

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.●.** (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.1 \_\_\_\_\_ 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 \_\_\_\_\_ 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 by **S.S.** and **B.J.** in the scheduled amount of 150 euros each, while any remaining costs of the criminal proceedings shall be paid from the budgetary resources.

## R E A S O N I N G

### I. Procedural Background

#### a. The indictment

1. On 19 October 2012, the District Public Prosecution Office filed a Ruling on initiation of investigation dated 18 October 2012 in case PP.No. 363/2012, initiating a criminal investigation against Defendants **S.S.** and **S.V.** for the criminal offences of Endangering United Nations and Associated Personnel, Obstructing official persons in performing official duties, Participating in a crowd committing a criminal offence and Damage to movable property in relation to an incident that occurred on \_\_\_\_\_ involving attacks against three \_\_\_\_\_.
  
2. On 27 November 2013, the Mitrovičë/Mitrovica Basic Prosecution Office filed a Ruling on expansion of investigation dated 26 November 2013, in which the Prosecution extended and requalified the criminal offences as to Count A: Endangering United Nations and Associated Personnel, Obstructing Official Persons in Performing Official Duties, Participating in a Crowd committing a criminal offence and Damage to Movable Property, in relation to the incident that took place on \_\_\_\_\_ in \_\_\_\_\_ against Defendants **S.S.** and **S.V.**; and as to Count B: Endangering United Nations and Associated Personnel, Obstructing Official Persons in Performing Official Duties, Participating in a Crowd Committing a Criminal Offence and Damage to Movable Property,

with regard to the incident that took place on \_\_\_\_\_  
\_\_\_\_\_ in \_\_\_\_\_ against Defendants **S.S.** and  
**B.J.** .

3. On 13 March 2014, the President of the Assembly of EULEX Judges issued a Decision No. 2014.OPEJ.0147-0001 dated 13 March 2014 in which criminal case PP.No. 363/012 (PPS.No. 113/2012) was assigned into the competence and responsibility of EULEX Judges.
4. On 23 April 2014, the Prosecution filed a Ruling on expansion of investigation dated 22 April 2014, thereby expanding the investigation to include Defendants **S.V.** , **B.J.** , **D.R.** , **Z.J.** , **B.D.** and **U.B.** as new suspects in relation to Count B.
5. On 16 July 2014, the Prosecution filed a Ruling on expansion of investigation dated 15 July 2014, thereby expanding the investigation to include Defendant **S.R.** in relation to Count A and Defendants **S.R.** and **R.T.** in relation to Count B.
6. On 10 October 2014 the EULEX Prosecutor of the Mitrovicë/a Prosecution Office filed an indictment PP. No. 363/2012 (PPS 113/2012) dated 10 October 2014 against **S.S.** , **S.V.** , **B.J.** , **D.R.** , **Z.J.** , **B.D.** , **U.B.** and **R.T.** . The indictment was originally presented in a narrative, unstructured form. Although it consisted of all the necessary elements listed in Article 241 of the CPCRK, during the initial hearing held on 7 November 2014 the presiding trial judge instructed the Prosecutor to present the charges in an orderly manner.

7. The Prosecutor presented the corrected indictment dated 12 November 2014 in writing in a structured format on 14 November 2014. The corrected indictment presented nothing additional in content, but the counts against each particular defendant were described in a transparent way and were presented together with their relevant legal classification.
8. According to the corrected indictment, **S.S.** \_\_\_\_\_ and **S.V.** \_\_\_\_\_ were accused of the following actions: that on \_\_\_\_\_ \_\_\_\_\_, at approximately \_\_\_\_\_ am hrs, in the centre of \_\_\_\_\_ \_\_\_\_\_, acting jointly with other unknown perpetrators, they attacked a \_\_\_\_\_ vehicle by throwing stones and various objects, by 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:

and this action was classified in the indictment as:

- I. the criminal offence of Endangering United Nations or Associated Personnel contrary to Article 142 Paragraphs 3 and 6.2.1, read in conjunction with article 23 of the Criminal Code of Kosovo *pari materia* with Article 174 Paragraphs 3 and 6.2.1, read in conjunction with Article 31 of the Criminal Code of the Republic of Kosovo (2013) (Count A1);
- II. the criminal offence of Obstructing Official Persons in Performing Official Duties contrary to Article 316 Paragraph 1, read in conjunction with Article 23 of the Criminal Code of Kosovo *pari materia* with Article 409 Paragraph 1, read in conjunction with Article 31 of the

Criminal Code of the Republic of Kosovo (2013) (Count A2);

III. the criminal offence of Attacking Official Persons Performing Official Duties contrary to Article 317 Paragraph 1, read in conjunction with Article 23 of the Criminal Code of Kosovo *pari materia* with Article 410 Paragraph 1, read in conjunction with Article 31 of the Criminal Code of the Republic of Kosovo (2013) (Count A3);

IV. 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 2013 (Count A4);

V. the criminal offence of Damage to Movable Property contrary to Article 260 Paragraphs 1 and 2, read in conjunction with Article 23 of the Criminal Code of Kosovo *pari materia* with Article 333 Paragraphs 1 and 4, read in conjunction with Article 31 of the Criminal Code 2013 (Count A5).

9. The indictment consisted of other essential pieces of information, which together complete the elements of the criminal offences necessary for their legal qualification, as quoted above:

-the vehicle mentioned in the description of charges was a TOYOTA Land Cruiser, registration number \_\_\_\_-\_\_\_\_-\_\_, \_\_\_\_ (\_\_\_\_\_) type;

-\_\_\_\_\_ M.B. , C.C. and M.S.

- were in the vehicle at the relevant time;
- the \_\_\_\_\_ were traveling for duty related purposes;
  - S.S. \_\_\_\_\_ broke the right side mirror of the vehicle and  
S.V. \_\_\_\_\_ sprayed paint on the vehicle;
  - as a result of the actions performed by the accused the  
vehicle was damaged in the amount of 8,808.85 euros.

10. Furthermore, according to the amended indictment S.S. \_\_\_\_\_, S.V. \_\_\_\_\_, B.J. \_\_\_\_\_, D.R. \_\_\_\_\_, Z.J. \_\_\_\_\_, B.D. \_\_\_\_\_, U.B. \_\_\_\_\_ and R.T. \_\_\_\_\_ were accused of the following actions:

that on \_\_\_\_\_ between the hours \_\_\_\_\_ am and \_\_\_\_\_ pm, 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, were trying to get inside the \_\_\_\_\_ vehicles, by throwing stones at the vehicles and trying to flatten the tyres to immobilise the vehicles,

and this action is classified in the indictment as:

VI. the criminal offence of *Endangering United Nations or Associated Personnel* contrary to Article 142 paragraphs 3 and 6.2.i, read in conjunction with Article 23 of the Criminal Code of Kosovo *pari materia* with Article 174 paragraphs 3 and 6.2.1, read in conjunction with Article 31 of the Criminal Code 2013. In relation to this count, the criminal offence also includes the allegation that the accused stole a blue \_\_\_\_\_ light from one of the vehicles (Count B1);

VII. criminal offence of *Obstructing Official Persons in*



*Performing Official Duties* contrary to Article 316 paragraph 1, read in conjunction with Article 23 of the Criminal Code of Kosovo *pari materia* with Article 409 paragraph 1, read in conjunction with Article 31 of the Criminal Code 2013 (Count B2);

VIII. the criminal offence of *Attacking Official Persons Performing Official Duties* contrary to Article 317 paragraph 1, read in conjunction with Article 23 of the Criminal Code of Kosovo *pari materia* with Article 410 paragraph 1, read in conjunction with Article 31 of the Criminal Code 2013 (Count B3);

IX. 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 article 412 paragraph 1, read in conjunction with Article 31 of the Criminal Code 2013 (Count B4);

X. the criminal offence of *Damage to Movable Property* contrary to Article 260 paragraphs 1 and 2, read in conjunction with Article 23 of the Criminal Code of Kosovo *pari materia* with Article 333 paragraphs 1 and 4, read in conjunction with Article 31 of the Criminal Code 2013 (Count B4).

11. The other essential pieces of information, which together complete the elements of the criminal offences necessary for their legal qualifications, as quoted above, are:

-the vehicles described in the charges were 3 Toyota Landcruiser \_\_ type (\_\_\_\_\_) cars, registration

numbers: \_\_-\_\_-\_\_, \_\_-\_\_-\_\_ and \_\_-\_\_-\_\_;  
-there were \_\_\_\_\_ J.R. \_\_\_\_\_, A.W. \_\_\_\_\_,  
D.D. \_\_\_\_\_, S.S.1 \_\_\_\_\_ and T.A. \_\_\_\_\_ in the vehicles;  
-the \_\_\_\_\_ were carrying out their duty tasks.  
-B.J. \_\_\_\_\_ broke the left mirror of vehicle \_\_-\_\_-\_\_ while  
the vehicle was passing by the roadblock near \_\_\_\_\_.

12. The value of the damage caused is not mentioned in the indictment.

13. S.S. \_\_\_\_\_ was also accused of the following action:

that on \_\_\_\_\_ between the hours \_\_\_\_\_ am  
and \_\_\_\_\_ pm hrs, in the area near the village of  
\_\_\_\_\_, he stole the blue \_\_\_\_\_ light from the top of  
\_\_\_\_\_ vehicle \_\_-\_\_-\_\_,

and this action is classified in the indictment as:

XI. The criminal offence of *Theft* contrary to Article 252 paragraph 1 of the Criminal Code of Kosovo *pari materia* with Article 325 paragraph 1 of the Criminal Code 2013.

14. The value of the "blue \_\_\_\_\_ light" was not quoted in the indictment.

15. Pursuant to Article 245 of the CPCRK, an Initial Hearing was held on 7 November 2015 and then on 17 November 2015.

16. The case against the Defendant S.V. \_\_\_\_\_ was later severed with the oral ruling of the trial panel dated 1 July 2015 at the beginning of the main trial. This was because the defendant failed to appear in court<sup>1</sup>.

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<sup>1</sup> Minutes of Main Trial, 1 July 2015, p. 2, l. 35-55;

**b. Objections to the indictment and admissibility of evidence**

1. With the Decision on Defence Objections to Evidence and Request to Dismiss the Indictment of the presiding trial judge dated 15 January 2015, the objections to the admissibility of the evidence presented in the indictment filed by all defense counsel, along with requests to dismiss the indictment, were rejected as ungrounded except for the Request of the Defence Counsel Miodrag Brkljac for the defendant D.R. dated 9 December 2014 to dismiss the indictment which was granted by the presiding trial judge. The presiding trial judge dismissed the indictment against the defendant D.R. and terminated the criminal proceedings against \_\_\_\_\_.
2. The Decision on Defence Objections to Evidence and Request to Dismiss the Indictment was appealed by all defendants through their Defence counsel, except for defendant D.R. , and the prosecution.
3. By the Ruling on appeals (PN 79/15) dated 02 and 03 April 2015, the Court of Appeals partly affirmed the Decision of the presiding trial judge dated 15 January 2015. The Court of Appeals modified the enacting clause of the Decision of 15 January 2015 to reject as ungrounded the request of the defence counsel Miodrag Brkljac dated 9 December 2014 on behalf of the defendant D.R. .

**c. Competence of the court and panel composition**

1. Pursuant to Article 11 Paragraph 1 of the Law on Courts, Law No. 03/L-199, the jurisdiction to adjudicate all criminal offences at first instance belongs to basic court.
2. The indictment indicated that the criminal offences that constituted the charges were committed in \_\_\_\_\_ which is in the territory of the Basic Court of Mitrovicë/Mitrovica. For this reason, pursuant to 29 Paragraph 1 of CPCRK, this court has territorial jurisdiction to adjudicate the case.
3. According to Article 286 of the CPCRK, a main trial should be held at the place where the court has its seat, and in the courthouse.
4. It is a notorious fact that since March 2008 until the day the judgment was rendered, because of the specific security requirements in the north of Mitrovicë/Mitrovica, the practice is firmly established that criminal cases in the Basic Court of Mitrovicë/Mitrovica are tried by panels composed exclusively of EULEX judges. This practice has never been contested by the courts of any instance. Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms as well as Article 31 paragraph 2 of the Constitution of the Republic of Kosovo provide for the right to access to court not only for the defendants, but also for the injured parties. The notion of "tribunal established by law" which is used in the said provisions refers also to domestic legislation on territorial and factual jurisdiction. It appeared that the exclusive participation of EULEX judges was the only way to observe the right to court access.
5. The Deputy President of the Basic Court of Mitrovicë/Mitrovica, pursuant to the Law No. 04/L-0273

amending and supplementing the laws related to the mandate of the EU Rule of Law Mission in the Republic of Kosovo and based on Article 5 Paragraph (1) of the Agreement between the Head of EULEX and the Kosovo Judicial Council on the relevant aspects of the operation and cooperation between EULEX and local Judges signed on 18 October 2014, on 13 October 2014 issued Decision GJA.nr.579/14 assigning the criminal case P.nr. 122/2014 to EULEX Judges.

6. On 23 March 2015, the Kosovo Judicial Council of the Republic of Kosovo issued a Decision for the Approval of the Request from EULEX to continue the trial of case No. P. 122/14 in the Basic Court of Mitrovicë/Mitrovica KJC No. 23/2015, thereby approving that the case will remain with EULEX Judges.
7. No issue was raised by the parties regarding the composition of the trial panel. Therefore it is presumed that according to Article 382 Paragraph 4 of the CPCRK they waived the right to challenge the composition.

**d. Main Trial**

**i. Duration of the main trial**

1. The main trial commenced on 1 July 2015 and was concluded on 23 October 2015. It was heard on 9 trial days.
2. The duration of the main trial did not exceed the period of 120 calendar days prescribed in Article 314 Paragraph 1.2 of the CPCRK. Moreover, each adjournment ordered by the trial panel did not exceed 30 days and was always reasoned by the

indication of the procedural actions to be taken during the next court session.

**ii. Measures taken to ensure public access to the courtroom**

1. The access of the public was facilitated by announcing trial dates during each of the court sessions and additionally on the EULEX Web page. The Kosovo Police assisted members of the public to reach the courtroom. There were reported no security incidents relating to the movements of members of the public in the North of Mitrovicë/Mitrovica. No complains concerning any limitations or hindrance of access to the courtroom were presented to the trial panel.

**iii. Security in the courthouse**

1. There were normal security measures applied during the whole trial. These involved bans on bringing large objects to the courtroom, and personal checks with a metal detector at the entrance to the courthouse. Kosovo Police officers were present in the courtroom. There were no security incidents in the courthouse reported.

**iv. Presence of the parties**

1. The EULEX Prosecutors of the Mitrovicë/Mitrovica Prosecution Office in Kosovo, the accused and their defence counsel were present at all trial days.

**v. Language of the proceedings, interpretation and court recording**

1. Based on Article 16 of the Law on Jurisdiction and competencies of EULEX Judges and Prosecutors in Kosovo, the language used in the court proceedings was English.
2. In accordance with Article 1 Paragraph 2 of CPCRK, interpreters translated the court proceedings and all court documents relevant to the trial from English into Serbian and vice-versa. Most of the interpretation was performed in a consecutive manner. The speakers were asked by the presiding judge to pause in their speech, usually every 1 to 3 minutes and as a principle at the end of a complete thought, and then the interpreter translated what was said. This method allowed the accurate interpretation of all of the evidence taken in the courtroom. In addition, the members of the public were also provided with consecutive translation into the Albanian language. There were no objections to the quality of the interpretation.
3. The closing arguments of the parties and the announcement of the enacting clause of the judgment were translated simultaneously into English, Albanian, and Serbian.
4. According to the decision of the presiding trial judge taken pursuant to Article 315 Paragraphs 2 and 5 of the CPCRK, the record of the proceedings was made *verbatim* in writing and without audio, video or stenographic recording because the time used for translation allowed the court recorder to accurately capture and write down all words spoken in the courtroom.

5. The accuracy of the written record was controlled by the presiding trial judge in real time. The computer screen displaying the record was placed in front of him. This manner of recording made the use of other recording methods redundant as it appeared unlikely that they could achieve a more accurate record. There were no objections to the accuracy of the record.

#### **vi. Public character of the trial**

1. The trial was held in open court. No part of the trial was held in a closed session.

#### **vii. Examination of witnesses**

##### **1. Principles applied for questionings**

##### **a. Leading, provocative, badgering and other similar questions**

1. As a principle, leading questions on direct examination were not allowed by the presiding judge. The only exceptions were permitted when recollection of facts by the witness was obviously exhausted, when there was a need to focus the witness' attention on a particular matter, or when the question touched upon a matter being obviously of common knowledge.
2. Suggestive and repetitive questions were also not allowed at this stage.



3. Badgering of a witness and misquotation of previous statements were not permitted throughout all examinations.

**b. Questioning by judges**

1. The panel participated actively in the questioning of the witnesses at various stages of examination. However, the parties were always given the opportunity to challenge the answers given by the witness in response to a judge's question. The panel based its activity in questioning on the consideration that Article 7 Paragraph 1 of the CPCRK obliges judges to seek for an objective truth. Therefore, a meticulous clarification of all factual matters that appear to the judges to be unclear was necessary. Article 299 Paragraph 1 of the CPCRK entitles the judges to pose questions to any witness but it does not indicate any particular stage of examination. It appears that the code does not impose any limitations with relation to the time of interrogation by judges.
2. On 29 July 2015 the Prosecutor during the examination in chief of the witness C.C. asked if the witness stood by his previous statements and if he wanted "to adopt" it for the trial. All other questions asked by the Prosecutor were dealing with witness' opinions, impressions and speculations but not with the critical events.
3. The presiding trial judge responded in the following way:

*[...] unfortunately according to Criminal Procedure Code of Kosovo we cannot rely on the previous statement. Witness' pre-trial statement can be presented to the court during direct examination only if the declarant does not*

remember what happened and then the previous statement could be used to refresh your memory. It can also be used during the cross-examination to impeach witness's statement given on direct examination.

After deliberation with panel members:

Presiding Judge: I will not comment on prosecution action. However, we, the panel, have the obligation to pursue the objective truth in this case. Therefore we must ask questions to establish the facts in this case.<sup>2</sup>

## **2. Videoconference**

### **a. Rationale**

1. One witness, C.C. \_\_\_\_\_, was heard through videoconference due to his absence in Kosovo.
2. On that occasion an official person, C.D. \_\_\_\_\_, vice-procureur of the \_\_\_\_\_ in \_\_\_\_\_, was present in the remote location in order to guarantee the correct identity of the witness, and his freedom to speak without duress or unlawful instructions.

### **b. Equipment**

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<sup>2</sup> Minutes of Main Trial, 18 August 2015, p. 3, l. 35-50;

1. The equipment used for videoconference allowed the panel and the parties in the courtroom to see the witness sitting in the remote location from the waist upwards. The witness was able to see the person interrogating him with the camera zoomed onto the face and upper part of the body of the person asking questions. Two-way audio communication in real time was maintained between the witness and the persons in the courtroom. The sound was synchronized with the image. The screen in the courtroom was visible to the panel, the parties and the public.

**viii. Parties' objections to procedural actions taken  
by the trial panel**

1. On 27 July 2015, Defence counsel Faruk Korenica raised an objection to the use of Police reports as evidence in this case, stating that they cannot be treated as such and therefore a witness cannot be confronted with the contents of such reports. The trial panel decided the following:

*"We can't use the police report as direct evidence and we can't use the police report as a source for fact finding, and we can't establish any fact based on the report but I have the right to confront the witness with any piece of admissible evidence. We don't consider the police report to be evidence admissible for the purpose of its content. that mean for the credibility of the facts presented in their content. The police report itself can only prove that the police officer who compiled it presented the facts in such a way as it is written down. Therefore, the police report could be used to impeach the witness or to test his credibility. There are separate phases of interrogation of the witness in the court room, the first*

*is direct examination, which belongs to the party that summoned the witness and then the cross-examination comes. There are different rules for direct examination and for cross-examination as we all now. There are far going limitations during the direct examination. No leading question, no confrontation with evidence that can contradict, the testimony given in the court room but these limitations don't apply during the cross-examination. Repetitive questions are allowed and so are provocative questions. There is a legal issue which is not regulated in the criminal procedure code which deals with the timing for questions asked by the panel members. We can do it at any time, during the direct examination, cross-examination or re-cross examination. So, if I decided to ask questions which are meant for cross-examination I can do it but I cannot use it as a fact finding or a basis for fact finding if the questions doesn't comply with the rule of the evidence".<sup>3</sup>*

2. On 4 September 2015, Defence counsel Kaplan Baruti, Dobrica Lazic, Xhelal Hasani, and Faruk Korenica objected to the identification of the culprits depicted in photographs that were admitted into evidence in the case. Witness S.S.1 was asked by the presiding judge to perform the identification ordered in the courtroom on that day. The defence counsel argued that the identification itself did not comply with the procedural rules set by the CPCRK. The presiding trial judge responded to the objections in the following way:

*"After the deliberation we decided to allow it. First of all, there is no formal procedural prohibition of such*

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<sup>3</sup> Minutes of Main Trial, 27 July 2015, p. 21;

identification. There are very strict rules of identification that concern pre-trial proceedings.

If the identification, if the line-up in the pre-trial proceeding is done with the violation of procedural rules, then it is probably inadmissible. There are such jurisdictions that explicitly prohibit so called "in dock" recognition, and the best example of this is the United Kingdom. But even in UK it is allowed to leave the issue to judicial discretion. We are aware of all prejudicial or the factors that could cause prejudice or bias of the witness. The defendants are sitting in the dock with their defence counsel. We understand what effect it may have on the witness. And still we are professional judges and we always apply our discretion to evaluate everything what the witness says. So, we will allow this "in dock" recognition, and we will make our assessment if it is convincing."<sup>4</sup>

3. On 8 September 2015, defence counsel Dobrica Lazic objected to questions put by the Prosecution to a Defence witness A.S. , arguing that the Prosecution is putting pressure on the witness. The trial panel decided the following:

"What you are doing is so called speaking objection. It is an objection that consists of the answer that the defence counsel actually wants to elicit from the witness. I will not allow you to make such an objection. The purpose of the cross-examination is to test the veracity of the witness. Sometimes defence counsels are allowed to ask the questions which were asked and answered but they can not do it many times because it can amount to badgering the witness. ]f you are telling the court that that witness is being pressured by the

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<sup>4</sup> Minutes of Main Trial, 4 September 2015, p. 11, l. 1-50;

*prosecutor on cross-examination, you have the right to raise this objection but my answer is that certain degree of pressure is allowed as long as it is not excessive. The question is allowed."*<sup>5</sup>

**ix. Evidentiary motions rejected by the trial panel**

1. The following evidentiary motions were rejected by the panel:
2. On 8 September 2015, the defence counsel Faruk Korenica made an oral request to the trial panel to summon the \_\_\_\_\_ soldiers, who are visible in the same photographs as his client, to testify before the Court. The Trial Panel decided the following:

*"The first issue that came to our attention, is why this motion is coming so late. It will take us some considerable amount of time to find \_\_\_\_\_ soldiers, it is unlikely they are in the mission now because of rotation, and to find them and establish a video-link would be very difficult. But since it is important for the defence and the defendant should not bear the consequences of the negative actions of his lawyer, we will ask Mr. Korenica to present his motion in writing with detailed explanation. We would like to know why this motion is so late. This is our duty to exclude motions which are presented just only to prolong the proceeding. We would also like to learn Mr. Korenica's arguments on relevancy. We have the following concerns as to the relevance of the evidence: witness S.S.1 \_\_\_\_\_ testified about some violent incidents at the first roadblock. The pictures were taken later, as far as I understand, not only later but also in other locations, so, that's in a*

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<sup>5</sup> Minutes of Main Trial, 8 September 2015, p. 6, l. 5-20;

location where actually no acts of violence were reported. Therefore the issue of relevance is of utmost importance. Mr. Korenica I don't know what your client is going to present in the final speech, but please present us with the hypothesis. Mr. Korenica, please present your motion in writing, and actually I will ask you to do it before the next hearing there would be enough time for the prosecutor to respond."<sup>6</sup>

3. The defence counsel then submitted orally that his motion was not presented to the Court earlier because the defendant could not be recognized from the pictures that he had seen earlier. Only when the picture (photograph) was zoomed over 100 percent, the Defendant said it was him. Therefore, the defence argued that the motion was not belated. The trial panel decided that the motion was not belated but invited the defence counsel to file a written motion to explain why such motion is relevant. Following this, the defence counsel did not file any motion.
  
4. On 12 October 2015, the defence counsel Faruk Korenica and Miodrag Brkljac objected to the police reports being admitted as evidence in this case. In addition, phone conversations in the list of evidence that the Prosecutor intends to have admitted as evidence in this case cannot be evidence since no Court order was issued. Finally, the defence objected to the pre-trial testimonies of all the witnesses who came to testify in front of the Court being admitted as evidence since all witnesses verbally stated that they stood by their statements. The trial panel decided the following:

*"First of all, the objections to the police reports.*

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<sup>6</sup> Minutes of Main Trial, 8 September 2015, p. 13, l. 5-25;

The defence counsel argued that police reports in fact replace the witness statements. We came to the following conclusion: first, according to the definition given by the CCPK, police report is information about evidence collected in the case. Since it is information about evidence it is not to be considered as evidence itself. This is a literal interpretation of the language of the law used by the Kosovo law makers. However, if we go into the content, into the details of the content of a particular report, it usually consists of pieces of information that belong to various categories of information. And we would agree with the defence counsel that if the report quotes information obtained from a person that observed the event or the facts relevant for the case, first this person should be considered as a witness in the case, and secondly it triggers a special regime of preserving information originating from this person.

There are certain safeguardings which must be observed in order to have information coming from the witness admissible. The person must be informed of the consequence of false testimony, then the proper record must be taken, and then it depends what standard of the action was applied. It depends if the information was revealed in the pre-trial interview, pre-trial testimony, or special investigative opportunities and it depends on the form that the information was preserved, what use we can make at the main trial. Simply saying, in other words, information coming from a person who should be considered a witness cannot be presented to the court in any other form than it is mentioned in article 123 of CCPK.



Going back to the content of the police report, besides this category of information that I already commented on, there are also pieces of information that are based on ordinary, routine record of the operation of the police and these are records that are being made on routine basis, in relation to any action taken in the course of normal police operation. So, these are records of the shifts, of the cars used, of registration number of cars used by \_\_\_\_\_, these are records of the normal communication between \_\_\_\_\_ and operation room, they are typically collected and not for the purpose of a particular event that may be considered a crime. There is a presumption that the internal rules of the organization, like police forces are considered to be, that these internal rules prevent information for being somehow misshaped or infringed. If we look at the common law system, which is somehow, Kosovo criminal law refers to the concept of the common law system, we are dealing with there with hearsay exemptions, which refer to the normal business record.

In common law system, hearsay in general is not inadmissible, and hearsay is information which does not come from original source, that means for example that witness is relating a story that he heard from another person. Normally the business record, if someone is recalling the record serves as evidence. We don't have to call the witness as there is a presumption that the record was made in a proper way. It makes a routine business record admissible. Of course, its credibility can be challenged but generally speaking it is admissible. Going back to the police report presented by the prosecutor, we find inadmissible the parts of those records which consist of witness statements but we find

it admissible as far as it present facts recorded as normal police operation.

The next group of evidence which was subject of the objections presented by defence counsel Miodrag Brkljac, are the pieces of evidence which were headlined by the prosecutor as testimonies. These are witness interview of M.A. , witness interview of D.R.1 , G.J. , but also pre-trial examination of witness M.S. , C.C. , G. , etc.

We declare inadmissible all these pieces of evidence which consist of depositions of the witnesses with exception of these pre-trial statements that had been already presented in the court during the course of the main trial, that means during the direct or cross-examination of the witnesses. And I have already given explanation why we consider that replacing the examination of the witness in the court with his written statement is not allowed by the CCPK."<sup>7</sup>

5. Furthermore, on 12 October 2015, Defence counsel Miodrag Brkljac objected to the total value of the damages sustained by \_\_\_\_\_ following the incidents since such reports were drafted by \_\_\_\_\_ itself, the party that was damaged. The trial panel decided the following:

"Then, we have documents consisting of the description of damages and estimation of damages. These are documents compiled by police officers for the purpose of criminal proceedings that present their observations and this is actually the nature of such document is very similar to the search report or inspection report. Normally we don't interrogate the persons who conducted the search or the inspection to get the information what they observed

or noticed and the difference between the testimony of a police officer and report on inspection of site or object is obvious. The statements refer to the facts that happened before the investigation started. The facts presented in the site or object inspection and in this case on the damages observed, were compiled in the course of the proceedings by the authorized police officer as it was his task to collect and preserve this piece of evidence. So, it is admissible although of course its credibility can be challenged."<sup>8</sup>

"The last pieces of evidence contested by the defence counsel deal with the estimated value of the damages and we have agreed with defence counsel Miodrag Brkljac that this evidence doesn't meet the standard of proof which is required by the court because it is difficult even to call it estimation of damages. In relation to the count which is marked as count A in the amended indictment, this one which is related only to S.S. \_\_\_\_\_, as Mr. V. is awaiting separate proceedings, there is something that looks like invoice but it is completely illegible. We cannot read this copy of the invoice and we can't see what is there. We cannot even see where it comes from, from \_\_\_\_\_ or car dealer, if it is the amount that \_\_\_\_\_ paid, which means we have doubts to the content. We cannot read the content of the document. The same related to the other damage report. There is no estimation of cost that is necessary for the charges. Therefore, we decided ex officio, to request invoices for repair of the damages paid by \_\_\_\_\_ and then we will decide if we will take an expert witness to explain more on the issue but usually in the court practice the amount

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<sup>7</sup> Minutes of Main Trial, 12 October 2015, p. 4-5;

<sup>8</sup> Minutes of Main Trial, 12 October 2015, p. 5, l. 30-40;

*of repair presents the actual damages that are element of the crime or sustained by the party.”<sup>9</sup>*

6. In addition, Defence Counsel Miodrag Brkljac also objected to the pictures taken by \_\_\_\_\_ during the incidents admitted as evidence because they were taken without the consent given by the persons present in the pictures. The trial panel decided the following:

*“Then we come to the pictures taken by \_\_\_\_\_ at the crime scene before the investigation started. In that case the \_\_\_\_\_ acted as any member of the public, as a witness, and \_\_\_\_\_ didn’t require any special authorization. If the \_\_\_\_\_ is a witness to the crime being committed and he observes what is going on, and actually it is his duty to observe what is going on, we should not deprive him of the opportunity to preserve this information for the sake of proceedings as any other citizen could do. There is issue of authentication, that means origin of the pictures, but it falls not into the matter of admissibility but credibility or veracity. We have heard witness S.S.1 telling us when he took the pictures, and actually as the counsel noticed, they were taken in the moment when the situation was peaceful. They don’t show any act of violence but without going into details of the contents of the photos as it will be the subject of assessment by the trial panel during the deliberation, we declare the pictures admissible.*

*Then, the pictures of the damages sustained by the vehicles, we find it admissible just as any police officer is allowed to take pictures of the site*

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<sup>9</sup> Minutes of Main Trial, 12 October 2015, p. 6, l. 1-15;

*inspection or object inspection or the places or objects being subject of search.*"<sup>10</sup>

7. The Defence counsel Brkljac also objected to have the pre-trial testimonies of the defendants being admitted as evidence. The Presiding trial judge commented as follows:

*"I forgot about one issue that was pointed out by defence counsel Miodrag Brkljac. This is the use of the pre-trial statement given by the defendants. At this moment we reject prosecutor motion to have it considered as read because again there is a special regime on the use of the pre-trial statements given by the defendants. So, when the time of the defendants' testimonies would come, we will decide case by case if and to what extent their pre-trial testimonies could be used."*<sup>11</sup>

## **II. Determination of the factual situation**

1. The facts relevant to the counts that the defendants were tried for in this case were established by the trial panel on the basis of the analysis and assessment of all pieces of evidence examined in the courtroom.
2. On \_\_\_\_ the convoy consisting of 1 \_\_\_\_ vehicle and 3 \_\_\_\_ vehicles \_\_\_\_-\_\_\_\_, \_\_\_\_-\_\_\_\_ and \_\_\_\_-\_\_\_\_ went from Mitrovicë/Mitrovica \_\_\_\_ in the direction of Gate \_\_\_\_\_. The vehicles were Toyota Landcruiser \_\_\_\_ (\_\_\_\_\_) type. There were \_\_\_\_ on the vehicles: J.R. \_\_\_\_\_, A.W. \_\_\_\_\_, D.D. \_\_\_\_\_, S.S.1 \_\_\_\_\_ and T.A. \_\_\_\_\_. They were ordered to appear at Gate \_\_\_\_\_ because of the visit of the \_\_\_\_\_ Head of \_\_\_\_\_.

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<sup>10</sup> Minutes of Main Trial, 12 October 2015, p. 5-6;

3. At \_\_\_\_\_ am hrs, the convoy was passing a place where an improvised road block near the village of \_\_\_\_\_ was usually arranged. The roadblock was not authorized by any competent authority. At this time there were no people blocking the road. At this moment **B.J.** \_\_\_\_\_ approached the vehicle \_\_\_-\_\_\_-\_\_\_ driven by T.A. \_\_\_\_\_ and intentionally broke its left rear-view mirror. The value of the damage caused by him was 599.14 euros<sup>12</sup>.
4. The convoy did not stop but continued towards Gate \_\_\_\_\_. On the way it was overtaken by 4 cars. At around \_\_\_\_\_ hrs, about 4 km from \_\_\_\_\_, near \_\_\_\_\_, the convoy was blocked by those 4 cars. They were parked on the road and there were 8 men standing around those cars. The convoy stopped at that roadblock. More people were coming to the place but for approximately 45 minutes the situation was calm and no act of violence took place. At around \_\_\_\_\_ hrs a group of approximately 21 to 31 persons became very aggressive towards the members of the \_\_\_\_\_ convoy. They were **S.S.** \_\_\_\_\_, **B.J.** \_\_\_\_\_, **S.V.** \_\_\_\_\_ (the latter did not participate in the trial), and other persons who were not identified during the trial. The crowd became increasingly aggressive and at about \_\_\_\_\_ pm hrs, the participants of the crowd threw stones at the \_\_\_\_\_ vehicles. One unidentified man interfered with the tyres of the vehicles but did not cause any damage. Someone put a backpack between the vehicles. **S.S.** \_\_\_\_\_ kicked and broke the left rear view mirror of \_\_\_\_\_ vehicle \_\_\_-\_\_\_-\_\_\_ driven by S.S.1 \_\_\_\_\_. He also grabbed a blue light from the top of the \_\_\_\_\_ vehicle \_\_\_-\_\_\_-\_\_\_ driven by T.A. \_\_\_\_\_ and destroyed it by smashing it against the rear window of the

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<sup>11</sup> Minutes of Main Trial, 12 October 2015, p. 6, l. 25-30;

<sup>12</sup> See Toyota "Estimate - Parallogari" on vehicle \_\_\_\_\_, dated 04 April 2012;

vehicle. The \_\_\_\_\_ decided to leave the scene and they drove away. The actions described caused damage to \_\_\_\_\_' property in the amount of 1,419.93 euros.<sup>13</sup>

5. On \_\_\_\_\_, \_\_\_\_\_ C.C. \_\_\_\_\_, M.S. and M.B. \_\_\_\_\_ received a \_\_\_\_\_ order to check the freedom of movement in \_\_\_\_\_. They travelled there from Mitrovicë/Mitrovica by \_\_\_\_\_ vehicles Toyota Landcruiser type \_\_\_\_\_-\_\_\_\_-\_\_\_\_. M.S. \_\_\_\_\_ was the driver. At \_\_\_\_\_am hrs, they came to the place near the village \_\_\_\_\_. There was an improvised roadblock consisting of 8 to 10 men. The roadblock was not authorized by any competent authority. The vehicle was stopped by them for a few seconds but it was immediately allowed to go through.
6. When the \_\_\_\_\_ reached the centre of \_\_\_\_\_, a white vehicle of a station wagon type was standing on the road and blocked it. The \_\_\_\_\_ vehicle stopped. There was a group of around 100 nurses gathered near the Municipality building but they did not approach the \_\_\_\_\_ vehicle. Immediately after the \_\_\_\_\_ vehicle stopped it was surrounded by a crowd of 13 to 18 men, including S.S. and S.V. \_\_\_\_\_. They were wearing hoods and had their faces covered. Some of them threw stones towards the vehicle. S.V. \_\_\_\_\_ daubed it with a paint. S.S. \_\_\_\_\_ kicked one external rear-view mirror and he hit the bodywork of the vehicle and its windows with a hammer several times. The actions performed by the participants of the crowd including S.S. \_\_\_\_\_ lasted approximately two minutes. As a result the bodywork, two external rear-view mirrors, the rear window and rear lights

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<sup>13</sup> See "Damage of the \_\_\_\_\_ Vehicle \_\_\_\_\_ on \_\_\_\_\_, Case no MIT 1594/2012; Damage of \_\_\_\_\_ vehicles \_\_\_\_\_ and \_\_\_\_\_ Case no PR1432A/12/4/3" dated 14 October 2015;

were damaged. The total value of damage was 8,500.20 euros<sup>14</sup>. One unidentified man putting polyurethane foam into the vehicle's snorkel choked the engine. M.S. managed to restart the engine and to retreat the vehicle from the scene in the direction of gate \_\_\_\_\_.

### III. Assessment of evidence

#### a. Evidence used as a basis for reconstruction of facts

##### i. Evidence fully reliable

##### 1) Testimonies of witnesses S.S.1 \_\_\_\_\_, C.C. \_\_\_\_\_ and M.S. \_\_\_\_\_

1. The majority of the factual findings made by the trial panel were based on testimonies of witnesses S.S.1 \_\_\_\_\_, C.C. \_\_\_\_\_ and M.S. \_\_\_\_\_.
2. It was apparent that they were experienced in observation and in giving a precise and well-structured version of the events they had witnessed. Their statements contained some insignificant omissions and gaps which were attributed by the trial panel to the visible limitation in the witnesses' memory and not to deliberate duping.
3. The testimony of S.S.1 \_\_\_\_\_ appeared as a decisive piece of evidence for the reconstruction of the facts that happened near \_\_\_\_\_ on \_\_\_\_\_. \_\_\_\_\_ testified

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<sup>14</sup> See "Damage of the \_\_\_\_\_ Vehicle \_\_\_\_\_ on \_\_\_\_\_, Case no MIT 1594/2012; Damage of \_\_\_\_\_ vehicles \_\_\_\_\_ and \_\_\_\_\_ Case no \_\_\_\_\_



in a frank, spontaneous way, without avoiding answers to any questions asked by the parties and by the court. His in-court testimony was not challenged by any discrepancies in his pre-trial depositions. The facts that \_\_\_\_\_ presented were consistent with the records of routine \_\_\_\_\_ operation presented in the \_\_\_\_\_ report of \_\_\_\_\_.

4. There were no doubts as to the recognition of **B.J.** and **S.S.** by S.S.1 . \_\_\_\_\_ identified them as participants of the events of \_\_\_\_\_ . \_\_\_\_\_ testimony complies with the pictures (photographs) that \_\_\_\_\_ took at the crime scene at the critical time.
5. The testimonies of the witnesses C.C. and M.S. complimented each other and did not contradict each other. The testimonies were mutually corroborative in relation to the essential elements. There were some minor discrepancies between the testimonies of C.C. and M.S. concerning the circumstances relating to the roadblock in \_\_\_\_\_ and the number of participants of the events. The discrepancies were of marginal significance and appear to be a result of the imperfection of human memory. The version presented by M.S. was more convincing as it was clear that this witness recollected the events with more details than the other witness did. Therefore the said testimonies were accepted as truthful.
6. The number of the participants of the crowd that attacked the \_\_\_\_\_ vehicles on \_\_\_\_\_ and \_\_\_\_\_ was established by averaging the numbers reported by the said witnesses.

## 2) Police reports

1. The court found all the police reports dated \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ and \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_, admissible and reliable. However, only their content consisting of pieces of information such as records of the shifts and the indication of the cars used by \_\_\_\_\_ was admitted into evidence. The court applied a presumption that the internal rules of the organization of \_\_\_\_\_ prevented information from being misshaped or infringed. There were no discrepancies between the reports and testimonies of M.S. \_\_\_\_\_, C.C. \_\_\_\_\_ and S.S.1 \_\_\_\_\_ that would contradict this presumption.

### **3) Photographs**

1. The photographs contained on pages 2120 to 2162, 2165, 2164, 2118, and 2119 of the case file were accepted by the Court as fully reliable. They were all authenticated by S.S.1 \_\_\_\_\_. \_\_\_\_\_ confirmed the place and the time when they were taken, and there was no indication that they could have been altered.

### **4) Invoices for \_\_\_\_\_ vehicles repairs**

1. There were no doubts as to the reliability of the invoices for the repair of the \_\_\_\_\_ vehicles, and information on previous damage not related to the case was produced by the \_\_\_\_\_ Transport Department in a report dated 14 October 2015. The invoices were issued by a company that carried on the repairs in the course of its ordinary business activity. Neither general knowledge nor facts established in the case indicated reasons for negative assessment of the content of the said documents.

**ii. Notorious facts adopted by the panel**

1. The panel accepted it as a notorious fact that improvised roadblocks were not authorized by any competent authority.

**iii. Evidence reliable but not conclusive**

1. The court accepted the testimonies given by M.A. , D.R.1 and G.J. as reliable. They did not contain elements which contradicted other reliable pieces of evidence in the case. However, they did not contain facts that could indicate the guilt or innocence of the accused. Nor did they contain facts that could corroborate or deny such evidence.
2. The court considered the testimony given by M.K. as credible. The witness did not contradict facts established on the grounds of other pieces of evidence. At the same time however \_\_\_\_\_ observations and recollections of the facts were superficial and without details. The witness was visibly reluctant to make any effort to recollect the events precisely.

**iv. Evidence rejected as a basis for reconstruction of facts**

1. The panel found the testimonies of S.S. , A.S. , S.V.1 and K.V unconvincing. The versions of events presented by the accused and by the said witnesses diverge with relation to the health condition of the accused's daughter at the critical time. According to A.S. , the daughter of the accused S.S. was sick and she had

a fever, while S.V.1 testified that the daughter was healthy but she refused to go to kindergarten. Both A.S. and S.V.1 work as (or 'are') nurses, so their recollection of the symptoms of any alleged sickness should be accurate. According to K.V., the child had a high fever, so the need for the assistance of S.V.1 was urgent. This was not confirmed by S.V.1 at all. With relation to this issue, the answers given by K.V. on cross examination appeared as evasive and insincere. For these reasons the panel assessed that the accused and the witnesses concocted their versions in order to provide \_\_\_\_\_ with a false alibi.

2. The panel found the testimony given by S.S. not reliable. \_\_\_\_\_ version was contradicted by other above mentioned pieces of evidence which complement each other. In particular S.S.'s allegations that he was provoked by the offensive behavior of \_\_\_\_\_ were not supported by any other admissible evidence.
3. The panel found the Police report dated \_\_\_\_\_ that was allegedly prepared by M.K. not reliable. Despite the date, the report referred to events of \_\_\_\_\_. M.K. denied that \_\_\_\_\_ wrote it. Therefore the authenticity of this report was not confirmed and the content of the document itself could not be verified.

#### **IV. Subjective identity of the judgement prevailing over the indictment**

1. Because of the principle of subjective identity of the judgement over the indictment, the crimes that were attributed to the accused have been described without the indication of a perpetrator who was not participating in the

trial, namely S.V. . Instead of his name the enacting clause of the judgement referred to "another identified person". Any findings of the court with relation to S.V. which were made in this case cannot be used as a ground for a decision in any other proceedings.

**V. Legal classification of the actions attributed to the accused**

**a. Legal classification of the accused's action**

1. Pursuant to Article 360 Paragraphs 2 of the CPCRK, the legal classification of charges presented by the Prosecutor was not binding for the court. The trial panel took into consideration the change in the substantial law which took place after the time of the commission of the crimes and before the time of sentencing. The actions that the panel has attributed to the accused were performed on \_\_ \_\_\_\_\_ and \_\_ \_\_\_\_\_ *i.e.* before the entry into force of the Criminal Code of the Republic of Kosovo (CCRK) of 20 April 2012 that took place on 1 January 2013. The panel compared the legal provisions provided by the law that was in force at the time of commission with the new law that was in force since that time until sentencing. Although the definitions of crimes that were attributed to the accused appear as the same in both codes, the sanctions provided for the same offences in the new law appear to be more severe than in the "old code" *i.e.* in the Kosovo Criminal Code of 6 November 2008. In particular, the punishment for an attack on the person or liberty of the United Nations or associated personnel which has been penalised under Article 174 Paragraph 2 of the "new" code and under Article 142 Paragraph 2 of the "old" code is punished by the "new" code with imprisonment of three to

twelve years while it was punished with imprisonment from one to ten years in the "old" code.

2. Since the rules of sentencing under both codes do not diverge from each other, the punishment imposed under the new law *in concreto* would have to be more severe. Therefore pursuant to Article 3 Paragraph 2 of the CCRK, the "old" law is applied as being more favorable.
3. The panel took into consideration that the actions performed by **S.S.** and **B.J.** on both of the critical days met the characteristics of several crimes.
4. On both occasions they acted in co-perpetration with other persons. There were several culprits acting simultaneously. Their actions met the definition of co-perpetration given in Article 23 of the CCK:

*When two or more persons jointly commit a criminal offense by participating in the commission of a criminal offense or by substantially contributing to its commission in any other way, each of them shall be liable and punished as prescribed for the criminal offense.*

5. Each individual action taken by each individual person was done in the presence of the other perpetrators. Each perpetrator took advantage of the actions performed by the other. Each individual action taken by each individual culprit coaxed the other to do the same. It means that they acted *cum animo socii* which means that they supported each other in a significant way and therefore they are responsible for each other's action.
6. In the theory of law, a human act is commonly understood as a sequence of intentionally performed movements or just as an

omission to act. In considering if the culprit committed just one and not several acts, this is usually determined by several factors: time and place of his action or omission and the existence of a single intent that directed all these actions or omissions.

7. In Article 71 of the CCK, the Kosovo lawmaker expressed the concept that one act may constitute several offences. This concept is known as the ideal concurrence of crimes.
8. The presiding trial judge explained the essence of the classification of crimes committed in ideal concurrence in the following way, after the announcement of the enacting clause of the judgment:

*"First, it must be said that Kosovo Law provides for so called "ideal concurrence" of crimes. It says that the same actions can be classified under various legal provisions as separate crimes. This is called as "ideal concurrences". In theory of law there are other solutions in the situation when one action fits definition of various crimes, like multi-classification, or cumulative classification. In some other systems, one action is just one crime. There exist several rules of exclusion which tell us why we exclude some provisions from the legal classification. The most important one of the rules refers to so called "lesser included offence."*

*"[...] There is a whole theory that tells us why we apply some provisions concurrently and why we consider that some provisions are consumed by the other."<sup>15</sup>*

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<sup>15</sup> Minutes of announcement of the verdict, 23 October 2015, p. 3, l. 1-7 and l. 12-13;

"[...] The problem starts from the fundamental question: may there exist criminal action that falls under legal definition of two different crimes while at the same time there is a crime that fall under the classification of only one of these crimes, but not under the classification of other of these crimes?

If the answer is, "yes", we can say that there is an intersection between two crimes. If the answer is, "no", we say that there is a disjoint of crimes. If the answer is, "yes", we deal with the concurrence of crimes. Let us take an example that we have a case of Endangering UN Personnel, and another crime of Obstructing Official Persons in Performing Official Duties. Let us assume that we have the UN judge hearing a case in the courtroom being a victim of both crimes because the perpetrator threw a stone and hit that judge in the head. First, this is endangering UN personnel, then this is also Obstructing Official Persons in Performing Official Duties because the judge is an official person. In the second example let us have a cleaning person being a UN staff member hit by the stone thrown by the perpetrator. The perpetrator has endangered the UN personnel, but he was not obstructing official persons in performing official duties. This shows that the scope of regulation of both of the crimes, are in relation of intersection.

Let us take another example: If you have Kosovo judge who is not the member of UN personnel being the victim of the stone throwing we would deal only with Obstructing Official Persons in Performing Official Duties, providing that the judge is performing the duties. We can see that none of the crimes consumes the other.



*Also obstructing official persons may consist of an attack against the person but not necessarily. For example: if a perpetrator comes to judge's office and he refused to leave it, he is obstructing him to perform his judicial duties but he is not attacking him.”<sup>16</sup>*

9. The panel concluded that the actions attributed to **S.S.** performed by him in the centre of \_\_\_\_\_ on \_\_\_\_\_ constituted one criminal act as they were carried on in the same time and place, and obviously in realization of the same plan, and therefore with the same intent.
10. For the same reasons the actions attributed to **S.S.** and **B.J.** which were performed by them near \_\_\_\_\_ on \_\_\_\_\_ were also considered to constitute one criminal act.
11. Both of these acts were committed in co-perpetration with other persons.
12. Similarly the actions attributed to **B.J.** which were performed by them near \_\_\_\_\_ on \_\_\_\_\_ was also considered as one criminal act, but on this occasion he acted alone.
13. All the above mentioned criminal acts met the elements constituent of the several crimes criminalised by the CCK which do not consume each other:

- Endangering United Nations or Associated Personnel criminalised under Article 142 Paragraph 2; an attack on a vehicle with such personnel on board is always directed against a person. It must be explained that the crime under Article 142 Paragraph 3 if directed against a

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<sup>16</sup> Minutes of announcement of the verdict, 23 October 2015, p. 3, l. 19-43;

vehicle must consist of attack on an empty vehicle - for example damaging a car which deprives a person belonging to the United Nations or Associated Personnel of the possibility to escape from dangerous weather conditions which jeopardise his life;

- Obstructing Official Persons in Performing Official Duties under Article 316 Paragraphs 1 and 3; \_\_\_\_\_

\_\_\_\_\_ are official persons as they fall into the definition given in Article 107 Paragraph 1 subparagraphs 2 and 5. They were carrying on their official duties. This crime is not consumed by the crime of Endangering United Nations or Associated Personnel as this second crime can be also directed against members of the personnel not performing official duties at the time of the attack;

- Attacking Official Person Performing Official Duties under Article 317 Paragraph 1; this crime is not consumed Obstructing Official Persons in Performing Official Duties as this second crime may for example consist of passive resistance and of an attack. On the other hand, an attack may not result in any obstruction as the intent of the culprit is only to offend the official person; for example throwing eggs against a vehicle carrying official persons on board;

- 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.

14. On each occasion these crimes were committed in ideal concurrence.

15. The panel concluded that all staff members of the \_\_\_\_\_ of \_\_\_\_\_ in \_\_\_\_\_ (\_\_\_\_\_) fall within the scope of the definition of personnel associated with the United Nations. The term "associated personnel" is defined in Article 142 Paragraph 6 item (2) of the CCK. It includes, at (i), "Persons assigned by a Government or an intergovernmental organization with the agreement of the competent organ of the United Nations". UN Resolution 1244 "[e]ncourages all Member States and international organizations to contribute to economic and social reconstruction (...)".<sup>17</sup> This definition of "associated personnel" follows the one stated in the Convention on the Safety of United Nations and Associated Personnel.<sup>18</sup> The legal basis of the Mission subsequent to UN Resolution 1244 is based on the agreement of the UN. In particular, the Council of the European Union Joint Action of 4 February 2008<sup>19</sup> states in the preamble:

*"(1) On 10 June 1999, the United Nations Security Council adopted Resolution 1244 (hereinafter Resolution 1244), and within this framework, the United Nations Security Council:*

- Decides that the international civil and security presences are established for an initial period of 12 months, to continue thereafter unless the Security Council decides otherwise (Paragraph 19),*

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<sup>17</sup> S/Res/1244 (1999) 10 June 1999, Paragraph 13;

<sup>18</sup> Dated 9 December 1994, Article 1 (b) (i);

<sup>19</sup> COUNCIL JOINT ACTION 2008/124/CFSP of 4 February 2008 on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO, and as amended by COUNCIL JOINT ACTION 2009/445/CFSP of 9 June 2009 amending Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO, COUNCIL DECISION 2010/322/CFSP of 8 June 2010 amending and extending Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO, COUNCIL DECISION 2012/291/CFSP of 5 June 2012 amending and extending Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO, COUNCIL DECISION 2014/349/CFSP of 12 June 2014 amending Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo, EULEX Kosovo.

- 'Authorises the Secretary-General, with the assistance of relevant international organisations, to establish an international civil presence in Kosovo (...)."

16. Therefore, all \_\_\_\_\_ staff members enjoy the same protections as UN personnel as they are considered to be "associated personnel".

17. The actions attributed to the accused did not fit the definition of the crime of "Participation in a crowd that commits a serious offence" as they were charged with in the indictment. The crime itself is defined as follows:

*"Whoever participates in an assembled crowd which by a collective action deprives another person of his or her life, inflicts a grievous bodily harm to another person, causes general danger, damages property on a large scale, or commits other offences of great violence, or attempts to commit such offences."*

18. The actions that had been completed by the culprits did not escalate to the extent set by this definition. Neither was bodily harm caused, nor general danger. General danger refers to the jeopardising of an unspecified number of people. There was also no large scale damage to property. The panel is also mindful that the total value of the vehicle and the value of damage are rather minor.

19. The assessment of the evidence related to the count against D.R. \_\_\_\_\_, Z.J. \_\_\_\_\_, B.D. \_\_\_\_\_, U.B. \_\_\_\_\_ and R.T. \_\_\_\_\_ led to the conclusion that the accused were not guilty of the crime that they were charged with.

20. The only pieces of evidence that indicated their connection to the events of \_\_\_\_\_ were photographs taken

by S.S.1 at the critical time. The photographs were properly authenticated by the author. Some of them depicted the above mentioned accused as present at the crime scene.

21. However, witness S.S.1 indicated precisely the moment when the pictures (photographs) were taken: they were all taken when the situation at the roadblock was peaceful. It should be said that the sole presence on the road among vehicles may be perceived as blocking the vehicles by passive resistance. But in this case there was no evidence on how long the accused that were present on the photographs stayed on the road. The action of a person who just approached people and vehicles that were already standing on the road and talked to them intentionally contributed to the obstruction of the convoy. All doubts as to the moment when the accused came to the scene and to the duration of their presence there had to be taken in their favour.
22. The defendants behaved in the way described above although they were able to understand and control their acts, which they desired, knowing that their acts were forbidden and punishable by law.

#### **b. Determination of the Punishment**

1. While determining individual punishments for S.S. and B.J. for each concurring crime that they were found guilty of, the panel took into consideration their actions that were not sophisticated at all. The intensity of violence that they applied was assessed by the panel as moderate. As an aggravating factor the court kept in mind the notoriety of hostile acts against \_\_\_\_\_ staff in the North of Kosovo in recent years. The need for general deterrent together with the somehow collective nature of their actions was therefore taken as aggravating factors.

2. On the other hand, the court took into consideration that they both have not been convicted so far for any other crime.
3. The fines were determined in proportion to the value of material damages that the accused caused.
4. Calculation of the aggregated sentences was made with consideration given to the very close temporal link between all concurring crimes.
5. Both accused are members of the local community. **B.J.** has a permanent occupation and steady monthly income. **S.S.** has a family that includes two children in a pre-school age.
6. These circumstances led the panel to the assessment that both accused deserved suspension of the execution of imprisonment imposed against them. The trial panel concluded that there are social and economic links which should prevent them from committing a crime in the future.
7. It was the duty of the trial panel to credit the period of time that **S.S.** spent in detention on remand into the term of imprisonment which was imposed on him.

## **VI. The Costs**

1. The trial panel based its decision on the costs of criminal proceedings on legal provisions quoted in the enacting clause. The extent and proportion between scheduled amounts that **S.S.** and **B.J.** are obligated to reimburse have been determined with consideration to the gravity of the charges against them and the number of investigatory and evidentiary actions that were taken in

order to prove these charges. It was also taken into consideration that there were other defendants in the case that have been acquitted of the charges against them.

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**Dariusz Sielicki**  
EULEX Presiding Judge

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**Dukagjin Kerveshi**  
Recording Clerk

**Legal Remedy:** The defendants, 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 CPCRK. Any appeal must be filed with the Court of first instance under Article 388 Paragraph (1) of the CPCRK.

