report page 369).
The first instance sentencing report refers to these traces (Exhibits 176 to 184) on pp. 303 et seq., with a particular regard to those [traces] that yielded a useful biological profile [*risultate positive alle indagini genetiche*], and also on pp. 370 to 373 [which focus] on those [traces] that, in the absence of genetic findings, were submitted to morphological and dimensional examinations.
The prints are of bare feet, detected in Romanelli's room (176 and 177), in Knox's room (178, 179, 180), in the corridor (184, rectius 183).
According to the work status report index cards [*indicazioni delle schede SAL*[7]] of the genetic laboratory of the Scientific Police, a generic test for blood was performed on these footprints, which yielded a negative result.
The genetic investigations, conducted by Dr. Stefanoni, a Scientific Police biologist, yielded the following results: 176, a trace belonging to Meredith; 177, mixed trace of Meredith and Amanda; 178, 179, 180, biological profile of Amanda; 184 (rectius 183), mixed genetic profile of Meredith and Amanda.
During the first-level trial, Dr. Sarah Gino, a consultant for the defence [of Knox], pointed out that the quantity was compatible with [that of a] low-quantity DNA (low copy number), that the analysis had not been repeated to validate the result and that there were peaks, which had not been considered, that could indicate the presence of other contributors. She also posed the problem of contamination, of non-authenticity of the traces and consequent irrelevance of the traces themselves.
The [first-level] sentencing report [*sentenza*], while acknowledging that the number of substances which react to luminol is rather large, gave arguments to exclude (page 304) that the material covering the floor of the house in via della Pergola had such characteristic.
It equally assessed as implausible the possibilities suggested regarding [the presence of] specific substances, stating (page 305): "it would have to be assumed that one of those substances (certain vegetables, fruit juice, rust, bleach…) had been on the floor where the luminol test **[102]** was performed, and, present on the date of December 18…would have been affected by some biological trace that placed itself on one of those luminol-reactive substances, a biological trace originating from Amanda and in two cases also from Meredith".
With particular regard to bleach, though acknowledging the probability that such product had been used in the whole house during ordinary cleaning, it concluded that, in practice "it cannot be known when and by whom such a pervasive and extensive cleaning, apparently involving [all] the various rooms, was carried out. Moreover, nobody entering the house claimed to have noticed the smell of bleach…Furthermore, had bleach been used [*sparsa*] in the whole house in a cleaning activity involving the various rooms, many more luminol positive traces than those found should have been detected".
The [first-level sentencing report] thus concluded that the footprints had necessarily been left in Meredith's blood, treaded on by Knox in the murder room and then transported by

[7] *Stato Avanzamento Lavori* = work status report

her into other parts of the house.
The belief of the Court of first instance has been appealed against by Knox's defence team and it faces insurmountable contradictions, both logical and factual.
First of all, the real certain fact is that the generic blood test yielded a negative result. According to the [first-level] Court this occurred because of the scarcity of the available biological material, but the defence consultant Professor Tagliabracci specified, without being refuted (hearing of July 18, 2009, page 174), that the tetramethylbenzidine test is very sensitive, so much as to give a positive result even with only five red blood cells present. Dr. Stefanoni herself, moreover, clarified (preliminary hearing of October 4, 2008) that, while a positive test result could be deceptive due to reactivity of the chemical marker to other substances, a negative result yields certainty on the absence of blood.
Secondly, taking into account [*premesso che*] that there are bleaches with no smell or even perfumed – luminol reacts to other cleaners as well anyway – it is not impossible to suppose who may have performed the cleaning of the house. Four girls lived together in the house, and it appears reasonable **[103]** to believe that they, possibly in turns, accomplished the task as needed, the more so since the house was visited by other people as well, whether friends or boyfriends, and so it was even more prone to getting dirty.
The limited number of footprints detected can be explained by a treading [which took place] at different times and by the use of bleach in only particularly dirty areas [*punti*]. After all, doubts similar to those raised in the [first-level] sentencing report could be brought up even supposing that they are blood traces: [but] why only in those few points, moreover not consecutive and instead spread in various rooms?
The [first-level] sentencing report arrives at an implausible explanation (page 306): Amanda "with bare feet, washed of Meredith's blood, but on the soles of which some residue of blood must have remained, went into her own room, into Romanelli's room and passed through the corridor and in certain points of the room, where she had passed, she left the traces that were detected".
Leaving aside the paradox of an inaccurate foot-washing, what remains without an explanation is the fact that the traces were not left one after the other starting from the exit of the small bathroom – moreover, about this issue see below – but instead only one in the corridor, at the wall dividing Meredith's room from Amanda's (hence a few steps away from the bathroom); two even further away in Romanelli's room; three in Amanda's room.
This consideration is even more valid in light of the grave contradiction in the [first-level] sentencing report, where (pp. 408 and 409) it is supposed that, instead, the footprints were left by Amanda with blood soaked feet as she would have washed them only later.
Conscious of the weakness of its theories, the [first-level] sentencing report states (page 413) that a clean-up was certainly [*dà per certo*] carried out. It reaches such certainty on the basis of the consideration that the foot which left the print on the mat could have arrived there only through steps that should have left other, even more evident, footprints on the floor.
Even neglecting to consider that, as it has been seen, the footprint on the mat was attributed to Raffaele Sollecito and not to Amanda, the explanation for the inconsistency highlighted by the [first-level] Court can be found in the statements of Amanda herself,

who said that she took a shower the **[104]** following morning and that she went back to her room dragging the bathmat with her bare wet feet, which was then put back in its place.
A confirmation of the above has been given by Professor Vinci, who examined and photographed the mat, highlighting that it showed bloodstains on the bottom side, which did not correspond to those on the top side (page 37 of his report).
Besides, the execution of a clean-up is contradicted precisely by the numerous traces found in the house.
To overcome this contradiction [*obiezione*], the Court of first instance goes as far as stating that during the clean-up the shoeprints were purposefully spared, in order to direct suspicions toward others (page 416). But knowing that the owners of those shoes, once identified precisely thanks to those prints, could have then made a devastating accusation of complicity, would certainly have deterred from such a design. It would have been much better to erase everything. Furthermore, various other bloodstains found in that bathroom were not cleaned, as will be discussed below.
To bring the clean-up matter, contradicted by logical and factual arguments, to a close, it is to be finally considered that no blood-stained cloths were found either in via della Pergola or at Sollecito's apartment (the [first-level] sentencing report does not deal with this aspect at all), materials that, according to the ruling, were apparently purchased by Amanda in the early morning of November 2 at Quintavalle's store. This witness, however, leaving aside the reliability of his account, has ruled out having seen Ms. Knox making any purchase, let alone of that kind – as it was already discussed.
Another important fact remains unexplained as well: only two traces contain a Meredith–Amanda mixed profile, Exhibit 177[8] in Romanelli's room and Exhibit 183 in the corridor. The others can be attributed to Amanda alone, and Exhibit 176, left in Romanelli's room, even to Meredith alone. If the first degree Court's explanation were plausible, they should all contain a mixed profile, or, at least, that of only Meredith as well.
[105] With a little common sense it is useful, on the other hand, to remember that the girls lived together in that house, that they were all friends, and who knows how many times they went up and down barefoot in the various rooms, as often young people do, leaving their traces here and there, even superimposing them by chance, possibly on bleach, but without excluding some other possibilities, such as a stain of fruit juice or of vegetable stock.
Indeed – as already recalled above – Dr. Stefanoni (pp. 221 and 228) has acknowledged that it is not possible to date the moment DNA is released, nor to establish the chronological order in which multiple traces were left, even one above the other.
In this respect, then, it must be considered that footprint 183 was observed near [*repertata in corrispondenza di*] a shoeprint of Guede directed towards the exit, so it could have been this shoeprint [*questa*] that contaminated Amanda's DNA with Meredith's.
And still in connection with contamination, the Police searched [*ha eseguito operazioni di perquisizione*] the rooms of the house before December 18, the day when luminol was used,

[8] There is a typo in the original. The mixed Meredith-Amanda profile is exhibit 177 (not 176 as the report states in this line).

and an accidental dragging of genetic material may have occurred.
But even in terms of genetics the first-level Court's strong beliefs [*convinzioni*] cannot be accepted.
According to Dr. Gino, a consultant for Knox defence, the DNA in those traces would be of low quantity (low copy number) which therefore requires the repetition of the analyses.
The first-level sentencing report states that the credibility and reliability of the result of the analyses derives from the good quality of the instruments, the fact such instruments undergo the required maintenance, and the correctness of the methodology. It is furthermore verified by the fact that the results are not isolated: the trace with a mixed Meredith–Amanda profile appeared twice, while the one relating to Amanda alone in other four cases.
In reality, the quality of the instruments is of no help when the quantity of DNA is insufficient to yield reliable results. On this matter, the Conti-Vecchiotti expert report, commissioned by this Court, has **[106]** made it clear that below 200 pg the interpretation of the result is not univocal and, in any case, it is necessary to repeat the quantification of the DNA and also to carry out various confirmatory analyses.
In the case of the footprints detected with luminol this healthy and correct practice was not utilised or could not be implemented: this fact alone [*tanto basta*] does not allow the results to be certain.
To conclude on this subject: the footprints at issue, in the opinion of this Court, have no evidentiary [*indiziario*] value against Amanda Knox.

Prints revealed by Luminol without a useful biological profile

Exhibits consisting in latent footprints detected with luminol in Knox's room and in the corridor of the house in via della Pergola, which turned out to be devoid of any useful biological profile, have been labelled with numbers 1, 2 and 7.
The evaluation of these [traces] was also entrusted by the Prosecutor to Dr. Rinaldi and Inspector Boemia.
The two have explained ([first-level] sentencing report, starting page 369) that the corresponding photographs were characterized by the absence of a metric reference. Also, the photos had not been taken perpendicularly to the floor, where the footprints had been left, so an operation of perspective-adjustment was needed.
This was performed by comparison to Exhibit 5, which had a reliable metric reference. This allowed them to obtain the dimensions of the floor tile where the footprints had been left. The first measurement obtained was 169.3 mm for height and 336 mm for base. A subsequent rethinking reduced the height to 162 mm.
According to the consultants of the Prosecutor ([first-level] sentencing report, from page 371) Exhibit 1, present in Knox's bedroom, is a print of a right foot compatible with the one of reference, obtained from Knox.
[107] Exhibit 2, present in the corridor directed towards the exit, is a print of a right foot compatible with the one of reference, obtained from Sollecito.

Exhibit 7, detected in the corridor in front of Meredith Kercher's bedroom door and oriented towards the entrance, is a right footprint compatible with the one of reference, obtained from Knox.
This Court believes that these exhibits [*elementi*] are completely irrelevant for the purpose of attributing responsibility to the defendants.
First of all, as Rinaldi and Boemia themselves say, these exhibits are useful only for negative comparisons and not for positive ones, due to the lack of the details present on the papillary crests.
Furthermore, they maintain that the footprints were made only through the likely deposition of blood. They reach this conclusion simply because the detection occurred via reaction with luminol.
However, it has been stated above that many other substances, some in common use, react with luminol, so that attributing even merely the likelihood of the presence of blood seems inadequate in the extreme: more appropriate would have been the assertion of simple possibility.
On the other hand, the exclusion of presence of blood, according to the tetramethylbenzidine test, in the footprints discussed above, leads one to conclude that, instead, it is very unlikely that blood is present in these, and in these only.
Such a conclusion can be reached at least for the footprint in Exhibit 7, also from merely logical considerations. It has been said that it is a right footprint oriented towards Meredith's room: it appears reasonable to think that, had it been left by bloodstains it would have been oriented outwards [from Meredith's room]. Things being this way [*rebus sic stantibus*], on the contrary, a plausible justification should be found for its opposite orientation towards the entrance; nothing of the sort is found in the [first-level] sentencing report.
[108] The presence of the footprints attributed to Amanda is, however, fully justified by the fact that she lived in the house, and certainly it happened sometimes that she walked around barefoot, leaving traces on the floor, which had become receptive due to the use of some cleaning product or some other substance sensitive to luminol.
Similar justification can be found for the only footprint attributed to Raffaele Sollecito (Exhibit 2). According to Amanda, he had been perhaps three times to [the house on] via della Pergola ([first-level] sentencing report [*sentenza*] page 65) when Meredith was present, and ([first-level] sentencing report, pages 54 and 55) on November 1 he and Amanda had stayed at the cottage alone, where they had also eaten lunch. As they were a newly formed young couple, together for only a few days, it is not unlikely that in that situation they were intimate with each other, even taking a few steps barefoot.
In any case, there are perplexities even concerning the correctness of the compatibility evaluation made by the Prosecutor's consultants on the basis of the dimensional evaluations.
Professor Vinci, a consultant for Sollecito, has highlighted (from page 69) all the morphological differences between the footprint present in Exhibit 2 and the comparison footprint, taken from Sollecito.
As seen in another section, Raffaele Sollecito's footprint shows notable individual

characteristics: missing impression of the distal phalanx of the second toe and missing impression of the first phalanx of the big toe.
On the contrary, visually examining the two traces under comparison [Sollecito's reference and Exhibit 2], both the print of the second toe and the impression of the first phalanx of the big toe are visible [*evidenti*] in Exhibit 2.
The aforesaid visual inspection also allows the perception of further differences, concerning the different placement of the superior extremity of the frontal part of the heel and its differing rightward curve.
Professor Vinci also listed other – less evident – differences: the shape of the line obtained by connecting the apex of the toes and the position of all the toes, with specific reference to the trace of the fifth toe.
[109] Concerning the metric analysis, Sollecito's consultant (page 76) has stated that the photographic documentation of the footprints detected by luminol during the inspection of December 18, 2007 suffers from serious technical flaws, since it was not taken orthogonally to the detected footprints and since fluorescent ribbons were not used as precise metric references.
This fact prompted Dr. Rinaldi and Inspector Boemia to perform the perspective-adjustment which was briefly mentioned above.
A first result was however deemed to be faulty at the hearing of May 9, 2009 by Rinaldi himself, who attributed it to a parallax error and stated to have corrected it by bringing back right angles to 90 degrees and recalculating the measurements, without, however, indicating the method and the calculations applied [*seguiti*].
These reference parameters, so laboriously elaborated, produced measurements of the footprint revealed by luminol with values notably different between the Rinaldi-Boemia report and that of Vinci. According to the latter, the foot that left the print is considerably smaller than that of Sollecito, a measure consistent with a 36-37 size.
Now, in light of these objections, all duly and convincingly documented, concerning both the morphological and the dimensional characteristics of Exhibit 2, absolutely nothing is mentioned [*si legge*] in the sentencing report about the reasons which led the first-level Court to prefer the results of Rinaldi-Boemia. These results have been accepted, one could say, blindly [*a chius'occhi*], without even mentioning Vinci's conflicting arguments.
All these considerations aside, however, it must be reiterated that the footprint in Exhibit 2 has no incriminating value, considering that Rinaldi and Boemia themselves described it as useful only for negative comparisons and not for positive ones. The absence of a biological profile must furthermore lead one to rule out that it was[9] impressed with blood; and finally, the frequentation of the house by Sollecito justifies its[10] presence, as noted before.
[110] Entirely analogous arguments apply to Exhibits 1 and 7, attributed to Amanda Knox.
At the hearing of July 6, 2009, Professor Torre, a consultant for Knox, showed that, in terms of morphology, Knox's right foot has the second toe longer that the big toe, the

[9] Inserted "it was" instead of "they were" [*esse siano state*].
[10] Inserted "its" instead of "their".

opposite of [what was noted in] the footprints detected by luminol. Regardless, even to this Court it seems clear, from a comparison of the images of the same Rinaldi-Boemia report, that the position of all the toes is different.
Even to this regard there is no mention of this in the [first-level] sentencing report.
In any case, it must be said that the presence of Knox's footprints, above all the one of Exhibit 1, detected in her room, is even less relevant, since she lived in that house and could have left them at any time.
Naturally, the statement that they are useful only for negative comparisons, and the lack of a demonstration that they were impressed with blood, apply to these footprints [*queste*] as well.

Blood traces in the small bathroom

We have already seen that it was the police officer [*assistente capo*] Gioia Brocci, on the afternoon of November 2 2007, who carried out the collection of evidence in the small bathroom, adjacent to Meredith's room.
She stated (first-level court sentencing report page 100) that, in that bathroom, in addition to the bathmat discussed above, there were traces present that appeared to be of blood.
She specified that the rosy-coloured drops [were] *"not the red characteristic of blood."* She found the latter only on the tap of the basin.
On the method of evidence collection, she said that she had used a single [swab of] blotting paper, because *"the drop upstream and the drop downstream had the same continuity: there were small droplets on the same line [and] since [they had the same] colour and [the same] continuity of trickling, I therefore saw it appropriate to collect them with a single swab" (from the hearing of April 23, 2009).*
[111] Traces that appeared to be made of blood were also present on the box of cotton buds, on the toilet lid, the light switch and the bidet *"and there was still the drop upstream of the same colour and in the same line, right on the edge and with the same continuity, right down to the outlet of the bidet,."* Traces were also present on the bathroom door, these, however, not [appearing] as if watered down, but of a bright red colour.
At the hearing on May 5, 2009, Dr. Patrizia Stefanoni, a biologist at the Section of Forensic Genetics of the Scientific Police in Rome, said (sentencing report pages 198 and 204) that the blood of the victim had been found the light switch, the toilet seat and the door frame, while the samples taken from the bidet, the basin and the box of cotton buds revealed human blood which had a mixed profile of Kercher and Knox. The sampling carried out on the front of the basin tap revealed, however, human blood and the genetic profile of Knox alone.
The defence counsels of the accused have sharply criticised the method of evidence collection used with respect to the basin and the bidet.
The part of the video relative to this procedure was screened in the courtroom:: there the assistant Brocci can clearly be seen several times passing and passing again the same swab of absorbent paper from the edge of the sink down to the drain opening and vice versa,

and this on both sides, with a wiping movement,. The same procedure [is used] for the bidet, where the swab - supposedly a different one from the first - is used for a thorough cleaning of the area of the drain plug.
With regard to this method, Dr. Stefanoni noted (sentence report page. 212). *"that apparently it may seem unsuitable for collection"* but in that specific context it was [suitable] *"for the type of traces that were found"* that *"were clearly pink, therefore they were traces that appeared as [if] they were certainly diluted and were all apparently of the same origin because they were drops … they had a sort of trickle down [effect] that started at the top and ended at the drain-hole."*

[112] In her view it was unlikely that they were from two DNA, separate at the start and [then] joined together to form a single trace, and that, as can be read in the sentencing report on page 212, *"both because of the same point being involved, and because of the same appearance of very much diluted blood."*
It is useless to draw attention to the vagueness and inconsistency of this statement, especially as it is in sharp contrast to another statement by Dr Stefanoni cited later, [which is] much more logical and acceptable.
So, it is not possible to agree with what was asserted by Dr. Stefanoni about the correctness of the way the traces on the basin and bidet were collected.
Even to a layman, it appears evident that the two sanitary fixtures in question are a natural repository of DNA, which is released easily while washing oneself: epithelial cells, body fluids (sweat, saliva), body hair [*formazioni pilifere*], are caught up at least partly by the water and flow along, [they] linger on the ceramic surface, particularly in the drain area, and remain there in the absence of frequent and thorough cleaning.
It must be recalled that police officer Brocci stated that she had also collected (sentence p. 100) a body hair in the basin, about which, however, there is no mention [of this] in the results provided of the genetic analysis, if it was tested. Only Knox's blood was found on the tap.
The small bathroom in question was in use by the two girls, Meredith and Amanda, while the other two (Ms Romanelli and Ms Mezzetti) used the larger bathroom.
It seems very likely therefore that the DNA of the two girls should be on the sanitary fixtures of the small bathroom.
In such a situation gathering samples by repeated rubbing from edge down to the drain and vice versa, and this on both sides of the same blotting paper swab, contrary to what Dr. Stefanoni claimed, is obviously the one least advisable for obtaining a reassuring result. Certainly in this way all the DNA present along the way was gathered up, creating a mixture that probably did not originally exist.

[113] What was stated in general terms by Dr Stefanoni herself and cited on page. 221 of the sentencing report must be remembered: it is not possible to date a trace and neither it is possible to establish if one has been deposited before another.
More precisely, with specific reference to the traces on basin and on the bidet, as we read in the sentence on page. 228 *"that they were dry and it was not possible to date them nor to establish whether the trace attributable to Knox was deposited first and then that attributable to the victim, or vice versa".*

It appears, therefore, entirely irrelevant, for the purposes of a decision adverse to Knox, that her DNA mixed with the victim's was discovered on the sanitary fittings.
If, in fact, the mixture had been pre-existent at the time of the depositing, it should also have been discovered on the toilet lid, on the light switch and on the door frame: [but] it was not, certainly because whoever deposited the victim's blood in that precise point did not find DNA previously deposited [there].
The result from the genetic samples on the box of cotton buds is even more questionable: in the opinion of Dr Stefanoni (sentencing report page. 223) there may also have been a third person present, of female sex. This is because the alleles were very uniform in height and one could think of pairings other than those attributed to Knox and Kercher, thus including persons other than those already present. This opinion [was] shared by Dr. Torricelli, a consultant for the civil party, Meredith Kercher's family (sentencing report page. 243).
This suggests the overlap of traces at different times, the box [*barattolo*] having passed through several hands, rather than having contact only with the murderer.
Therefore, there can be no agreement with the conclusions which the sentencing report makes about this on page 405 and following [pages]. According to the Court of first instance, the two defendants, soiled by Meredith's blood, are supposed to have gone into the adjoining small bathroom and there they are supposed to have washed themselves (it must be recalled that, according to the first judges, the imprint on the bathmat is supposed to have been made by Sollecito's right foot).
[114] But, if that had happened, it does not explain how come not the minimum genetic trace of Sollecito was found in the small bathroom, despite the fact that the action of rubbing, caused by the clean-up, must have led to the loss flaking cells (as we read, still in the judgement).
The fact that only Amanda's DNA has been recovered with that of Meredith, leads it to be held that the mixture has been the result of police work during inappropriate evidence collection. Greater reliance could be placed on the analyses in fact, if the evidence collection had been [done} by dabbing and not by hard and repeated rubbing in different parts of each bathroom fixture.

Simulation of theft

The Court of the Assizes of First Instance, sharing the prosecution theory, found that the breaking of the window-pane of a room of the house at via della Pergola 7 (the one used by Filomena Romanelli) and its ransacking not to be signs of illegal entry into the residence with the intent to steal, but only the intended effect of the staging a robbery which was never actually carried out, by those who had an interest in making the responsibility for the murder of Meredith Kercher fall on to others, who did not have the keys available to enter the house. ~~.~~ And since, apart from the victim herself, only the other girls who shared the house could enter with the keys, only Amanda Knox, and Raffaele Sollecito who was with her, could have an interest in simulating the theft, and therefore

carrying out the sidetracking, according to this theory. Not the other two young women who that night had certainly stayed far away from that house: one (Laura Mezzetti) in a completely different place (Montefiascone), the other (Filomena Romanelli) in Perugia, but at the house of her then-boyfriend, in a completely different neighbourhood.
And the lawyer for the civil parties Maresca has spoken of "splendid parallelism" between the crimes of theft and criminal slander [*calunnia*] because - according to him -– both were carried out as part of an overall plan, intended to mislead the investigators about the perpetrators of the crime.
[115] The parallel, however, does not really seem so "splendid" when you consider that Patrick Lumumba, indicated in the "spontaneous statements" of Amanda Knox as the perpetrator of the murder, had no suitability for playing the role assigned to him in theory, as the perpetrator of attempted theft, considering his lack of precedents of this type and his total inexperience of entering through windows which were positioned furthermore at a certain height, would not have permitted suspicions to have taken root about him for entering through the window and much less with the intent to steal. But, in fact, one could argue that Rudy Guede himself could have had an interest in simulating a robbery, it not being possible to rule out that he, having at times visited the residence located on the floor below (where the Meredith Kercher's boyfriend at the time, Giacomo Silenti, lived) was he was known by Meredith Kercher the least amount sufficient to put her at ease in allowing him into the house, perhaps with the excuse of needing to go to the bathroom, where later he had actually gone. And then one could argue that, at that point, after the tragic event, Rudy Guede, for the very reason he was let in through the front door, decided to distance himself from any suspicions of someone, perhaps unknown to him, had by chance him seen when the door was opened for him, simulating that other unknown persons had entered the house through the window.
The Court of the Assizes of First Instance ruled out that Rudy Guede could have had an interest in simulating the theft by means of breaking in through the window, recalling that just days before he had been caught in a nursery in Milan where he had entered illegally at night and that he had been indicated as probable perpetrator of other thefts, so that it would have been really strange - thus that Court argues - that to divert suspicion from himself he would have simulated the carrying out of an illegal activity that was usual for him. Actually, one might answer that it is precisely those facts which lead the Court to hold that this is clearly a simulation, to make one think that Rudy Guede, staging an obvious simulation, had believed would distance deflect suspicions from him, since a professional thief does not simulate a theft, but actually commits it.
[116] But this Court considers that these hypotheses are only speculation, since there is no reason to claim that this was a staged rather than an actual house-breaking for the purpose of theft, abandoned because of the tragic unfolding of the events.
The belief that this was a staged setting comes - according to the Court of the Assizes of First Instance - from various facts detected during the on-the-spot investigation: the glass that was supposed to have ended up on top of the objects moved by the hypothetical intruder, since if the objects were thrown about after entry into the room should have been on top of the broken glass and not under; the fact that there were no signs of climbing up

the wall detected outside (a nail driven into the outer wall appeared perfectly straight and undamaged, whereas a possible climbing, difficult as the window is 3 and a half metres above ground, would involve at least moving or bending of the nail; the difficulty of breaking in with a stone, considering that the shutters, left ajar by Ms Romanelli because of the difficulty of closing them owing to swelling of the wood, should have first been opened.

The Court of Assizes of the First Instance, then, departing from the fact that the shutters if closed (as stated by Ms Romanelli hearing on July 2, 2009), or even only pulled in but not closed (as previously stated still by Ms Romanelli December 3, 2007) because the difficulty in closing them because of swelling of the wood, would not have allowed whoever had proposed to enter through the window previously broken with a stone, to carry out their intention, having to open them in some way first, assessed the activity necessary to enter the house through the window as too complicated and risky to be likely: a first ascent to open the shutters, and then a second ascent, after having thrown a stone to break the window-pane. Also - in the opinion of that Court - the shutters behind the glass would have been another obstacle.

But what may seem a laborious task to someone with no experience in the matter, may reveal itself to be feasible, although not particularly easy, for someone who has accrued such **[117]** experience. Neither can the height of the window (about 3 and a half metres) can be considered an insurmountable obstacle, since the presence of a nail on the wall below and of a window grating were useful points of support, so much so that (a reliable experiment because it was filmed without its veracity being called into question) a colleague from the chambers of Counsel Maori easily succeeded in the goal of reaching the window for demonstration purposes, without bending the nail or leaving other traces on the wall. It cannot be seen, then, why the nail would not have borne the weight of others, or why clear traces would have to have been left outside. Furthermore, it is well known with what ease those prone to burglaries in apartments are able to enter through windows located at much greater heights, so as to have led many owners to place gratings even on the higher floors.

This Court holds, moreover, that the shutters were pulled in but not closed: in the first place, because the statement given by Ms Romanelli on December 3, 2007 ("I drew in shutters, but I think they were not closed") is more plausible than that given at the hearing on February 7, 2009 (she remembered "...having closed them also because I knew that I would be away a few days..."), being the first statement being nearer in time to the facts reported, therefore, when the memory had to be more vivid. In the second place because of the very fact that, the wood being swollen, the shutters rubbed on the window sill to make it likely that she, in order not have to deal with the effort of pulling them further in to close them, she simply left them pulled together, stopped only by the presence of the swelling

Therefore, it is certainly not the manner of climbing up or the absence of special traces on the wall which can lead to the conclusion that it was a simulation.

The Court of the Assizes of First Instance, all the while sharing the view of the Prosecutor, held that the throwing of a rock from the embankment located in front of the window, in

order to break the glass, is not an easy task, but the defence consultant, Sergeant Francesco Pasquale, has shown that this operation was on the contrary possible and easy for anyone who had had some experience. On condition that **[118]** the shutters were open, whether because they were left that way or because they were opened by the perpetrator himself before carrying out the throw. In fact, no appropriate arguments likely to challenge the demonstration of the feasibility of the operation carried by Sergeant Pasquale were advanced and, moreover, the proximity of the embankment to the window leads one to hold, even on the basis of facts of common experience, that this was quite possible, so much so that the Prosecutor in his closing arguments insisted on the centrality of the point of whether the shutters were open or not, in the clear awareness that the situation of being open would have admitted the feasibility of the throw to break the glass.
Moreover, the existence of the "inner shutters" could not constitute an obstacle to breaking the glass: it does not appear that these shutters had in turn been pulled shut and, on the other hand, the mark in the wood corresponding to the breaking of the glass is indicative of the force of impact of the rock against the glass and then against the "inner shutter".
But the sovereign proof of the simulation is supposed to be - according to that Court - the lack of glass under the window sill, outside the house, and the presence of glass on top of clothing and objects that were inside the room, which is supposed to demonstrate that the breaking of window pane was after and not before the ransacking, clearly carried out at that point merely to stage an attempted theft.
On this point, however, this Court disagrees, since the dynamics of the throwing of the stone and the force of impact did not make it necessary that some broken glass should end up outside rather than inside the room, where the broken glass not only appeared on top of items or clothing, but also underneath, as is clear from the testimony given by Ms Romanelli at the hearing on February 7, 2009 who depicted an extremely chaotic condition of the room, all a "jumble". Thus verbatim:

"... THE PRESIDENT - I'm sorry, what does a jumble mean?

ANSWER - It was a jumble of broken glass, clothes, broken glass...

PRESIDENT - So they were under the glass too?

ANSWER - Yes, they were also under, but they were on top too.

[119] PRESIDENT - So in this sense a jumble.

ANSWER – Yes, yes ...".

And even inspector Battistelli, as can well be seen, reports a very chaotic state and not only with broken glass in situ just on top of things. Thus verbatim, at the hearing February 6, 2009:

"... PROSECUTOR - The glass fragments were, where were the glass fragments?
WITNESS - The glass fragments were on the floor and the strange thing, which really struck me is that there were glass fragments on top of the clothes as well ... "

The glass fragments, therefore, were noted on top of objects "as well" and not "only" on top of the same.
And the witness Alfieri also speaks of glass fragments both on top of and under, while the witness Zaroli pointed out that he was struck by the location of glass fragments on the objects but with that did not deny that the glass fragments were also on the floor.
But this situation, broken glass on the window sill and scattered a little all over the room, is also depicted in photographs and videos made by the police themselves and shown in court by the defence. Nor can it be argued that the photographs and films are not indicative of the situation, because it was already partially altered by the Police moving around and the entrance into the house of the occupants themselves, since the photographs and films were made in the immediacy of the on-the-spot investigation, when reasonably police must have maintained the situation more or less unchanged.
And the jumble can be explained by the fact that the height of the window, higher than at least some of the objects in the room, can have permitted the broken glass, because of the effect of the impulse gained from the force of impact of the stone that had broken the window, to end up on top of rather than under some objects but also the activity of ransacking, obviously carried out in a frenzied way, if performed in an environment where there was broken glass scattered around, to the point that some glass fragments end up on top of some items or clothing instead of underneath.
It must also be remembered that the videotape, made by the Scientific Police at the on-the-spot inspection, highlights the presence of a shard of class near an imprint of a foot in **[120]** Meredith's room. This leads logically to the conclusion that the breaking of the window took place before the entry into Meredith Kercher's bedroom, there being no reason to hypothesize that after the alleged theft simulation, set in place to divert suspicions for the responsibility of the already committed crime, the perpetrator of the same would have had a reason to go back into Meredith Kercher's bedroom, thus leaving behind a fragment of glass which had remained stuck to the sole of the shoe or clothes worn.
The Court of the Assizes of First Instance considered that this could be explained by the consideration that, after the simulation of theft and breakage of the window, whoever had carried that out had taken him or herself into Meredith's room to close the door and/or to cover the lifeless body with the quilt. Such an explanation does not seem very likely, considering that after the alleged simulation of the theft, the perpetrator of the same needed to leave the house as soon as possible, even the sight of the broken window pane from the outside possibly inciting cause for alarm in whoever might just turn up unexpectedly in the vicinity the house; in theory, if it had been a matter of a simulation, this would have been put in place after placing the quilt on the body and closing the door of the room and not before.
It must, finally, be observed that the fact that moreover nothing at all was removed does

not rule out that the original intention had been to enter the apartment to steal, since it is quite understandable that, taking into account the dramatic unfolding of the events, such an intention had been totally abandoned in order to flee from the residence as soon as possible.
But if from the consideration of the mode entry, objectively feasible, one passes to the consideration of capability and personal experience, one cannot but attribute significance to the specific record of Rudy Guede (the previous term is not used in a technical sense, of entries on a police record, but in a general sense such as ascertained experience, moreover not denied even by the person concerned).
[121] Rudy Guede several times, in fact, had been the protagonist of burglaries in apartments or offices: in a legal office in Perugia when he removed, after breaking in through a French door opening onto a terrace about 3 or 4 metres high, a computer and a cell phone; in a nursery school in Milan, when a kitchen knife 40 cm long, removed from the kitchen of the nursery school, was found in his back-pack, and yet again inside the home of Mr. Tramontano, when, having been discovered, he had managed to the escape by threatening the former with a pocket knife.
So, the Court of the Assizes of First Instance, in order to dismiss the circumstantial significance of this record against Rudy Guede, has highlighted the differences between the said incidents and the presumed entry through the window in the apartment at via della Pergola 7. This example of differentiation however does not seem relevant because, while the differences find, of course, their reason in the differing locations, each of which require a particular means of entry, the similarities, which are not minor (it is still theft inside buildings, sometimes put in action just prior to breaking a window with a big rock), show Rudy Guede's ability to commit them and his prior experience.
Nor is it worth observing that the colleague from the offices of Counsel Maori, who carried out the experiment, is taller than Rudy Guede and was thus helped in the climb, because in reality, Rudy Guede, although shorter, is nevertheless agile and very athletic, so much so that he played basketball. This leads one to believe that he really could have got inside the house at via della Pergola 7 in the manner described.
But - it is said – is it possible that Rudy Guede, being known since he had sometimes visited the house, did not experience a psychological scruple in surreptitiously entering it because of such visits?
The answer, however, is yes: the personality of Rudy Guede, as it emerges from the testimony of witnesses, does not show any particular respect for others. He not only - as already mentioned - had accrued experience as the perpetrator of thefts in buildings owned by others, even committed with the victims of theft present at home **[122]** (see Tramontano); not only did he not hesitate to use the knife to threaten the burglary victim who had chased him (Tramentano again, but also he had taken possession of a knife 40 cm long in the Milan nursery school) but time and again the street, above all when drunk, he had also bothered young women, trying to hug and kiss them, and finally, the very fact that (only apparently unimportant, because in reality very significant of his behaviour) it was his habit to go to the bathroom in others' houses (whether as a visitor or an intruder, is not important here) to defecate or urinate without flushing afterwards (one evening it

happened on the lower floor of the house in via della Pergola, as related by witness Stefano Bonassi: in the nursery school in Milan where he had entered - as asserted by the witness Salvatore Del Prato - the children's toilet was found dirty, though it was certainly left clean before; and also the night of the murder he had gone to the bathroom in the house in via della Pergola leaving it dirty, so that the Scientific Police were able to find his DNA on the toilet paper) shows a complete lack of respect for others, perhaps even disdain. Which leads one to think that he also did not have any scruple in entering the house in which he had been welcomed as a friend to steal (but he had actually been a guest on the floor below, of the young men absent on the night of November 1, and not on the floor above where the young women lived).
Moreover, he, already knowing the house, was able to easily determine the presence or otherwise there of its inhabitants. Therefore, contrary to the findings by the Court of the Assizes of First Instance, there is no reason to believe that he had psychological scruples or particular fears in entering the house at via della Pergola 7 in the absence of those who lived there.
And it also must be remembered that on December 20, 2007, when he was arrested by the German police, Rudy Guede had wounds on his right hand, consistent with the breaking of the window pane glass and the climb. One last argument, made to support the case of the simulation of theft, is the fact that Raffaele Sollecito, in the telephone call made to request the intervention of the Carabinieri **[123]** is reported to have said that nothing appeared to have been taken: how could he say - so it is argued- that nothing had been removed before a thorough inspection could have been done by those who lived in the house? And the answer is that he could say that, just because he well knew, since he was the perpetrator together with Amanda Knox, that it was only a matter of a mise-en-scène.
This Court does not consider this argument meaningful. The statement "they have not stolen anything," was a spontaneous response, owing to the fact that Amanda Knox, having already entered the house, after a brief check, had not noticed the obvious lack of important things and, furthermore, if it had been them who had put place the simulation and called the Carabinieri in order to show their surprise at the incident and their non-involvement in the murder, certainly they would have been more wary and Raffaele Sollecito would not have spontaneously responded "they have not stolen anything".
Ultimately there are no facts to hold that it was a matter of a simulation rather than an actual means of entry into the dwelling.
Hence the acquittal of the crime in count E) because the act did not take place and [because of] the rejection [*venir meno*] of the evidentiary value of the charged simulation.

Alibi

As already recalled in the summary of the motivations of the sentence under appeal, the Court of the Assizes of First Instance held the alibi proposed by the accused (having remained the whole night together at Raffaele Sollecito's house where they also had dinner) to be not only unproven but in fact surely false, and considered this falsity to be a

serious element of proof of guilt, being unable – according to that Court – to find a reason for a false alibi to be proposed, if not the actual consciousness of guilt.
In truth, the falsity of the alibi - under the hypothesis that it is actually false - could represent an indication, to be evaluated in the context of other and more significant indications, but certainly in itself it is not a proof **[124]** of guilt. Moreover, a conviction for the crime of murder cannot constitute punishment for proposing a false alibi, as this can only be the arrival point of a proof of guilt beyond every reasonable doubt, whereas in fact proposing a false alibi could also find an explanation in the fear of being involved in the crime of murder by the sole fact of being at the house in via della Pergola, even without having participated in it.
Also, if one examines the jurisprudence in this area, one realises that the evaluation of the seriousness of the evidence constituted by the falsity of the alibi is different according to whether it is done for the purpose of precautionary measures or in the judgement of its merit: indeed, it is one thing to evaluate the asserted falsity with the aim of respecting the precautionary requirements, proceeding with a balanced assessment between the evidence even if serious and the precautionary requirements, but another to evaluate the relevance of this falsity when it is no longer a question of finding an equilibrium between precautionary requirements and even serious elements of evidence, but of making a definitive decision about the accusations, beyond all reasonable doubt. Thus, once the most important and relevant elements of evidence have failed, such as the results of the tests performed by the Scientific Police, the asserted falsity of the alibi proposed by the two present accused cannot of itself alone constitute a proof of their responsibility.
In any case, this Court does not hold that their proposed alibi is demonstrably false. The Court of the Assizes of First Instance held the alibi to be false based on the following elements:
the two accused were seen in Piazza Grimana by the witness Curatolo between 9:30 PM and 11 PM;
Raffaele Sollecito's computer, examined by the Postal Police, showed no sign of human interaction after 09:10 PM until 5:32 AM;
the fact that the computer presented no interactions in this time period was interpreted to mean that the two young people, on the contrary to what they asserted, had not stayed at home but went out and spent a sleepless night, since otherwise the computer would not have shown activity again in the early morning;
[125] the message sent to Raffaele Sollecito's cell phone by his father at 11:14 PM was received only at 6:02 AM, a sign that the phone was off during that time period, and Amanda's phone turned out to have also been off at that time;
the turning off of the cell phones was interpreted to mean that the young people had gone out;
the dinner was, furthermore, eaten by them well before the time that they indicated, as Raffaele Sollecito's father called his son at around 8:42 PM on November 1, and his son was already washing the dishes and complaining about the leak under the sink;
all this led the Court to hold that they had already finished dinner and made it possible for them to leave the house to go to Piazza Grimana, where they were already seen by

Curatolo at 9:30 PM;
furthermore, it was not probable that the two of them had slept late, since they had the intention of going on a trip Gubbio, because the realisation of this intention implied – according to the Court – the necessity of getting up early, considering the route they had to travel;
nor is it likely that Amanda Knox, who even though she had spent the night with Sollecito, would have gone back to her own house in via della Pergola to have a shower: what necessity was there for that? – asks the Court – considering that after having made love with Raffaele she had already washed herself that evening at his house?
also, the fact that Amanda Knox had not remained in bed with Raffaele until late was proven by Quintavalle's testimony, who had recognized Amanda Knox as the girl who had waited in the street for his store to open early in the morning of November 2, had entered and had gone to the part of the store where cleaning and household products were stocked, even if he could not remember what she had actually bought;
and also, during her interrogation Amanda Knox did not mention the phone call that Raffaele's father made to him at 9:30 AM on the morning of November 2, whereas in fact she should have remembered it, as it occurred at a time – according to their alibi – when she was still at Raffaele Sollecito's house.

[126] This Appeal Court of Assizes holds, however, that none of the elements above is of sufficient value, either alone or in relation to the others, to prove the falsity of the version given by the two accused, since they are all elements whose meaning is not at all unambiguous, and which, in the light of further legal evidence can be explained differently from the reasoning given by the Court of Assizes of first instance, and more plausibly, based on the notions of common experience.
The unreliability of the witness Curatolo has already been shown (even if, in truth, once the time of the attack on Meredith Kercher has been determined to have been at around 10:00 PM, his testimony, if reliable, would actually be usable to completely exonerate the two accused).
That the two of them dined before the time they indicated does not seem decisive, but in any case it is not proven that at 8:42 PM, when Raffaele Sollecito informed his father on the telephone that he had noticed that the sink was leaking while he was washing the dishes, the two had already dined. It could very well be that he had been washing the dishes that had remained dirty from lunch before starting to have dinner, or it could have happened that some cutlery or dishes were being washed before dinner was actually finished, to remove the dirt from a pot or dish straight away so as not to let it harden and stick: the fact is that Raffaele Sollecito is not known to have said to his father that they had already finished dinner, but only that he was together with Amanda.
Indeed, these are the declarations about this matter made by the father during the course of his testimony (hearing of June 19, 2009): "…he told me, I if remember correctly, on that evening of the telephone call, that while he was washing dishes or doing something in the kitchen, water had leaked onto the floor, that, yes…" And also "…he was in the house and was pottering around in the kitchen and had this trouble. That he noticed while washing the dishes or doing something in the kitchen that water was leaking onto the floor, this

yes…" He absolutely does not speak of dinner being already finished.
[127] But also the fact that the computer, examined by the Postal Police, did not show any human interaction from 9:10 PM until 5:32 AM does not exclude that the two young people could have stayed home. The other computers used by Raffaele Sollecito were not analysed, because the hard disk was destroyed after they were seized, so that it was impossible to exclude that they were also used after 9:10 PM, but in any case it is obvious that staying at home cannot be characterised by a continuous interaction with the computer. Furthermore, since no one, neither the PM nor the civil party nor even the defence counsels of the accused requested the examination of Raffaele Sollecito, explanations that could be confirmatory are not available.
In reality, the trace of an interaction at 5:32 AM is more surprising than the lack of interaction of the preceding hours, but the thing can be explained by Raffaele Sollecito's waking up in the night without being noticed by the girl who was with him, and an impulse, on a night that was after all romantic (having spent it together with the beloved girl), to listen to music while waiting to fall asleep again. Anyway, it would be less understandable that a young man who was undoubtedly unaccustomed to crime, on the same night when he would have been involved in such a serious crime (he, also, thus, a victim of a dreadful tragedy even if hypothetically guilty) would have had the desire and the heart to entertain himself, just hours after the tragedy, by listening to music at the computer as though nothing had happened.
The Court of the Assizes of First Instance also did not even exclude, based on the investigations performed on the computer by Giglio-d'Ambrosio (defence consultants), that a certain interaction could have taken place for a few seconds after midnight, to see a film, but – that Court argues – since the timing is later than the time of the murder, this would not exclude responsibility for the murder, as it does not prove that they remained uninterruptedly in the house during the period preceding the interaction. But, apart from the total uncertainty of this piece of data, the aforementioned observation on the subject of listening to music must be recalled: could it really be likely that the two young people, after a tragedy of the kind, could have started to watch a film? The **[128]** answer can only be no, and it would be no use objecting that this, however, is an evaluation based on a criterion of simple normality, so a probability and not a certainty, since the deduction drawn from the absence of a proof of human interaction in the time period from 9:10 PM to 5:32 AM is also a mere conjecture, and furthermore it contrasts more with the criterion of normality.
The telephone turned off: in reality, the fact that Raffaele Sollecito's cell phone was turned off for the period between 11:14 PM and 6:02 AM is not a directly proven circumstance, but a deduction from the fact that the Police ascertained that the good-night message sent by Raffaele Sollecito's father at 11:14 PM on November 1 only reached the son at 6:02 AM the next day, yet no anomaly was observed in the functioning of the network.
It is true, though, that the defence consultant ascertained that the signal did not always reach every point of the house, which could explain, perhaps together with other external factors (such as the occasional presence of an obstacle) the delay in the reception of the message (an occurrence which is by no means rare, as people used to exchanging SMS

messages know well), so that the turning off of the telephone cannot be considered as a definite circumstance. But the most important thing is not so much the fact that the telephone was turned off as the meaning attributed to that turning off by the Court of the Assizes of First Instance. Indeed, it is incomprehensible for what reason, once any premeditation is excluded, or even just the planning ahead of an "orgy" (in reality, the same Court of the Assizes of First Instance represented the tragedy as the epilogue of a totally chance event), Raffaele Sollecito would have had to turn off his cell phone on leaving the house together with Amanda Knox, it seeming rather much more natural that he turned off the cell phone because he had stayed home together with the girl (who was his whole world at that moment) with whom he was getting ready to spend an intimate night, and having no reason to expect a phone call from home, as his father had already called him earlier. And in any case, the presence in the house of a landline as well (a circumstance ascertained by police) guaranteed the possibility of receiving any phone calls made for urgent reasons, in spite of the cell phone being turned off.

[129] And in that context it is equally likely that Amanda Knox, who had stayed to sleep over at Raffaele Sollecito's house without bringing her charger, turned off her own cell phone to save the battery.

To repeat, it is not logical to attribute to the turning off of the cell phones, once any premeditation has been excluded, a meaning indicative of having left the house rather than having remained there.

We have already seen that the testimony of Quintavalle is unreliable, or at least its reliability is very weak, so that it is certainly not of sufficient value to exclude that Amanda Knox stayed sleeping at Raffaele Sollecito's house until a late hour. As for the plan of taking a trip to Gubbio, this did not imply the necessity of getting up really early, since Gubbio can be reached from Perugia in about 45 minutes, and the two young people presumably intended to make a trip of a few hours and certainly not an in-depth study of the city from the historical and cultural point of view, so that they could easily have left as late as 11 AM.

And also, it is not at all unlikely that Amanda Knox, before leaving for Gubbio, would have first thought of going to have a shower in the house at via della Pergola; not only because – as she asserted – the shower in via della Pergola worked better, but also to change before leaving for Gubbio, since her underwear and clothing were there.

The fact of Amanda Knox's not mentioning the telephone call of Raffaele Sollecito's father at 9:30

PM does not necessarily imply the falsity of the alibi, as it can be explained by the fact that Amanda Knox did not attribute any importance to that phone call, or that she did not realize it even happened, maybe because she was still sleeping or was in the bathroom, or, finally, because she made a mistake about the time when she left Raffaele Sollecito's house to go to via della Pergola, perhaps earlier than that phone call.

Finally, it must be recalled that in the present appeal, the Prosecutor proposed as a last element of proof of the falsity of the alibi **[130]** the fact that certain people (Alessi, Aviello and others), held to be unreliable (and indeed this Court does also hold them to be unreliable), were called to testify about alleged information learned in confidence in

prison from Rudy Guede on the fact that the two accused had nothing to do with the crime. But it is obvious that this attempt of the defence, incumbent on the defence given the seriousness of the accusation, to acquire any possible element of proof in favour of the accused, even if it implied obtaining testimony from subjects subsequently held to be unreliable, can absolutely not be interpreted as symptomatic of the falsity of the alibi, as this attempt – which in any case was organized by the defence and not by the accused – has nothing to do with it, given that it referred to circumstances (the alleged information given in prison) that occurred years after the crime.
Similarly, the attempts of their families to prove their innocence – whether lawful or unlawful is not important here - cannot be blamed on the present accused, nor interpreted as elements symptomatic of the falsity of the alibi.
The reality is that we are in the presence of circumstantial evidence which is ambiguous at best, and that in the interpretation given by the Court of the Assizes of First Instance, found a meaning indicative of the falsity of the alibi only because at that moment, it was being considered in the light of the genetic tests performed by the Scientific Police and held to be reliable. Thus, once that reliability failed, the aforementioned elements are now interpretable in an entirely different manner that is in agreement with the proposed alibi.

Behaviour following the verification of the murder

The Court of Assizes of first instance gave circumstantial value to Amanda Knox and Raffaele Sollecito's behaviour after Meredith Kercher's murder had been verified. (on the morning of November 2).
The behaviour exhibited by Amanda Knox that morning (whether or not she lingered at Raffaele's home until late, having gone to Via della Pergola to have a shower before leaving for Gubbio, etc…) has been dealt with previously, particularly so in the paragraph dealing with the alibi. Here it must be noted that Court of Assizes of first instance also directed its attention **[131]** to the telephone calls made by Amanda Knox and Raffaele Sollecito that morning, claiming to find in them in some contradictions, interpreted as evidence indicative of the two young people's awareness of their responsibility for what had happened.
Well, from the examination of the printouts of the first telephone call, it appears that the call was made (at 12:07 PM) by Amanda Knox to Meredith Kercher's cell phone, to one of the numbers in use by her, and that this call obviously ended up unanswered.
There is nothing suspicious about this call: it is clear that Amanda Knox, if actually innocent, and therefore alarmed by some strange things that she had noticed in the house at via della Pergola (beginning with the external entrance door being found open, and continuing with the broken window glass in Ms. Romanelli's bedroom, as well as the door of Meredith Kercher's room being found locked, and the presence of some traces of blood in the bathroom) decided first of all, once she had spoken about it with Raffaele Sollecito, to contact Meredith Kercher, to ensure that nothing had happened to her.
It is also not logical to deduce - as did on the other hand the Court of Assizes of first

instance - that the only purpose of such a telephone call was to ensure that the cell phone had not been recovered, since, if on the contrary the cell phone had not been recovered it could be presumed that the ringing of the cell phone would facilitate its recovery (which is, what in fact happened): this would have been the opposite result of the one desired, in the event that they had been guilty. On the other hand, one cannot comprehend how two young people, certainly skilled with cell phones and—according to the assessment of the Court of the Assizes of First Instance and the Prosecutor—so cunning as to stage a break-in and burglary in order to distance themselves from any suspicions, and to call the Carabinieri themselves, causing themselves to be found at the scene, as well as returning the weapon of the crime to Sollecito's home, placing it back with the other cutlery in the kitchen drawer, then, however did not think of removing the SIM cards and the batteries from the cell phones before throwing them away, so as to make it practically impossible to recover them.

[132] Immediately afterwards (at 12:08 PM) Amanda Knox calls Filomena Romanelli to tell her about her feelings of apprehension: this call, as well, is understandable, since Filomena Romanelli lived in the same home.

Then, since Ms. Romanelli did not immediately tell her to call the Police, but to better check out the situation and then call her back, Amanda Knox made one additional call to the other number used by Meredith Kercher (at 12:11 PM), but obviously, there was no response to this call either. At this point, however, Ms. Romanelli, evidently having had a moment to think it over, and feeling increasingly more worried, called back Amanda Knox, telling her to alert the Carabinieri. Then, after a short while, Raffaele Sollecito, who was with Amanda Knox, calls his own sister Vanessa (but for a reason: she was an officer of the Carabinieri). and yet again, immediately after (at 12:51 PM) and once again, at 12:57 PM he called the Carabinieri (on the 112 number), while Amanda Knox called her family in America because, evidently, with the rush of events, the need to alert her family of her worry was growing all the while.

As noted, the Police arrived before the Carabinieri - but this was only a coincidence, because, in the process of recovering the cell phones, it had been possible to trace them to the house in via della Pergola, where the owners of the cell phones resided. (Ms. Romanelli, the owner of the phone used by Meredith Kercher to make calls within Italy and Meredith Kercher who owned the one used to call England.)

There has been much discussion on what did - or did not - transpire prior to the call made to 112 with respect to the unexpected arrival of the Police, the Prosecutor conjecturing that the call to the Carabinieri on 112 had been made at the sight of the unexpected arrival of the Police, and made only to corroborate the theory of their innocence.

But on the basis of testimony given by the Police personnel on duty and from the schedules recorded on the printouts, even Court of the Assizes of First Instance reached the conclusion that those telephone calls had been made prior to the arrival of the Police, and with no knowledge of their imminent arrival.

And, after all, what makes the issue irrelevant about whether the call **[133]** to the Carabinieri was made before or after the unexpected arrival of the Police is the fact that, anyway, Amanda Knox had already made a call to Filomena Romanelli, at 12:08 PM,

certainly before the unexpected arrival of the Police. So, at that point, she had already had told an extraneous person (whether it was the Carabinieri or Filomena Romanelli does not matter when viewed from this perspective) that they (Amanda Knox and Raffaele Sollecito) had entered in the house in via della Pergola, noticing a situation that was a cause for alarm.

But another piece of circumstantial evidence singled out by the Court of Assizes of first instance is the contradiction that the court claims to have detected between what was said by Raffaele Sollecito during the call to the Carabinieri and what, instead, was reported to members of the Police who unexpectedly arrived at the scene. In the telephone call to the Carabinieri, to be precise, in the two telephone calls one following one another within a few minutes of each other, Raffaele Sollecito had pointed out the situation found in Ms. Romanelli's room (broken glass, the room in a mess) but he had also stated "no, there is no theft…" and then "they didn't take anything…" while to the police, who had unexpectedly arrived, (but only because they were investigating the discovery of the cell phones) he had explained – according to what the police themselves claimed—that he and Amanda were waiting for the arrival of the Carabinieri because there had been a burglary inside the residence. According to the Court of Assizes of first instance, Raffaele Sollecito had stated to the Carabinieri that there had not been a burglary only because he knew they were dealing with a staged scene. Otherwise he would not have been able to make such a statement after an initial look and before the arrival of the interested party (Ms. Romanelli). On the other hand, the naivety in making such a statement—thus revealing that he was well-aware of its being a simulated crime scene—finds its explanation in the consideration that Raffaele was so completely engrossed in the description of the breaking into the residence, by means of breaking the window pane, by someone who did not have keys available, for the purpose of distancing suspicions from himself and Amanda Knox, who had keys, that he gave himself away regarding the real nature of the fact, his attention being **[134]** focused on describing the method of breaking into the residence, rather than on the removal of possessions from inside the residence (which according to prosecution theory, Raffaele knew was unfounded.)

But according to the Court of Assizes of first instance, Raffaele Sollecito must have then realised the naivety he had shown by trying to remedy the situation, telling the police who unexpectedly arrived soon after that he and Amanda were waiting for the Carabinieri, because there had been a burglary inside the residence. This Appeal Court of Assizes, however, is not in agreement with the above-mentioned explanation insomuch as it gives credit to individuals unqualified as legal experts the terminological and conceptual skills typical of the former, so to assume that when police unexpectedly arrived demanding an explanation, the two had claimed that they were waiting for the Carabinieri because there had been a burglary inside the residence, they had known how to deliberately change the version of the events, with regard to what was reported to the Carabinieri, for the fear that the statement "no, nothing has been taken" might reveal their responsibility in the matter of the staged burglary. In fact, for those not legally skilled, the expression "there's been a burglary inside the residence" corresponds to a succinct portrayal of the situation that they had observed; "breaking into the residence by means of breaking the window pane,

turning the room upside down…" not having neither the ability or the desire to begin debating the difference between mere trespassing, attempted theft or the actual commission of theft. What really mattered in that moment for those young people was, above all, to point out that the Carabinieri had already been called.
There has already been a discussion about the fact that in the telephone calls to the Carabinieri, Raffaele Sollecito had stated that nothing had been taken in the section "staged theft", and those discussions can be cited here to exclude that such a statement must be interpreted as an manifestation of awareness of the alleged (although not considered to be such by this Court) staged theft.

[135] Therefore, no actual contradiction can be inferred from the behaviour of the two young people, such that it can be assumed to have any circumstantial value against them.
The Court of the Assizes of First Instance, and prior to that the Prosecutor, submitted the behaviour exhibited by the two young people after the unexpected arrival of the Police, and as well in the following days, as part of the circumstantial evidence,: unlike others, they stayed back some way while the door was broken down and the corpse was discovered, both in that moment, as well as in the following days, even in the Police Station where they had been summoned, more than once they had hugged each other and exchanged signs of affection. Additionally, Amanda Knox who at the Questura, while waiting to be questioned, or while she was waiting for Raffaele Sollecito to be questioned, appeared to perform gymnastic exercises, such as "the cartwheel." Also her being in a shop with Raffaele Sollecito intent on buying underwear (it seems even a "thong" !!!) was noted as unseemly behaviour. But that is not all: one of the prosecutors claimed in his closing arguments to have noticed that during the projection of photographs in the courtroom of Meredith Kercher's knife-lacerated corpse, the two defendants did not look at those photographs, but instead, they both looked downward.
Well, this Court does not believe that one can attribute any circumstantial value to the behaviour described, even if hypothetically true, since there are innumerable ways of reacting for every human being who confronts tragic situations: the sharing of affection and even the display of gymnastic exercises can be explained by the need to regain a minimum of normality in the context of a tragic situation (whether they were innocent or guilty) by performing everyday acts and familiar behaviour.
And in any event, the interpretation of such behaviour ought to be a favourable one for the two present defendants. The Court of Assizes of first instance could not believe that two young people, two good young people, supposedly being aware of being the protagonists of a horrible crime, could maintain the desire to kiss and cuddle and to perform gymnastic exercises.

[136] As for purchasing items of underwear, it must be noted that, after the seizure of the via della Pergola residence, Amanda Knox was left without her own clothing inside the house, and therefore it was necessary to purchase some to change into. That she then purchased a "thong" rather than a more conservative style of panties, cannot really be considered a display of heartlessness or lewd tendencies, rather it is as a matter of common experience, a fashionable item in widespread use among young and not so young ladies.

Nor is the assigning any circumstantial value of guilt to them consented for having looked or not looked at the photographs of Meredith Kercher during the screening in the court room (besides the fact that this is behaviour observed by just one of the prosecutors who was present): these are photographs such as, because of the rawness of the images and the tragic nature of the event, for it to be painful and intolerable for anyone, especially if sensitive, to dwell upon their sight. They are even more so, therefore, for someone with whom the young victim had had a relationship of living together and of friendship.
But, ultimately, one could ask - even if the question was not raised by the Prosecutor, nor by the Court of Assizes of first instance - how is it possible that two young people, if innocent, were able to spend four years in prison, with the prospect of remaining there for more than twenty more, yet not go mad: is the fact that they did not go mad not to be interpreted as a firm belief in the justice of their condition, and therefore as an expression of consciousness of their own guilt?
The answer obviously can only be no: firstly, because it is dangerous to take into consideration facts which are not objectively measurable, the individual reactions of human beings, even in the most shocking tragedies being infinite; and secondly, because the hope of seeing, in the end, their own innocence affirmed can sustain someone who is truly innocent, in such hard trials.
Therefore, no circumstantial evidence against them can be drawn from the behaviour exhibited by Amanda Knox and Raffaele Sollecito, in the period following the verification of the murder.

[137] Concluding judgement

In light of what emerged at the first-level trial and of this Court's further findings [*acquisizioni*], the re-examination of the factual circumstances which the Court of Assizes of first instance held could be recognised as circumstantial evidence sufficient to justify a guilty verdict, has revealed — in the opinion of this Court — the substantive groundlessness [*insussistenza materiale*], not to mention the ambiguity, of this evidence.
In fact the only evidence that remains standing is represented by the consummation of the crime of criminal slander [*calunnia*] (but without the charged aggravating circumstance and therefore devoid of the necessary evidentiary link with the crime of murder), and of the not entirely proven truthfulness of the alibi (which it is a very different situation compared to the proven [*ritenuta*] falsehood of the same) and finally by the dubious reliability of witness Quintavalle. All the other evidence lacks[*sono venuti meno*] substance: this is the case with [*così è*] the time of death, established by the Court of Assizes of first instance [as having occurred] after 11 PM, and pinpointed by this Court [as having occurred] at around 10:15 PM; this is the case with [*così è*] the results of the genetic investigations carried out by the Scientific Police and the analysis of prints and other traces collected inside the house on Via della Pergola and, consequently, for the discovery of the murder weapon and the presence of Raffaele Sollecito and Amanda Knox in the house at the time of the crime; this is the case with [*così è*] the alleged staged breaking and

entering into the house on Via della Pergola via the breaking of the window, or with the behaviour of the two accused on the morning of November 2 and subsequent days.
In conclusion, the Court of Assizes of first instance, in order to reconstruct the case brought before it, believed that it could put together matters of fact, held to be certain in themselves but [each] carrying a not entirely unambiguous significance, into a unified framework within which each of those elements could achieve a final clarification and all of them, collectively, [would become] unambiguous, so as to rise to proof of guilt.
[138] Now, however, the "bricks" themselves have vanished [*sono venuti meno*] from that building: this is not only a question of a different relocation of those "bricks" so as to not permit the realisation of the planned architectural project, but rather of a lack of material necessary for the construction [in the first place]. And the absence [*il venire meno*] of substantial evidence [*elementi materiali*] in the prosecution theory [*progetto accusatorio*] obviously does not allow [this Court] to reach a guilty verdict beyond all reasonable doubt.
In fact, from the reading of the ruling under appeal it does not appear that the Court of Assizes of first instance considered the problem of assessing the evidence [*risultanze probatorie*] based on the principle established by Article 533 of the Code of Criminal Procedure, since the reconstruction of events is always done on a basis of probability. Indeed, the word "probable" (or "improbable") is used as many as 39 times over the course of the sentencing report, this is obviously only a lexical observation, but a significant one all the same.
And, in order to firm up a conviction [i.e. belief] based on assessments of mere probability, the Court of first instance felt the need to come up with a motive which, however, while not being corroborated by any objective element of proof, is itself not at all probable: the sudden choice, by two young people, good and willing to help [*disponibili*] others, of evil for evil's sake, just like that, for no other reason (hence the aggravating circumstance of trivial reasons argued by the Prosecutor). [A choice that is] all the more incomprehensible because it was aimed at supporting the criminal actions of a young man, Rudy Guede, with whom they had no relationship (there is, for example, no evidence of phone calls or text messages between the three young people) and who is different from them in personal history, character and human condition. This in addition to providing an explanation, not corroborated by any objective piece of evidence and wholly unlikely, for the presence on Via della Pergola of a knife taken from Raffaele Sollecito's kitchen.

The term "probable" was often used as well in the Prosecutor's closing arguments, [when] this Court was expressly warned not to give too much weight to the phrase "beyond all reasonable doubt" since this is supposedly - as the Prosecutor argued - only a redundant re-stating of a principle by which the legislator simply acknowledged concepts already developed by **[139]** jurisprudence and that, therefore, it does not require that anything more [*quid pluris*] be added [*rispetto*] to previous law in order to reach a guilty verdict.
The Prosecutor's argument can be accepted only in part. In other words [*cioè*], it is true that even before the above-mentioned principle became established in legislation, a conviction of a defendant could be pronounced only when the evidence against [the

defendant] was such as to allow to overcome the presumption of innocence. [This principle] permeates all [our] legislation (as Article 27, paragraph 2, of the Constitution but also, for example, the last part of Article 527, paragraph 3, Code of Criminal Procedure), and, therefore, even in the presence of incriminating but not entirely sufficient or contradictory evidence, the verdict had to be one of acquittal. But to assert that the reformulation of Article 533 *c.p.p.* with the inclusion of the above-mentioned principle, due to [*effettuata*] Article 5 of Law No. 46 of February 20, 2006, was an operation, so to speak, of "mere cosmetic surgery", seems to diminish the profound significance of this principle which, instead, the legislator wanted to reassert.

Furthermore, the analysis of the parliamentary work that preceded the issuing [*deliberazione*] of Law No. 46 of February 20. 2006, reveals that it is a widely accepted legal principle of judicial culture [*civiltà giuridica*] [shared] not only, of course, by those who voted in favour of the law, but also by those who opposed it, since they did not oppose it due to a disagreement with the substance of the principle, but only due to concerns [*valutazioni*] about the legal methodology [that was being adopted], holding that this could lead to coordination problems between the new wording of Article 533 *c.p.p.* and [the existing] Article 530 *c.p.p.*

Thus, the condition required by this Article [*norma*] in order to reach a guilty verdict, does not allow that a belief be formulated in terms of probability. In other words, in order to return a guilty verdict, it is not sufficient that the probability of the prosecution hypothesis to be greater than that of the defence hypothesis, not even when it is considerably greater, but [rather] it is necessary that every explanation other than the prosecution hypothesis not be plausible at all, according to a criterion of reasonability. In all other cases, the acquittal of the defendant is required.

[140] Thus, the Supreme Court of Cassation, Section 1, in ruling No. 17921, of March 3, 2010 (submitted on May 11, 2010) Rv. 247449:

"The judicial rule encapsulated in the formula "beyond all reasonable doubt" requires that conviction be declared on the condition that the probative data acquired leave out only remote possibilities, though abstractly possible to verbalise and proposed as possible in the reality of things [*in rerum natura*], but the actual occurrence of which in the specific case, would appear without the slightest corroboration within the trial findings, placing them outside of the natural order of things and of normal human rationality".

And, before that, the Supreme Court of Cassation Section 4, in ruling No. 48320, hearing of November 12, 2009 (submitted on December 17, 2009) Rv. 245879: "... In short, the rule of the beyond a reasonable doubt has definitively undermined [*messo in crisi*] that jurisprudence opinion [*orientamento giurisprudenziale*] according to which, in the presence of multiple hypotheses reconstructing the facts, the trial court [*giudice di merito*] was permitted to adopt one which led to conviction solely because [the court] deemed it more probable than the others. This will no longer be allowed because, in order to reach a guilty verdict, the court [*giudice*] must not only deem improbable any differing reconstruction of the facts which leads to the acquittal of the defendant, but must also hold that any doubt arising from this alternative hypothesis are unreasonable (in other words, it must be an implausible hypothesis or at least devoid of any corroboration whatsoever)".

It is the importance of the value at stake, the personal liberty of the accused, which entails a remarkable difference in the criteria for the assessment of evidence in criminal proceedings, in comparison with civil proceedings where the value at stake is mostly monetary in nature.
Thus, the Supreme Court of Cassation, Section 3, in ruling no. 10741 of May 11, 2009, Rv. 608391: "The assessment of the causal nexus in civil proceedings [*sede*], though inspired by the criteria of Articles 40 and 41 of the Criminal Code, according to which an event is considered to be caused by another one if the first [event] would not have occurred without the second, as well as the criterion of the so-called adequate causality, on the basis of which, within the causal chain, only those events that do not appear as being – to an **[141]** ex-ante assessment – totally unrealistic are to be considered [*occorre dar rilievo*], nevertheless presents significant differences in the applicable rules of evidence, given the difference in the values at stake between criminal and civil liability. In a civil trial, the rule of preponderance of the evidence, or of the " more likely than not", is followed [*vige*] while in a criminal trial the rule of proof "beyond a reasonable doubt" must be applied [*vige*]".
So in our case, where the value at stake is the personal liberty of the accused, the evaluation of the incriminating evidence must be done in the strictest compliance with the above-mentioned principle.
Well, the only elements of circumstantial evidence [*elementi indiziari*] still standing (consummation of the crime of criminal slander [*calunnia*] but without the charged aggravating circumstance, the not entirely proven truthfulness of alibi, the dubious reliability of witness Quintavalle) do not allow, even when considered collectively, to reach as deemed proven in some way the guilt of Amanda Knox and Raffaele Sollecito for the crime of murder and other crimes instrumental to it. The collapse in its substance of the circumstantial evidence on which the Court of Assizes of first instance based its own decision, exempts us from having to propose an alternative hypothesis.
Once the existence of proof of guilt against the current accused has been ruled out, it is indeed not this Court's duty [*spetta*] to propose how the events may have really unfolded, nor [to establish if] the perpetrator was one or more than one, or if there were other investigative hypotheses that were neglected. What is relevant for the purposes of [our] decision, is only the lack of proof of guilt of the current defendants.
Hence their acquittal for the charged crimes under counts A, B, C, D for not having committed the offence, and of the crime at count E because the deed did not occur.

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The acquittal of the accused from the crimes ascribed to them (with the exception of the crime of criminal slander [*calunnia*], for which Amanda Knox was found guilty) entails the rejection of the request made against them by the civil parties with respect to these [*detti*] crimes: Mrs. Aldalia Tattanelli and the family of **[142]** Meredith Kercher. The cross appeal submitted by the Prosecutor [*P.M.*], which requires [*presuppone*] a declaration of guilt, must also be rejected.

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Here ends the grave task of this Court of Assizes which has seen all the judges, lay and professional, united by a deep sense of justice but also of humility before the dark tragedy of human events, sharing the belief that "Even if judicial error can never be completely eliminated" - to quote the Supreme Court in the above-mentioned ruling, No. 10741 of November 12, 2009 - "the rule introduced serves to signify that, while [our] legal system [*ordinamento*] tolerates the acquittal of the guilty, it does not tolerate the conviction of the innocent".

FOR THESE REASONS [*P.Q.M.*]

The Court of Assizes of Appeal of Perugia

In accordance with Article 605 of the Criminal Procedure Code,
in partial modification of the sentence pronounced on the date of December 4-5, 2009 by the Court of Assizes of first instance of Perugia in the matter of Amanda Marie Knox and Raffaele Sollecito, appealed by the same and cross-appealed by the Prosecutor's Office of Perugia,

FINDS

Amanda Marie Knox, guilty of the offence under count F, ruling out the aggravation under Article 61(2) of the Criminal Code, and deeming [*riconosciute*] the generic mitigating circumstances [as] equivalent to the aggravating [circumstance] under the second paragraph of Article 368 of the Criminal Code, sentences her to the penalty of three years of imprisonment; confirms, with regard to this count alone, the civil decrees of the ruling under appeal and orders Amanda Marie Knox, to pay the court costs and the attorney fees of the civil party expended in the present proceedings by Patrick Diya Lumumba, liquidating in total to 22,170 euros for rights and further orders reimbursement general costs and miscellaneous expenses according to law;

ACQUITS

[143] both the accused of the crimes charged against them under counts A, B, C, D for not having committed the deed, and of the crime under count E because of the fact did not occur, rejecting the request made against them by the civil party Tattanelli, Aldalia;

ORDERS

the immediate release of Amanda Marie Knox, and Raffaele Sollecito, if not detained for other cause.

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Establishes a term of ninety days for the submission of the sentencing report.

Perugia, October 3, 2011.

The Counsel-Scribe	The President and Scribe
(Dr Massimo Zanetti)	(Dr Claudio Pratillo Hellmann)