

BASIC COURT OF MITROVICË/MITROVICA

P nr. 54/2014

18 November 2014

IN THE NAME OF THE PEOPLE

THE BASIC COURT OF MITROVICË/MITROVICA, in the trial panel composed of EULEX Judge Roxana Comsa as Presiding Trial Judge, EULEX Judge Nuno Madureira and EULEX Judge Arkadiusz Sedek as panel members, with EULEX Legal Officer Vera Manuello as the Recording Officer in the criminal case:

*Against:*

**R. H.**, father's name **K.**, mother's name **H.**, maiden name **H.**, born on 26 June 1938 in the village of \_\_\_\_\_, Municipality of \_\_\_\_\_, retired, residing at street \_\_\_\_\_ Municipality, Kosovar Albanian, married, with seven grown up children, of average economic status, in detention on remand from 22 November 2010 until 11 November 2011, in house detention from 11 November 2011 until 27 March 2012 and again in detention from 27 March 2013 until 30 July 2013, and in house detention from 30 July 2013 until the present day;

*Indicted with:*

Murder, contrary to Article 146 of the Criminal Code of Kosovo (CCK) /Count 1/; Unauthorized Ownership, Control, Possession or Use of Weapons in violation of Article 328 Paragraph (1) of the CCK /Count 2/; Unauthorized Ownership, Control, Possession or Use of Weapons in violation of Article 328 Paragraph (2) of the CCK. - /Count 3/.

*Considering* the following: by the Ruling by the Court of Appeal of Kosovo, dated 26 March 2013, in which the Judgment of the (then) District Court of Mitrovicë/a P. nr. 11/2011, dated 26 March 2012, in relation to the criminal act of Murder under Article 146 of the CCK /Count 1/, is annulled and the case is returned to the first instance court for retrial; by the same Ruling by the Court of Appeal of Kosovo dated 26 March 2013 the accused had been sentenced to 1/one/year imprisonment for the criminal act of Unauthorized Ownership, Control, Possession or Use of Weapons in violation of Article 328 Paragraph (2) of the CCK. - /Count 3/; Defendant's acquittal for the charge of Unauthorized Ownership, Control, Possession or Use of Weapons in violation of Article 328 Paragraph (1) of the CCK. /Count 2/ is maintained by the Court of Appeal.

*After* having held the main trial hearing in retrial from 17 until 20 June 2013, on 15 and 16 July 2013, on 29 and 30 July 2013 in the presence of the Defendant, his Defence Counsel and Prosecutor Neeta Amin. The injured party, **Z. D.**, was present during the trial hearings of 17, 18, 19 June 20 June, 20 and 30 July 2013. The Main Trial sessions were open to the public;

*After* the Basic Court of Mitrovica having issued a Judgment on 30 July 2013, in which the Defendant was found guilty of murder and sentenced to 8/eight/years of imprisonment, reaffirming the Ruling by the Court of Appeal of Kosovo dated 26 March 2013 in which the accused had been sentenced to 1/one/year of imprisonment for the criminal act of Unauthorized Ownership, Control, Possession or Use of Weapons in violation of Article 328 Paragraph (2) of the CCK - /Count 3/, the aggregate punishment for criminal offences under Count 1 and Count 3 was therefore determined in 8/eight/years and 3/three/months of imprisonment, pursuant to Article 71 Paragraph (1) and Paragraph (2) item 2 of the CCK;

*After* the Court of Appeal of Kosovo issued a decision dated 14 March 2014 in which the Court of Appeal annulled the Judgment of the Basic Court of Mitrovica dated 30 July 2013 and returned the case to the first instance court for retrial;

*After* having held the main retrial hearings for the second retrial on 11 August 2014, a crime site inspection on 13 August 2014, and the remaining main retrial hearings on 16

October 2014 and 13 November 2014 in the presence of the Defendant, his Defence Counsel and Prosecutor Neeta Amin. The injured party, **Z. D.**, was partly present during the crime site inspection. The Main Trial sessions were open to the public;

*Following* the trial panel's deliberation and voting held on 18 November 2014;

*Pursuant* to Article 392 of the Criminal Procedure Code of Kosovo (CPC), pronounced in public and in the presence of the Defendant, Defence Counsel Mahmut Halimi, the Injured Party and the Prosecutor Neeta Amin;

*In accordance* with Articles 388 – 391 of the CPC;

*Renders* the following:

## **JUDGEMENT**

The Accused **R. H.**, personal data as above,

is

### **FOUND GUILTY**

Because on \_\_\_\_\_ at around \_\_\_\_\_ at the place called \_\_\_\_\_ in \_\_\_\_\_ he deprived of his life **M. D.** by attacking him with a knife and stabbing him eight times in different parts of the body, inflicting one stab wound to the left shoulder, one stab wound to the abdomen, two stab wounds to the trunk and four stab wounds to the chest. As a result of one of the stab wounds to the chest, affecting his heart, **M. D.** died on the way to the clinic in Mitrovica.

**R. H.**, while stabbing **M. D.** in the chest, sufficiently foresaw that his action could result in the death of the latter and accepted it.

**R. H.** was fully mentally competent.

By doing so, **R. H.** committed and is criminally liable for the criminal act of Murder in violation of Article 146 of the CCK, in conjunction with Articles 11, 12, and 15 (3) of the CCK. - /Count 1/

THEREFORE, the accused **R. H.** is SENTENCED

to 8 /eight/years of imprisonment for the criminal act of Murder in violation of Article 146 of the CCK.

According to the Article 12 and Article 3 Paragraph (1) subparagraph (1.2.5) of the Law on Amnesty (Law no. 04/L-209) dated 11 July 2013, promulgated by Decree No.DL-051-2013 dated 17 September 2013 which entered into force fifteen (15) days following its publication in the Official Gazette of the Republic of Kosovo, the Defendant is exempted from the execution of the punishment of 1/one/year imprisonment applied by the Ruling by the Court of Appeal of Kosovo dated 26 March 2013 for the criminal act of Unauthorized Ownership, Control, Possession or Use of Weapons in violation of Article 328 Paragraph (2) of the CCK. - /Count 3/.

The time spent in detention on remand between 22 November 2010 and 11 November 2011 and between 27 March 2012 and 30 July 2013 and the time spent in house detention from 11 November 2011 until 27 March 2012 and from 30 July 2013 until the present day is to be credited pursuant to Article 73 paragraphs (1) and (4) of the CCK.

The accused shall reimburse 400 (four hundred) Euro as part of the costs of criminal proceedings but he is relieved of the duty to reimburse the rest of the costs pursuant to Article 102 Paragraphs (1) and (4) of the CPCK.

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Roxana Comsa  
EULEX Presiding Judge

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Nuno de Madureira  
Panel Member  
EULEX Judge

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Arkadiusz Sedek  
Panel Member  
EULEX Judge

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Vera Manuello  
Recording Officer

