

BASIC COURT OF MITROVICË/MITROVICA

P. nr. 62/2016

IN THE NAME OF THE PEOPLE

THE BASIC COURT OF MITROVICË/MITROVICA, in the Trial Panel composed of EULEX Judge Roxana Comsa, as Presiding Judge, and EULEX Judges Franciska Fiser and Iva Niksic as Panel Members, with the participation of EULEX Legal Officer Chiara Tagliani as the Recording Officer, in the criminal case against:

I. H.,;

S. H.,;

S. S.,;

All accused through the Indictment PPS 23/13 of the Special Prosecution Office of the Republic of Kosovo dated 13 November 2013, and filed on 13 November 2013;

All acquitted in the first instance by the Basic Court of Mitrovica with Judgment no. P. 941/2013, rendered on 29 May 2014;

All covered by the Judgment of the Court of Appeals PAKR No. 39/2015 of 5 April 2016;

Being subject to the re-trial proceedings in relation to the following charges:

For the Accused I. H.:

War crime against the civilian population, provided for and punished by **Article 142 of the Criminal Code of the Socialist Federal Republic of Yugoslavia (CCSFRY)**, currently criminalized under 152 of the Criminal Code of the Republic of Kosovo (CCRK) because, in violation of **Article 3 Common** to the four Geneva Conventions of 12 August 1949, and of **Articles 4 and 5 of Protocol II** of 8 June 1977, Additional to the 1949 Geneva Conventions, all rules of international law effective at the time of the internal armed conflict in Kosovo and at all times relevant to the present indictment, the defendant in his capacity as KLA soldier **treated inhumanely Witness A and Witness B** by staging a mock execution whereby the defendant made the victims kneel on the ground and then fired firearm shots from behind their backs;

In an unspecified location between the villages of V. and L., on an unspecified date in late 1998/early 1999.

For the Accused S. H.:

War crime against the civilian population, provided for and punished by **Article 142 of the Criminal Code of the Socialist Federal Republic of Yugoslavia (CCSFRY)**, currently criminalized under Article 152 of the Criminal Code of the Republic of Kosovo (CCRK) because, in violation of **Article 3 Common** to the four Geneva Conventions of 12 August 1949, and of **Articles 4 and 5 of Protocol II** of 8 June 1977, Additional to the 1949 Geneva Conventions, all rules of international law effective at the time of the internal armed conflict in Kosovo and at all times relevant to the present indictment, the defendant **raped Witness A**, a Kosovo Albanian female civilian detained at the hands of the KLA by having sexual intercourse with her against her will;

In V. village (M. municipality), on an unspecified date in late 1998/early 1999.

For the Accused S. S.:

War crime against the civilian population, provided for and punished by **Article 142 of the Criminal Code of the Socialist Federal Republic of Yugoslavia (CCSFRY)**, currently criminalized under 152 of the Criminal Code of the Republic of Kosovo (CCRK) because, in

violation of **Article 3 Common** to the four Geneva Conventions of 12 August 1949, and of **Articles 4 and 5 of Protocol II** of 8 June 1977, Additional to the 1949 Geneva Conventions, all rules of international law effective at the time of the internal armed conflict in Kosovo and at all times relevant to the present indictment, the defendant in his capacity as high-ranking KLA member, in co-perpetration with other so far unidentified KLA members, **violated the bodily integrity and health of Witness A and Witness B**, two Kosovo Albanian female civilians, by repeatedly beating them;

In L. (S. municipality), on an unspecified date in late 1998/early 1999.

After having held the Main Trial hearings, all open to the public, on 16 September 2016 and 01 November 2016, in the presence of the Special Prosecutor of the Republic of Kosovo, the Accused I. H., his defence counsel M. H., the Accused S. H., his Defence Counsel G. R., and the Accused S. S. with Defence Counsel G. G.-S. on 16 September 2016 and Defence Counsel T. G. on 01 November 2016;

Having received the “Withdrawal of Indictment” filed by the Prosecutor on 26 October 2016;

pursuant to Article 363, Paragraph (1) Sub-Paragraph (1.1) and Article 366 of the Criminal Procedure Code of the Republic of Kosovo (CPC) on 01 November 2016 in a public hearing and in the presence of all parties;

renders the following:

JUDGMENT

I.

The charge of ‘**War crime against the civilian population**’ against the Defendant **I. H.**, provided for and punished by **Article 142 of the Criminal Code of the Socialist Federal Republic of Yugoslavia (CCSFRY)**, currently criminalized under 152 of the Criminal Code of the Republic of Kosovo (CCRK) and in violation of **Article 3 Common** to the four Geneva

Conventions of 12 August 1949, and of **Articles 4 and 5 of Protocol II** of 8 June 1977, Additional to the 1949 Geneva Conventions, is **REJECTED**.

II.

The charge of ‘**War crime against the civilian population**’ against the Defendant **S. H.**, provided for and punished by **Article 142 of the Criminal Code of the Socialist Federal Republic of Yugoslavia (CCSFRY)**, currently criminalized under Article 152 of the Criminal Code of the Republic of Kosovo (CCRK) and in violation of **Article 3 Common** to the four Geneva Conventions of 12 August 1949, and of **Articles 4 and 5 of Protocol II** of 8 June 1977, Additional to the 1949 Geneva Conventions, is **REJECTED**.

III.

The charge of ‘**War crime against the civilian population**’ against the Defendant **S. S.**, provided for and punished by **Article 142 of the Criminal Code of the Socialist Federal Republic of Yugoslavia (CCSFRY)**, currently criminalized under 152 of the Criminal Code of the Republic of Kosovo (CCRK) and in violation of **Article 3 Common** to the four Geneva Conventions of 12 August 1949, and of **Articles 4 and 5 of Protocol II** of 8 June 1977, Additional to the 1949 Geneva Conventions, is **REJECTED**.

IV.

According to Article 454, Paragraph (1) of the CPC, the costs of the criminal proceedings shall be paid from budgetary resources.

Roxana Comsa
Presiding Judge
EULEX Judge

Franciska Fiser
Panel Member
EULEX Judge

Iva Niksic
Panel Member
EULEX Judge

Chiara Tagliani
Recording officer

Legal Remedy: Pursuant to Article 380 of the CPC, an appeal against this judgment may be filed within 15 days from the day the copy of the Judgment has been served. The appeal should be addressed to the Court of Appeals through the Basic Court of Mitrovica.