

**IN THE BASIC COURT OF PRISHTINE/PRISTINA**

[The judgments published may not be final and may be subject to an appeal according to the applicable law.]

**Case Number: PKRNR 942/13**

**11 March 2014**

***IN THE NAME OF THE PEOPLE***

**THE BASIC COURT OF PRISTINA** in the Trial Panel composed of EULEX Judge Malcolm Simmons, presiding and Judge Faik Hoxha and EULEX Judge Franciska Fiser, panel members and Sonila Macneil, as Recording Officer, in the criminal case against:

**A.V.;**

**CHARGED** in the Indictment of the EULEX Special Prosecutor PPS No. 65/2013 dated 16 September 2013 and filed on 16 September 2013 as amended on 1 October 2013 and 7 March 2014, in the following Counts:

**COUNT 1**

**Unauthorised purchase, possession, distribution and sale of dangerous narcotic drugs and psychotropic substances**, in violation of Article 229, paragraphs 1, 2, 3 and 4 of the Criminal Code of Kosovo<sup>1</sup> and punishable by a fine and by imprisonment of three to fifteen years

**BECAUSE** between 1 January 2012 and 21 February 2012, A.V. on the territory of Kosovo committed the offence of unauthorised purchase, possession, distribution and sale of dangerous narcotic drugs and psychotropic substances by organising and participating in

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<sup>1</sup> *Corresponding to Articles 273 and 279 of the Criminal Code of Kosovo, Law 04/L-082 of 2012 (new code)*

the purchase, sale, transportation, delivery, exportation from Kosovo and importation into the Federal Republic of Germany through other countries in Europe of a shipment of 1.496 kg of heroin as a member of a group, the heroin having been seized on 20<sup>th</sup> February 2012 in Munich, recovered from a Toyota Corolla motor vehicle with registration number XXX-XXXXX, the heroin having been received in Munich by L.G., D.K. and M.K., in coperpetration, pursuant to Article 23 of the Criminal Code of Kosovo.

## **COUNT 2**

**Unauthorised purchase, possession, distribution and sale of dangerous narcotic drugs and psychotropic substances**, in violation of Article 229, paragraphs 1, 2, 3 and 4 of the Criminal Code of Kosovo<sup>2</sup> and punishable by a fine and by imprisonment of three to fifteen years.

**BECAUSE** between 1 May 2012 and 01 July 2012, A.V. on the territory of Kosovo committed the offence of unauthorised purchase, possession, distribution and sale of dangerous narcotic drugs and psychotropic substances by organising and participating in the purchase, sale, transportation, delivery, exportation from Kosovo and importation into the Federal Republic of Germany through other countries in Europe of a shipment of 1.436 kg of heroin as a member of a group, the heroin being seized on 10<sup>th</sup> June 2012 in Munich, Germany, recovered from an Opel Astra vehicle with Serbian registration number XX-XXX-XX, the heroin having been received by R.A., O.B. and L.Z., in co-perpetration, pursuant to Article 23 of the Criminal Code of Kosovo.

## **COUNT 3**

**Organised Crime**, in violation of Article 274 paragraphs 1, 2 and 3 of the Criminal Code

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<sup>2</sup> *Corresponding to Articles 273 and 279 of the Criminal Code of the Republic of Kosovo, Law 04/L-082 of 2012*

of Kosovo<sup>3</sup> (hereinafter “CCK “) and punishable by a fine of up to 500.000 EUR and by imprisonment of seven to twenty years.

**BECAUSE** between 1<sup>st</sup> January 2012 and 1<sup>st</sup> July 2012, A.V. on the territory of Kosovo committed the offence of organised crime by committing a serious crime, namely unauthorised purchase, possession, distribution and sale of dangerous narcotic drugs, by organising and participating in the purchase, sale, transportation, delivery, exportation from Kosovo and importation into the Federal Republic of Germany of two shipments of heroin, specifically, 1.496 kg of heroin seized on 20<sup>th</sup> February 2012 in Munich, Germany, from a Toyota Corolla motor vehicle with registration number XXX-XXXXX and 1.436 kg seized on 10<sup>th</sup> June 2012 in Munich, Germany, from an Opel Astra vehicle with Serbian registration number XX-XXX-XX; within a structured group together with L.G., M.K., D.K., G.Y., F.F., O.B., L.Z., R.A. and other unidentified co-perpetrators; actively participating in the criminal group; and organising, establishing, supervising, managing or directing the activities of the group; in order to obtain, directly or indirectly, a financial or other material benefit.

**HAVING** held the Main Trial sessions in open court on 19, 21, 27 November; 4 and 11 December 2013; 6 and 8 January; 19 February and 7 March 2014, in the presence of the Accused A.V., his Defence Counsel Asdren Hoxha and in the presence of EULEX Special Prosecutor Andrew Carney of the Special Prosecution Office of Kosovo;

**AFTER** deliberation and voting held on 11th March 2014;

**PURSUANT** to Article 362 paragraph 1, Article 365 and Article 366 of the Kosovo Criminal Procedure Code on this 11<sup>th</sup> day of March 2014, in open court and in the presence of the defendant, his Defence Counsel and the EULEX Special Prosecutor, renders the following

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<sup>3</sup> *Corresponding to Article 283 of the Criminal Code of the Republic of Kosovo, Law 04/L-082 of 2012*

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## JUDGMENT

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**A.V.**, with personal details above, in detention since 23 January 2013 is:

### GUILTY

**BECAUSE** between 1 January and 10 June 2012, the Defendant, on the territory of Kosovo, organized and participated in the purchase, possession, sale, transportation, delivery, exportation from Kosovo and importation into the Federal Republic of Germany of two shipments of heroin, specifically, 1.496 kg of heroin seized on 20 February 2012 in Munich, Federal Republic of Germany<sup>4</sup>, from a Toyota Corolla motor vehicle registration number XXX-XXXXX driven by M.K. in which D.K. was being carried and 1.436 kg of heroin seized on 10 June 2012 in Munich, Federal Republic of Germany<sup>5</sup>, from an Opel Astra motor vehicle registration number XX-XXX-XX driven by R.A. and found in the possession of R.A., O.B. and L.Z.; within a structured group together with L.G., M.K., D.K., G.Y., O.B., L.Z., R.A. and other unidentified co-perpetrators; actively participating in the criminal group; and organising, establishing, supervising, managing and directing the activities of the said group; in order to obtain, directly or indirectly, a financial or other material benefit<sup>6</sup>,

**THEREBY**, pursuant to Article 3 paragraph 2 of the Criminal Code of the Republic of Kosovo<sup>7</sup>, committing the criminal offence of Organised Crime, in violation of Article 274

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<sup>4</sup> Count 1

<sup>5</sup> Count 2

<sup>6</sup> Count 3

<sup>7</sup> Law 04/L-082 of 2012

paragraphs 1 and 3 of the CCK in conjunction with the criminal offence of Unauthorised purchase, possession, distribution and sale of dangerous narcotic drugs and psychotropic substances under Article 229, paragraph 3 of the CCK.

**HAVING** been convicted of the criminal offence of Organised Crime under Article 274 paragraphs 1 and 3 of the CCK in conjunction with the criminal offence of Unauthorised purchase, possession, distribution and sale of dangerous narcotic drugs and psychotropic substances under Article 229, paragraph 3 of the CCK, pursuant to Articles 3, 34, 38, 39, 64, 65 and 274 (3) of the CCK the defendant, A.V., is sentenced to a punishment of **10 (ten) years imprisonment** and a **fine in the sum of 20,000 (twenty thousand) Euros**, to be paid within 30 days, after this judgment becomes final.

**PURSUANT** to Article 73 (1) of the CCK the time spent in detention from 23 January 2013 to the date hereof shall be credited towards the sentence.

**PURSUANT** to Articles 450, 451 and 453 of the Criminal Procedure Code of Kosovo the Accused shall reimburse the costs of the criminal proceedings, assessed in the sum of 4,600 (four thousand six hundred) Euros<sup>8</sup> together with the Scheduled Amount, assessed in the sum of 500 (five hundred) Euros.

Any property claim shall be pursued through the civil courts.

**FURTHER**, detention on remand is hereby extended until the Judgment becomes final, because the risk of flight still exists as foreseen by Article 187, paragraph 1, subparagraphs 1.1, 1.2 and 1.2.1 of the CCK, but no longer than the expiry of the term of punishment imposed in the Judgment. A separate Ruling on detention will be issued.

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<sup>8</sup> To include the sum of 3000 GBP (three thousand Great British Pounds Sterling) paid to Paul Baker of Audio Forensic Services for his report dated 17 December 2013 and a further 100 (one hundred) Euros for his giving evidence from the United Kingdom via video link on 19 February 2014

**Legal remedy:**

Authorized persons may file an appeal in written form against this judgment through the Basic Court of Prishtinë/Pristina to the Court of Appeals within fifteen (15) days from the date the copy of the judgment has been served, pursuant to Article 380 paragraph 1 of the CPC.

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**Malcolm Simmons**

**Presiding Judge**

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**Franciska Fiser**

**Panel member**

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**Faik Hoxha**

**Panel member**