

**BASIC COURT OF MITROVICË/MITROVICA**

**P.nr. 59/2014**

**20 April 2015**

**IN THE NAME OF THE PEOPLE**

**THE BASIC COURT OF MITROVICË/MITROVICA**, in the Trial Panel composed of EULEX Judge Paulo Teixeira as Presiding Judge and EULEX Judges Nuno Manuel Ferreira de Madureira and Franciska Fiser as Panel Members, with the participation of EULEX Legal Officers Vera Manuello as Recording Officers, in the criminal case P.nr. 59/2014:

*Against:*

**R.R.** \_\_\_\_\_ (**aka. K.** \_\_\_\_\_), born on \_\_\_\_\_, in \_\_\_\_\_, \_\_\_\_\_, father's name Z. \_\_\_\_\_, occupation: \_\_\_\_\_, formerly residing in \_\_\_\_\_, \_\_\_\_\_, Kosovo, married, Passport or ID No. \_\_\_\_\_, Driving Licence No. \_\_\_\_\_; Currently in detention on remand;

and

**M. "D" V.** \_\_\_\_\_ (**aka. J.** \_\_\_\_\_), born on \_\_\_\_\_, in \_\_\_\_\_, \_\_\_\_\_, father's name D. \_\_\_\_\_, occupation: \_\_\_\_\_, \_\_\_\_\_, Kosovo, married, ID card no. \_\_\_\_\_; Currently released on bail;

*Accused* through the Indictment of the State Prosecutor in Mitrovica dated 07 May 2014 and filed with the Registry on 08 May 2014 with the criminal offences of:

1. **Aggravated Murder** in violation of Articles 146 and 147(4), (6), (8) and (10) of the Criminal Code of Kosovo, UNMIK/REG/2003/25 (CCK) as read in conjunction with Article 23 of the CCK *pari materia* of Articles 178 and 179(1.5), (1.7), (1.9) and (1.10) of the Criminal Code of the Republic of Kosovo, Code No. 04/L-082 (CCRK) as read in conjunction with Article 31 of the CCRK;

2. **Attempted Aggravated Murder** in violation of Articles 146 and 147(4), (6), (8) and (10) of the CCK as read in conjunction with Articles 20 and 23 of the CCK *pari materia* of Articles 178 and 179 (1.5), (1.7), (1.9) and (1.10) of the CCRK as read in conjunction with Articles 28 and 31 of the CCRK;
3. **Unauthorized Ownership, control, possession or use of a weapon** in violation of Article 328(1) and (2) of the CCK as read in conjunction with Article 23 of the CCK *pari materia* with Articles 374 of the CCRK as read in conjunction with Article 31 of the CCRK;
4. **Obstructing official persons in performing official duties** in violation of Article 316(1) and (3) of the CCK as read in conjunction with Article 23 of the CCK *pari materia* of Articles 409(1) and (2) of the CCRK as read in conjunction with Article 31 of the CCRK;
5. **Endangering public traffic by dangerous act or means** in violation of Article 299(1) of the CCK as read in conjunction with Article 23 of the CCK *pari materia* of Article 380(1) of the CCRK as read in conjunction with Article 31 of the CCRK;
6. **Causing general danger** in violation of Article 291(1), (3) and (5) of the CCK as read in conjunction with Article 23 of the CCK *pari materia* of Article 365 of the CCRK as read in conjunction with Article 31 of the CCRK;
7. **Participating in a crowd committing a criminal offence** in violation of Article 320(1) of the CCK as read in conjunction with Article 23 of the CCK *pari materia* of Article 412 of the CCRK as read in conjunction with Article 31 of the CCRK;

*After having held* the Main Trial hearings, all open to the public, on 19 (suspended), 20 and 29 January 2015, 27 February 2015, 09, 12, 17, 18, 20 and 23 March 2015, 01 and 16 April 2015, in the presence of the Prosecutor, the Accused **R.R.** \_\_\_\_\_, his Defence Counsels Zivojin Jokanovic and/or Nebojsa Vlajic, the Accused **M.V.** \_\_\_\_\_, his Defence Counsel Agim Lushta, the Victims representative Burhan Maxhuni and the Injured Parties D.Z. \_\_\_\_\_ and D.P. \_\_\_\_\_.

*After having held* the Main Trial hearings, closed to the public, on 29 January 2015 at 15:27hrs until 15:50hrs and on 30 January 2015, in the presence of the Prosecutor, the Accused **R.R.** \_\_\_\_\_, his Defence Counsels Zivojin Jokanovic and/or Nebojsa Vlajic, the Accused **M.V.** \_\_\_\_\_, his Defence Counsel Agim Lushta, the Victims

representative Burhan Maxhuni and the Injured Parties D.Z. \_\_\_\_\_and D.P. \_\_\_\_\_.

*Having heard* the parties' closing statements on 16 April 2015,

*Having into consideration* that the Court is not bound by the legal qualification of the criminal offence as set out in the Prosecution's Indictment according to Article 360 Paragraph (2) of the Criminal Procedure Code, Criminal No. 04/L-123 (CPC) and that the Court may *ex officio* re-classify the original criminal offence into a different one based on facts not entirely coincident with those described in the Indictment but which do not configure a substantial change in the circumstances,

*Following* the Trial Panel's deliberation and voting held on 19 and 20 April 2015,

*Within* the legal prescribed period of time as set in Article 366 Paragraph (1) and Article 446 Paragraph (4) of the CPC,

*Pursuant to* Article 366 Paragraph (1) of the CPC, on 20 April 2015, in a public hearing and in the presence of the Accused persons, their Defence Counsel, the State Prosecutor, the Injured parties and their representative,

***Renders the following:***

## J U D G M E N T

**I. The Accused M.V. \_\_\_\_\_, personal data as above, Under Count 1 is found NOT GUILTY**

Because it **was proven** beyond reasonable doubt that:

1. On the 26th of July 2011, at approximately 13:30 hrs, more than fifty (50) Kosovo \_\_\_\_\_, members of the \_\_\_\_\_ (\_\_\_\_\_), who were on standby at the Mitrovicë/a \_\_\_\_\_ base, located in \_\_\_\_\_, received the order to depart in the direction of Gate 31 in order to take control of the border point. The convoy of \_\_\_\_\_ vehicles therefore left the \_\_\_\_\_ base: the convoy consisted of two armoured vehicle (one of them was leading the convoy and the second one was at the end of the convoy) and approximately 10-12 \_\_\_\_\_ vehicles were between the

armoured cars. While proceeding towards Gate 31 along the main asphalted road between Mitrovicë/a and Zubin Potok, in the vicinity of the village of Qaber, the \_\_\_\_\_ convoy encountered a first barricade made of stones and sand which prevented the convoy from further proceeding along the main road. Therefore, the \_\_\_\_\_convoy used an alternative/secondary road in order to overcome the barricade and then went back on the main road in the direction of Gate 31.

2. Having proceeded for some 10 minutes, in the area located between the village of Varage and the village of Zupce the \_\_\_\_\_convoy encountered a second obstacle: this time a barricade made up of three (3) vehicles placed in the middle of the road. The passengers and drivers of the three vehicles stepped out of their cars and started confronting the \_\_\_\_\_, by screaming and making gestures at them.

3. Around Eight (8) persons stepped out of the vehicles, and started to argue with the \_\_\_\_\_. A few moments later one more vehicle with two (2) persons approached and stopped at some distance from the barricade. Some \_\_\_\_\_ got out of their vehicles and ordered (in Serbian and Albanian language) to the persons who were blocking and obstructing the public highway to remove the obstructions and remove their cars. These persons did not obey that order and continued screaming and shouting at the \_\_\_\_\_, gesturing and raising their fingers at the \_\_\_\_\_. At that point the operation leader gave the order that the armoured vehicle should proceed and push away the vehicles of the barricade. As soon as the armoured vehicle approached the vehicles that were blocking the road, the around eight (8) persons who were standing behind the barricade left and entered the woods located on left side. As soon as the persons left the barricade a first single fire shot was heard and the \_\_\_\_\_ involved in the operation were immediately informed that one of them had been severely injured. Immediately following these rapid shooting ensued from the front-left side of the \_\_\_\_\_convoy.

4. A bullet had hit the face of the victim and injured party, E.Z. \_\_\_\_\_, member of the \_\_\_\_\_Unit, who was driving the second vehicle of the \_\_\_\_\_ convoy. At the moment he was hit, his vehicle was positioned parallel to the armoured vehicle leading the convoy.

5. After the first shot which had hit E.Z. \_\_\_\_\_, rapid shooting started against the vehicles from three different directions and it lasted for an undetermined period of time no longer than fifteen (15) minutes. The \_\_\_\_\_ fired back in order to defend themselves and to recover the body of the injured \_\_\_\_\_ that was moved to the armoured vehicle. The shooting against the \_\_\_\_\_ convoy lasted until the convoy pulled back moving in the direction of Mitrovicë/a.

6. The incident took place on a bright summer afternoon when the weather was fine with good visibility.

7. Mr. F.U. \_\_\_\_\_ was assigned to the armoured vehicle which was leading the \_\_\_\_\_ convoy heading towards Gate 31. The witness Mr. F.U. \_\_\_\_\_ was inside the leading armoured vehicle and the distance between him and the perpetrators was not clearly determined but was no more than 20 meters from the barricade.

8. On the 26th of July 2011 between the hours of 13:30 hours and 14:25 hours in the area located between the village of Varage and the village of Zupce in the Municipality of Zubin Potok, one undetermined group of people acted depriving the life of E.Z. \_\_\_\_\_ for racial and national motives due to his \_\_\_\_\_ and Kosovar nationality at the time when E.Z. \_\_\_\_\_ was executing his lawful duties of protecting legal order, safeguarding persons or property, and keeping public order and peace and in doing so intentionally endangered the life of passengers in the car.

9. M.V. was fully mentally competent.

**But also it was not proven beyond reasonable doubt that:**

1. On the 26th of July 2011, between the hours of 13:30 hours and 14:15 hours, in the area located between the village of Varage and the village of Zupce in the Municipality of Zubin Potok, the Defendants R.R. \_\_\_\_\_ and M "D" V \_\_\_\_\_, in co-perpetration with others acting jointly and participating together by substantially contributing through his unlawful conduct and actions being part of the named group of persons in the commission /depriving the life of E.Z. \_\_\_\_\_ for racial and national motives due to his \_\_\_\_\_ and Kosovar nationality, at the time when E.Z. \_\_\_\_\_ was executing his lawful duties of protecting legal order, safeguarding persons or property, and keeping public order and peace and in doing so intentionally endangered the life of passengers in the car.
2. That the number of vehicles at or near the barricade was more than four (4).
3. That the number of the persons at the barricade were more than around eight (8) .
4. That the Defendant and Co-defendant were blocking and obstructing the public highway.
5. That the shootings lasted at least 20 minutes.

Therefore is ACQUITTED of having committed the criminal offence of Aggravated Murder contrary to Articles 146 and 147 paragraphs 4, 6, 8 and 10 of the CCK as

read in conjunction with Article 23 of CCK pari materia with Articles 178 & 179 1.5, 1.7, 1.9 and 1.10 of the CCKR as read in conjunction with Article 31 of the CCKR.

**2. The Accused M.V. \_\_\_\_\_, personal data as above, Under Count 2 is found NOT GUILTY**

Because it was not proven beyond reasonable doubt that:

On the 26th of July 2011, between the hours of 13:30 hours and 14:15 hours, in the area located between the village of Varage and the village of Zupce, in the Municipality of Zubin Potok, the Defendants **R.R.** \_\_\_\_\_ and **M "D" V** \_\_\_\_\_, in co-perpetration with others acting jointly and participating together by substantially contributing through his intentional and unlawful conduct and actions being part of the named group of persons in the commission of the criminal offence of "Attempted Aggravated Murder" to deprive the lives of other passengers ( \_\_\_\_\_ B.M. and D.P. \_\_\_\_\_), in the car with the deceased injured party E.Z. \_\_\_\_\_, for racial and national motives due to his \_\_\_\_\_ and Kosovar nationality, at the time when E.Z. \_\_\_\_\_ was executing his lawful duties of protecting legal order, safeguarding persons or property, and keeping public order and peace and, in doing so, also intentionally endangered the lives of \_\_\_\_\_ B.M. \_\_\_\_\_, D.P. \_\_\_\_\_ and other \_\_\_\_\_ in the convoy of vehicles at the locus in quo.

Therefore is ACQUITTED of having committed the criminal offence of "Attempted Aggravated Murder" in violation of Articles 146 and 147 paragraphs 4, 6, 8 and 10 of the CCK as read in conjunction with Articles 20 and 23 of the CCK pari materia with Articles 178 & 179 1.5, 1.7, 1.9 and 1.10 of the CCKR as read in conjunction with Articles 28 and 31 of the CCKR.

**3. The Accused M. V. \_\_\_\_\_, personal data as above, Under Count 3 is found NOT GUILTY**

Because it was not proven beyond reasonable doubt that:

On the 26th of July 2011, between the hours of 13:30 hours and 14:15 hours, in the area located between the village of Varage and the village of Zupce, in the Municipality of Zubin Potok, the Defendants **R.R.** \_\_\_\_\_ and **M "D" V** \_\_\_\_\_, in co-perpetration with others acting jointly and participating together by substantially contributing through his unlawful conduct and actions being part of the named group of persons in the commission of the criminal offence of "Unauthorised ownership, control or

possession of weapons”, controlled and possessed a weapon used in the Aggravated Murder of E.Z. \_\_\_\_\_ in violation of the applicable law relating to such weapon.

Therefore is ACQUITTED of having committed the criminal offence of “Unauthorized Ownership, Control, Possession or Use of Weapons” in violation of Article 328 paragraphs 1 and 2 of the CCK as read in conjunction with Article 23 of the CCK pari materia with Article 374 of the CCRK as read in conjunction with Article 31 of the CCRK.

**4. The Accused M. V. \_\_\_\_\_, personal data as above, Under Count 4 is found NOT GUILTY**

Because it was not proven beyond reasonable doubt that:

On the 26th of July 2011, between the hours of 13:30 hours and 14:15 hours, in the area located between the village of Varage and the village of Zupce, in the Municipality of Zubin Potok, the Defendants **R.R.** \_\_\_\_\_ and **M “D” V** \_\_\_\_\_, in co-perpetration with others acting jointly and participating together by substantially contributing through his intentional and unlawful conduct and actions being part of the named group of persons using force and serious threats to obstruct the \_\_\_\_\_ at the locus in quo in performing their lawful official duties.

Therefore is ACQUITTED of having committed the criminal offence of “Obstructing Official Persons in Performing Official Duties” in violation of Article 316 paragraphs 1 and 3 of the CCK as read in conjunction with Article 23 of the CCK pari materia with Article 409 (1) and (2) of the CCRK as read in conjunction with Article 31 of the CCRK.

**5. The Accused M.V. \_\_\_\_\_, personal data as above, Under Count 5 is found NOT GUILTY**

Because it was not proven beyond reasonable doubt that:

On the 26th of July 2011, between the hours of 13:30 hours and 14:15 hours, in the area located between the village of Varage and the village of Zupce, in the Municipality of Zubin Potok, the Defendants **R.R.** \_\_\_\_\_ and **M “D” V** \_\_\_\_\_, in co-perpetration with others acting jointly and participating together by substantially contributing through his intentional unlawful conduct and actions, being part of the named group of persons, destroyed, removed and seriously damaged the Mitrovicë/a to Zubin Potok public highway, in the area located between the Villages of Varage and Zupce, Zubin Potok municipality, giving erroneous signs, signals, placing obstacles and barricades on the

said public road thereby endangering traffic, human life, the physical safety and properties on a large-scale.

Therefore is ACQUITTED of having committed the criminal offence of “Endangering Public Traffic by Dangerous Acts or Means” in violation of Article 299 paragraph 1 of the CCK as read in conjunction with Article 23 of the CCK pari materia with Article 380 (1) of the CCRK as read in conjunction with Article 31 of the CCRK.

**6. The Accused M.V. \_\_\_\_\_, personal data as above, Under Count 6 is found NOT GUILTY**

Because it was not proven beyond reasonable doubt that:

On the 26th of July 2011, between the hours of 13:30 hours and 14:15 hours, in the area located between the village of Varage and the village of Zupce, in the Municipality of Zubin Potok, the Defendants **R.R.** \_\_\_\_\_ and **M “D” V** \_\_\_\_\_, in co-perpetration with others acting jointly and participating together by substantially contributing through his intentional unlawful conduct and actions being part of the named group of persons destroyed, removed and seriously damaged the Mitrovičë/a to Zubin Potok public highway, in the area located between the Villages of Varage and Zupce, Zubin Potok municipality, by weapons, other obstacles and barriers which caused the death of E.Z. \_\_\_\_\_ and \_\_\_\_\_ substantial material damage to the public highway and vehicles of \_\_\_\_\_ and causing great danger to other \_\_\_\_\_ present in the vehicles convoy at the locus in quo.

Therefore is ACQUITTED of having committed the criminal offence of “Causing General Danger” in violation of Article 291 paragraphs 1, 3 and 5 of the CCK as read in conjunction with Article 23 of the CCK pari materia with Article 365 of the CCRK as read in conjunction with Article 31 of the CCRK.

**7. The Accused M. V. \_\_\_\_\_, personal data as above, Under Count 7 is found NOT GUILTY**

Because it was not proven beyond reasonable doubt that:

On the 26th of July 2011, between the hours of 13:30 hours and 14:15 hours, in the area located between the village of Varage and the village of Zupce, in the Municipality of Zubin Potok, the Defendants **R.R.** \_\_\_\_\_ and **M “D” V** \_\_\_\_\_, in co-



perpetration with others acting jointly and participating together by substantially contributing through his intentional unlawful conduct and actions, being part of the named group of persons, destroyed, removed and seriously damaged the Mitrovicë/a to Zubin Potok public highway, in the area located between the Villages of Varage and Zupce, Zubin Potok Municipality, by weapons, other obstacles and barriers, which caused the death of E.Z. \_\_\_\_\_ and substantial material damage to the public highway and vehicles of \_\_\_\_\_ and causing great danger to other \_\_\_\_\_ present in the vehicles convoy at the locus in quo.

Therefore is ACQUITTED of having committed the criminal offence of "Participating in a Crowd Committing a Criminal Offence" in violation of Article 320 paragraph 1 of the CCK as read in conjunction with Article 23 of the CCK pari materia with Article 412 of the CCRK as read in conjunction with Article 31 of CCRK.

**II. The Accused R.R. \_\_\_\_\_, personal data as above, Under Count 1 is found NOT GUILTY**

Because it was proven beyond reasonable doubt that:

1. On the 26th of July 2011, at approximately 13:30 hrs, more than fifty (50) Kosovo \_\_\_\_\_, members of the \_\_\_\_\_ (\_\_\_\_\_), who were on standby at the Mitrovicë/a \_\_\_\_\_ base, located in \_\_\_\_\_, received the order to depart in the direction of Gate 31 in order to take control of the border point. The convoy of \_\_\_\_\_ vehicles therefore left the \_\_\_\_\_ base: the convoy consisted of two armoured vehicle (one of them was leading the convoy and the second one was at the end of the convoy) and approximately 10-12 \_\_\_\_\_ vehicles were between the armoured cars. While proceeding towards Gate 31 along the main asphalted road between Mitrovicë/a and Zubin Potok, in the vicinity of the village of Qaber, the \_\_\_\_\_ convoy encountered a first barricade made of stones and sand which prevented the convoy from further proceeding along the main road. Therefore, the convoy used an alternative/secondary road in order to overcome the barricade and then went back on the main road in the direction of Gate 31.

2. Having proceeded for some 10 minutes, in the area located between the village of Varage and the village of Zupce the \_\_\_\_\_ convoy encountered a second obstacle: this time a barricade made up of three (3) vehicles placed in the middle of the road. The passengers and drivers of the three vehicles stepped out of their cars and started confronting the \_\_\_\_\_, by screaming and making gestures at them.

3. Around Eight (8) persons stepped out of the vehicles, and started to argue with the \_\_\_\_\_. A few moments later one more vehicle with two (2) persons approached and stopped at some distance from the barricade. Some \_\_\_\_\_ got out of their vehicles and ordered (in Serbian and Albanian language) to the persons who were blocking and obstructing the public highway to remove the obstructions and remove their cars. These persons, did not obey that order and continued screaming and shouting at the \_\_\_\_\_, gesturing and raising their fingers at the \_\_\_\_\_. At that point the operation leader gave the order that the armoured vehicle should proceed and push away the vehicles of the barricade. As soon as the armoured vehicle approached the vehicles that were blocking the road, around eight (8) persons who were standing behind the barricade left and entered the woods located on the left side. As soon as the persons left the barricade a first single fire shot was heard and the \_\_\_\_\_ involved in the operation were immediately informed that one of them had been severely injured. Immediately following these rapid shooting ensued from the front-left side of the \_\_\_\_\_ convoy.

4. A bullet had hit the face of the victim and injured party, E.Z. \_\_\_\_\_, member of the \_\_\_\_\_ Unit, who was driving the second vehicle of the \_\_\_\_\_ convoy. At the moment he was hit, his vehicle was positioned parallel to the armoured vehicle leading the convoy.

5. After the first shot which had hit E.Z. \_\_\_\_\_, rapid shooting started against the vehicles from three different directions and it lasted for an undetermined period of time no longer than fifteen (15) minutes. The \_\_\_\_\_ fired back in order to defend themselves and to recover the body of the injured \_\_\_\_\_ that was moved to the armoured vehicle. The shooting against the \_\_\_\_\_ convoy lasted until the convoy pulled back moving in the direction of Mitrovicë/a.

6. The incident took place on a bright summer afternoon when the weather was fine with good visibility.

7. Mr. F.U. \_\_\_\_\_ was assigned to the armoured vehicle which was leading the \_\_\_\_\_ convoy heading towards Gate 31. The witness Mr. F.U. \_\_\_\_\_ was inside the leading armoured vehicle and the distance between him and the perpetrators was not clearly determined but was no more than 20 meters from the barricade.

8. On the 26th of July 2011 between the hours of 13:30 hours and 14:25 hours in the area located between the village of Varage and the village of Zupce in the Municipality of Zubin Potok, one undetermined group of people acted depriving the life of E.Z. \_\_\_\_\_ for racial and national motives due to his \_\_\_\_\_ and Kosovar nationality at the time when E.Z. \_\_\_\_\_ was executing his lawful duties of protecting legal order, safeguarding persons or property, and keeping public order and peace and in doing so intentionally endangered the life of passengers in the car.

10. R.R. \_\_\_\_\_ was fully mentally competent.

**But it was also not proven beyond reasonable doubt that:**

1. On the 26th of July 2011, between the hours of 13:30 hours and 14:15 hours, in the area located between the village of Varage and the village of Zupce in the Municipality of Zubin Potok, the Defendants R.R. \_\_\_\_\_ and M "D" V \_\_\_\_\_, in co-perpetration with others acting jointly and participating together by substantially contributing through his unlawful conduct and actions being part of the named group of persons in the commission /depriving the life of E.Z. \_\_\_\_\_ for racial and national motives due to his \_\_\_\_\_ and Kosovar nationality, at the time when E.Z. \_\_\_\_\_ was executing his lawful duties of protecting legal order, safeguarding persons or property, and keeping public order and peace and in doing so intentionally endangered the life of passengers in the car.
2. That the number of vehicles at or near the barricade was more than four (4).
3. That the number of the persons at the barricade were more than around eight (8)
4. That the Defendant and Co-defendant were blocking and obstructing the public highway.
5. That the shootings lasted at least 20 minutes

Therefore is ACQUITTED of having committed the criminal offence of Aggravated Murder contrary to Articles 146 and 147 paragraphs 4, 6, 8 and 10 of the Criminal Code of Kosovo (CCK) as read in conjunction with Article 23 of the CCK pari materia with Articles 178 & 179 1.5, 1.7, 1.9 and 1.10 of the CCRK as read in conjunction with Article 31 of the CCRK.

**2. The Accused R.R. \_\_\_\_\_, personal data as above, Under Count 2 is found NOT GUILTY**

Because it was not proven beyond reasonable doubt that:

On the 26th of July 2011, between the hours of 13:30 hours and 14:15 hours, in the area located between the village of Varage and the village of Zupce, in the Municipality of Zubin Potok, the Defendants **R.R.** \_\_\_\_\_ and **M "D" V** \_\_\_\_\_, in co-perpetration with others acting jointly and participating together by substantially contributing through his intentional and unlawful conduct and actions, being part of the named group of persons in the commission of the criminal offence of "Attempted Aggravated Murder" to deprive the lives of other passengers (\_\_\_\_\_ B.M. \_\_\_\_\_ and D.P. \_\_\_\_\_) in the car with the deceased injured party E.Z. \_\_\_\_\_ for racial and national motives due to his \_\_\_\_\_ and Kosovar nationality, at the time when E.Z. \_\_\_\_\_ was executing his lawful duties of protecting legal order, safeguarding persons or property, and keeping public order and peace and in doing so also intentionally endangered the lives of B.M. \_\_\_\_\_, D.P. \_\_\_\_\_ and other \_\_\_\_\_ in the convoy of vehicles at the locus in quo.

Therefore is ACQUITTED of having committed the criminal offence of "Attempted Aggravated Murder" in violation of Articles 146 and 147 paragraphs 4, 6, 8 and 10 of the CCK as read in conjunction with Articles 20 and 23 of the CCK pari materia with Articles 178 & 179 1.5, 1.7, 1.9 and 1.10 of the CCRK as read in conjunction with Articles 28 and 31 of the CCRK.

**3. The Accused R.R. \_\_\_\_\_, personal data as above, Under Count 3 is found NOT GUILTY**

Because it was not proven beyond reasonable doubt that:

On the 26th of July 2011, between the hours of 13:30 hours and 14:15 hours, in the area located between the village of Varage and the village of Zupce, in the Municipality of Zubin Potok, the Defendants **R.R.** \_\_\_\_\_ and **M "D" V** \_\_\_\_\_, in co-perpetration with others acting jointly and participating together by substantially contributing through his unlawful conduct and actions, being part of the named group of persons in the commission of the criminal offence of "Unauthorised ownership, control or possession of weapons", controlled and possessed a weapon used in the Aggravated Murder of E.Z. \_\_\_\_\_ in violation of the applicable law relating to such weapon.

Therefore is ACQUITTED of having committed the criminal offence of “Unauthorized Ownership, Control, Possession or Use of Weapons” in violation of Article 328 paragraphs 1 and 2 of the CCK as read in conjunction with Article 23 of the CCK pari materia with Article 374 of the CCRK as read in conjunction with Article 31 of the CCRK.

**4. The Accused R.R. \_\_\_\_\_, personal data as above, Under Count 4 is found NOT GUILTY**

Because it was not proven beyond reasonable doubt that:

On the 26th of July 2011, between the hours of 13:30 hours and 14:15 hours, in the area located between the village of Varage and the village of Zupce, in the Municipality of Zubin Potok, the Defendants **R.R. \_\_\_\_\_** and **M “D” V \_\_\_\_\_**, in co-perpetration with others acting jointly and participating together by substantially contributing through his intentional and unlawful conduct and actions, being part of the named group of persons using force and serious threats to obstruct the \_\_\_\_\_ at the locus in quo in performing their lawful official duties.

Therefore is ACQUITTED of having committed the criminal offence of “Obstructing Official Persons in Performing Official Duties” in violation of Article 316 paragraphs 1 and 3 of the CCK as read in conjunction with Article 23 of the CCK pari materia with Article 409 (1) and (2) of the CCRK as read in conjunction with Article 31 of the CCRK.

**5. The R.R. \_\_\_\_\_, personal data as above, Under Count 5 is found NOT GUILTY**

Because it was not proven beyond reasonable doubt that:

On the 26th of July 2011, between the hours of 13:30 hours and 14:15 hours, in the area located between the village of Varage and the village of Zupce, in the Municipality of Zubin Potok, the Defendants **R.R. \_\_\_\_\_** and **M “D” V \_\_\_\_\_**, in co-perpetration with others acting jointly and participating together by substantially contributing through his intentional unlawful conduct and actions, being part of the named

group of persons destroyed, removed and seriously damaged the Mitrovicë/a to Zubin Potok public highway, in the area located between the Villages of Varage and Zupce, Zubin Potok municipality, giving erroneous signs, signals, placing obstacles and barricades on the said public road therefore endangering traffic, human life, the physical safety and properties on a large-scale.

Therefore is ACQUITTED of having committed the criminal offence of “Endangering Public Traffic by Dangerous Acts or Means” in violation of Article 299 paragraph 1 of the CCK as read in conjunction with Article 23 of the CCK pari materia with Article 380 (1) of the CCRK as read in conjunction with Article 31 of the CCRK.

**6. The Accused R.R. \_\_\_\_\_, personal data as above, Under Count 6 is found NOT GUILTY**

Because it was not proven beyond reasonable doubt that:

On the 26th of July 2011, between the hours of 13:30 hours and 14:15 hours, in the area located between the village of Varage and the village of Zupce, in the Municipality of Zubin Potok, the Defendants **R.R.**\_\_\_\_\_ and **M “D” V**\_\_\_\_\_, in co-perpetration with others acting jointly and participating together by substantially contributing through his intentional unlawful conduct and actions being part of the named group of persons destroyed, removed and seriously damaged the Mitrovicë/a to Zubin Potok public highway, in the area located between the Villages of Varage and Zupce, Zubin Potok municipality, by weapons, other obstacles and barriers which caused the death of E.Z. \_\_\_\_\_ and \_\_\_\_\_substantial material damage to the public highway and vehicles of \_\_\_\_\_and causing great danger to other \_\_\_\_\_ present in the vehicles convoy at the locus in quo.

Therefore is ACQUITTED of having committed the criminal offence of “Causing General Danger” in violation of Article 291 paragraphs 1, 3 and 5 of the CCK as read in conjunction with Article 23 of the CCK pari materia with Article 365 of the CCRK as read in conjunction with Article 31 of the CCRK.

**7. The Accused R.R. \_\_\_\_\_, personal data as above, Under Count 7 is found NOT GUILTY**

Because it was not proven beyond reasonable doubt that:

On the 26th of July 2011, between the hours of 13:30 hours and 14:15 hours, in the area located between the village of Varage and the village of Zupce, in the Municipality of Zubin Potok, the Defendants **R.R.** \_\_\_\_\_ and **M "D" V** \_\_\_\_\_, in co-perpetration with others acting jointly and participating together by substantially contributing through his intentional unlawful conduct and actions, being part of the named group of persons, destroyed, removed and seriously damaged the Mitrovicë/a to Zubin Potok public highway in the area located between the Villages of Varage and Zupce, Zubin Potok municipality, by weapons, other obstacles and barriers, which caused the death of E.Z. \_\_\_\_\_ and substantial material damage to the public highway and vehicles of \_\_\_\_\_ and causing great danger to other \_\_\_\_\_ present in the vehicles convoy at the locus in quo.

Therefore is ACQUITTED of having committed the criminal offence of "Participating in a Crowd Committing a Criminal Offence" in violation of Article 320 paragraph 1 of the CCK as read in conjunction with Article 23 of the CCK pari materia with Article 412 of the CCRK as read in conjunction with Article 31 of the CCRK.

### **III. Property claim**

The Injured Parties were instructed as to their right to file a property claim pursuant to Articles 458, 459 and 460 of the CPC. Such a claim was presented on the last day of the main trial. According with Article 463, paragraph 2 of the CPC and considering the nature of the judgment of acquittal, the Court instructs the injuries parties that they may pursue the property claim in civil litigation.

### **IV. Criminal Costs**

The costs of the criminal proceedings under Article 450, paragraph 2, subparagraph 2.1. to 2.5 of the CPC, the necessary expenses of the Defendants and the remuneration and expenses of the Defence counsel shall be paid from budgetary resources under Article 454, paragraph 1 of the CPC.

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**Basic Court of Mitrovicë/Mitrovica**

**P. No. 59/2014**

**Panel Member**

**Presiding Judge**

**Panel Member**

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Nuno Manuel de Madureira

Paulo Teixeira

Franciska Fiser

EULEX Judge

EULEX Presiding Judge

EULEX Judge

**Court Recorders**

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**EULEX Legal Officer**

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Vera Manuello

**Legal Remedy:** A Defendant, their legal counsel, the Prosecutor or an Injured Party have 15 days from service of this judgment to appeal in accordance with Articles 380 Paragraph (1) and 381 Paragraph (1) of the CPC. Any appeal must be filed with the Court of first instance under Article 388 Paragraph (1) of the CPC.