

Basic Court of Mitrovicë/Mitrovica

P. No. 122/2014

23 October 2015

In the name of the people

The Basic Court of Mitrovicë/Mitrovica in the trial panel composed of EULEX judges Dariusz Sielicki as presiding trial judge and Jorge Ribeiro and Katrien Witteman as panel members, assisted by the EULEX legal adviser Dukagjini Kerveshi acting as a recording clerk in the criminal case P.No. 122/2014 against the following accused charged by the indictment no PP.No. 363/2012 filed by the prosecutor of Mitrovicë/Mitrovica Basic Prosecution Office on 13 November 2014:

1. **S.S.** (aka '____'), born __ __ __ __, place of birth unknown; of _____ nationality; father's name _____; mother's name _____;
2. **B.J.** (aka '____'), born on _____ in _____; Kosovo _____; father's name _____; mother's name _____;
3. **D.R.** (aka '____'), born on _____ in _____; Kosovo _____; father's name _____; mother's name _____;
4. **Ž.J.** born on _____ in _____; Kosovo _____; father's name _____; mother's name _____;

5. **B.Đ.** (aka '____'), born on ____ in _____; Kosovo ____; father's name _____; mother's name _____;

6. **U.B.** , born on ____ in _____; Kosovo ____; father's name _____; mother's name _____;

7. **R.T.** (aka '____'), born on ____ in _____; Kosovo ____; Father's name _____; mother's name _____;

after the main trial hearing held in public and in the presence of all accused and their defence counsel, respectively:

Dobrica Lazic for **S.S.** ,

Faruk Korenica for **B.J.** ,

Miodrag Brkljac for **D.R.** ,

Agim Lushta for **Z.J.** ,

Kapllan Baruti for **B.D.** ,

Xhelal Hasani for **U.B.** ,

Bogdan Vladislavljevic for **R.T.** ;

on the days: 1, 27 and 29 July, 18 August, 4 and 8 September, 12, 21 and 23 October 2015; after the trial panel deliberation and voting held on 23 October 2015, pursuant to Article 359 of the Criminal Procedure Code of the Republic of Kosovo (CPCRK), in the presence of the accused, their defence counsel and EULEX Prosecutor of the Mitrovicë/Mitrovica Basic Prosecution Office, on 23 October 2015 pronounces in public the following:

V E R D I C T

I. **S.S.** _____ is hereby found guilty because: on __ ____, at approximately __:__ hrs, in the centre of _____, acting jointly with another identified person and with 13 to 18 other unknown co-perpetrators, he attacked the liberty of _____ personnel: the _____ of _____ in _____ (hereinafter: _____) _____ M.B. _____, C.C. _____, and M.S. _____

travelling on board of an _____ vehicle TOYOTA Land Cruiser, registration number ____-____-____, ____ (_____) type, by blocking the road in front of the vehicle and by throwing stones, spraying paint and hitting its bodywork and windows with a hammer, breaking two external rear-view mirrors, the rear window and rear lights, and choking the engine by putting polyurethane foam into the vehicle's snorkel, and by doing so

S.S. _____ obstructed the _____ in carrying out their _____ and also caused damage to the _____' property in a total amount of 8,500.20 euros;

and by doing so **S.S.** _____ committed the following criminal offences in concurrence:

I.1 Endangering United Nations or Associated Personnel in co-perpetration under Article 142 Paragraph 2 and Article 23 of the Criminal Code of Kosovo of 6 November 2008 (CCK), and for this offence, pursuant to Article 142 Paragraph 3 and Article 23 of the CCK, he is hereby sentenced to 1 (one) year and (6) months of imprisonment;

I.2 Obstructing Official Persons in Performing Official Duties in co-perpetration under Article 316 Paragraphs 1 and 3 of the CCK, and for this offence, pursuant to Article 316 Paragraph 3 of the CCK, he is hereby sentenced to 6 (six) months of imprisonment;

I.3 Attacking Official Person Performing Official Duties in co-perpetration under Article 317 Paragraph 1 and Article 23 of

the CCK, and for this offence, pursuant to Article 317 Paragraph 1 and Article 23 of the CCK, he is hereby sentenced to 8 (eight) months of imprisonment;

I.4 Damage to Movable Property in co-perpetration under Article 260 Paragraph 1 and Article 23 of the CCK, and for this offence, pursuant to Article 260 Paragraph 1 and Article 23 of the CCK, he is hereby sentenced to fine in amount of 1500 (one thousand five hundred) euros.

II. **B.J.** is hereby found guilty of the following action: that on _____ at around __:__ hrs near the village of _____, he attacked a _____ vehicle Toyota Landcruiser __ (_____) type, registration number __-____-__, driven by _____ T.A. who was performing his _____, by breaking the right side rear-view mirror of the vehicle while it was passing by an improvised roadblock, and also caused damage to _____' property in the amount of 599.14 euros, and by doing so **B.J.** committed the criminal offences in concurrence the *following* criminal offences:

II.1 Endangering United Nations or associated Personnel under Article 142 Paragraph 2 of the Criminal Code of Kosovo of 6 November 2008 (CCK) and for this offence, pursuant to Article 142 Paragraph 2 of the CCK, he is hereby sentenced to 1 (one) year and 4 (four) months of imprisonment;

II.2. Obstructing Official Persons in Performing Official Duties under Article 316 Paragraphs 1 and 3 of the CCK, and for this offence, pursuant to Article 316 Paragraph 3 of the CCK, he is hereby sentenced to 4 (four) months of imprisonment;

II.3. Attacking Official Persons Performing Official Duties under Article 317 Paragraph 1 of the CCK, and for this offence, pursuant to Article 317 Paragraph 1 of the CCK, he is hereby sentenced to 6 (six) months of imprisonment;

II.4. Damage to Movable Property under Article 260 Paragraph 1 of the CCK, and for this offence, pursuant to Article 260 Paragraph 1 of the CCK, he is hereby sentenced to a fine in the amount of 700 (seven hundred) euros.

III. **S.S.** and **B.J.** are hereby found guilty of the following action: that on _____ between around __:__ and __:__ hrs, near _____, the accused acting in co-perpetration with approximately 18 to 28 other unknown perpetrators and one identified person blocked the way in front of a convoy consisting of one _____ vehicle and _____ vehicles Toyota Landcruiser __ (_____) type cars, registration numbers: __-____-__, __-____-__ and __-____-__, with _____ J.R. _____, A.W. _____, D.D. _____, S.S. _____ and T. _____ A. _____ on board, who were performing their _____, by parking other vehicles and dwelling on the roadway in front of the convoy, and after around 40 minutes they attacked the aforementioned _____ vehicles by throwing stones, while **S.S.** _____ broke the left side rear-view mirror of _____ vehicle __-____-__ and the blue police light of the _____ vehicle __-____-__, and by doing so they caused damage to _____' property in the amount of 1,419.93 euros,

and by doing so **S.S.** _____ and **B.J.** _____ committed the following criminal offences in concurrence:

III.1. Endangering United Nations or Associated Personnel in co-perpetration under Article 142 Paragraph 3 and Article 23 of the Criminal Code of Kosovo of 6 November 2008 (CCK) and for this offence, pursuant to Article 142 Paragraph 3 and Article 23 of the CCK, they are hereby sentenced:

- **S.S.** to 1 (one) year and 6 (six) months of imprisonment;
- **B.J.** to 1 (one) year and 6 (six) months of imprisonment;

III.2. Obstructing Official Persons in Performing Official Duties in co-perpetration under Article 316 Paragraphs 1 and 3 and Article 23 of the CCK, and for this offence, pursuant to Article 316 Paragraph 3 and Article 23 of the CCK, they are hereby sentenced:

- **S.S.** to 8 (eight) months of imprisonment,
- **B.J.** to 8 (eight) months of imprisonment;

III.3. Attacking Official Persons Performing Official Duties in co-perpetration under Article 317 Paragraph 1 and Article 23 of the CCK, and for this offence, pursuant to Article 317 Paragraph 1 and Article 23 of the CCK, they are hereby sentenced:

- **S.S.** to 10 (ten) months of imprisonment;
- **B.J.** to 10 (ten) months of imprisonment;

III.4. Damage to Movable Property in co-perpetration under Article 260 Paragraph 1 and Article 23 of the CCK, and for this offence, pursuant to Article 260 Paragraph 1 and Article 23 of the CCK they are hereby sentenced:

- **S.S.** to a fine in amount of 1,000 (one thousand) euros;

- **B.J.** to a fine in amount of 1,000 (one thousand) euros;

IV. Pursuant to Article 71 Paragraph 1 Subparagraphs 2.1 and 2.2 of the CCK, for the abovementioned offences **S.S.**

is hereby sentenced to an aggregate punishment of 2 (two) years of imprisonment and a fine in the amount of 2,000 (two thousand) euros;

V. Pursuant to Article 71 Paragraph 1 Subparagraphs 2.1 and 2.2 of the CCK, for the abovementioned offences **B.J.**

is hereby sentenced to an aggregate punishment of 1 (one) year and 10 (ten) months of imprisonment and a fine in the amount of 1,500 (one thousand and five hundred) Euros;

VI. Pursuant to Article 43 Paragraph 2 and Article 44 Paragraph 1 of the CCK, the aggregate punishment of imprisonment imposed against **S.S.** shall not be executed if he does not commit another criminal offence for the verification period of 4 (four) years;

VII. Pursuant to Article 43 Paragraph 2 and Article 44 Paragraph 1 of the CCK the aggregate punishment of imprisonment imposed against **B.J.** shall not be executed if he does not commit another criminal offence for the verification period of 4 (four) years;

VIII. Pursuant to Article 364 Paragraph 1 subparagraph 1.3 of the CPCRK **S.S.** is hereby acquitted of the following action : that on __ __ ____, at approximately

__:__ hrs, in the centre of _____, acting jointly with another identified person and other unknown perpetrators, they attacked _____ vehicle by throwing stones and various objects, spray painting the vehicle and its windows to block the vision of the _____ inside, by hitting the vehicle with hammers to break the windows in order to try to get inside the vehicle in order to harm its passengers, which was classified in the indictment as:

the criminal offence of Participating in a Crowd Committing a Criminal Offence contrary to Article 320 paragraph 1, read in conjunction with article 23 of the Criminal Code of Kosovo *pari materia* with Article 412 paragraph 1, read in conjunction with article 31 of the Criminal Code of the Republic of Kosovo of 20 April 2012 (CCRK),

because it has not been proven that he committed this offence;

IX. Pursuant to Article 364 Paragraph 1 subparagraph 1.3 of the CPCRK, **D.R.** _____, **Z.J.** _____, **B.** _____, **D.** _____, **U.B.** _____ and **R.T.** _____ are hereby acquitted of the following action: that on _____ between the hours __:__ and __:__, in the area near the village of _____, the defendants acting jointly with other unknown perpetrators, in the commission of the criminal offence of Endangering United Nations or associated Personnel, they were trying to get inside _____ vehicles, by throwing stones at the vehicles and trying to flatten the tires to immobilize the vehicles, which action was classified in the indictment as the criminal offences of:

- IX.1 Endangering United Nations or associated Personnel in co-perpetration contrary to Article 142 paragraphs 3 and 6.2.1, read in conjunction with article 23 of the CCK *pari materia* with Article 174 paragraphs 3 and 6.2.1, read in conjunction with article 31 of the CCRK;
- IX.2 Obstructing Official Persons in Performing Official Duties in co-perpetration contrary to Article 316 paragraph 1, read in conjunction with article 23 of the CCK *pari materia* with Article 409 paragraph 1, read in conjunction with article 31 of the CCRK;
- IX.3 Attacking Official Persons Performing Official Duties in co-perpetration contrary to Article 317 paragraph 1, read in conjunction with article 23 of the CCK *pari materia* with Article 410 Paragraph 1, read in conjunction with article 31 of the CCRK;
- IX.4 Participating in a Crowd Committing a Criminal Offence in co-perpetration contrary to Article 320 paragraph 1, read in conjunction with article 23 of the CCK *pari materia* with Article article 412 Paragraph 1, read in conjunction with article 31 of the CCRK;
- IX.5 Causing Damage to Movable Property in co-perpetration contrary to Article 260 Paragraphs 1 and 2, read in conjunction with Article 23 of the CCK *pari materia* with Article 333 Paragraphs 1 and 4, read in conjunction with article 31 of the CCRK,

because it has not been proven that they committed these offences;

- X. Pursuant to Article 364 Paragraph 1 subparagraph 1.3 of the CPCRK **S.S.** and **B.J.** are hereby acquitted of the following action: that on _____ between the hours __:__ and __:__, in the area near

the village of _____, the accused acting jointly with:
D.R. _____, **Z.J.** _____, **B.D.** _____, **U.**
B _____ and **R.T.** _____, another identified person
and other unknown perpetrators, in the commission of the
criminal offences of Endangering United Nations and
Associated Personnel, they were trying to get inside
_____ vehicles, by throwing stones at the vehicles and
trying to flatten the tires to immobilize the vehicles,
and this action was classified in the indictment as the
criminal offence of Participating in a Crowd Committing a
Criminal Offence contrary to Article 320 paragraph 1,
read in conjunction with article 23 of the CCK *pari*
materia with Article 412 Paragraph 1, read in conjunction
with article 31 of the CCRK, because it has not been
proven that they committed this offence;

XI. Pursuant to Article 363 Paragraph 1 subparagraph 1.1
CPCRK the charge against **S.S.** _____ consisting of
the following action: that on _____ between the
hours __:__ and __:__, in the area near the village of
_____, he stole the _____ from the top of the
_____ vehicle __-____-__, which action was classified in
the indictment as the criminal offence of Theft under
Article 252 paragraph 1 of the CCK, is hereby rejected
because the prosecutor withdrew this charge;

XII. Pursuant to Article 83 Paragraph 1 of the CCK, the period
of deprivation of liberty of **S.S.** _____ from 15 May
2014 until 15 July 2015 while in in detention on remand,
is included in the imprisonment imposed on him in case it
is executed;

XIII. Pursuant to Article 453 Paragraph 3 the CPCRK, the cost
of the criminal proceedings shall be partially reimbursed

