

IN THE NAME OF THE PEOPLE

BASIC COURT OF PRISHTINË/PRIŠTINA

Case: PKR 1098/13

Date: 18 November 2015

The Basic Court of Prishtina in the trial panel composed of presiding trial judge Vladimir Mikula and the panel members Anita Krasniqi-Prenaj and Judge Piotr Bojarczuk assisted by the court recorder Dea Dedi in the criminal case against:

**G.K.**, male, born on **xxx** in **xxx**, father's name **M.**, Kosovo Albanian, citizenship Kosovo, current address **xxx** village, Police officer ID # **xxx**

**S.S.**, male, born on **xxx** in **xxx**, Vushtrri Municipality, father's name **I.**, Kosovo Albanian, citizenship Kosovo, Police officer ID # **;**

**N.D.**, male, born on **xxx** in **xxx**, father's name **V.**, Kosovo Albanian, citizenship Kosovo, current address **xxx**, **xxx**, Police officer ID # **xxx**

**S.A.**, male, born on **xxx** in Prishtina, father's name **H.**, Kosovo Albanian, citizenship Kosovo, current address **xxx**, **xxx**, Police officer ID # **xxx**

**N.Z.**, male, born on **xxx** in **xxx**, father's name **Z.**, Kosovo Albanian, citizenship Kosovo, current address **xxx**ica **xxx**, No. **x**, **xxx**, Police officer ID # **xxx**,

**J.R.**, male, born on **xxx** in **xxx**, **xxx**, father's name **S.**, Kosovo Albanian, citizenship Kosovo, current address village **xxx**, **xxx**, Police officer ID # **xxx**,

**N.S.H.**, male, born on **xx3x98** in **xxx**, father's name **B.**, Kosovo Albanian, citizenship Kosovo, current address **xxx**, Police officer ID # **xxx**

**XH.H.**, male, born on **xxx** in **xxx**, **xxx**, father's name **H.**, Kosovo Albanian, citizenship Kosovo, current address **xxx** village Vushtrri, Police officer ID # **xxx**

**V.K.**, male, born on **xxx** in **xxx**, Croatia, father's name **L.**, Kosovo Albanian, citizenship Kosovo, current address **xxx**, Street No. **x**, **xxx**, Police officer ID # **xxx**.



Z. S. , male, born on xxx . in xxx father's name S. , Kosovo Albanian, citizenship Kosovo, current address xxx village, Viti, Police officer ID # xxx.

J. R. , male, born on xxx in xxx father's name D. , Kosovo Albanian, citizenship Kosovo, current address xxx , xxx Police officer ID # xxx.

All of them Charged pursuant to the Indictment dated 11.12.2013 and filed before the Basic Court of Prishtina on 12.12.2013 with the criminal offences as described in the Indictment as following;

G.K, S.S, N.D, S.A, N.Z, J.R, N.SH, X.H.H, V.K, Z.S and J.R. all of them charged with;

**COUNT 1: Mistreatment during Exercise of Official Duty or Public Authorization**, contrary to Article 198, paragraph 1, in conjunction with Article 31 of the Criminal Code of Kosovo (hereafter 'CCK'), and punishable by imprisonment of up to three (3) years;

**COUNT 2: Assault**, contrary to Article 187, paragraph 1, in conjunction with Article 31 of the CCK and punishable by imprisonment of up to three (3) years;

**COUNT 3: Assault**, contrary to Article 187, paragraph 2 in connection with paragraph 1, in conjunction with Article 31 of the CCK, and punishable by imprisonment of six (6) months to five (5) years;

**COUNT 4: Assault**, contrary to Article 187, paragraph 3 in connection with paragraph 1, in conjunction with Article 31 of the CCK, and punishable by imprisonment of six (6) months to three (3) years;

G.K., N.D, . and S.A. charged with:

**COUNT 5: Mistreatment during Exercise of Official Duty or Public Authorization**, contrary to Article 198, paragraph 1, in conjunction with Article 31 of the CCK, and punishable by imprisonment of up to three (3) years;

S.A. charged with:

**COUNT 6: Threat**, contrary to Article 185, paragraph 4 in connection with paragraph 1 of the CCK, and punishable by imprisonment of one (1) to five (5) years;

G.K. charged with:

**COUNT 7: Threat**, contrary to Article 185, paragraph 4 in connection with paragraph 1, of the CCK and punishable by imprisonment of one (1) to five (5) years;

G.K. charged with:

**COUNT 8: Assault**, contrary to Article 187, paragraph 1, of the CCK and punishable by imprisonment of up to three (3) years;

G.K. charged with:

**COUNT 9: Assault**, contrary to Article 187, paragraph 2, in connection with paragraph 1 of the CCK, and punishable by imprisonment of six (6) months to five (5) years;

G.K. charged with:

**COUNT 10: Assault**, contrary to Article 187, paragraph 3 in connection with paragraph 1, of the CCK and punishable by imprisonment of six (6) months to three (3) years:

S.S., N.Z., N.S.H. and X.H.H. all of them charged with:

**COUNT 11: Mistreatment during Exercise of Official Duty or Public Authorization**, contrary to Article 198, paragraph 1, in conjunction with Article 31 of the CCK, and punishable by imprisonment of up to three (3) years;

V.K., Z.S., J.R. and I.R. all of them charged with:

**COUNT 12: Mistreatment during Exercise of Official Duty or Public Authorization**, contrary to Article 198, paragraph 1, in conjunction with Article 31 of the CCK and punishable by imprisonment of up to three (3) years:

G.K. charged with:



**COUNT 13: Mistreatment during Exercise of Official Duty or Public Authorization**, contrary to Article 198, paragraph 1, of the CCK and punishable by imprisonment of up to three (3) years;

*G.K.* charged with:

**COUNT 14: Assault**, contrary to Article 187, paragraph 3 in connection with paragraph 1, of the CCK and punishable by imprisonment of six (6) months to three (3) years;

*S.S.* charged with:

**COUNT 15: Mistreatment during Exercise of Official Duty or Public Authorization**, contrary to Article 198, paragraph 1, of the CCK and punishable by imprisonment of up to three (3) years;

*S.S.* charged with:

**COUNT 16: Assault**, contrary to Article 187, paragraph 3 in connection with paragraph 1, of the CCK and punishable by imprisonment of six (6) months to three (3) years:

*G.K.* and *N.D.* both of them charged with:

**COUNT 17: Mistreatment during Exercise of Official Duty or Public Authorization**, contrary to Article 198, paragraph 1 in conjunction with Article 31 of the CCK and punishable by imprisonment of up to three (3) years;

*G.K.* and *N.D.* both of them charged with:

**COUNT 18: Assault**, contrary to Article 187, paragraph 2 in connection with paragraph 1, in conjunction with Article 31 of the CCK and punishable by imprisonment of six (6) months to five (5) years; and

*G.K.* and *N.D.* both of them charged with:

**COUNT 19: Assault**, contrary to Article 187, paragraph 3 in connection with paragraph 1, in conjunction with Article 31 of the CCK and punishable by imprisonment of six (6) months to three (3) years;

After having held the main trial sessions, in the presence of the EULEX Prosecutor Danilo Ceccarelli, the accused and their defense counsels *A.R.* for *G.K.*, *N.S.H.1.*

for S.S. , B.M.2 for N.D. , R.D. for S.A. , G.A.  
for N.Z. , N.S. for J.R. , X.H.M. for X.H.H.  
T.Z.H. for V.K. , M.S.E. for Z.S. , A.K.  
for I.R. , F.B. for N.S.H.

On the following dates:

8 and 17 July 2014;  
10, 11, 24 and 25 September 2014;  
8, 9, 22, 23 and 24 October 2014;  
19 November 2014;  
3, 9, 10, 11 and 16 December 2014;  
15, 27, 28 and 29 January 2015;  
3, 4 and 5 February 2015;  
3, 9 and 12 March 2015;  
15, 16 and 17 April 2015;  
12, 14, 18 and 20 May 2015;  
30 June 2015;  
7 and 14 July 2015;  
25 and 26 August 2015;  
8 September 2015;  
9, 10 and 11 November 2015

after the trial panel's deliberation and voting held on 12 November 2015;

**PURSUANT** to Articles 359, 361, 362, 364, 365 and 366 of the Criminal Procedure Code of Republic of Kosovo (hereafter "CPCRK"), on this 18<sup>th</sup> day of November 2015, the trial panel in open court and in the presence of the defendants, defence counsels and the Prosecutor renders the following

## JUDGMENT

G.K. , male, born on x x x in x x x father's name M. , Kosovo Albanian, citizenship Kosovo, current address x x x village, Police officer ID #x x x

Is found guilty

Because

As a serving, on-duty police officer with Kosovo Police, Special Operations Unit (SOU), on 08 January 2013, in Prishtinë/Priština, Kosovo, while:

- 1) Escorting **M.J.**, who was in his custody and who was handcuffed, from the reception area to a vehicle, slapped and hit Marko Jakovlevic, in the vehicle Toyota 293-01 when the vehicle was stationary, (Counts 1, 2 and 3)
- 2) Escorting **I.P.** who was in his custody and who was handcuffed, from the reception area to a vehicle mistreated him by hitting him with his hands inside of the van Mercedes 288-01, (Counts 1, 2 and 3)
- 3) Escorting **B.M.** who was handcuffed, in the vehicle Mercedes 413-01 from the Prishtina detention Centre to the Minor Offences Court, being very aggressive with **B.M.** was hitting and kicking him with his combat boots to his stomach and back especially when he refused to confirm that he lives in independent Kosovo. He pointed a gun to his head while **S.A.** pointed his gun to **B.M.'s** knee with the intent to make him say "...Kosovo is a republic." **G.K.** hit **B.M.** with the butt of his rifle to his chest and it made **B.M.** struggle for air and **G.K.** beat him in this manner until the journey from Prishtina detention center to the Minor Offences Court was over. ( Counts 5, 7, 8, 9 and 13)
- 4) Together with **N.D.** he kicked **D.V.** with his combat boots to the stomach and groin and genitals and verbally insulted and assaulted him in the toilet of the Minor Offences Court. (Counts 17 and 18,).

Therefore he committed

- By the actions at 1, 2, 3 and 4 above four criminal offences of Mistreatment during Exercise of Official Duty or Public Authorization, contrary to Article 198, paragraph 1, whereby criminal offences at 3 and 4 in co-perpetration pursuant to Article 31 of the CCK
- By the actions at 1 and 2 above two criminal offences of Assault, contrary to Article 187, paragraph 1 of the CCK
- By the actions at 3 and 4 above two criminal offences of Assault, contrary to Article 187, paragraph 2 in co-perpetration pursuant to Article 31 of the CCK
- By the action at 3 the one criminal offence of Threat, contrary to Article 185, paragraph 4 in co-perpetration pursuant to Article 31 of the CCK

Therefore, the trial panel imposes the following sentences:

For the criminal offence at 1 of Mistreatment during Exercise of Official Duty or Public Authorization, contrary to Article 198, paragraph 1, pursuant to Articles 41, 45, 73, 74 and 198 paragraph 1 of the CCK to the punishment of imprisonment for 8 months . Pursuant to Article 65

paragraph 1 of the CCK to the punishment of prohibition of exercising public administration or public service functions for one (1) year.

For the criminal offence at 2 of Mistreatment during Exercise of Official Duty or Public Authorization, contrary to Article 198, paragraph 1, pursuant to Articles 41, 45, 73, 74 and 198 paragraph 1 of the CCK to the punishment of imprisonment for 8 months . Pursuant to Article 65 paragraph 1 of the CCK to the punishment of prohibition of exercising public administration or public service functions for one (1) year.

For the criminal offence at 3 of Mistreatment during Exercise of Official Duty or Public Authorization, contrary to Article 198, paragraph 1, pursuant to Articles 41, 45, 73, 74 and 198 paragraph 1 of the CCK in co-perpetration pursuant to Article 31 of the CCK to the punishment of imprisonment for eight (8) months . Pursuant to Article 65 paragraph 1 of the CCK to the punishment of prohibition of exercising public administration or public service functions for one (1) year.

For the criminal offence at 4 of Mistreatment during Exercise of Official Duty or Public Authorization, contrary to Article 198, paragraph 1, pursuant to Articles 41, 45, 73, 74 and 198 paragraph 1 of the CCK in co-perpetration pursuant to Article 31 of the CCK to the punishment of imprisonment for 8 months . Pursuant to Article 65 paragraph 1 of the CCK to the punishment of prohibition of exercising public administration or public service functions for one (1) year.

For the criminal offence at 1 of Assault, contrary to Article 187, paragraph 1 of the CCK pursuant to Articles 41, 45, 73, 74, and 187, paragraph 1 of the CCK to the punishment of imprisonment for 6 months. Pursuant to Article 65 paragraph 1 of the CCK to the punishment of prohibition of exercising public administration or public service functions for one (1) year.

For the criminal offence at 2 of Assault, contrary to Article 187, paragraph 1 of the CCK pursuant to Articles 41, 45, 73, 74, and 187, paragraph 1 of the CCK to the punishment of imprisonment for 6 months. Pursuant to Article 65 paragraph 1 of the CCK to the punishment of prohibition of exercising public administration or public service functions for one (1) year.

For the criminal offence at 3 of Assault, contrary to Article 187, paragraph 2 in co-perpetration pursuant to Article 31 of the CCK pursuant to Articles 41, 45, 73, 74, and 187, paragraph 2 of the CCK to the punishment of imprisonment for 1 year. Pursuant to Article 65 paragraph 1 of the CCK to the punishment of prohibition of exercising public administration or public service functions for one (1) year.

For the criminal offence at 4 of Assault, contrary to Article 187, paragraph 2 in co-perpetration pursuant to Article 31 of the CCK pursuant to Articles 41, 45, 73, 74, and 187, paragraph 2 of the CCK to the punishment of imprisonment for 1 year. Pursuant to Article 65 paragraph 1 of the CCK to the punishment of prohibition of exercising public administration or public service functions for one (1) year.

For the criminal offence at 3 of Threat, contrary to Article 185, paragraph 4 in connection with paragraph 1, of the CCK in co-perpetration pursuant to Article 31 of the CCK and pursuant to Articles 41, 45, 73, 74, and 185, paragraph 4 of the CCK to the punishment of imprisonment of 1 year. Pursuant to Article 65 paragraph 1 of the CCK to the punishment of prohibition of exercising public administration or public service functions for one (1) year.

Pursuant to Article 80 of the CCK the Court imposes an aggregate punishment of one (1) year and six (6) months of imprisonment.

Pursuant to Article 65 paragraph 1 of the CCK to the court also imposes the punishment of prohibition of exercising public administration or public service functions for two (2) years.

S.S. male, born on XXX in XXX Vushtrri Municipality, father's name I., Kosovo Albanian, citizenship Kosovo, Police officer ID # XXX.

As a serving, on-duty police officer with Kosovo Police, Special Operations Unit (SOU) and team leader, on 08 January 2013, in Prishtinë/ Priština, Kosovo while:

- 1) Escorting B.M.A. who was in his custody and who was handcuffed from the reception area to a vehicle twice kicked with combat boots and hit B.M.A. upon exiting the vehicle and while in the car Mercedes 413-01 strapped the seat belt around B.M.A. neck and continued to beat him (Counts 1, 2, 3 and 15)
- 2) Escorting I.P. who was in his custody and handcuffed from the reception area to a vehicle, slapped Ivan Petrovic by "gypsy slap". (Counts 1, 2 and 3)

Therefore he committed

- By the actions at 1 and 2 two criminal offences of Mistreatment during Exercise of Official Duty or Public Authorization, contrary to Article 198, paragraph 1, of the CCK
- By the actions at 1 a criminal offence of Assault, contrary to Article 187, paragraph 2 of the CCK
- By the actions at 2 two criminal offence of Assault, contrary to Article 187, paragraph 1 of the CCK

Therefore the trial panel imposes the following sentences:

For the criminal offence at 1 of Mistreatment during Exercise of Official Duty or Public Authorization, contrary to Article 198, paragraph 1, pursuant to Articles 41, 49, 50, 52 73, 74 and 198 paragraph 1 of the CCK to the punishment of 1 year of imprisonment which execution being suspended pursuant to Article 51 paragraph 2 of the CCK for the verification period of 2 years if the defendant does not commit another criminal offense during the verification period.



Pursuant to Article 65 paragraph 2 of the CCK to the punishment of prohibition of exercising public administration or public service functions for two (2) years.

For the criminal offence at 2 of Mistreatment during Exercise of Official Duty or Public Authorization, contrary to Article 198, paragraph 1, pursuant to Articles 41, 49, 50, 52 73, 74 and 198 paragraph 1 of the CCK to the punishment of 1 year of imprisonment which execution being suspended pursuant to Article 51 paragraph 2 of the CCK for the verification period of two (2) years if the defendant does not commit another criminal offense during the verification period. Pursuant to Article 65 paragraph 2 of the CCK to the punishment of prohibition of exercising public administration or public service functions for two (2) years.

For the criminal offence at 1 of Assault, contrary to Article 187, paragraph 2 of the CCK. Pursuant to Articles 41, 49, 50, 52 73, 74, and 187, paragraph 2 of the CCK to the punishment of 1 year of imprisonment which execution being suspended pursuant to Article 51 paragraph 2 of the CCK for the verification period of two (2) years if the defendant does not commit another criminal offense during the verification period.

For the criminal offence at 2 of Assault, contrary to Article 187, paragraph 1 of the CCK. Pursuant to Articles 41, 49, 50, 52 73, 74, and 187, paragraph 1 of the CCK to the punishment of eight (8) months of imprisonment which execution being suspended pursuant to Article 51 paragraph 2 of the CCK for the verification period of two (2) years if the defendant does not commit another criminal offense during the verification period.

Pursuant to Article 65 paragraph 2 of the CCK to the punishment of prohibition of exercising public administration or public service functions for two (2) years.

Pursuant to Article 80 of the CCK the court imposes an aggregate punishment of two (2) years with execution being suspended pursuant to Article 51 paragraph 2 of the CCK for the verification period of three (3) years if the defendant does not commit another criminal offense during the verification period.

Pursuant to Article 65 paragraph 2 of the CCK to the punishment of prohibition of exercising public administration or public service functions for three (3) years.

S.A. male, born on xxx in Prishtina, father's name H. Kosovo Albanian, citizenship Kosovo, current address xxx Prishtina, Police officer ID # xxx

As a serving, on-duty police officer with Kosovo Police, Special Operations Unit (SOU), on 08 January 2013, in Prishtinë/Priština, Kosovo

- 1) In the vehicle Mercedes 413-01 while escorting B.M. who was handcuffed from the Prishtina detention Centre to the Minor Offenses Court after B.M.

refused to say to G.K. that he lives in the independent Kosovo and receiving from G.K. a considerable number of blows, S.A. as the driver of vehicle Mercedes 413-01 stopped it and cocked his weapon and pointed it at B.M.'s knee and also beat B.M. in the police vehicle Mercedes 413-01 ( Counts 5 and 6)

Therefore he committed

- The criminal offence of Mistreatment during Exercise of Official Duty or Public Authorization, contrary to Article 198, paragraph 1 in co-perpetration pursuant to Article 31 of the CCK
- The criminal offence of Threat, contrary to Article 185, paragraph 4 in connection with paragraph 1, of the CCK in co-perpetration pursuant to Article 31 of the CCK

Therefore, the trial panel imposes the following sentences:

For the criminal offence of Mistreatment during Exercise of Official Duty or Public Authorization, contrary to Article 198, paragraph 1, in co-perpetration pursuant to Article 31 of the CCK and pursuant to Articles 41, 49, 50, 52 73, 74, and 198 paragraph 1 of the CCK to the punishment of 1 year of imprisonment which execution being suspended pursuant to Article 51 paragraph 2 of the CCK for the verification period of 2 years if the defendant does not commit another criminal offense. Pursuant to Article 65 paragraph 2 of the CCK to the punishment of prohibition of exercising public administration or public service functions for one (1) year.

For the criminal offence of Threat, contrary to Article 185, paragraph 4 in connection with paragraph 1, of the CCK in co-perpetration pursuant to Article 31 of the CCK and pursuant to Articles 41, 49, 50, 52 73, 74, and 185, paragraph 4 of the CCK to the punishment of 1 year of imprisonment which execution being suspended pursuant to Article 51 paragraph 2 of the CCK for the verification period of 2 years if the defendant does not commit another criminal offense during the verification period. Pursuant to Articles 58 paragraph 2 and 59 paragraph 1 subparagraph 1.11 of the CCK the court orders S.A. to refrain from carrying any kind of weapon for the time of the verification period. If the defendant does not comply with this condition then court may revoke the suspended sentence pursuant to Article 55 of CCK.

Pursuant to Article 65 paragraph 2 of the CCK to the punishment of prohibition of exercising public administration or public service functions for one (1) year.

Pursuant to Article 80 of the CCK the court imposes an aggregate punishment of one (1) year and six (6) months with execution being suspended pursuant to Article 51 paragraph 2 of the CCK for 2 years of verification period if the defendant does not commit another criminal during the verification period. Pursuant to Articles 58 paragraph 2 and 59 paragraph 1 subparagraph 1.11 of the CCK the court orders S.A. to refrain from carrying any kind of

weapon for the time of the verification period. If the defendant does not comply with this condition then court may revoke the suspended sentence pursuant to Article 55 of CCK. Pursuant to Article 65 paragraph 2 of the CCK to the punishment of prohibition of exercising public administration or public service functions for two (2) years.

N. D. , male, born on xxx in xxx , father's name V. , Kosovo Albanian, citizenship Kosovo, current address xxx , xxx Police officer ID # xxx.

As a serving, on-duty police officer with Kosovo Police, Special Operations Unit (SOU), on 08 January 2013, in Prishtinë/Priština, Kosovo while:

- 1) Escorting B.M. who was handcuffed from the Prishtina detention Centre to the Minor Offenses Court he hit B.M. in the court building (Count 5)
- 2) Together with G.K. he kicked with his combat boots D.V. to the stomach, groin and genitals and verbally insulted and assaulted him in the court room toilet. (Counts 17 and 18)

Therefore he committed by these actions

By the actions at 1 and 2 two criminal offences of Mistreatment during Exercise of Official Duty or Public Authorization, contrary to Article 198, paragraph 1, in co-perpetration pursuant to Article 31 of the CCK;

By the actions at 1 criminal offence of Assault, contrary to Article 187, paragraph 1 of the CCK;

By the actions at 2 criminal offences of Assault, contrary to Article 187, paragraph 2 in co-perpetration pursuant to Article 31 of the CCK

Therefore, the trial panel imposes the following sentences:

For the criminal offence at 1 of Mistreatment during Exercise of Official Duty or Public Authorization, contrary to Article 198, paragraph 1, and pursuant to Articles 41, 49, 50, 52 73, 74, and 198 paragraph 1 of the CCK to the punishment of 1 year of imprisonment which execution being suspended pursuant to Article 51 paragraph 2 of the CCK for the verification period of 2 years if the defendant does not commit another criminal offense during the verification period. Pursuant to Article 65 paragraph 2 of the CCK to the punishment of prohibition of exercising public administration or public service functions for one (1) year.

For the criminal offence at 2 of Mistreatment during Exercise of Official Duty or Public Authorization, contrary to Article 198, paragraph 1, and pursuant to Articles 41, 49, 50, 52 73, 74, and 198 paragraph 1 of the CCK to the punishment of 1 year of imprisonment which

execution being suspended pursuant to Article 51 paragraph 2 of the CCK for the verification period of 2 years if the defendant does not commit another criminal offense during the verification period. Pursuant to Article 65 paragraph 2 of the CCK to the punishment of prohibition of exercising public administration or public service functions for one (1) year.

For the criminal offence at 1 of Assault, pursuant to Article 187, paragraph 1 of the CCK pursuant to Articles 41, 49, 50, 52 73, 74, and 187, paragraph 2 of the CCK to the punishment of 1 year of imprisonment which execution being suspended pursuant to Article 51 paragraph 2 of the CCK for the verification period of 2 years if the defendant does not commit another criminal offense during the verification period. Pursuant to Article 65 paragraph 2 of the CCK to the punishment of prohibition of exercising public administration or public service functions for one (1) year.

For the criminal offence at 2 of Assault, pursuant to Article 187, paragraph 2 in co-perpetration pursuant to Article 31 of the CCK pursuant to Articles 41, 49, 50, 52 73, 74, and 187, paragraph 2 of the CCK to the punishment of 1 years of imprisonment which execution being suspended pursuant to Article 51 paragraph 2 of the CCK for the verification period of 2 years if the defendant does not commit another criminal offense during the verification period. Pursuant to Article 65 paragraph 2 of the CCK to the punishment of prohibition of exercising public administration or public service functions for one (1) year.

Pursuant to Article 80 of the CCK the court imposes an aggregate punishment of two (2) years imprisonment with execution being suspended pursuant to Article 51 paragraph 2 of the CCK for the verification period of two (2) years if the defendant does not commit another criminal offense during the verification period. Pursuant to Article 65 paragraph 2 of the CCK to the punishment of prohibition of exercising public administration or public service functions for three (3) years.

*N. E.* male, born on *xxx* in *xxx*, father's name *Z.* Kosovo Albanian, citizenship Kosovo, current address *xxx xx*, No. *x*, *xxx* Police officer ID # *xxx*.

As a serving, on-duty police officer with Kosovo Police, Special Operations Unit (SOU),

On 08 January 2013, in Prishtinë/Priština, Kosovo while escorting *i.p.* who was handcuffed from the Prishtina detention Centre to the Minor Offenses Court mistreated *i.p.* in the van while the vehicle Mercedes 288-01 was stationary. (Counts 1, 2 and 11)

Therefore he committed

- The criminal offence of Mistreatment during Exercise of Official Duty or Public Authorization, contrary to Article 198, paragraph 1 of the CCK;
- The Criminal offence of Assault, contrary to Article 187, paragraph 1 of the CCK;

Therefore, the trial panel imposes the following sentences:

For the criminal offence of Mistreatment during Exercise of Official Duty or Public Authorization, contrary to Article 198, paragraph 1, pursuant to Article of the CCK and pursuant to Articles 41, 49, 50, 52 73, 74 and 198 paragraph 1 of the CCK to the punishment of six (6) months of imprisonment which execution being suspended pursuant to Article 51 paragraph 2 of the CCK for the verification period of two (2) years if the defendant does not commit another criminal offense during the verification period. Pursuant to Article 65 paragraph 2 of the CCK to the punishment of prohibition of exercising public administration or public service functions for one (1) year.

For the criminal offence of Assault, contrary to Article 187, paragraph 1 of the CCK pursuant to Articles 41, 49, 50, 52 73, 74 and 187, paragraph 1 of the CCK and to the punishment of eight (8) months of imprisonment which execution being suspended pursuant to Article 51 paragraph 2 of the CCK for the verification period of two (2) years if the defendant does not commit another criminal offense during the verification period.

Pursuant to Articles 65 paragraph 2 of the CCK to the punishment of prohibition of exercising public administration or public service functions for one (1) year.

Pursuant to Article 80 of the CCK the court imposes an aggregate punishment of 1 year imprisonment with execution being suspended pursuant to Article 51 paragraph 2 of the CCK for two (2) years of verification period if the defendant does not commit another criminal offense.

Pursuant to Articles 65 paragraph 2 of the CCK to the punishment of prohibition of exercising public administration or public service functions for two (2) years.

*J. R.* male, born on *x x x* in *x x x*, father's name *D.*, Kosovo Albanian, citizenship Kosovo, current address *x x x*, Gjilan, Police officer ID # *xxx*

As a serving, on-duty police officer with Kosovo Police, Special Operations Unit (SOU),

On 08 January 2013, in Prishtinë/Priština, Kosovo, when *B. M. A.* who was handcuffed, was being escorted from the Prishtina detention Centre to the Minor Offenses Court he hit the neck of *B. M. A.* in the van Mercedes van plate *xxx*. (Counts 1 and 2)

Therefore he committed

- The criminal offence of Mistreatment during Exercise of Official Duty or Public Authorization, contrary to Article 198, paragraph 1 of the CCK;
- The criminal offence of Assault, contrary to Article 187, paragraph 1 of the CCK;

Therefore, the trial panel imposes the following sentences:

For the criminal offence of Mistreatment during Exercise of Official Duty or Public Authorization, contrary to Article 198, paragraph 1, of the CCK and pursuant to Articles 41, 49, 50, 52 73, 74 and 198 paragraph 1 of the CCK to the punishment of 6 months of imprisonment which execution being suspended pursuant to Article 51 paragraph 2 of the CCK for the verification period of one (1) year if the defendant does not commit another criminal offense during the verification period. Pursuant to Article 65 paragraph 2 of the CCK to the punishment of prohibition of exercising public administration or public service functions for one (1) year.

For criminal offence of Assault, contrary to Article 187, paragraph 1 of the CCK pursuant to Articles 41, 49, 50, 52 73, 74, of the CCK and to the punishment of 6 months of imprisonment which execution being suspended pursuant to Article 51 paragraph 2 of the CCK for the verification period of 1 year if the defendant does not commit another criminal offense during the verification period. Pursuant to Article 65 paragraph 2 of the CCK to the punishment of prohibition of exercising public administration or public service functions for one (1) year.

Pursuant Article 80 of the CCK court imposes aggregate punishment of 1 year of imprisonment with execution being suspended pursuant to Article 51 paragraph 2 of the CCK for the verification period of two (2) year if the defendant does not commit another criminal offense during the verification period.

Pursuant to Article 65 paragraph 2 of the CCK to the punishment of prohibition of exercising public administration or public service functions for two (2) years.

## ACQUITALS

Pursuant to Article 364 paragraph 1.1.3 of the Criminal Procedural Code (CPC) **G.K.** is acquitted

of the following counts in the indictment:

**COUNT 4: Assault, contrary to Article 187, paragraph 3 in connection with paragraph 1, in conjunction with Article 31 of the CCK, and punishable by imprisonment of six (6) months to three (3) years:**

On 08 January 2013, in Prishtinë/ Priština, Kosovo, between approximately 14:15 hours and approximately 15:10 hours: *G.K., S.S., N.D., S.A., N.Z., J.R., N.S.H., X.H.H., V.K., S.Z.* and *J.R.*, police officers from Kosovo Police, Special Operations Unit (SOU), Team 3, as co-perpetrators, committed the criminal offence of Assault, by intentionally applying force without consent to vulnerable persons, namely one or more of the following handcuffed detainees *B.M., I.P., M.J., D.T., I.S., B.M.1, D.S., D.V., M.P. Mijalovic,* and/or *Z.M.*, who were in the custody of the defendants, by hitting and kicking the handcuffed persons (also with objects), while escorting the ten detainees, from the reception room at the Prishtina Detention Centre to the three vehicles parked in the parking lot, "Toyota", plate no. Police *XXX* and two "Mercedes" vans with plate numbers Police *XXX* and Police *XX* and also while the vehicles remained stationary in the parking lot.

**COUNT 10: Assault, contrary to Article 187, paragraph 3 in connection with paragraph 1, of the CCK and punishable by imprisonment of six (6) months to three (3) years:**

On 08 January 2013, in Prishtinë/Priština, Kosovo, between approximately 15:10 hours and approximately 15:30 hours: *G.K.*, police officer from Kosovo Police, Special Operations Unit (SOU), Team 3, committed the criminal offence of Assault, by intentionally applying force without consent to a vulnerable person, *B.M.*, by hitting and kicking the handcuffed detainee, who was in the custody of the defendant, while transporting him in police vehicle "Mercedes" with plate number Police *XXX*, from the Prishtina Detention Centre to the Minor Offices Court, Prishtina.

**COUNT 14: Assault, contrary to Article 187, paragraph 3 in connection with paragraph 1, of the CCK and punishable by imprisonment of six (6) months to three (3) years:**

On 08 January 2013, in Prishtinë/Priština, Kosovo, between approximately 15:30 hours and approximately 18:00 hours: *G.K.*, police officer from Kosovo Police, Special Operations Unit (SOU), Team 3, committed the criminal offence of Assault, by intentionally applying force without consent to a vulnerable person, namely handcuffed detainee, *B.M.*, who was in the custody of the defendant, by hitting and kicking him (also with objects), while leading the detainee from the vehicle "Mercedes" with plate number Police *XXX* to the first floor of the Minor Offences Court, Prishtina, and while sitting inside the court house, on the first floor, in the corridor, with his head pushed to the ground.

**COUNT 19: Assault, contrary to Article 187, paragraph 3 in connection with paragraph 1, in conjunction with Article 31 of the CCK and punishable by imprisonment of six (6) months to three (3) years:**

On 08 January 2013, in Prishtinë/Priština, Kosovo, between approximately 15:30 hours and approximately 18:00 hours: *G.K.* and *N.D.*, police officers from Kosovo Police, Special Operations Unit (SOU), Team 3, as co-perpetrators, committed the criminal offence of Assault, by intentionally applying force without consent to a vulnerable person, *D.V.* by kicking the detainee in the groin area, while escorting him to the toilet at the Minor Offences Court, Prishtina.

Pursuant to Article 364 paragraph 1.1.3 of the Criminal Procedural Code (CPC) *S.S.* is acquitted

of the following counts in the indictment:

**COUNT 4: Assault, contrary to Article 187, paragraph 3 in connection with paragraph 1, in conjunction with Article 31 of the CCK, and punishable by imprisonment of six (6) months to three (3) years:**

On 08 January 2013, in Prishtinë/Priština, Kosovo, between approximately 14:15 hours and approximately 15:10 hours: *G.K., S.S., N.D., S.A., N.Z., J.R., N.S.H., X.H.H., V.K., Z.S. and P.R.*

*S.S.*, police officers from Kosovo Police, Special Operations Unit (SOU), Team 3, as co-perpetrators, committed the criminal offence of Assault, by intentionally applying force without consent to vulnerable persons, namely one or more of the following handcuffed detainees *B.M., I.P., M.J., D.T., P.S., B.M.A., D.S., D.V., M.P.* and/or *Z.M.*, who were in the custody of the defendants, by hitting and kicking the handcuffed persons (also with objects), while escorting the ten detainees, from the reception room at the Prishtina Detention Centre to the three vehicles parked in the parking lot, "Toyota", plate no. Police *XXX* and two "Mercedes" vans with plate numbers Police *XXX* and Police *XXX* and also while the vehicles remained stationary in the parking lot.

**COUNT 11: Mistreatment during Exercise of Official Duty or Public Authorization, contrary to Article 198, paragraph 1, in conjunction with Article 31 of the CCK, and punishable by imprisonment of up to three (3) years:**

On 08 January 2013, in Prishtinë/Priština, Kosovo, between approximately 15:10 hours and approximately 15:30 hours: *S.S., N.Z., N.S.H.* and *X.H.H.*, police officers from Kosovo Police, Special Operations Unit (SOU), Team 3, as co-



perpetrators, committed the criminal offence of Mistreatment during Exercise of Official Duty or Public Authorization by mistreating, intimidating and gravely insulting the dignity of one or more of the following persons: *i.P., M.P., D.S.* and/or *i.S.*

, while performing an official duty, transporting the detainees, in police vehicle "Mercedes" with plate number Police *xxx*, from the Prishtina Detention Centre to the Minor Offences Court, Prishtina, by inter alia, hitting and kicking the victims (also with objects) and cocking their weapons and playing Albanian music while demanding that the victims state that they live in Independent Kosovo/Republic of Kosovo.

**COUNT 16: Assault, contrary to Article 187, paragraph 3 in connection with paragraph 1, of the CCK and punishable by imprisonment of six (6) months to three (3) years:**

On 08 January 2013, in Prishtinë/Priština, Kosovo, between approximately 15:30 hours and approximately 18:00 hours: *S.S.*, police officer from Kosovo Police, Special Operations Unit (SOU), Team 3, committed the criminal offence of Assault, by intentionally applying force without consent to a vulnerable person, namely handcuffed detainee,

*B.M.A.*, who was in the custody of the defendant, by hitting and kicking him (also with objects) while leading him from the vehicle "Mercedes" with plate number Police *xxx* to the first floor of the Minor Offences Court, Prishtina, and while sitting inside the court house, on the first floor, in the corridor, with his head pushed to the ground.

Pursuant to Article 364 paragraph 1.1.3 of the Criminal Procedural Code (CPC) *S.A.*

is acquitted

of the following counts in the indictment:

**COUNT 1: Mistreatment during Exercise of Official Duty or Public Authorization, contrary to Article 198, paragraph 1, in conjunction with Article 31 of the CCK, and punishable by imprisonment of up to three (3) years:**

On 08 January 2013, in Prishtinë/Priština, Kosovo, between approximately 14:15 hours and 15:10 hours: *G.K., S.S., M.D., S.A., N.Z., J.R., N.S.H.,*

*X.H.H., V.K., Z.S.,*

and

*I.R.*

, police officers from Kosovo Police, Special Operations Unit (SOU), Team 3, as co-perpetrators, committed the criminal offence of Mistreatment during Exercise of Official Duty or Public Authorization by mistreating, intimidating and gravely insulting the dignity of one or more of the following persons: *B.M., i.P., M.J., D.T., i.S., B.M.A.,*

D.S., M.P.

and/or Z.M. while performing official duties, by, inter alia, hitting and kicking the handcuffed persons (also with objects) who had no opportunity to defend themselves; by escorting them in an insulting manner, namely handcuffed from behind with very tight plastic handcuffs, with their heads bent unnecessarily to the ground; being assaulted and handled roughly in front of witnesses; being verbally insulted on the basis of ethnicity and intimidated, while escorting the ten detainees, who were in the custody of the SOU officers, from the reception room at the Prishtina Detention Centre to the three vehicles parked in the parking lot, "Toyota", plate no. Police XXX and two "Mercedes" vans with plate numbers Police XXX and Police XXX and also while the vehicles remained stationary in the parking lot.

**COUNT 2: Assault, contrary to Article 187, paragraph 1, in conjunction with Article 31 of the CCK and punishable by imprisonment of up to three (3) years:**

On 08 January 2013, in Prishtinë/Priština, Kosovo, between approximately 14:15 hours and 15:10 hours: G.K., S.S., N.D., S.A., N.Z., J.R., N.SH., XH.H.,

V.K., Z.S.,

and

I.R.,

police officers from Kosovo Police, Special Operation Unit (SOU), Team 3, as co-perpetrators, committed the criminal offence of Assault, by intentionally applying force, without consent, to one or more of the following persons, namely B.M., I.P., M.J., D.T., I.S., B.M.A., D.S., D.V., M.P.,

and/or Z.M.,

by hitting and kicking the handcuffed persons (also with objects), while escorting the ten detainees, who were in the custody of the SOU officers, from the reception room at the Prishtina Detention Centre to the three vehicles parked in the parking lot, "Toyota", plate no. Police XXX and two "Mercedes" vans with plate numbers Police XXX and Police XXX and also while the vehicles remained stationary in the parking lot.

**COUNT 3: Assault, contrary to Article 187, paragraph 2 in connection with paragraph 1, in conjunction with Article 31 of the CCK, and punishable by imprisonment of six (6) months to five (5) years:**

On 08 January 2013, in Prishtinë/Priština, Kosovo, between approximately 14:15 hours and 15:10 hours: G.K., S.S., N.D., S.A., N.Z., J.R., N.SH., XH.H.,

V.K., Z.S. and I.R.

, police officers from Kosovo Police, Special Operations Unit (SOU), Team 3, as co-perpetrators, committed the criminal offence of Assault, by intentionally applying force, without consent, with objects capable of causing grievous bodily injury or a serious impairment to health, namely boots, batons, flashlights, seatbelts and/or firearms, to one or more of the following persons, namely B.M., I.P., M.J., D.T., I.S., B.M.A., D.S., D.V., M.P.,

and/or *Z.M.*, while escorting the ten detainees, who were in the custody of the SOU officers, from the reception room at the Prishtina Detention Centre to the three vehicles parked in the parking lot, "Toyota", plate no. Police *xxx* and two "Mercedes" vans with plate numbers Police *xxx* and Police *xxx* and also while the vehicles remained stationary in the parking lot.

**COUNT 4: Assault, contrary to Article 187, paragraph 3 in connection with paragraph 1, in conjunction with Article 31 of the CCK, and punishable by imprisonment of six (6) months to three (3) years:**

On 08 January 2013, in Prishtinë/Priština, Kosovo, between approximately 14:15 hours and approximately 15:10 hours: *G.K., S.S., N.D., S.A., N.Z., J.R., N.S.H., x.H.H., V.K., Z.S.*

and *i.R.* police officers from Kosovo Police, Special Operations Unit (SOU), Team 3, as co-perpetrators, committed the criminal offence of Assault, by intentionally applying force without consent to vulnerable persons, namely one or more of the following handcuffed detainees *B.M., I.P., M.J., D.T., i.S., B.M.A., D.S., D.V., M.P.*

and/or *Z.M.*, who were in the custody of the defendants, by hitting and kicking the handcuffed persons (also with objects), while escorting the ten detainees, from the reception room at the Prishtina Detention Centre to the three vehicles parked in the parking lot, "Toyota", plate no. Police *xxx* and two "Mercedes" vans with plate numbers Police *xxxi* and Police *xxx* and also while the vehicles remained stationary in the parking lot.

Pursuant to Article 364 paragraph 1.1.3 of the Criminal Procedural Code (CPC) *N.D.*

is acquitted

of the following counts in the indictment:

**COUNT 1: Mistreatment during Exercise of Official Duty or Public Authorization, contrary to Article 198, paragraph 1, in conjunction with Article 31 of the CCK, and punishable by imprisonment of up to three (3) years:**

On 08 January 2013, in Prishtinë/Priština, Kosovo, between approximately 14:15 hours and 15:10 hours: *G.K., S.S., N.D., S.A., N.Z., J.R., N.S.H., x.H.H., V.K., Z.S. and i.R.*

, police officers from Kosovo Police, Special Operations Unit (SOU), Team 3, as co-perpetrators, committed the criminal offence of Mistreatment during Exercise of Official Duty or Public Authorization by mistreating, intimidating and gravely insulting the dignity of one or more of the following persons: *B.M., I.P., M.J., D.T., i.S., B.M.A.,*

D.S., D.V., M.P.,  
and/or Z.M., while performing official duties, by, inter alia, hitting and kicking the handcuffed persons (also with objects) who had no opportunity to defend themselves; by escorting them in an insulting manner, namely handcuffed from behind with very tight plastic handcuffs, with their heads bent unnecessarily to the ground; being assaulted and handled roughly in front of witnesses; being verbally insulted on the basis of ethnicity and intimidated, while escorting the ten detainees, who were in the custody of the SOU officers, from the reception room at the Prishtina Detention Centre to the three vehicles parked in the parking lot, "Toyota", plate no. Police xxx and two "Mercedes" vans with plate numbers Police xxx and Police xxx and also while the vehicles remained stationary in the parking lot.

**COUNT 2: Assault, contrary to Article 187, paragraph 1, in conjunction with Article 31 of the CCK and punishable by imprisonment of up to three (3) years:**

On 08 January 2013, in Prishtinë/Priština, Kosovo, between approximately 14:15 hours and 15:10 hours: G.K., S.S., N.D., S.A., N.Z., J.R., N.S.H., X.H.H.,  
V.K., Z.S., and  
I.R., police officers from Kosovo Police, Special Operations Unit (SOU), Team 3, as co-perpetrators, committed the criminal offence of Assault, by intentionally applying force, without consent, to one or more of the following persons, namely B.M., I.P., M.J.,  
D.T., I.S., B.M.A., D.S., D.V., M.P.  
and/or Z.M. by hitting and kicking the handcuffed persons (also with objects), while escorting the ten detainees, who were in the custody of the SOU officers, from the reception room at the Prishtina Detention Centre to the three vehicles parked in the parking lot, "Toyota", plate no. Police xxx and two "Mercedes" vans with plate numbers Police xxx and Police xxx and also while the vehicles remained stationary in the parking lot.

**COUNT 3: Assault, contrary to Article 187, paragraph 2 in connection with paragraph 1, in conjunction with Article 31 of the CCK, and punishable by imprisonment of six (6) months to five (5) years:**

On 08 January 2013, in Prishtinë/Priština, Kosovo, between approximately 14:15 hours and 15:10 hours: G.K., S.S., N.D., S.A., N.Z., J.R., N.S.H., X.H.H., V.K.,  
Z.S. and  
I.R., police officers from Kosovo Police, Special Operations Unit (SOU), Team 3, as co-perpetrators, committed the criminal offence of Assault, by intentionally applying force, without consent, with objects capable of causing grievous bodily injury or a serious impairment to health, namely boots, batons, flashlights, seatbelts and/or firearms, to one or more of the following persons, namely B.M., I.P., M.J., D.T., I.S., B.M.A., D.S.,  
D.V., M.P.

and/or **Z.M.** while escorting the ten detainees, who were in the custody of the SOU officers, from the reception room at the Prishtina Detention Centre to the three vehicles parked in the parking lot, "Toyota", plate no. Police **xxx** and two "Mercedes" vans with plate numbers Police **xxx** and Police **xxx** and also while the vehicles remained stationary in the parking lot.

**COUNT 4: Assault, contrary to Article 187, paragraph 3 in connection with paragraph 1, in conjunction with Article 31 of the CCK, and punishable by imprisonment of six (6) months to three (3) years:**

On 08 January 2013, in Prishtinë/Priština, Kosovo, between approximately 14:15 hours and approximately 15:10 hours: **G.K., S.S., N.D., S.A., N.Z., J.R., N.SH., X.H.H., V.K., Z.S.**  
and **i.R.** police officers from Kosovo Police, Special Operations Unit (SOU), Team 3, as co-perpetrators, committed the criminal offence of Assault, by intentionally applying force without consent to vulnerable persons, namely one or more of the following handcuffed detainees **B.H., i.P., M.J., D.T., i.S., B.H.A., D.S., D.V., M.P.,**  
and/or **Z.M.**, who were in the custody of the defendants, by hitting and kicking the handcuffed persons (also with objects) while escorting the ten detainees, from the reception room at the Prishtina Detention Centre to the three vehicles parked in the parking lot, "Toyota", plate no. Police **xxx** and two "Mercedes" vans with plate numbers Police **xxx** and Police **xxx** and also while the vehicles remained stationary in the parking lot.

**COUNT 19: Assault, contrary to Article 187, paragraph 3 in connection with paragraph 1, in conjunction with Article 31 of the CCK and punishable by imprisonment of six (6) months to three (3) years:**

On 08 January 2013, in Prishtinë/Priština, Kosovo, between approximately 15:30 hours and approximately 18:00 hours: **G.K.** and **N.D.** i i, police officers from Kosovo Police, Special Operations Unit (SOU), Team 3, as co-perpetrators, committed the criminal offence of Assault, by intentionally applying force without consent to a vulnerable person, **D.V.**, by kicking the detainee in the groin area, while escorting him to the toilet at the Minor Offences Court, Prishtina.

Pursuant to Article 364 paragraph 1.1.3 of the Criminal Procedural Code (CPC) **N.Z.**

is acquitted

of the following count of the indictment:

**COUNT 3: Assault, contrary to Article 187, paragraph 2 in connection with paragraph 1, in conjunction with Article 31 of the CCK, and punishable by imprisonment of six (6) months to five (5) years:**

On 08 January 2013, in Prishtinë/Priština, Kosovo, between approximately 14:15 hours and 15:10 hours: *G.K., S.S., N.D., S.A., N.Z., J.R., N.SH., X.H., V.K., Z.S.* and

*I.R.*, police officers from Kosovo Police, Special Operations Unit (SOU), Team 3, as co-perpetrators, committed the criminal offence of Assault, by intentionally applying force, without consent, with objects capable of causing grievous bodily injury or a serious impairment to health, namely boots, batons, flashlights, seatbelts and/or firearms, to one or more of the following persons, namely *B.M., I.P., M.Z., D.T., I.S., B.M.A., D.S., D.V., M.P.*

and/or *Z.M.*, while escorting the ten detainees, who were in the custody of the SOU officers, from the reception room at the Prishtina Detention Centre to the three vehicles parked in the parking lot, "Toyota", plate no. Police *x x x* and two "Mercedes" vans with plate numbers Police *x x x* and Police *x x x* and also while the vehicles remained stationary in the parking lot.

**COUNT 4: Assault, contrary to Article 187, paragraph 3 in connection with paragraph 1, in conjunction with Article 31 of the CCK, and punishable by imprisonment of six (6) months to three (3) years:**

On 08 January 2013, in Prishtinë/Priština, Kosovo, between approximately 14:15 hours and approximately 15:10 hours: *G.K., S.S., N.D., S.A., N.Z., J.R., N.SH., X.H., V.K., Z.S.* and

*I.R.*, police officers from Kosovo Police, Special Operations Unit (SOU), Team 3, as co-perpetrators, committed the criminal offence of Assault, by intentionally applying force without consent to vulnerable persons, namely one or more of the following handcuffed detainees *B.M., I.P., M.Z., D.T., I.S., B.M.A., D.S., D.V., M.P.*

and/or *Z.M.*, who were in the custody of the defendants, by hitting and kicking the handcuffed persons (also with objects) while escorting the ten detainees, from the reception room at the Prishtina Detention Centre to the three vehicles parked in the parking lot, "Toyota", plate no. Police *x x x* and two "Mercedes" vans with plate numbers Police *x x x* and Police *x x x* and also while the vehicles remained stationary in the parking lot.

Pursuant to Article 364 paragraph 1.1.3 of the Criminal Procedural Code (CPC) *I.R.*

is acquitted

of the following counts in the indictment:

**COUNT 3: Assault, contrary to Article 187, paragraph 2 in connection with paragraph 1, in conjunction with Article 31 of the CCK, and punishable by imprisonment of six (6) months to five (5) years:**

On 08 January 2013, in Prishtinë/Priština, Kosovo, between approximately 14:15 hours and 15:10 hours: *G.K., S.S., N.D., S.A., N.Z., J.R., N.S.H., X.H.H., V.K., and I.R.*

, police officers from Kosovo Police, Special Operations Unit (SOU), Team 3, as co-perpetrators, committed the criminal offence of Assault, by intentionally applying force, without consent, with objects capable of causing grievous bodily injury or a serious impairment to health, namely boots, batons, flashlights, seatbelts and/or firearms, to one or more of the following persons, namely *B.M., i.P., M.G., D.T., i.S., B.M.A., D.S., D.V., M.P.* and/or *Z.M.*, while escorting the ten detainees, who were in the custody of the SOU officers, from the reception room at the Prishtina Detention Centre to the three vehicles parked in the parking lot, "Toyota", plate no. Police *XXX* and two "Mercedes" vans with plate numbers Police *XX* and Police *XXX* and also while the vehicles remained stationary in the parking lot.

**COUNT 4: Assault, contrary to Article 187, paragraph 3 in connection with paragraph 1, in conjunction with Article 31 of the CCK, and punishable by imprisonment of six (6) months to three (3) years:**

On 08 January 2013, in Prishtinë/Priština, Kosovo, between approximately 14:15 hours and approximately 15:10 hours: *G.K., S.S., N.D., S.A., N.Z., J.R., N.S.H., X.H.H., V.K. and I.R.*

and *I.R.*, police officers from Kosovo Police, Special Operations Unit (SOU), Team 3, as co-perpetrators, committed the criminal offence of Assault, by intentionally applying force without consent to vulnerable persons, namely one or more of the following handcuffed detainees *B.M., i.P., M.G., D.T., i.S., B.M.A., D.S., D.V., M.P.* and/or *Z.M.*, who were in the custody of the defendants, by hitting and kicking the handcuffed persons (also with objects) while escorting the ten detainees, from the reception room at the Prishtina Detention Centre to the three vehicles parked in the parking lot, "Toyota", plate no. Police *XXX* and two "Mercedes" vans with plate numbers Police *XX* and Police *XXX* and also while the vehicles remained stationary in the parking lot.

**COUNT 12: Mistreatment during Exercise of Official Duty or Public Authorization, contrary to Article 198, paragraph 1, in conjunction with Article 31 of the CCK and punishable by imprisonment of up to three (3) years:**

On 08 January 2013, in Prishtinë/Priština, Kosovo, between approximately 15:10 hours and approximately 15:30 hours: *V.K., Z.S., J.R.,* and *I.R.* police officers from Kosovo Police, Special Operations Unit (SOU), Team 3, as co-perpetrators, committed the criminal offence of Mistreatment during Exercise of Official Duty or Public Authorization by mistreating, intimidating and gravely insulting the dignity of *M.G.*, while transporting the detainee in police vehicle "Toyota", plate no. Police *XXX* from the Prishtina Detention Centre to the Minor Offices Court, Prishtina, by hitting and kicking the handcuffed person and verbally insulting him on an ethnic basis.

Pursuant to Article 364 paragraph 1.1.3 of the Criminal Procedure Code (CPC) *J.R., N.SH., X.H.H., V.K.* and *Z.S.* are acquitted

of the following counts in the indictment:

**COUNT 1: Mistreatment during Exercise of Official Duty or Public Authorization, contrary to Article 198, paragraph 1, in conjunction with Article 31 of the CCK, and punishable by imprisonment of up to three (3) years:**

On 08 January 2013, in Prishtinë/Priština, Kosovo, between approximately 14:15 hours and 15:10 hours: *G.K., S.S., N.D., S.A., N.Z., J.R., N.SH., X.H.H.,* and *I.R.,* police officers from Kosovo Police, Special Operations Unit (SOU), Team 3, as co-perpetrators, committed the criminal offence of Mistreatment during Exercise of Official Duty or Public Authorization by mistreating, intimidating and gravely insulting the dignity of one or more of the following persons: *B.M., I.P., M.G., D.T., I.S., B.M.L., D.S.,* and/or *Z.H.*, while performing official duties, by, inter alia, hitting and kicking the handcuffed persons (also with objects) who had no opportunity to defend themselves; by escorting them in an insulting manner, namely handcuffed from behind with very tight plastic handcuffs, with their heads bent unnecessarily to the ground; being assaulted and handled roughly in front of witnesses; being verbally insulted on the basis of ethnicity and intimidated, while escorting the ten detainees, who were in the custody of the SOU officers, from the reception room at the Prishtina Detention Centre to the three vehicles parked in the parking lot, "Toyota", plate no. Police *XXX* and two "Mercedes" vans with plate numbers Police *XXX* and Police *XXX* and also while the vehicles remained stationary in the parking lot.



**COUNT 2: Assault, contrary to Article 187, paragraph 1, in conjunction with Article 31 of the CCK and punishable by imprisonment of up to three (3) years:**

On 08 January 2013, in Prishtinë/Priština, Kosovo, between approximately 14:15 hours and 15:10 hours: *G.K., S.S., N.D., S.A., N.Z., J.R., N.SH., X.H.H., V.K.,*

*Z.S.* and *I.R.*, police officers from Kosovo Police, Special Operations Unit (SOU), Team 3, as co-perpetrators, committed the criminal offence of Assault, by intentionally applying force, without consent, to one or more of the following persons, namely *B.M.A., I.P., H.Š., D.T., I.S., B.M.A., D.S., D.V.,* *M.P.* and/or *Z.M.*, by hitting and kicking the handcuffed persons (also with objects) while escorting the ten detainees, who were in the custody of the SOU officers, from the reception room at the Prishtina Detention Centre to the three vehicles parked in the parking lot, "Toyota", plate no. Police *XXX* and two "Mercedes" vans with plate numbers Police *XXX* and Police *XXX* and also while the vehicles remained stationary in the parking lot.

**COUNT 3: Assault, contrary to Article 187, paragraph 2 in connection with paragraph 1, in conjunction with Article 31 of the CCK, and punishable by imprisonment of six (6) months to five (5) years:**

On 08 January 2013, in Prishtinë/Priština, Kosovo, between approximately 14:15 hours and 15:10 hours: *G.K., S.S., N.D., S.A., N.Z., J.R., N.SH., X.H.H., V.K.,*

*Z.S.* and *I.R.*, police officers from Kosovo Police, Special Operations Unit (SOU), Team 3, as co-perpetrators, committed the criminal offence of Assault, by intentionally applying force, without consent, with objects capable of causing grievous bodily injury or a serious impairment to health, namely boots, batons, flashlights, seatbelts and/or firearms, to one or more of the following persons, namely *B.M., I.P., M.S., D.T., I.S., B.M.A., D.S.,* *D.V., M.P.* and/or *Z.M.*, while escorting the ten detainees, who were in the custody of the SOU officers, from the reception room at the Prishtina Detention Centre to the three vehicles parked in the parking lot, "Toyota", plate no. Police *XXX* and two "Mercedes" vans with plate numbers Police *XXX* and Police *XXX* and also while the vehicles remained stationary in the parking lot.

**COUNT 4: Assault, contrary to Article 187, paragraph 3 in connection with paragraph 1, in conjunction with Article 31 of the CCK, and punishable by imprisonment of six (6) months to three (3) years:**

On 08 January 2013, in Prishtinë/Priština, Kosovo, between approximately 14:15 hours and approximately 15:10 hours: *G.K., S.S., N.D., S.A., N.Z., J.R., N.S.H.,*

*X.H.H., V.K., Z.S. and I.R.*, police officers from Kosovo Police, Special Operations Unit (SOU), Team 3, as co-perpetrators, committed the criminal offence of Assault, by intentionally applying force without consent to vulnerable persons, namely one or more of the following handcuffed detainees *B.M., I.P., M.J., D.T., I.S., B.M.A., D.S., D.V., M.P.,* and/or *Z.M.*, who were in the custody of the defendants, by hitting and kicking the handcuffed persons (also with objects) while escorting the ten detainees, from the reception room at the Prishtina Detention Centre to the three vehicles parked in the parking lot, "Toyota", plate no. Police *xxx* and two "Mercedes" vans with plate numbers Police *xxx* and Police *xxx* and also while the vehicles remained stationary in the parking lot.

Pursuant to Article 364 paragraph 1.1.3 of the Criminal Procedural Code *N.S.H. and X.H.H.*,

are acquitted

of the following count of the indictment:

**COUNT 11: Mistreatment during Exercise of Official Duty or Public Authorization, contrary to Article 198, paragraph 1, in conjunction with Article 31 of the CCK, and punishable by imprisonment of up to three (3) years:**

On 08 January 2013, in Prishtinë/Priština, Kosovo, between approximately 15:10 hours and approximately 15:30 hours: *S.S., N.Z., N.S.H.,* and *X.H.H.*

, police officers from Kosovo Police, Special Operations Unit (SOU), Team 3, as co-perpetrators, committed the criminal offence of Mistreatment during Exercise of Official Duty or Public Authorization by mistreating, intimidating and gravely insulting the dignity of one or more of the following persons: *I.P., M.P., D.S.,* and/or *I.S.*, while performing an official duty, transporting the detainees, in police vehicle "Mercedes" with plate number Police *xxx*, from the Prishtina Detention Centre to the Minor Offices Court, Prishtina, by inter alia, hitting and kicking the victims (also with objects) and cocking their weapons and playing Albanian music while demanding that the victims state that they live in Independent Kosovo/Republic of Kosovo.

Pursuant to Article 364 paragraph 1.1.3 of the Criminal Procedural Code *J.R., V.K.*,  
and *Z.S.*,

are acquitted

of the following count of the indictment:

**COUNT 12: Mistreatment during Exercise of Official Duty or Public Authorization, contrary to Article 198, paragraph 1, in conjunction with Article 31 of the CCK and punishable by imprisonment of up to three (3) years:**

On 08 January 2013, in Prishtinë/Priština, Kosovo, between approximately 15:10 hours and approximately 15:30 hours: *V.K., Z.S., J.R.* and *J.R.* police officers from Kosovo Police, Special Operations Unit (SOU), Team 3, as co-perpetrators, committed the criminal offence of Mistreatment during Exercise of Official Duty or Public Authorization by mistreating, intimidating and gravely insulting the dignity of *M.G.*, while transporting the detainee in police vehicle "Toyota", plate no. Police *xxx*, from the Prishtina Detention Centre to the Minor Offices Court, Prishtina, by hitting and kicking the handcuffed person and verbally insulting him on an ethnic basis.

## REASONING

### 1. Trial Panel and competence:

No objection was raised by the parties regarding the composition of the trial panel. This court is competent to adjudicate the case, pursuant to Articles 1, 2 subparagraphs 1.2, 9 subpar. 2.1, 15 par. 1.20 and 15, par. 2, of the Law on Courts - L. 03/L-199 in force at the time the proceedings began 'the Basic Court shall be the court of first instance in the Republic of Kosovo, in this case (par. 2) the Basic Court of Prishtina is the one with territorial jurisdiction and in accordance with Article 11, par. 1, of the same law, the Basic Court is competent to adjudicate in the first instance all cases, except otherwise foreseen by Law' - and per Articles 3, paragraphs 1 and 7 (this last one in relation to the majority of EULEX Judges) of the Law on the Jurisdiction, case selection and case allocation of EULEX Judges and Prosecutors in Kosovo (L. 03/L-053 as in force at the time), ex vi Article 442 C.C.K.

### 2. Procedural background:

The investigations in the criminal case (PP: II 111/2013) began on 16 January 2013, against **G.K.** for the offences of Mistreatment during Exercise of Official Duty or Public Authorization, in violation of Article 198, paragraph 1, in conjunction with Article 31 and Assault, in violation of Article 187, paragraph 1, in conjunction with Article 31 of the Criminal Code, which ruling was amended and expanded several times, namely on 17 January 2013 against **S.S.** for the same criminal offences, on 24 January 2013 the prosecution office expanded the investigations against several other defendants, **N.D.**, **S.A.**, **N.Z.**, **J.R.**, **N.S.H.**, **X.H.H.**, **V.K.**, **Z.S.** and **I.R.** and in addition to the charges above, the Prosecutor of the case also expanded investigation for another criminal offence of Torture in violation of Article 199, paragraphs 1 and 3 in conjunction with Article 31 of the CCK.

On 20 February 2013 in the Ruling on Expansion of Investigations additional suspects were included, **F.S.**, **N.D.** and **A.V.** for the same criminal offences and on 13 May 2013 Ruling on Expansion was included against the suspect **D.Z.** for the offence of Obstruction of Evidence in violation of Article 394 paragraph 1.1 and Providing Assistance to Perpetrators after the Commission of Criminal Offence in violation of Article 388 paragraph 2 (2.3) of the CCK. All of the suspects at the time were members of the Special Operations Unit known previously as the ROSU unit.

On these grounds the EULEX Prosecutor assigned to this case in preliminary investigation issued a Ruling on Initiation of Investigations on 16 January 2013 and subsequently expanded and amended the investigations several times to include new suspects and new charges.

Due to the investigations, several motions for covert measures and, for expert analysis were filed with the Basic Court of Prishtina, including a motion for anonymity of three witnesses who were heard during the main trial.

Prior to the Indictment the prosecutor of the case terminated the investigations against four SOU operators **F.S.**, police official, SOU, ID # **xxx**, **N.D.**, police official, SOU, ID # **xxx**, **A.V.**, police official, SOU, ID # **xxx** and **D.Z.**, Police official, SOU, ID# **xxx**,

After the conclusion of investigations on 12 December 2013 an Indictment was filed against: **G.K.**, police official, SOU, police ID # **xxx**; **S.S.**, police official, SOU, police ID # **xxx**; **N.D.**, police official, SOU, ID # **xxx**; **S.A.**, police official, SOU, ID # **xxx**; **N.Z.**, police official, SOU, ID # **xxx**; **J.R.**, police official, SOU, ID # **xxx**; **N.S.H.**, police official, SOU, ID # **xxx**; **X.H.H.**, police official, SOU, ID # **xxx**; **V.K.**, police official, SOU, ID # **xxx**; **Z.S.**, police official, SOU, ID # **xxx**; **I.R.**, police official, SOU, ID # **xxx**, with the following charges:

**COUNT 1:** Mistreatment during exercise of official duty or public authorization, in violation of Article 198, paragraph 1, in conjunction with Article 31 of the Criminal Code (CC), and punishable by imprisonment of up to three (3) years against G.K., S.S., N.D., S.A., N.Z., J.R., N.S.H., XH.H., V.K., Z.S., and I.R.

**COUNT 2:** Assault, in violation of Article 187, paragraph 1, in conjunction with Article 31 of the Criminal Code (CC) and punishable by imprisonment of up to three (3) years against G.K., S.S., N.D., S.A., N.Z., J.R., N.S.H., XH.H., V.K., S.Z., and I.R.

**COUNT 3:** Assault, in violation of Article 187, paragraph 1, in conjunction with Article 31 of the Criminal Code (CC) and punishable by imprisonment of up to three (3) years against G.K., S.S., N.D., S.A., N.Z., J.R., N.S.H., XH.H., V.K., Z.S., and I.R.

**COUNT 4:** Assault, in violation of Article 187, paragraph 3 in connection with paragraph 1, in conjunction with Article 31 of the Criminal Code (CC), and punishable by imprisonment of six (6) months to three (3) years against G.K., S.S., N.D., S.A., N.Z., J.R., N.S.H., XH.H., V.K., Z.S., and I.R.

**COUNT 5:** Mistreatment during exercise of official duty or public authorization, in violation of Article 198, paragraph 1, in conjunction with Article 31 of the Criminal Code (CC), and punishable by imprisonment of up to three (3) years against G.K., N.D., and S.A.

**COUNT 6:** Threat, in violation of Article 185, paragraph 4 in connection with paragraph 1 of the Criminal Code (CC), and punishable by imprisonment of one (1) to five (5) years against S.A.

**COUNT 7:** Threat, in violation of Article 185, paragraph 4 in connection with paragraph 1, of the Criminal Code (CC) and punishable by imprisonment of one (1) to five (5) years against G.K.

**COUNT 8:** Assault, in violation of Article 187, paragraph 1, of the Criminal Code (CC) and punishable by imprisonment of up to three (3) years against G.K.

**COUNT 9:** Assault, in violation of Article 187, paragraph 2, in connection with paragraph 1 of the Criminal Code (CC), and punishable by imprisonment of six (6) months to five (5) years against *G.K.*

**COUNT 10:** Assault, in violation of Article 187, paragraph 3 in connection with paragraph 1, of the Criminal Code (CC) and punishable by imprisonment of six (6) months to three (3) years against *G.K.*

**COUNT 11:** Mistreatment during exercise of official duty or public authorization, in violation of Article 198, paragraph 1, in conjunction with Article 31 of the Criminal Code (CC), and punishable by imprisonment of up to three (3) years against *S.S., N.F., and X.H.H.*

**COUNT 12:** Mistreatment during exercise of official duty or public authorization, in violation of Article 198, paragraph 1, in conjunction with Article 31 of the Criminal Code (CC) and punishable by imprisonment of up to three (3) years against *V.K., Z.S., J.R., and I.R.*

**COUNT 13:** Mistreatment during exercise of official duty or public authorization, in violation of Article 198, paragraph 1, of the Criminal Code (CC) and punishable by imprisonment of up to three (3) years against *G.K.*

**COUNT 14:** Assault, in violation of Article 187, paragraph 3 in connection with paragraph 1, of the Criminal Code (CC) and punishable by imprisonment of six (6) months to three (3) years against *G.K.*

**COUNT 15:** Mistreatment during exercise of official duty or public authorization, in violation of Article 198, paragraph 1, of the Criminal Code (CC) and punishable by imprisonment of up to three (3) years against *S.S.*

**COUNT 16:** Assault, in violation of Article 187, paragraph 3 in connection with paragraph 1, of the Criminal Code (CC) and punishable by imprisonment of six (6) months to three (3) years against *S.S.*

**COUNT 17:** Mistreatment during exercise of official duty or public authorization, in violation of Article 198, paragraph 1 in conjunction with Article 31 of the Criminal Code (CC) and punishable by imprisonment of up to three (3) years against *G.K. and N.D.*

**COUNT 18:** Assault, in violation of Article 187, paragraph 2 in connection with paragraph 1, in conjunction with Article 31 of the Criminal Code (CC) and punishable by imprisonment of six (6) months to five (5) years against *G.K.* and *N.D.*

**COUNT 19:** Assault, in violation of Article 187, paragraph 3 in connection with paragraph 1, in conjunction with Article 31 of the Criminal Code (CC) and punishable by imprisonment of six (6) months to three (3) years against *G.K.* and *N.D.*

All of the charges mentioned above refer to different moments and events which allegedly took place from the time the injured parties were taken by the police from the detention centre in Prishtina to the moment they entered the session in the Minor Offences Court of Prishtina.

On 28 January 2014 the first session of the Initial hearing was held which continued on 4 February 2014 and then on 8 April 2014 with the second hearing. Motions to dismiss the Indictment were filed by all legal representatives of the defendants and after receiving a separate opinion in regard to all motions from the Prosecution office the Presiding trial judge issued a ruling on 14 April 2014 by rejecting all motions of the defence counsels and decided to send the case to the main trial.

The ruling of the presiding trial judge was appealed at the second instance by the following defence counsels on behalf of defendants: *F.B., X.H.M., N.S.H., B.M., R.D. and T.H.* The defendant *Z.S.* filed an appeal on his own, as did defence counsel, *K.M.*

The appeals of *F.B.* and *X.H.M.* were not considered and dismissed as belated, while the remaining appeals of *N.S.H., B.M., R.D., T.H.* defendant *Z.S.* filed an appeal on his own, and defence Counsel *K.M.* were rejected as ungrounded.

Apart from the rejected appeals the Court of Appeals ex officio decided also to amend the ruling of the first instance court in regard to the legal qualifications of the acts leaving only the criminal offence of Mistreatment during the Exercise of Official Duties and Threat, while considering that the act of assault is consumed by the offence of mistreatment.

After the ruling of the court of appeals on 8 July 2014 the main trial commenced against the above mentioned defendants, which continued on 17 July 2014; 10, 11, 24 and 25 September 2014; 8, 9, 22, 23 and 24 October 2014; 19 November 2014; 3, 9, 10, 11 and 16 December 2014; 15, 27, 28 and 29 January 2015; 3, 4 and 5 February 2015; 3, 9 and 12 March 2015; 15, 16 and 17 April 2015; 12, 14, 18 and 20 May 2015; 30 June 2015; 7 and 14 July 2015; 25 and 26 August 2015; 8

September 2015; 23 October 2015; 9, 10, 11 and 12 November 2015 and on 13 November 2015 the enacting clause of the judgment of announced.

### 3. Administered evidence during the main trial

#### 3.1 Material evidence

While the main trial was ongoing, the list of material evidence which was elaborated should also be included in the judgment; therefore, the list shall include the following material evidence:

##### In binder number 3:

There is a list of evidence to be named, however since all the documents in regard to the injured parties bear the same date, in order, to preserve as much pages as possible we will mentioned them in summary.

Arrest order on all injured parties dated 7.01.2013; statement of all injured parties given to the police dated 7.01.2013 and also notes of the holding center dated 7.01.2013, on namely

*I.P., D.V., M.G., B.M., D.S., M.P., D.T., B.M.A., J.S. and Z.M..*

Part of the evidence that were acquired are also the minutes of the session in the Minor Offence Court which are all dated 8.01.2013, since there was a separate session for each injured party in the Minor Offence Court, hence a separate minutes for every each of them were acquired.

##### In binder number 4A:

*I.S.* - Medical record of *I.S.* from 'Kosovska Mitrovica Hospital' No. 316 dated 9.01.2013; Medical report of *I.S.* by EULEX Dr. *C.A.* with 6 photos dated 16.01.2013; EULEX-Department of Forensic Medicine ("DFM") report of medical evaluation ref No. Eulex E-04/2013;

*M.P.* - Medical record of *M.P.* with illegible seal No. 314 dated 21.01.2013; Medical report of *M.P.* by EULEX Dr. *C.A.* with 6 photos dated 16.01.2013; EULEX-DFM report of medical evaluation *M.P.* with ref No. Eulex E-06/2013;

*B.M.A.* - Medical record of Bojan Mijailovic with illegible seal No. 320, dated 9.01.2013; Medical report of *B.M.A.* by EULEX Dr. *C.A.* with 6 photos



dated 16.01.2013; EULEX-DFM report of medical evaluation **B.M.A.** with ref No. Eulex E-07/2013;

**M.G.** - Medical record of **M.G.** with illegible seal No. 319, dated 9.01.2013; Medical report of **M.G.** by EULEX Dr. **C.A.** with 3 photos dated 16.01.2013; EULEX-DFM report of medical evaluation **M.G.** with ref No. Eulex E-08/2013;

**B.M.** - Medical record of **B.M.** with illegible institution seal No. 318, dated 9.01.2013; Medical report of **B.M.** by EULEX Dr. **C.A.** with 15 photos dated 16.01.2013; EULEX-DFM report of medical evaluation **B.M.** with ref No. Eulex E-09/2013;

**D.S.** - Medical record of **D.S.** with illegible seal No. 315; report of health specialist of Gracanica monastery dated 8.01.2013; referral for examination by the Military Medical Academy Protocol No. 206 dated 5.02.2013; Medical report of **D.S.** by EULEX Dr. **C.A.** with 9 photos dated 16.01.2013; EULEX-DFM report of medical evaluation **D.S.** with ref No. Eulex E-10/2013; EULEX-DFM additional report of **D.S.** with ref No. Eulex E-10/2013;

#### In binder 4B:

Information letter by the director of health house in Leposavic regarding **D.V., i.P.** and **D.T.** dated 22.01.2013; Medical record of **i.P.** with illegible institution seal No. 317, dated 9.01.2013; Copy of the medical registration card of **i.P.** in Leposavic medical centre and copy of the admission book dated 11.01.2013; Discharge list with epicrysis for **i.P.** by Mitrovic health care Center, ref No. 102, dated 11.01.2013; report of Magnetic resonance for **i.P.** No. 680 dated 23.01.2013; finding of medical specialist on **i.P.** dated 5.02.2013; Medical report of **i.P.** by EULEX Dr. **C.A.** with 5 photos dated 16.01.2013; EULEX-DFM report of medical evaluation **i.P.** with ref No. Eulex E-11/2013.

**D.T.** - Information letter by the director of health house in Leposavic regarding **D.T., i.P.** and **D.T.** dated 22.01.2013; Medical record of **D.T.** with illegible institution seal No. 321, dated 9.01.2013; certified copy of medical record of **D.T.** taken at Mitrovic hospital protocol No. 40; Recommendation for hospitalization of **D.T.** in Military Medical Academy in Belgrade, dated 10.01.2013; Copy of the medical registration card of **D.T.** in Leposavic medical centre and copy of the admission book dated 10.01.2013; health assessment of **D.T.** issued by institute for health insurance No. 66 dated 10.01.2013; confirmation of a need to travel in order to achieve health care for **D.T.** dated 10.01.2013; Specialist medical report issued by

Clinical Center of Serbia protocol No. P8-574/13 dated 11.01.2013; Medical Specialist findings for **D.T.** dated 16.01.2013; Medical report of **D.T.** by EULEX Dr. **C.A.** with 15 photos dated 19.01.2013; discharge letter from Military Medical Academy dated 01.02.2013; EULEX-DFM report of medical evaluation **D.T.** with ref No. Eulex E-12/2013.

**D.V.** - Information letter by the director of health house in Leposavic regarding **D.V.**, **i.P.**, and **D.T.** dated 22.01.2013; Admission letter to Mitrovica health hospital and biochemical analysis of **D.V.** protocol No. 749, dated 9.01.2013; Discharge list with epicrysis for **D.V.** by Mitrovica health care Center, ref No. 120, dated 9.01.2013; report on medical specialist findings for **D.V.** issued by Military Medical Academy in Belgrade protocol No. 283 dated 9.01.2013; a request by doctor for X-ray for **D.V.** issued by health centre in Mitrovica dated 25.01.2013; referral for laboratory examination of **D.V.** by Military Medical Academy in Belgrade; referral for ambulatory specialist examination of **D.V.** protocol No. 282 dated 24.01.2013; Medical Specialist findings for **D.V.** Military Medical Academy Belgrade, protocol No. 132, dated 5.02.2013; discharge letter for **D.V.** protocol No. 365751/001 dated 17.01.2013; four copies of laboratory examination of **D.V.** with title "Medtronic A/S Duet" dated 05.02.2013; Referral for ambulatory specialist examination protocol No. 282 dated 8.04.2013; Referral for laboratory examination of **D.V.** dated 8.04.2013; Medical report of **D.V.** by EULEX Dr. **C.A.** with 7 photos dated 19.01.2013; EULEX-DFM report of medical evaluation **D.V.** with ref No. Eulex E-05/2013.

Eulex police request to Mitrovica Hospital to provide information regarding **Z.M., i.P., D.V.,**

**M.J., B.M., D.S., D.B., B.M., i.S.** and **M.P.** dated 10.01.2013; Minutes of the meeting between EULEX investigators and Hospital Management dated 11.01.2013; Certified hard copies and electronic version on 1 DVD of the relevant pages of the admission book of Kosovska Mitrovica Hospital; 2 DVD (1 DVD containing an X-ray images of groin and sholder of **D.V.** and electronic version of the medical documents and 1 DVD with EULEX Doctor Examination, reports and photos).

#### **In binder 5:**

Police report on the photos on the stairway leading to entrance of Prishtina Holding Center 2 photos; dated 11.02.2013; Crime scene inspection report 7.03.2013; copy of the photo album and original photo album dated 7.03.2013; evidence examination report dated 14.03.2013; IT forensic report dated 14.07.2013; KP request to get the password for the camera system at PS dated 2.05.2013; EULEX police information on surveillance camera IT central police station Prishtina dated 12.04.2013; Treo Electronic response on the models of the camera; CCTV cameras at Police station No. 2, dated 11.03.2013; PIK report regarding LOE dated 1 March 2013; CD containing

photos; Crime Scene Inspection report 7.03.2013; police station No. 2 plan; Police log on communication radio dated 8.01.2013; camera images dated 3.07.2013; PIK email correspondence to get the radio from police station dated 6.03.2013; CCTV cameras at Basement/Detention Center/ Central Police Station; PIK report regarding LOE dated 12 March 2013, dated 15.03.2013; PIK email correspondence regarding detention room dated 14.03.2013; Camera images dated 13.03.2013; Original basement plan; CCTV Cameras / Central Police Station / Ground floor and back side of the building; PIK report regarding LOE dated 3 December 2013, dated 4.12.2013; PIK e-mail correspondence to Central Police Station for building plan dated 13.03.2013; Building plan; Camera images; PIK e-mail correspondence dated 4.12.2013; PIK e-mail correspondence to Central Police Station for building plan, dated 12.03.2013; Building plan; Camera Images; PIK e-mail correspondence regarding central police station cameras dated 4.12.2013; CCTV cameras/Minor Offence Court in Prishtina; PIK request to the Administration of the Basic Court of Prishtina for CCTV cameras at Minor Offence Court dated 13.03.2013; PIK e-mail correspondence to Minor Offence Court regarding the building plan dated 12.03.2013; Minor offence building plan; Basic Court reply to PIK dated 13.03.2013; Camera images; PIK report regarding LOE dated 21 October 2013 of the date 14.11.2013; List of the police officers that received the uniforms and boots dated August 2011; PIK report regarding LOE dated 25 September 2013; dated 4.10.2013; PIK e-mail correspondence about boots dated 2.10.2013; Photos of police equipment; Case handover form dated 4.10.2013.

#### **In binder 6:**

In regard to DVD list attached

1 (one) CD-R-Attachment to PIK Report dated, 18.01.13; Ref. No. IPK/DH/180113/EZRK; VIDEO KLAN KOSOVA-07.01.2013; 1 (one) CD-R – Attachment to IT Report, Ref.ITF-2013-038, 26.09.13; Camera 3, CD1, Pixilated; 1 (one) DVD+R – Attachment to IT report, Ref.ITF-2013-038, 26.09.13 Camera 6, CD2, Pixilated; 1 (one) DVD+R – Attachment to OCIU Report, 21.01.2013, Ref. No. OCIU/12/20130121/5276, DVD Content – Footage, Benedictine DVD 5, Camera 2; 1 (one) DVD+R - Attachment to OCIU Report 21.01.2013; Ref. No. OCIU/12/20130121/5276; DVD Content – CONFIDENTIAL; Not Pixilated -BENEDICTINE DVD 8; Camera 3 Snapshot cam 2 + Archive player; 1 (one) CD-R – Attachment to OCIU Report 04.03.2013, Ref. No. OCIU/36/20130304/5497 DVD Content – CONFIDENTIAL, Not Pixilated - Camera 3 Detainee 1, Time incident start 14:17:37 – 14:17:45 Disk 1; 1 (one) DVD+R - IT Forensic Report dated 14.03.2013, DVD Content CONFIDENTIAL Not Pixilated, 08.01.2013, Camera 6, 13:00-16:00, Benedictine Case; 1 (one) CD-R - Attachment to OCIU Report 04.03.2013, Ref.No.OCIU/36/20130304/5497; DVD Content – CONFIDENTIAL, Not Pixilated - Camera 6 Detainee 1, Disk 2; 1 (one) CD-R – Attachment to OCIU Report 04.03.2013, Ref.No.OCIU/36/20130304/5497 DVD Content CONFIDENTIAL, Not Pixilated - Camera 6 Detainee 9 Start 14:55:34 – 14:55:43, Disk 3; 1 (one) CD-R - Attachment to OCIU Report 04.03.2013, Ref.No.OCIU/36/20130304/5497 DVD

Content – CONFIDENTIAL, Not Pixilated – Still Pics Cam 3 + Cam 6 Of incident for Detainee 1+ 9 of CCTV Reports, Disk 4; 1 (one) CD-R - IT Forensic 14.03.2013, DVD Content – CONFIDENTIAL Not Pixilated, Still pic camera 6, Still pic camera 2, Still pic camera 3; 1 (one) DVD+R – Attachment to OCIU Report, Dated 09.10.2013, Ref. No. OCIU/12/20131011/6398, Benedictine, 07.01.13, Cam.3, 00:09:52-11:59:24, 07.01.13; 1 (one) DVD+R – Attachment to OCIU Report, 09.10.13, Ref. No. OCIU/12/20131011/6398, Benedictine, Cam.3, Time: 12:11:37-19:26:38, 07.01.13, Disk 2; 1 (one) DVD+R – Attachment to OCIU Report, 09.10.13, Ref. No. OCIU/12/20131011/6398, 07.01.2013 19:26:49 to 08:01:2013 00:43:35 Benedictine DVD 7, Camera 3, +Archive player; 1 (one) DVD+R – Attachment to OCIU Report 09.10.2013, Ref. No. OCIU/12/2013/011/6398, DVD Content – CONFIDENTIAL, Not Pixilated, 08.01.2013 12:47:11-23:58:58, Benedictine DVD 8, Camera 3 + Archive player 14:22:34, rear Camera Disk 4; 1 (one) DVD+R – Attachment to OCIU Report, 06.03.2013, Ref.No. OCIU/36/20130306/5516, Police Station II, Cam.12, 19:00-21:00, Cam.13 No record from 7.1. Disk 6; 1 (one) DVD+R – Attachment to OCIU Report, 06.03.2013, Ref.No. OCIU/36/20130306/5516, Police Station II, Cam.12, 12:00-19:00, Disk 9; 1 (one) DVD-R – Attachment to OCIU Report, 06.03.2013, Ref.No.OCIU/36/20130306/5516, Camera 12, Police station II, 16:00-19:00, 07.01.2013, Disk 5; 1 (one) CD-RW – PIK Report IPK/DH/140113/EZRK, 32 photos – SOU Operators – Team 1 and Team 3, Photo NJSO, Created 11.01.2013.

#### **In binder 6:**

KP information report dated 7.01.2013; EULEX Police report regarding undertaken measures dated 12.01.2013; EULEX Police email about detention of 9 Serbians dated 9.01.2013; EULEX Police Strengthening Division special report dated 9.01.2013; EULEX Police Strengthening Division initial report ( *Ch. B.* ) dated 9.01.2013; EULEX Police Strengthening Division initial report ( *J. D.* ) dated 9.01.2013; EULEX Police Strengthening Division initial report ( *S.E. & R.H.* ) dated 11.01.2013; Camera images from court; EULEX Police email about police detention center dated 11.01.2013; EULEX Police Strengthening Division initial report on CCTV cameras in detention center dated 14.01.2013; PIK Informative report dated 14.01.2013; KP e-mail – request for ROSU assistance dated 8.01.2013; KP e-mail – request for investigation of the case dated 10.01.2013; PIK e-mail – request for documentation of ROSU officers dated 14.01.2013; Duty roster of ROSU officers dated 8.01.2013; Photos of ROSU officers that participated in operation dated 8.03.2013; List of ROSU officers with their IDs and phone numbers; KP email to PIK about operation plan dated 19.03.2013; KP reports by SOU for 8.01.2013, dated 10.01.2013; KP reports by SOU for 8.01.2013, dated 10.01.2013; Special operation unit report following the operation, dated 8.01.2013; Handover case form; Team Leader's report – *A. Z.* dated 8.01.2013; Officer's report – *G. R.* , dated 9.01.2013; Officer's report – *S. A.* , dated 9.01.2013; Officer's report – *N. D.* , dated 9.01.2013; 2 Officer's report – *S. S.* , dated 9.01.2013; 2 Officer's report – *N. S.H.* , dated 9.01.2013; Officer's report – *XH.H.*

, dated 9.01.2013; Officer's report - *N.Z.*, dated 9.01.2013; Officer's report - *Y.K.*, dated 9.01.2013; Officer's report - *Z.S.*, dated 9.01.2013; Officer's report - *J.R.*, dated 9.01.2013; Officer's report - *I.R.*, dated 9.01.2013; EULEX Police criminal report, dated 15.01.2013; Photo album; EULEX Police special report regarding radio logs collected from Alfa Control Prishtina, dated 28.02.2013; PIK information report regarding LOE PP II 111/2013, dated 18.01.2013; EULEX Police report regarding information collected at Prishtina Holding Center, dated 17.01.2013; Monthly duty roster for January 2013 from Prishtina Holding Center, dated 15.01.2013; EULEX Police report regarding seizure of data in Prishtina detention center server, dated 16.01.2013; Evidence property form, dated 16.01.2013; EULEX Police report regarding CCTV, dated 21.01.2013; EULEX Police report on video and pictures taken from camera 3 and 6, dated 4.03.2013; Still pictures taken from camera 3 and 6 in a sealed envelope; EULEX Police report on review of footage retrieved from hard drives of CCTV cameras in Gracanica and Regional Investigation station, dated 6.03.2013; EULEX Police report on review of seized footage from camera 3; IT Forensic evidence report - *N.M.*, dated 16.08.2013; IT Forensic evidence report - *N.M.*, dated 19.08.2013; IT Forensic evidence report - *N.M.*, dated 26.09.2013; PIK information memo, dated 8.02.2013; PIK e-mail to KP requesting data for ROSU officers, dated 7.02.2013; Officer's report - *S.S.*, dated 7.02.2013; EULEX Police report on verification of persons that organized medical checkup on 9.01.2013, dated 17.01.2013.

#### In binder 7:

SOU report after the operation, dated 8.01.2013; Officer's report - *M.X.H.*, dated 8.01.2013; Officer's report - *R.R.B.*, dated 9.01.2013; Officer's report - *B.H.*, dated 9.01.2013; Officer's report - *F.P.*, dated 9.01.2013; Officer's report - *B.V.*, dated 9.01.2013; Officer's report - *E.J.*, dated 9.01.2013; Officer's report - *A.K.*, dated 9.01.2013; Officer's report - *B.G.*, dated 9.01.2013; Officer's report - *J.L.*, dated 9.01.2013; Officer's report - *S.H.M.*, dated 9.01.2013; Officer's report - *S.H.Q.*, dated 9.01.2013; Officer's report - *F.N.*, dated 9.01.2013; Officer's report - *A.K.*, dated 9.01.2013; Officer's report - *I.B.*, dated 9.01.2013; Officer's report - *B.M.*, dated 9.01.2013; Officer's report - *E.F.*, dated 9.01.2013; Officer's report - *A.A.*, dated 9.01.2013; Officer's report - *A.B.*, dated 9.01.2013; Officer's report - *M.H.*, dated 9.01.2013; Officer's report - *F.B.*, dated 9.01.2013; Officer's report - *A.P.*, dated 9.01.2013; Officer's report - *F.G.*, dated 9.01.2013; Officer's report - *F.i.*, dated 9.01.2013; Officer's report - *H.P.*, dated 9.01.2013; Officer's report - *H.P.* -illegible, dated 8.01.2013; Officer's report - *F.K.*, dated 9.01.2013; Officer's report - *F.S.*, dated 9.01.2013; Officer's report - *N.F.*, dated 9.01.2013; Officer's report - *G.O.*, dated 9.01.2013; Officer's report - *V.E.*, dated 9.01.2013; Officer's report - *F.M.*, dated 9.01.2013; Officer's report - *P.S.*, dated 9.01.2013; Officer's report

- *F. H.*, dated 9.01.2013; Officer's report - *S. H.*, dated 9.01.2013; Officer's report  
 - *I. D.*, dated 9.01.2013; Officer's report - *I. B. 1*, dated 9.01.2013; Officer's report  
 - *A. T.*, dated 9.01.2013; KP routing slip, dated 11.01.2013; KP information report,  
 dated 8.01.2013; Kosovska Mitrovica Municipality President letter to KFOR; EULEX & UNMIK  
 heads, dated 9.01.2013; Photos of ROSU officers, dated 8.01.2013; Report of *F. K. 1.*,  
 dated 8.01.2013; Report of *N. G.*, dated 8.01.2013; Daily schedule of ROSU officers,  
 dated 8.01.2013; Priest's information to Kosovo Police - North station about orthodox Christmas  
 celebration, dated 2.01.2013; EULEX police report regarding Entrustment Letter, dated  
 18.01.2013; EULEX police report regarding medical examination by *C. A.*, dated  
 29.01.2013; EULEX police report regarding witness pre-trial interviews, dated 1.02.2013;  
 EULEX police report regarding identification of SOU officers, dated 1.02.2013; Original EULEX  
 Police report OCIU/12/2013 0201/5324 in a sealed envelope; Copy of EULEX police report  
 OCIU/36/20130205/5338, dated 2.05.2013; Original EULEX Police report  
 OCIU/36/20130205/5338 in a sealed envelope, dated 2.05.2013; EULEX police report  
 OCIU/12/2013/0208/5367, dated 8.02.2013; EULEX police report regarding pretrial interviews  
 conducted in Gracanica Monastery, dated 14.02.2013; Copy of EULEX police report regarding  
 pretrial interviews of KP officers working at Holding Center Prishtina, dated 21.02.2013; Original  
 EULEX police report regarding pretrial interviews of KP officers working at Holding Center  
 Prishtina in a sealed envelope; Copy of EULEX police report regarding witness pretrial interviews  
 conducted on 27/02/2013, dated 1.03.2013; Original EULEX police report regarding witness  
 pretrial interviews conducted on 27/02/2013 in a sealed envelope; EULEX police report regarding  
 witness pretrial interviews conducted on 6/03/2013; Copy of EULEX police special report, dated  
 12.03.2013; Original EULEX police special report in a sealed envelope; Copy of EULEX police  
 special report OCIU/12/20130312/5555, dated 13.03.2013; Original EULEX police special report  
 OCIU/12/20130312/5555 in a sealed envelope; Copy of EULEX police special report  
 OCIU/36/20130307/5522, dated 7.03.2013; Original EULEX police special report  
 OCIU/36/20130307/5522 in a sealed envelope; EULEX police report regarding pretrial interviews  
 conducted on 12.03.2013, dated 13.03.2013; EULEX police report regarding identification of  
 witnesses, dated 19.03.2013; EULEX police report regarding witness pretrial interviews  
 conducted on 16 & 18 April 2013 of KP officers at Mayor Crimes Department, dated 18.04.2013;  
 EULEX police report regarding data of instructor at Police Academy Instructor, dated 8.05.2013;  
 EULEX police report regarding collection of KP guidelines, dated 17.06.2013; Administrative  
 Instruction on Use of Force by Police Officers; Lesson 4 - Code of conduct by Police officer;  
 Lesson 5 - Ethics of Police officer; EULEX police report regarding the names of KP officers who  
 were in Alfa Control on 8.01.2013, dated 20.06.2013; EULEX police report regarding witness  
 pretrial interviews conducted on 27 & 28 June 2013, dated 1.07.2013; Copy of EULEX Police  
 report on review of footage from camera 6, dated 2.08.2013; Original EULEX Police report on  
 review of footage from camera 6 in a sealed envelope.

## CCTV camera footages

While the event was alleged to have happened inside the police facility of the detention center, we would mention that the facility of the police detention centre is equipped with a CCTV camera system. During operation executed on 30.1.2013 at Police Station Center the IT forensic investigator seized 1,81 GB data from camera 6 in cooperation with the authorized person. Therefore several footages played during the main trial should be mentioned

On the session of 8 October 2014 the footage from camera 6 from the minutes 14:15:50 seconds was played to the witness **A.A.** where it can be seen the kicking and pulling of the detained person in front of the police van, just before entering the van.

On the session of 23 October 2014 footage of 8 January 2013 from Camera 3; it starts at 2:17:20 seconds, was shown to the witness **B.M.A.** . Whereas he recognized himself in the footage and he testified that the police officer who was holding him was the one who hitting him and he also recognized **M.J.** being escorted.

On the session of 19 November 2014 footage from camera 3 from Detention Centre in Pristina and the date is 8<sup>th</sup> of January 2013 while time is 14:18 hours was shown to **B.M.** and he recognized the police officer who was sitting next to him in the van.

On 16 December 2014 the footage playing its camera 3 detention centre Prishtina from time 14.21 sharp, January 8 was shown to **M.J.** where he could see that the person who came out next to then van was the one who was beating him.

On the session of 15 January 2015 another footage of 7<sup>th</sup> January 2013; it is binder 6, item number 17 is showed is about 2 minutes and a half and it starts at time 12:53:36 whereas it is showed that the detainees are facing the wall and left to stay in such position for a long time of period.

On the session of 28 January 2015 footage from 8 January 2013 starting from time 14:55:35 until 14:56:06 was shown to **D.T.** where he recognized himself but no othe detail was visible.

On the session of 25 August 2015 another footage was shown from the camera which was outside the detention facility and the footage shows that at that time 14:37:48 seconds, a number of people suddenly gathered to look down to the stairway, like something was happening there, meaning the stairs leading to detention facility. And the footage shows the detainees being escorted. The last clip, played from 14; 55:36, for about twenty seconds shows **D.T.** is lead out by ROSU officer and almost at the end stairways he is met by another officer, who was wearing a hat, who kicked and hit the detainee and then the other police officer behind him hits him as well.

## 3.2 Statements of the injured parties and the witnesses

In order to complete the material evidence, a reference has to be made also to the statements of the injured parties and the witnesses in order to have a clearer picture before going to the final

assessment and into the merits of the case. In this regard we would summarize initially the statements of the injured parties who claimed they have been mistreated in the order they were proposed in the Indictment;

### 3.2.1 – Prosecutor’s witnesses

#### 3.2.1.1 - *I.S.*<sup>1</sup>

He testified that after going to Gracanica they were at the liturgy in Gracanica monastery and it lasted 2-3 hours. After the liturgy was over they were planning to return to Leposavic but one guy from the group, *Z.M.* went to TV Gracanica and the group followed to see if he was going to return with them and at this time while they were waiting a police patrol arrived and asked them for their ID cards and they told them to follow them up to Gracanica police station. The group informed *Z.M.* that they are going to the police station in Gracanica and that the reason was unknown.

On reaching the police station in Gracanica, the police asked them whether they were going to the liturgy and a few moments later some inspectors in plain clothes appeared. They were all handcuffed according to this witness and then one by one we were taken outside the police station, put into the cars and were driven to the police station in Prishtina.

On reaching the Prishtina police station they were put against the wall in the corridor with their heads facing the wall and their feet set apart. Later on they were photographed and fingerprints were taken as well. After a long period of time they were put in an office with *B.M.* and there was an officer in plain clothes and the witness heard him speaking about paramilitary formations and he claims that he heard the sounds of beating, blows from downstairs. While they were standing in that room, *I.S.* stated that someone approached them and hit one of the group as they were standing with their feet apart and facing the wall.

The police officer told him that they have committed a criminal offense of “Violation of Constitutional Order”. He stated next thing a lady came in and he was informed “this is your ex officio lawyer”. He stated he was told they were believed to be *A.V.*’s escort and that they were some type of paramilitary organization. He continued describing the situation and said at some point *B.M.* and he were separated and at that moment he asked if he can get some water since he did not have water for the entire day nor had anything to eat. After they were taken from Prishtina police station to the detention unit and he stated that nothing happened during the transport.

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<sup>1</sup> Minutes of 15 and 27 January 2015



Once they reached detention centre he saw the others from the group and one of the employees in the detention centre gave him his telephone to contact his family. After this all the items they had with them, (telephones belts etc.) were seized and they were put in detention cells. The next morning he claims they were taken to the office where their documents were seized, and police wearing uniforms were already in the room. He stated that he noticed that it was a special unit called ROSU, since they wore bullet-proof vests and had caps. He believed they were special units according to the uniform they wore.

He stated that two police officers who were in uniform went to him and they were about to handcuff him. He stated they forcibly twisted his elbow from the back and put on plastic handcuffs. He stated they pushed his head down and he claims at that moment somebody hit him in the head with an open hand. He stated they were holding him from the the lower arms and made his whole body lean towards the floor. Then he was taken along the corridor towards the exit door. He stated he was slapped in the head with the open hand and at the end of the corridor there were staircases, as he started to ascend the stairs somebody who was there already kicked him in the stomach and pushed him and then those who were holding him pulled him back to the stairs and he was taken upstairs.

Afterwards he claims an even more fierce beating followed and he was hit in head and in the back. His head was pushed down, he could not see, but he could guess the police officers were positioned on both sides of the stairs and he did not see any of the faces because his head was ducked towards the stairs. At the end of the stairs there was a small group standing there, they were in uniform as they were in boots and he claims there he received many blows to head and body. Then he said one of them opened the door and he was taken towards the van, he was put inside the van in the seat behind the co-driver's seat.

He slowly moved his head to see who was behind and he recognized D.S. and I.P. by their jackets. After a little while they brought M.P. in, they were hitting M. and also hit him again and in the back. They played some songs and they were singing, he thought this was probably some nationalist songs they were signing and they were saying "this is the State of Kosovo". He said that all of this took place inside the vehicle and it lasted like this until they reached the Court in Prishtina.

He was not able to see anyone from the police officers during the transport in the van because his head was ducked all the time facing down. When they arrived at the court he was taken out of the van and taken to the corridor of the court. He sat there for a few hours waiting for the trial. He stated while they were there, he noticed that D.V. went to the toilet, and after a while he saw that he had a painful expression on his face when he came out to sit. He claims that D. told everyone there not to go the toilet as he was severely beaten in the toilet.

He stated that inside the court room when the session started the judge asked him what happened, and he told him a story but not the same story. The judge asked them if there was any problems but he told the judge there were no problems because, they were in fear for their lives to tell him they were beaten up. He said that they did not anybody about the mistreatment.

He stated after the court session was over they went out of the court room, he saw some of the ROSU police officers were still there but he did not know if they were the same ones which escorted them. After the session was over they were released, they went out and took a taxi and went to Gracanica monastery.

It must be noted that all of the witnesses/injured party testified that during their stay in the police station in Gracanica they were treated in a correct manner while they claim that the beating happened from the moment they were to be transferred from detention centre to the minor offences Court.

### 3.2.1.2 - B.M.1<sup>2</sup>

His testimony was heard on 7 January 2013 and he stated that 9 men altogether departed early in the morning in two vehicles to Gracanica monastery for the liturgy. During the trip they were stopped by KPS police in a place called Shupkovac, and they provided their documents and remained there for half an hour. They went to the monastery and stayed there for the liturgy and after it was over they went to radio TV of Gracanica. While waiting two police officers came and asked them for ID documents and after they were asked to follow the Police to Gracanica police station. At the police station he stated that pictures of them were taken and their fingerprints were taken. After a while the KP officers came and asked them to stand against the wall facing the wall and they handcuffed them. He stated they took them through a staircase and after they left through the exit door they had earlier come in and went on their way to Prishtina.

B.M.1 stated they entered the building in Prishtina and they were all placed in a corridor and after the police took pictures of him and his fingerprints. They were taken downstairs and when they reached the platform he noticed there were TV cameras recording. They were in a police vehicle and were taken to another police station in Prishtina.

Once they reached the police station he was taken to a basement where he gave all his documents and cell phone that he had with him and also his fingerprints were taken and they took pictures of him. He spent the night in a cell together with M.J.

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<sup>2</sup> Minutes of 23 and 24 October 2014

On 8 January they were provided with breakfast in the morning and they were told that lunch time is from 2 to 5pm. After lunch they went to the room where their documents and other personal items were.

At that point he heard boots coming through the corridor and he saw special police officers coming into the room and there were two to three of them. One of the special police officers caught his left hand and asked the other police officer in the reception if he was done with checking documents and if he signed for receipt of his documents. He was handcuffed and the police started to take the witness out.

He also claimed that the way he was escorting him he was almost hitting the ground with his knees. He was taken upstairs and there were police officers lined up on both sides of the stair case and they started hitting him in his stomach, back and head. When he reached the door one of them kicked him in his buttocks. He continued his testimony by saying that then he took him to the van and placed him on a seat and tied the seatbelt around his neck. Allegedly that police officer asked the witness what he was doing in Gracanica and the witness answered he went for the liturgy and then he started to punch him. He recognized two of them from the pictures shown to him during the pre-trial interview. He recognized the police officer who handcuffed him and took him out and he recognized that second police officer, when *D.V.* was taken into the van there was a police officer who was beating him. He claims at that point the police officer with him told the police officer who was with *D.V.* "Albanian, Albanian", in order to beat him more. Afterwards *Z.M.* was brought into this van and was placed behind him and he was also ill-treated and afterwards *D.V.* was taken into the van.

Then he claimed the police officer asked him when they were alone if he is going to go back to Gracanica and is Kosovo a Republic and he did not want to answer and then he started to punch him on his head, kicking his legs, punching him on his chest and all over his body. Then this police officer went out and brought *Z.M.* and *D.V.*. He saw the police officer who was saying about *D.V.* "Albanian, Albanian", and at that moment the witness raised his head and then a police officer came and started to beat him on his head and saying put your head down. A police officer ordered him to put his head down and he punched him on his neck. The witness stated he still suffers some consequences as a result of this. He claims that ill-treatment continued and then they brought *D.T.* into the van and then they started ill-treating him and while they were ill-treating *D.T.* they were hitting the witness in his side and at that point they brought in *B.M.*. They placed him in front of the witness and tied him with the seatbelt around his neck and started ill-treating him. A police officer asked *B.M.* "is Kosovo a Republic?" and *B.* did not answer and the police officer started hitting him asking him to say that Kosovo is a Republic. They were hitting him on the head and asking him to say "Kosovo is a Republic" but *B.M.* did not provide any

answer and at one point the police officer got upset and he took his rifle and started hitting B. on his chest with the rifle butt.

He claims that there were 5 of them inside the van, D.V., D.T., Z.M., B.M. and himself. He also stated that the van started moving at one point and the mistreatment of B.M. continued there and they were asking him to say "Kosovo is a republic" but he refused to say these words. At one point the driver stopped in the middle of the street and pulled the hand-break pulled his gun out and pointed his gun at B.M.'s knee.

Z.M. was crying and telling B. please say it but B. refused to say so and since B. refused to say what he was told the driver put his gun back and went to the driver's seat and started to drive.

B.M. saw the driver's face who pointed the gun at his knee and the face of the other police officer who was mistreating him. They continued moving and reached some building where the van stopped. The van door opened and B.H., D.T. and him were taken out. He was being hit while in the van and then he was pushed against the wall while taking the stairs inside the building of the Minor Offences Court in Prishtina. They were taken to this corridor and were requested to look down at the ground and to wait for the trial.

He claimed he was not mistreated in the corridor but if he wanted to raise his head they would push him down. He claimed on his left side was B.M. he was mistreated and hit and it was filmed on a cell phone by a police officer. He also stated that at a certain point D.V. went to the toilet and when he returned from the toilet his face was pale, one of his shoulders was leaning down and he was walking with difficulty. Allegedly, D.V. sat next to Z.M. and told Z.M. to inform every one of them not to ask to go to the toilet.

While waiting in the corridor he told to an inspector that his hands were tied too hard. He moved the sleeve of his jacket and saw that his arm had turned blue so he un-cuffed him and he positioned his arms in front of his body. The group of police officers changed at one point and he does not remember what group it was when this gentleman released his handcuffs. After they entered the session and after the session the Judge questioned them in the courtroom and then they were told to go out and wait for the ruling. After it was finished they were all together called into the court room and the Judge told them they were released and they can go home.

During the session with the judge in the Minor Offences Court the Judge asked them "were you mistreated by the police?" but they told the Judge that they were not mistreated because they were afraid that if they got convicted then they will be mistreated even more. He said that after being released they left the building and got two taxi vehicles and went to Gracanica monastery while

D.V. and Z.M. went home with their lawyer because D.V. was seriously injured. The lawyers were F.R. and D.V.

They went to the monastery compound and they stayed there overnight. They informed the sisters at the monastery and he claims they were examined one by one by the sisters since they had completed medical school and the next day they were escorted by EULEX, once they reached Mitrovica they went to hospital where they all were examined. They were prescribed some medicine, to take some gels and/or tablets and some of them were prescribed injections while D.V. was transported to Belgrade because he was in a serious condition. He stated that initially he was examined in Mitrovica hospital and later on, five or six days after when EULEX took over the case they were examined by EULEX doctors. He stated that he was incapable for working for four months.

During the session, CCTV footage from Camera 3 was shown to him and it started at 2:17:20 seconds. The location of the camera is the Detention Centre in Prishtina. He recognized the police officer who was hitting him on the head, body, and stomach in the van who put the belt around his neck and asked him why he was in Gracanica, the same police officer who had tied the security belt on his neck, was not in the same car on the journey from the detention centre to the Court. The witness denied being in security team of A.V. and said that his clothes were not a uniform. After two days of giving evidence by video-link he identified S.A. as the defendant who stopped the vehicle and leaned the gun on B.'s knee but he was not sure 100%, but more than 50%<sup>3</sup>. In the photo album shown to him in the pre-trial stage he recognized only S.S.

In the court room he recognized<sup>4</sup> G.K. as the person who hit B.M. with the rifle, he recognized S.S. as the person who tied him, brought him to the van, hit him and asked him what he was doing in Gracanica. He recognized N.D. as a face but did not know if N.D. did something to him ...he stated "maybe he punched me"...He recognized in the court room S.A. as the one put the gun to B.'s knee. He recognized I.R. as the person who hit his neck in the van.

### 3.2.1.3 - I.P.<sup>5</sup>

During his testimony he stated that on 7 January 2013 early in the morning, between 05:00hrs and 06:00 hrs they departed to Gracanica to attend the liturgy in the monastery. They were nine of them with two vehicles. During the trip they were stopped by the KPS traffic police in a village he thinks was called Shupkovac. They asked for their ID's. D.V. was driving the vehicle and

<sup>3</sup> Page 19, minutes 24 October 2014

<sup>4</sup> Page 36-38, minutes of 24 October 2014

<sup>5</sup> Minutes of main trial 10 and 11 December 2014

they confiscated his documents and told him that he cannot drive through Kosovo with Serbian documents. He was issued a piece of paper which he could use to drive in Kosovo and they continued. He stated that they continued further and reached Gracanica monastery at the liturgy and after they had to wait for their friends who were there because they were not feeling secure enough to return on their own. They stayed in front of a building outside radio Gracanica when two police officers approached with KP jeeps, and asked what they were doing there. They said that they are waiting for their friends, he went further way spoke over the phone with someone and then he returned and asked for their ID and told them that they should follow him to Gracanica police station. They asked him: "why?" and he said: "just for the check".

One of them went to inform **Z.** to tell him that they were asked to go to the police station. Once there they were placed in a room altogether, then the police officers would come inside look at them and ask them what they are doing there and they were individually taken to the upper floor, then over there they were handcuffed, and then fingerprints and pictures were taken and after that they were taken to Prishtina. They reached the police station 1 as he remembers in Prishtina and they were placed in the corridor standing against the wall. They stayed there for a long time, some inspectors came as well as many police officers, they were being moved from one office to the other to conduct the fingerprint examination and after that they were taken to some office where was a minute taker, KPS police officer and one inspector were and then he was assigned with an ex officio lawyer. After the interview he went to detention on remand, to the prison, he stated that they did not mistreat him but the inspectors were shouting trying to get something out of him but he had nothing to say.

They shouted that he should confess that he is close protection of Mr. **V.**, that he is a civil Protection member. When they went to the detention centre and when he saw **D.V.** and **D-S.** in the corridor of the detention centre they told him that they were mistreated by a police officer, they have been beaten. He was the first one taken out at the police station; he was placed in a jeep with four police officers, there was one on his right side and the other on the left side, there was a driver and the co-driver. They were taken to the detention centre, down the stairs to an office on the right where he handed over his cell phone and all of his possessions, he was placed in the cell and he did not see anyone else being brought in except **Z.**, **D.** and **D.** who were placed in a cell next to his.

Afterwards they were escorted from their cells and placed in a room which looked like a reception room where he saw the remainder of his friends, so they lined up, waiting, and facing the wall. There was one civilian but he did not know in which capacity he was acting. He was taking their pictures so he was telling them to put their caps on their heads and put on jackets and take them off and he was taking pictures from every angle. Then they returned them to the detention centre and took him back to the cell.

While he was being escorted to that office he turned his head to the right and he saw ROSU police officers. They were on the right side on the stairway from the last night when he was brought in and then a police officer escorted him into the office where the previous night he provided all his possessions and in that room he saw several civilian inspectors, several ROSU inspectors and **B.M.A.** and **M.S.**. They returned his items in one bag and he was returned to the ROSU police officers. One ROSU police officer said to him that he should approach him and he grabbed him and placed him at the wall and handcuffed him with his hands behind his back. After he handcuffed him, he grabbed him by his hand and escorted him outside, and one of them came behind them. He was not sure if one police officer or two escorted him. On the staircase there were ROSU police officers on the right and left. His hands were tied from behind and he explained with gestures that his head was almost touching the floor.

After opening the metal door the police officer escorted him up the stairs and at that moment he claims that police officers both from the left and the right side started to kick him all over his body and face. Although the length of the stairs was not so long, the police officer who was escorting him was taking his time so he could slowly go up the stairs. He stated that even after being put into the vehicle they continued to beat him along with others being escorted there namely **B.M.A.** and **M.S.**. He stated there were three ROSU police officers who were beating him but there were constantly changing, there were police officers coming in and out as declared by the witness. He further stated that he sat on the back seat on the back side next to the window with his hands tied behind his back, so he can say that one police officer was next to him on the left side and one a bit further and the third one in front of him, the one that was in front of him was hitting him with his hands given that he could not hit him with anything else since the seat was in front of him, whereas these police officers who were on his left were hitting him with their fists kicking him and hitting him with their elbows.

After a while he stated they brought **D.S.** who took a seat on his left side, then after they brought **J.S.** who was sitting in front and afterwards they brought **M.P.** and placed him on his left side in front of **D.S. Simonovic**. He stated the Police officers were constantly changing but there were somewhere between four and six. While they were beating them the police were asking them why they came to Gracanica, why they came to the liturgy, why did they come to light candles and that they should not come again. He stated that they were forcing them to say that Kosovo is a Republic, they asked them where they were coming from and they forced him to say that Leposavic is in Kosovo Republic in the Serbian language.

Afterwards, he said they came in front of the court, and then they started to escort them one by one so they escorted him up to the entrance of the court. They entered and then they went up the stairs, on the staircase there were police officers who were returning after escorting his friends and he claims they were beating him while two police officers were escorting him upstairs.

He also remembered **D. V.** went to the toilet and he remember that explicitly because when he exited the toilet he was very pale and he was holding his right arm and when he sat on the bench he whispered to the others that he was beaten in the toilet. After having the session at the Court they waited outside for the court to render a decision, the decision was that all of them were free to go and he stated that based on the advice they got from the attorney and given that they were afraid they didn't tell the judge they were mistreated.

Once they were out of the Court house they call a taxi and went to Gracanica monastery and spent the night there. He stated that the nuns opened the door of the monastery and they let them in the monastery, they stayed there for the night and then in the morning they were escorted by a EULEX jeep and went back to Leposavic.

During his testimony in the main trial he recognized two persons, **N. Z.** as a person who mistreated him in the van (he remembered him very well because he did not have a cap and he communicated with him) and **G. K.** as the person who also mistreated him inside of the van, while for **I. R.** and **S. A.** he said they were familiar faces. He also recognized **S. S.** as the person who hit him by what is commonly known as a "gipsy slap".

#### 3.2.1.4 - **M. J.**

Similarly, **M. S.** stated that they departed between five and seven a.m. in the morning for Gracanica monastery. He also stated they were stopped by the police and **D. V.** driver's license was confiscated by them. Afterwards they carried on to Gracanica to attend the Christmas liturgy. After the liturgy they went to radio Gracanica and that was when the police officers came and asked for their documents. He told to the court they presented IDs and then the police officer asked them to follow him to Gracanica police station.

He declared they went into the cars and followed the police vehicle and went to the police station parking the cars in the police station compound. He said the group expected from the police to explain to them why they were detained since they did not know what was going on. They spent some time there and then police officers asked each of them individually to follow them and they were taken to a room where measures and pictures were taken and afterwards they were handcuffed and taken by the back door to the official vehicle and taken to Prishtina.

He stated once they reached Prishtina police station they were taken into a room where they were requested to spread their legs and face the wall and wait until they finish with the procedure. After that procedure they were called one by one to different rooms with inspectors interviewing them. He also told the court that he was assigned an ex-officio lawyer, who was trying to persuade him to tell the truth because as she said, your friends admitted everything and in this regard he replied

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<sup>6</sup> Minutes of 16 December 2014



to her that there is nothing to admit because he was only attending the Christmas liturgy in Gracanica.

He stated he was interviewed by an inspector who asked him why was he dressed like that, why are you all dressed the same, what are you working at and what are you doing here? While his reply was that it is not a uniform, that it is clothing and that it is a custom to wear black when they go to a liturgy. He stated the police inspector was intimidating him. There was one inspector who was taking minutes and before he signed it, it was read to him because it was prepared in the Albanian language and it was read to him in the Serbian language.

He stated when they left the police station they sat in a police car and were taken to the detention centre. He was the last one to be taken out. He said that they were nine of them in the police station but afterwards Z. M. was brought in as well. Afterwards they were taken by official police vehicle to the detention centre where they entered some big hall with many seats and they were asked to put hats on and zip jackets since they were about to take pictures of them. After they were photographed, they were taken to the ground floor one by one where finger prints were taken again and they asked them to remove shoe laces and belts and then were taken to a cell.

He said that he was in the cell with B.M.I. and they spent the night together in the same cell. On the 8<sup>th</sup> January they were provided with breakfast and few moments later the guards came in and asked them to pick all the bread and meat and put it in a bin.

He said that first it was B.M.I. who was taken out to a room and afterwards he was taken to the same room where B.M.I. was, then he was handcuffed and the handcuffs were tied very tight and there was one person who came there to take him out. He said it was a ROSU member since they are dressed differently from the police officers. He explained the police officer said nothing, he just came in and took him out and when they reached the stairs then the mistreatment started. He told the court that there were punches to the head, in the knees and chest and the one who was taking him out was pulling back so he did not get out too fast.

He said that their hands were tied tight behind their backs and when they reached the stairway, his head was pushed downwards and this is how he was taken out through two lines of police officers. He said that maybe they were about ten police officers, but he was not sure. He told the court that was what he saw before he reached the stairway.

Afterwards, while they were taken to the stairway and once they reached the platform, one of the police officers said "cameras, cameras". This is what he remembered hearing. When they reached the platform and when some of the members said "camera, camera", he was pulled back again by the one who was taking him out and he said they had balaclavas on and he could not see any faces.

After he was taken out they placed him in a vehicle, on the back seat. While in the vehicle he stated he was approached by a ROSU police officer, who asked him where is he from and he answered he came from Leposavic and then he asked where is Leposavic, and he said "in Kosovo" and the police officer said "it is the Republic of Kosovo" and allegedly slapped him. The police officer was saying to him "was it you who killed our colleague?" He said they were pushing his head toward the floor, they were speaking in Albanian and while they were speaking they were beating him. He said two police officers who sat behind were the ones who hit him and also he was getting blows in the head from the co-driver whereas the two sitting next to him were hitting him in the kidneys and neck.

He stated during the main trial testimony that when the vehicle started moving and whenever they spoke to him in Albanian the police started to hit him. He said he saw one of them and recognised his eyes of light colour, but he did not know if they were blue or green. After they reached the court two police officers took him upstairs and they placed him on a bench. He said he went to the toilet but went there only to put some water in his mouth and left immediately, while **D.V.** went there also but when he stepped out he told them he was mistreated, beaten and kicked in the toilet.

He said after the court session was over they went out to wait for the decision, he mentioned also the judge asked them if they were mistreated, but he also told him he had been treated correctly, since he said during the testimony in the court he was afraid and distressed.

He stressed that the day after they arrived in Leposavic and went to undergo a medical check in Mitrovica hospital, such as x ray and ultra sound, and later underwent the medical examination by the EULEX doctor in the police station in Leposavic, on the 15<sup>th</sup> or 16<sup>th</sup>.

It must be noted that during the pre-trial testimony before the prosecutor in regard to the identification process the prosecutor referred to the identification of the persons and Mr. **J.** said that he is not sure about number 26, which was **J.R.** and he recognized number two **G.K.** however during the main trial in the process of the his examination by the presiding judge he did not manage to recognize anyone, apart from **G.K.** who very much resembled the person who was hitting him.

In the video footage shown to him (CCTV camera from the police compound) he recognized himself going out of the building and after he stated the person who came out next to the van was the one who was beating him. While the camera was rotating the prosecutor asked him do you recognize the person in front of the van but **M.J.** said "I cannot be sure to say who it is" and he said he cannot be sure also in regard for the person who went out and in of the vehicle from the video footage.

### 3.2.1.5 - D. S. <sup>7</sup>

He stated during his testimony that on 7 January 2013 he departed with his friends to celebrate Christmas at Gracanica monastery and on the way they were stopped on the road near the place called Dudin Krs, and were identified by Kosovo police. He was the driver of a Volkswagen vehicle and inside this vehicle he was together with three other persons. After arriving in Gracanica, he told the court he and his friends attended the liturgy in the monastery. Once the liturgy was over he said he parked the car across the road and a few moments later a Kosovo police patrol came by, there was a gentleman and a girl member of the KPS. After the identification the police told them they had to go with them to Gracanica police station.

He said after arriving at the police station in Gracanica they were taken to a room, and in this room they were all together for some time and then after some time they were moved to another room on the upper floor, after that two members of the KPS came in and handcuffed them, and took them out and, in a Golf 5 vehicle, they were taken to Prishtina. After arriving in Prishtina they were identified and fingerprints were taken and then they were taken to an interrogation where they were asked why they were in Gracanica on that day what was the reason and motive for him being there.

He declared that an ex-officio lawyer was appointed for him and an interpreter of the Serbian language and the communication with the lawyer was in Serbian as well. He remembered the last name of the lawyer was ~~It~~ and he was the one who outlined the rights to him. Afterwards he stated he was taken into a vehicle and once again to the police station in Gracanica in which the vehicle was repeatedly searched and after the search they were returned to Prishtina, to the detention unit. They were photographed there with caps and gloves on and after were placed in prison cells.

He further stated that next day a prison guard came who took them to the room in which they had surrendered their personal belongings and documents and they spent some 30 minutes in this room while they were again given back their personal documents and belongings, upon which a member of KPS came in and handcuffed him with plastic handcuffs and took him out of that room going to the stairs where he claims he received the first blow, a punch in his chest. After this he said other police officer started to deal blows and he could not see with what but he thinks they were using hands, legs and sticks. After several blows he said he fell on the stairs and then he was lifted by the police. He said he was lifted again up and until the exit received a couple more blows.

He further declared that at the entrance two new police officers took him to the first van nearby and on the way from the entrance to the van he received a couple more blows from the other two. While

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<sup>7</sup> Minutes 3 February 2015

moving, he stated that he was gently leaning forward because of his hands were tied behind his back.

He added that in the van there were two other police officers who took him and they continued with blows. There was already inside, *J.P.* in the bottom right corner of the van and he was thrown in the bottom left corner of the vehicle. He further said that just before taking a seat, a member of the police tried to additionally tighten the cuffs and on this occasion he received a few other blows to the head and on the other hand one of the members came from the left and hit him with his knee in his ribs and shoulder. After some time the vehicles departed towards the court building. In the trip to the court building along with very loud music he said he received a few additional blows. He was able to see that inside the van with him there was *D.S., i.P., M.P.* and *i.S.*

After they reached the court they were taken out one by one and he does not remember exactly the order in which persons were taken out the van, but he states that while he was taken out one of them kicked him with his boots to his side. He further explained they passed through the entrance door and continued upstairs along the stairway towards the floor above and at the first resting place there were two other police officers and there he also got a few blows to the chest. He declared that while he was waiting at the beginning of the court session he had problems since he started not to feel one of the hands and fingers in one of hands, he said that blood circulation was stopped. He described the situation as very difficult given that his legs were folded below the bench and his torso was leaning forward. Initially they did not communicate between each other but later on when the number of police officers was reduced he said they started whispering to each other.

On the question of whether he saw someone going to the toilet, he said that he did not see it personally but heard *D.* had some problems. Later on he entered the court session and inside the court room there was a judge and interpreter and two other persons whom he heard were their legal representatives. He did not tell the judge what had happened before and that he was mistreated since he was afraid. He stated after the session they were called by the judge and then in the courtroom the judge told them that they were free citizens. Once they were released they have been offered by the police to be driven to Mitrovica but they decided to go on their own, once out of the court room he stated they hired a taxi and went to Gracanica and spent the night there. In Gracanica he was examined by a nun who was a doctor by profession. The following morning somebody from EULEX, three to four persons, visited them inside the Monastery, he remembers there were US police officers and a Greek police officer and a person who kept offering them medical treatment. After he got his car back they departed for Mitrovica and later he stated he went to the Military Medical Academy in Belgrade. He was put through an identification process, since he did not recognize anyone in the pre-trial stage and stated that he did not see the faces of the police.

3.2.1.6 - D.V. .<sup>8</sup>

The story of the route from Mitrovica to Gracanica Monastery is almost the same and does not change much, therefore, we would only mention that he was a driver in his own car and he was stopped by the Police near the village of Shupkovac and the police told him that he will not be able to continue with his driving licence through the Kosovo and therefore they seized his driving license and gave him a certificate with which he could drive. They continued the trip to Gracanica but when they arrived the liturgy already started and after the liturgy was over, he went to look for his friends and they told him they were outside radio Gracanica. He was not sure whether it was a radio or TV station.

He further declared that while standing outside, a Kosovo police officer came and asked to see their ID cards. The police officer addressed them in Albanian and when we said "no problem", and then he started speaking in Serbian. After checking the ID cards the same gentleman came again to them and asked if the vehicles were ours and then he asked if we could join him to the police station to check this. He stated that one of the friends from the group, Z.M. told them to go freely there because this was probably about some routine check. D.V. told the court they followed the police car and after they reached the police station, the police told them to wait for some additional checks.

He further stated that after some time a man wearing plain clothes showed up at the door and acted a little bit strange and said something like "so it is you guys" and then asked who we were and after that we were just told that one by one we should stand against the wall so we can be handcuffed. The handcuffs were metal and they were handcuffed to their backs. He stated they did not exit the building the same way they entered because it was a different entrance. They were put in a police vehicle which already had its rotation lights on and inside the vehicle there was a KP driver. D.V. said he was there with another colleague.

They departed for Prishtina, they were driving very fast and the rotation lights were on. When they arrived at a station, they were taken inside into a room in which they had to stand with their heads against the wall. Then they had a roll call of their names and last names from their IDs. He said they were not allowed to turn their heads when they were called, they were getting slapped in their faces and after giving their finger prints, they were photographed and all their documents were seized.

He stated that while taking their things out of their bag they saw rosary beads he had bought and they told him "why you are buying these since you are a Muslim?" He further said to them there was no reason to do this since he guessed what was going to happen. Then he claimed the police officer literally took a swing with his leg to kick him and he defended himself and in that moment three persons came in and started to kick him and they knocked him down on the floor.

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<sup>8</sup> Minutes of 4 and 5 February 2015

He further told the court that later another guy came in wearing a long coat and he had a glove on his left hand. He alleges they were mostly kicking him because those rosary beads had a cross as a symbol of the religion to which he had to pay respect and give it to his mother and because his father is an ethnic Albanian, named [redacted]. He also alleges there were many insults directed towards his mother and sister. Then they lifted him from the floor, poured some water on his face, put his jacket on and placed him against the locker.

At that moment the police started kicking him, telling him to spread his legs and one of them started kicking him in between his legs. He claims that afterwards he lost consciousness, they poured water on him, lifted him up and gave him water and then he was taken to another upper floor, and they told him to sit and wait. Then the person who he described with a long coat in civilian clothing, started to address him in the Albanian language. He was talking only in Albanian, although he did not understand Albanian but only could guess and he was told that the reason he was detained is that he is some kind of [redacted], 's escort.

The police officer was writing something and at the end he gave him something to sign. He told them he disagreed with what is written in the minutes because it is stated there that they came here to work for daily payment of 20 euros at that time or 2000 dinars and there was something written about a Vox club and it was completely incorrect. In relation to this club, it was written that they were working in this club called Vox, as guards. After they read it out to him they said that they will put his handcuffs in front of his body so he can sign it, but he refused to sign it.

He claims that they pressured him in the form of saying to him that "your friends in the other room admitted and signed the minutes" and he told them he did not know about his friends, but what was written there was not him. Then he stated the police with the long coat and a glove pushed his head in the desk and asked him which hand he is using for writing. He realized something wrong would happen and he told him he used his left hand and he started hitting him with an ashtray on his left hand so that he would sign this. He declared that at that moment the lawyer approached him and addressed him with the words, "I don't know Serbian that well and maybe I will not be able to help you", but when the lawyer arrived he stated he had already signed the papers... He stated he would not be able to remember this fact because he was under a lot of stress and he was not quite sure whether there was one present or not.

Afterwards the person that was wearing a glove went to another room and brought some card with the name of [redacted], M. [redacted]. He said "your boss is here, and your friends already admitted everything and what happened to you should not have happened". He stated afterwards their hands were handcuffed behind their backs and they were brought to the first floor where they initially were. This is where he saw his friends standing against the wall. He was also standing against the wall and they were told to put caps on their heads. Two KP officers approached them in order to

place their hands in front of our bodies so they can put the caps on their heads. He stated they laughed at them when they put the caps on their heads.

The police asked who were the drivers of the Audi and Golf and then *D.* and *D.S.* stood up and the police told them they have to return back to Gracanica. He said they were brought back to the police station number 2 and were told they will be taken to a detention unit or something like that. It was still dark in his cell and he was placed next to the window and police said "you should pray to God that ROSU will not come here tomorrow". He said he was shocked when she told him this as he knew that something wrong will happen.

He stated when he woke up he heard a motor sound, someone parking a vehicle next to the window where he was located and he saw people wearing full gear like war gear having balaclava on their heads placing them as hats. They wore those balaclavas where only their mouth and nose could have been seen and then they took it off. He said there was some small provocation; while the police was hitting the van with the batons trying to scare them. Then they start calling their names and opening the doors and this was done by police officers working at the detention centre. They were told that ROSU unit came to take them to the court. This was told to him by an officer who came to take him from the cell. When they were taken to this room, they had to check if all their documents which were seized were there and if we are receiving those, belts, shoe laces and the money.

His name was called by a police officer and then he turned and said it is me. The police told him stand against the wall with your hands behind your back. He was handcuffed and when they started to move, his head was leaned towards the ground almost at the level of his knees and at that point he said he could not see anything on his left or right side, what he was able to see was the first stair and some boots. At that moment he said his head was raised, and then could see all the police officers and the one who raised his head started hitting him first and then the hell started, the witness said. After that he said they reached the last stairs and there was this platform and the automatic doors which opened and stopped. They took him to the van which was located in front of the door. When they put him into this van they placed him on the last seat and tied him with the seat belt. He said that *Z.M.* and *B.M.A.* were both there and he saw the face of the one who brought him in and he thinks there was a driver in front. In this van, after they tied him and closed the door, later they brought *D.T.* and placed him in front of him and then three ROSU police officers entered, closed the door and allegedly started to beat them, with blows and kicks. He remembers he received insults, he doesn't remember quite well specifically, but he does remember it was related to his father, sister, mother and everyone. After this took place, they opened the door and brought *B.M.* in they have been forcing him to sing some songs and tell them specifically where he lives. He said he resides in Leposavic. They asked him where is Leposavic? And he said in Serbia. They told him 'No, you will state that Leposavic is in Kosovo'. He didn't want to say this, and they start hitting him.

He further told the court that later they reached the court house, they were taken out of the van one by one and they placed them sitting in this court house one next to the other. They asked him "who asked to go to the toilet?" and he said it was him and he asked to move his handcuffs in front of his body so he could go to the toilet. He removed the handcuffs and handcuffed his hands in front of his body and he went to the toilet to see what was going on. At that moment when he tried to open his pants he hit him in his genitals and told him he should not be having children that his seed should be killed. When he leaned to drink some water they started hitting him in the stomach and back and they told him he should not tell anyone about anything with the threat, "we know where you live and we will come there to rape your mother and sister and kill them". At the point when they were about to get out of the toilet they smiled at him, hit him in the shoulder and told him "you are very tough".

When he was brought back to the bench he was whispering to his friends that none of them should go to the toilet because he wouldn't like what happened to him to happen to them. When he went before the judge, **F.K.** was already there. There was a court recorder and the Presiding Judge. He stated after the session was over they were all released and **D.V.** went with **F.K.** and **Z.M.** directly to the hospital in North Mitrovica. He told the court that doctors told him that they will not be able to help him there and he needed to be transported to Belgrade and once he reached the hospital in Belgrade he had to stay 15-20 days there and after he got out of the hospital in Belgrade he was visited at the Leposavic police station by the EULEX doctor.

At the main trial he was asked to see and identify any of the persons who mistreated him, he recalled **S.A.** as the person who was the driver of the van and the one next to **B.** He was not sure about **S.S.** **N.D.** was identified by him as well as the person who escorted him from the detention centre up to the van, and the person who was with him in the toilet and he was beating him. He recognised **G.K.** as the person who in the toilet inflicted on him the first blows in the groin.

### 3.2.1.7 - **M.P.** <sup>9</sup>

**M.P.** also stated about the fact they were stopped by the police at a place called Shupkovac, on their way to Gračanica on 7 January 2013. They were stopped by a patrol and were checked while there were four of them in the vehicle, **D.S.** **D.T.**, **M.G.** and him also. He stated during his testimony that after the police stopped them and asked for their documents and after they provided their documents, they checked them for five to ten minutes and then they let them go.

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<sup>9</sup> Minutes of 15 April 2015



He recounted how after they reached Gracanica and the liturgy was over one of his friends said to Z. M. that they were faced with an issue, when they left Mitrovica when they were stopped by a police patrol, and Z. said "let us wait for Mr. V. to finish his interview and then we will go with them". He further told the court that while waiting there police officers approached and asked initially for ID and then after to follow them to the police station in Gracanica and they were put in a larger room such as a conference room or something like that.

He continued to explain the whole procedure of the arrest, while waiting there he said that police inspectors in civilian clothes appeared and they took them to an upper floor, then they were handcuffed and taken out from the police station through the back door. He was put in a grey Golf together with B. M. A. and they were taken to Prishtina police station. After waiting in the corridor from some time they were taken to a room where they gave fingerprints and also they took pictures of them. After that they were taken upstairs to the upper floor and this is where the inspectors interviewed them about where they work, why did they go to Gracanica monastery and similar. Describing the situation while being interrogated by the police investigators, he said that some people were coming in and going out and he did not know who they were. The inspector who was taking minutes was having some issues with the computer system and at one point he was not taking minutes with the computer but he started writing down the statement. They were interested to know why did he come to Gracanica and he told them he was there because of the liturgy and that this was not his first time to go there because his aunt used to live in Prishtina and that he was visiting his aunt every year during the school recess and so on and that he was visiting Gracanica not only as a monastery but during summer recess as well. And at the end he was asked to sign some statement which was not clear to him. After that he was taken downstairs in a vehicle and send to the detention centre.

At the detention centre he was allowed to call family members and he informed them he was arrested and after that they had to buy food since the dinner time was over, he was taken along with others to the basement where the police took their belongings, fingerprints and measurements were taken as well as pictures. The injured party said also they were visited by an NGO or OSCE. He continued to describe the events that took place on 8<sup>th</sup> of January 2013. After waking up the police officer, a male or female brought breakfast to them it was a sandwich and it was with meat, minced meat probably everything was correct at the detention centre until the time when they departed to go to the court, he said.

He said when he left the cell he was taken by a police officer to the same room where his documents and everything he possessed was taken away from him. After he had his belongings returned the ROSU police officer asked him if everything was okay and he confirmed, he was handcuffed behind his back, grabbed under the armpit in order to take him out. He stated he did not expect someone would hit or beat him. He said, once he stepped on the first stair, someone hit him in his stomach and he lost the air maybe it was a fist or leg because his head was lowered

down and he could not see. After this first hit, he said he was hit numerous times by all those who were along the stairs, with their hands, legs, all the way while he was being taken to the exit of the detention centre. He thought they were around ten police there, he was not sure but he thinks they were standing zigzag, one was on the first stair, the other on the third, on the fifth and so on. Once this hitting was over and he reached the platform after the stairs, he met two or three police officers and the police officer took him to the van. He was the fourth one brought, P. I. was on the right corner in the back, S. I. was in front of him, he was across from S. I. and D. S. was in front of him. He was the one behind the driver.

He said that the police officer who tied the belt around him hit him two or three times in the neck, he claimed he heard the police officer standing out of the van saying "Tigers of Vukovar or Arkan's Tigers". After some time they departed towards the courthouse. While in the van they heard Albanian music with increased volume. He said that the van started with the sirens and the emergency lights and they were heading towards the court. When they reached the court they were standing in front of the court maybe for a few minutes, but he told the court that once they departed from the detention centre to the court he was not hit anymore except that they were driving aggressively and hitting the brakes strongly.

He stated once they reached the court a police officer took him first as he was standing next to the door and while being taken upstairs he kicked him, he put him to sit on the bench in the corridor and he was not sure whether at that point he pulled his hair or he hit him on the head. After that he said they brought D. S. next to him, I. P. and I. S., they were all sitting on the same bench on the corridor. At a moment D. V. went to the toilet and two police officers went after him and when he got out of the toilet he claimed he saw him while walking his shoulder was dislocated and his arm was hanging.

In the session before the judge at the Minor Offences Court he said he was not mistreated as he was afraid for his safety. Once the decision was made and they were released, he said they waited in front of the courthouse and they took two taxi vehicles and went to Gracanica to the monastery and spent the night there. The next day they waited and two EULEX police officers came, one was called J. or something and they escorted them to north Mitrovica. He stated that once they reached there the hospital they were examined and ultrasound was done on liver, heart, kidneys, and everything was okay except his thumbs that were numb and he was given some cream to use. He stated that they were checked by a EULEX doctor at police station in Leposavic after 7 or 8 days.

At the end he was not asked by anybody to identify any of the defendants.

He stated that eight or nine of them were going to Gracanica on 7 January 2013 and once they entered the south part after five or ten minutes, they were stopped by a police patrol and they took all of their personal IDs and kept them there for about 30 minutes. At the main trial he stated they went for the liturgy and had not meet V. or his escort. After the liturgy they went and stopped before a building which he presumed was a TV building, but once there a police patrol comprising a man and a woman came and asked for their ID cards and later they asked them to follow them to Gracanica police station. He said that once at the police station they placed handcuffs on them and they were sent to another police station and were placed in a big room. Once they were there police inspectors in plain clothes went inside and started questioning them, checking phones, telling them they are terrorists. He claims the questioning took several hours. After that he stated he was brought to the basement where the police took their belongings, compiled reports and put them in detention along with the others.

The next morning he said they woke up and someone asked to be escorted to the toilet, he said the guards were correct, and they didn't have the slightest idea what would come afterwards. Then he states he was escorted out of that room by two police officers and when they reached the stairways which lead up, he saw on the left and the right approximately ten police officers. He could not recall the exact number of police officers, but what he said is that from the platform, from the first step to the last step, there were police officers one after another. One of the police officers who was escorting him hit him in the stomach, hence he leaned his head down towards the steps and then he received numerous hits as he claims, starting from the head, on the back, the legs, the skull. He declared he was hit everywhere with both hands and feet.

Then after he was escorted to the police van and just before entering the van, he stated the police officer pulled him back a little behind the van, hit him some several times and then put him back in the van. He further stated that inside the van they pushed him roughly and put him on the seat and belted with the security belt, they were hitting him on the body and requesting him to say that Kosovo is a Republic which he did say after couple of seconds and then they stopped and after that B. was brought and he was put in a seat in front of him or in front on the right side.

He also told the court they were hitting B. as well and requesting him to say "Kosovo is a Republic", which he did not say it in the beginning or after. He claimed the beating was carried out by two or three of them, he did not recall exactly. They started hitting him with even more blows and they increased the yelling and at that a moment he heard a weapon and after few moments the van stopped and they were escorted outside the van to the court.

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<sup>10</sup> Minutes of 28.01.2015 and 29.01.2015

He said they placed him on the right side, on a chair in the corridor and they were always pushing their heads towards the ground and after some time had passed, he did not know whether it was **D.** or someone else who asked to go to the restroom, but he didnt know exactly whether this happened before he entered the court room or after, but anyhow, he stated that after he got out of the toilet his face was very pale and he said: "by no chance don't ask to go to the toilet", given that after he went to the toilet one or two police officers went after him.

He was not sure but he told the court he thought the Judge asked him how was he treated but he said they were fine out of fear because he was hoping that this could come to an end as soon as possible. He also told the court his defence counsel asked the Judge to put in the minutes, that "my client is wearing a light grey pants, a blue jacket, and colourful blouse, and that my client is not wearing any uniform". Then recounted how the Judge issued a ruling by which he was released from all charges. After the session was over the witness said the number of police officers was visibly less. Afterwards he got out and together with the group departed for Gracanica and spent the night there in the Monastery.

During the pre-trial testimony he recognized through a photo identification the police officer who took him from the detention centre to the van, and he pointed out number 26 of the photo album, and being 100 percent this person was **G.K.** while at the main trial he only said that the face of **G.K.** is familiar to him but he was not sure.

#### <sup>11</sup>3.2.1.9 - **B. M.**

He declared to the court that in the morning of 7<sup>th</sup> January 2013 at around six a clock they departed for Gracanica. As soon as they passed by Mitrovica one police jeep literally jumped on them or started after them and then about one kilometer further down the road they were stopped by a police patrol. They took their ID's, the driver licence of Mr. **D. Y.** was taken and a letter for that was issued to him and then they were released and they continued towards Gracanica. He told the court that after the liturgy was over they felt unsafe and they tried to use the escort of Mr. **V.** in order to return with them to Leposavic, therefore, they went to TV or Radio Gracanica for some 10-15min and while waiting there a police patrol appeared and asked for their ID cards.

He stated that soon after they asked them to follow the police car to the police station in Gracanica. They followed the police jeep and they went to the police station in Gracanica. They were told, in fact at the police station, that the reason was to give some sort of statement, sign it and then they would be released to go home. However, they then took photos of them. They searched them and they put them in a single room. After a while, several police officers came and they asked them to stand against the wall and they handcuffed them by metallic handcuffs.

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<sup>11</sup> Minutes of 3 December 2014

He was then put in a car and driven to the police station in Prishtina. In Prishtina they put them in a corridor of a building and then they went to a room and in this room there were few policemen in plain clothes. They were then photographed several times, fingerprinted and searched. They asked him, what he was doing during the war, he if he was in Bosnia or in Croatia. They asked him in Serbian if he worked with Arkan and other questions. After all of this they took them all outside the room to a corridor and they told them to stay one meter away from the wall and then put their heads on the wall. They handcuffed their hands on the back and they were there standing in this position for an hour or two-a considerable period of time. There were some people in the group that had some injuries from the past and it was difficult for them. They were *J. P.* and *J. S.*. The policeman wearing the plain clothes started to curse and shout and at first it was not allowed. Then after a while a policeman wearing a uniform showed up and asked who has problem with the handcuffs in the back and they were handcuffed in front. The man literally apologized to them and wished them good luck.

After a while, they were taken individually through a corridor towards a door which was one floor above. He was informed by an officer in plain clothes that they had violated a number of laws and regulations and the constitution and the integrity and he mentioned a criminal group. He went out of the office after a while and then a policeman wearing a uniform entered the room. They allowed him and *J. S.* to have a normal conversation and I, *J. P.* complained then to him that the policeman in plain clothes used to strangle him all the way from Gracanica to Prishtina while in the vehicle. This was the policeman in civilian clothes that was together with them in the office. He stated that in that room they were let to act freely. They even had normal conversation and with that policeman they spoke about life in general. However, he kept reminding him that they have violated number of laws and they should be sentenced from 10-20 years in prison however the case will be handed over to the judge and the judge will decide.

At the end he declared that he signed a paper which was fully written in Albanian and he did not know what he has signed and after that was taken to detention, it was late evening but he could not specify the exact time. Inside the Detention Centre, the policemen offered them something to eat and offered them the telephone so they could contact their families and tell them of their whereabouts. He contacted his family and he told them that he was in detention in Prishtina. After sometime they were escorted to a cell and he was put in a cell together with *D. T.*

The next day he said in his testimony of the main trial, they woke up in the morning and someone brought them so called breakfast and it was made of stale bread and salami which was stinking that could not be eaten as it smelled and it was the same also for lunch, he declared that between breakfast and lunch nothing happened. After a while, as he was close to the detention to the door of the cell, he heard a commotion and something happening in the corridor. He heard a scream and punch or a hit. He prepared himself for the worst. He was the first one and he entered an office where their personal belongings that were taken away from them were. When he attempted to sit a

policeman ordered him to stand against the wall and told D. T. to sit and take his personal belongings. D. T. took his personal belongings and then he was put against the wall and then he sat down to take his personal belongings. Present were both regular policemen, other policemen in uniform and policemen in plain clothes. When he took his personal belongings, they abruptly seized him by his arms pulled him up from the chair and made him stand against the wall. Then they brutally handcuffed him and turned him to face them and asked him if he had heard of ROSU and then he told them that he heard about ROSU and then they told him now you are going to see ROSU.

Then one of the policemen grabbed the chain linking the two handcuffs and started to push B. He pushed him out of the room and then in the corridor he started to pull him on the left towards a door with bars. He was in a position to see them all clearly, all that were inside the room. As he was approaching the door with the metal bars he saw stairs and a number of policemen standing on both sides. So, the moment he stepped on those stairs and the moment he started taking the hits this policeman who was holding behind him he was holding him down so he would move slower through this. The first blow he took on the very first stair was to his stomach and then he stood crouched in order to avoid the hits. The first blow was a punch in the stomach and as he was leaning his main goal was to pass through as fast as possible so he would not get any hits. On the top of the stairway, there were four policemen waiting for him and he received a number of additional blows. He was hit in his stomach, chest, shoulder and back. He managed to notice in the left top corner a camera which was on some kind of pedestal that was recording the office. Then several of them took him by pushing his head towards the ground and they took him to a van which seemed to him to be blue in colour. He could not recognize who was inside with him in the van.

The moment they took him inside the van they sat him in a place which was isolated and on that seat they start surprisingly beating him, he wasn't able to see the faces of any of these police officers as he constantly received blows and he just tried to protect his body as much as he could. There were all kinds of blows but not in the head, on the back of the head yes but not in the face. At that time nobody addressed him personally. There were all kinds of curses in the Serbian language but not to him personally. In the front of the van there were two seats one for the driver and the other one for the co-driver and he was sitting behind those which was isolated. In the van the police officer put the seat belt around his neck and he start to strangle him, briefly he was without oxygen but luckily it didn't last long. Afterwards he left the seat belt around his neck and he buckled that to the seat. Then he received some additional blows and they removed the seat belt and he thought that was over. Then a police officer who was sitting to his right asked him in the Serbian language "can you sing"? He told him that he does not sing and then he said "now you will sing". Also with a threatening voice he asked him if he had heard of ROSU and he said yes. With a threatening voice he also said that he will also see them. Then the driver entered the van and they departed to the court.

There was music inside the van although he didn't understand the song he was supposed to sing. He only understood that Drenica was mentioned. Then, when the van started, the police officer who was sitting to his right started hitting and kicking him with his boots in his stomach and his back. He asked him in Serbian where he was from and where he was living. He said he lived in Leposavic and he asked if it is in an independent Kosovo and he declined to answer. Each and every time he declined he received considerable number of blows. After he refused to reply, the driver apparently stopped the vehicle pulled a handgun and he put it to his left knee. He also asked him to answer the questions of his colleague and of course he refused. Then his colleague who was on his right as far as he remembered, he think he used words "mos" which means "don't" and then he turned back to the steering wheel. After that, the policemen to his right put his rifle to his head and then he as hit with reckless blows and he believed the driver was hitting him as well.

The witness was taken through the identification procedures of the 15<sup>th</sup> and 21<sup>st</sup> of January 2013 and 7<sup>th</sup> of March 2014 and he recognised *G.K.* who was beside him and also *S.A.* who was the driver. He stated that he identified them 95%. After the policeman who was siting to his right pulled something from his belt he can't remember if that was baton or a lamp but he hit him with that in his stomach. And then when these blows were not giving any results he realized that it was a telescopic baton and he started hitting him with that in lower part of the knee.

In the back he heard *Z.M.*'s voice as he asked him to say whatever they wanted him to say because then they will stop hitting him. He did not respond to *Z.*'s question and that made the policemen next to him very angry and then he got hits from them with the butt of a weapon and that made him struggle to breath. After that these policemen started kicking him with his boots in his joints in the lower part of his knee on the bone. They arrived just outside the court building and two policemen pulled him outside the van and they went inside the court building. They took him up on the first floor and they sporadically hit him on the stairs towards the first floor. On that floor they took him all the way to the right and they sat him on a chair. They hit him sporadically while they took him on the first floor and then again while he was sitting on the chair. He was sure about the identity of one police officer who was sitting to his right but for the other one he was not sure. While he was sitting there he was receiving a number of blows to his head and they told him that he was a tough, patriot and they start cursing his Serbian mother.

The three of his friends were next to him on his right. His friends arrived later on when they took their handcuffs off. As he was sitting there in addition to the blows he received to his head he also received blows to his ribs on his left side. He stated the policeman who was mistreating him took a photo of him and he said he did it to identify him more easily while he will be in detention. After a while a policeman in plain clothes came and asked them if the handcuffs were too tight and if their heads were aching. When they replied positively to this question he said that their handcuffs

should be removed. There was one police in uniform who came to them and asked them which of them was called *D.*, *D.T.* and *D.V.* both answered and they asked *D.T.* what was his father's name and he said *R.D.T.* was told to sit down and then *D.V.* was asked about his father's name and when he answered he just nodded and then he left outside, and after a while *D.* asked if he could go to the toilet and he was allowed to. After he entered the toilet two police officers followed him. When he returned from the toilet he was completely pale and he was looking up at the ceiling and he was distressed. He just passed by and sat down. Then after a while *B.* said through his teeth, whispering, "don't you go to the toilet by any means". They were sitting there and then the lawyer *F.* appeared. They told Mr. *K.* what happened but he simply did not believe them. As they were waiting for the session, Mr. *F.* went to the toilet and probably he had an unpleasant meeting with the policemen there and he totally ignored them.

When the session started they had to appear one by one to give their statements and they waited for the verdict. They did not tell the judge they were being mistreated. He said they wanted to go home as quickly as possible. He stated they heard about cases of people who went through what they had gone through and they had waited for several days until what had happened to them was investigated. The judge said they were free and they could go home. They went to the entrance of the building opposite the court and they waited for a taxi so they could depart towards Gracanica. They stayed overnight in Gracanica monastery and some individuals were examined by the nuns. A EULEX policeman came to them and offered them a safe drive to Mitrovica and escorted by him they reached Mitrovica. They went from Gracanica straight to Leposavic, they spent a while there and then they went to Mitrovica and did the medical check in the hospital.

During the identification process he recognized *S.A.* as the driver of the van who pointed the gun at his knee, *G.K.* as the police officer who mistreated him and tried to humiliate him at the van and *N.D.* as the police officer who was the one who tried to hit him at the court room and he thought he was the one who entered the toilet when *D.* was mistreated.

### 3.2.1.10 – Witness No. 1<sup>12</sup>

It is important to elaborate also the statements given by the anonymous witnesses. All of them testified on 16 April 2015.

Witness No.1 – he declared that on 8 January 2015 he remembered having seen special police forces taking detainees from the detention cell to the van located in the yard of the detention centre. He told the court that as he remembered they had handcuffs on them and they accompanied them outside the detention centre. He told the court he saw one case of mistreatment, after he saw

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<sup>12</sup> Minutes of the session 16 April 2015



the footage which was shown to him by the prosecution office at the pre-trial stage. He said that he was talking to a colleague from the special unit, and in the meantime one detainee was going outside, and a police officer came from the outside went to the stairs and took him out and at that time from the footage he saw that he was hit. The witness when asked by the prosecution whether he saw mistreatment said he did not see anything at the time but once he was reminded by the prosecution office of what he said in the pre-trial stage he stated that he didn't remember at the beginning but after he saw the footage it was clear to him. He said that when the police officer with the cap came inside he saw him entering inside and he hit him but how exactly he did not know, maybe he was kicking him and punching if he is not mistaken and this has happened outside of the facility since they had no access inside. Then again he was reminded by the prosecutor of the statement given to him on 4 April 2013, where he said he must have been punched in the stairway going up to the door relatively closer to the door and he said they were probably seven or eight police officers. On the question of the lawyer why he was not sure in regard to the events, he declared, initially he wasn't sure he thought there was a mistreatment but then he was convinced by the footage.

#### 3.2.1.11 – Witness No. 2<sup>13</sup>

Witness No. 2, referring to the day the event took place, declared he passed from the back door of the police station which contains the detention centre. The witness told the court that initially, he noticed the special police unit in the yard and they were close to the van and at that moment he passed through them and he noticed two police officers of ROSU, who were accompanying the detainees and at the moment when they came at the beginning of the stairs from outside another ROSU police officer showed up and at the moment when he approached these three persons, (i.e. two police officers and one detainee), he hit the detainee on the right side, he hit him with his foot on the right side on the lower part of the ankle of his foot, he raised his right hand and he grabbed him by his left arm, and together they took him in the direction of the ROSU van, and after that the witness said he went on about his business. The witness also stated that the only person he was able to recognize was S, who was standing next to the van, and he did not remember who the others were, and where they were. In response to the question of the lawyer N. SH.1, did S hit anyone, the witness told the court that S's position when he saw him was standing close to the van, and he was not in communication or involved with anyone. The witness did not see him hitting or using violence against anyone.

#### 3.2.1.12 – Witness No. 3<sup>14</sup>

Witness No. 3 – while testifying at the main trial told the court that on the day the event took place he saw the detainees being taken out, and being taken to the court and he said on the way when

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<sup>13</sup> Minutes of the session 16 April 2015

<sup>14</sup> Minutes of the session 16 April 2015

they were taken they were beaten a little bit and he saw two or three of them among the arrested people. He further explained they were being hit on the hips and on the back with kicks. The witness told the court about the witness's position near the stairs, he was at the stairs, and he went out to light a cigarette, then he saw that they were taken to the vans and transported to the court and they were kicking them while they were taking them out in the corridor and in the stairs. According to the witness, there were two police officers who took them and put them in the vans. The witness also stated that while they were escorted towards the stairs there were police officers on both sides of the stairs, the right side and the left side.

### 3.2.1.13 - C.B. <sup>15</sup>

EULEX forensic Doctor C.B. (from DFM) testified on 12 March 2015. Ms. B. had no direct contact with any of the injured parties. Her assignment was to deliver her expert opinion based on the documentation and medical reports brought to her by the prosecution office and also to analyze the medical examination performed on the injured parties by the EULEX doctor C.A. Therefore, her testimony is relevant in the sense of hearing her expert opinion on whether violence has been exercised toward the injured parties. Her conclusion was mentioned in regard to each and every injured party.

She stated during her testimony that she considered the medical reports brought by the injured parties as reliable documents and generally speaking what they described was not more than the other EULEX doctors findings, i.e. the recording were consisting with the findings. She explained during her testimony the expression of "blunt trauma" which was used often in her medical conclusion. While examining the injured parties she added that blunt trauma is a trauma produced by hitting with strong items and she said it could be a fist or a kick with a boot. As per the medical documentation she possessed at the time she stated that according to the medical documentation which she had at that moment, she could conclude that the injured parties have suffered light bodily injuries.

Ms. B. was asked dozens of questions also by defence counsels, calling into question the credibility of the medical reports issued by the North Mitrovica Hospital, which reports had in several instances illegible stamps or signatures. However, her general conclusion was that the medical reports compiled in the north Mitrovica Hospital were consistent with the reports drafted by the EULEX Doctor who had performed the medical examinations. Therefore, the final conclusion of the EULEX forensic doctor is that certain force was used on the injured parties in the period between 7 and 8 January 2013.

### 3.2.1.14 - O. P. and S.H. M. <sup>16</sup>

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<sup>15</sup> Minutes of the session 12 March 2015

<sup>16</sup> Minutes of the session of 25 September 2015

From the case file and the investigations it is already known that specific records are missing from the CCTV recording equipment, therefore in this regard in connection with the data missing on the external hard drives delivered to PIK (and consecutively to EULEX prosecution and IT forensic laboratory). **F. D.** stated he received a verbal order by phone from **G. K. A.** to retrieve the footage from central station server from the 7<sup>th</sup> Jan. He ordered him to retrieve the data from the hall, the corridor and the main entrance and the front. **G. K. A.** did not specify the camera numbers. On the question asked by the investigator, if he had retrieved the data of camera 3, he answered, that he did not recall. On the question asked by the ITF investigator, if he received the order to retrieve the data only for the 7<sup>th</sup> Jan or for other dates as well, he answered that only from the 7<sup>th</sup>.

In this regard two witnesses who knew the camera system, **S.H. M.** from TREO Electronics Company and **O. P.** EULEX IT expert in forensics, were examined during the main trial and they have testified on 25 September 2015. The main question in this regard was is it possible to understand if the cameras were programmed automatically or they had to be moved manually, referring to the records of the cameras missing on the day the event took place and the hour the injured parties were brought out and put in the vehicles. Both witnesses testified that in this case it was not possible because there was no log file in the camera. Normally you can see in the log file of the camera who interfered and whether if this could have been done or not. However, there was no log file of the camera and only with the log can one understand and this is a function within the camera system which can be turned of and on. It seemd that a very specific time and records were missed which would shed even more light in to the happening on the escort of injured party from detention to the vehicles on 8.01.2013; However, by mere chance or even maybe by human interference this footages did not exist.

In this regard we would have to refer also to the report<sup>17</sup> of the Police Inspectorate of Kosovo Investigators **R. K.** and **E. J.** who submitted to the Prosecution office several reports describing the location of each camera within the building<sup>18</sup>. According to the said department all the cameras in the detention centre were functional on dated 7 and 8 January 2013.

### 3.2.1.15 - **J. D.** <sup>19</sup>

He is a serving Eulex police officer. He testified on 17 April 2015 and stated that on 9<sup>th</sup> January 2013, he and another international police officer responded to Gracanica Monastery, with the orders from the chain of command within the Strengthening division due to a report of a case of possible excessive use of force by the Kosovo Police against civilians. He told the court that he

<sup>17</sup> Binder 5, Tab 5, pages 004562 - 004568

<sup>18</sup> Binder 5, Tab 6 and 7

<sup>19</sup> Minutes of the session 17 April 2015

received the information directly from the chief regional advisor for Mitrovica region but he also had been in contact with the Head of Strengthening Division. The only action that was undertaken was simply just to go to the Monastery, and just establish something about the existence of the case and simply report to the chain of command whether or not there was any grounded suspicion of such. He and his partner went there to establish if there were eight individuals present, who made the claim that they were the victims of the excessive use of force by Kosovo Police.

After arriving there he spoke to several of them himself, who recounted various events from their time of incarceration to the time of their release. They believed these officers were from the ROSU units. He spoke to them in the Serbian language since he learned that before and provided the summary of what they told him, in the information report that he provided to his chain of command.

He further clarified that in regard to his observations, no pointed investigatory questions were asked during any contacts that were done with these persons. Therefore, any statement that they would have given was of a passive nature, and as a summary. The members of the group of eight who were present at the Monastery indicated they had received several injuries committed by the police officers that they believed to be from the Operational Support Unit, based upon their ethnicity. He continued that numerous statements were made, and it was impossible to remember absolutely every statement that was made in January 2013, and also the statements that were made regarding a ninth victim who was not present at the Monastery on that day. He had no possibility in any way to verify even the allegations made. Several of the group of eight appeared that they had experienced the physical difficulties, moving, sitting, standing, many of them were exhibited the signs of discomfort and pain when they were trying to move. It was his judgment that several of the individuals looked like they were in pain and were not faking their injuries. There were two occasions during his conversations when that psychological fear was present. At one point during the discussion about the recovery of confiscations of the automobiles that belonged to them, he told them that it would be necessary for the owners of the vehicles to be returned to their owners by the Kosovo Police. They responded very nervously about this, which he would describe as a psychological fear. Also during another course of the conversation regarding any subsequent complaint of the excessive force against the Kosovo Police, he advised them that a proper procedure of complaint for that should be made through Kosovo Police Inspectorate, and which was met with the response of significant scepticism.

He said that the most significant reference on the ethnic basis nature was a reference to a third party victim, (he was not present) by the name of *D. V. [redacted]*, to whom one of the victims that was present said that he had received several significant injuries, with accompanying threats, based on his ethnicity. According to the verbal statement made at the Monastery, *D. V. [redacted]* was of the mixed ethnicity, with one parent being of Albanian ethnicity, and one parent of of Serbian ethnicity. He did not remember any specific reasons that they gave him for why they did

not want to, but he did remember that there was significant confusion on their part about what they actually wanted. It was obvious to him that they were talking amongst each other, as well as talking to other un-identified individuals on their telephones.

In regard to the escort the next day to North Mitrovica the witness told the court essentially this could not be called an escort; it was essentially himself and another police officer who happened to be driving in the same direction in the vehicles that contained eight individuals, who were the victims. So, even legally or figuratively it could not be interpreted as an actual escort.

3.2.1.16 - C.B.,<sup>20</sup>

He testified via video-link from the UK and he told the court that in January 2013 he held the position of coordinator of the regional unit. This was the unit of the police strengthening division. His main role was to provide monitoring, advising and mentoring to KP. On 9 January 2013, he was assigned with a specific duty together with a colleague M.P.I who was consultant for Prishtina region and they were tasked to go to Gracanica to stay with persons who allegedly were beaten by Kosovo police. He was initially tasked by Mr. H.L., who was the main chief of police department and then they went to Gracanica police station. When he arrived at the yard of the police station he got a phone call from Mr. P.B. who was Chief of the xxx. The discussion was about the instructions of what he needed to do there. He was working at that time for strengthening division.

He told the court his concern was to make sure he and his manager were on the same understanding of his role. He said his role was to gather information and not do investigations. When they arrived at the refectory there were many people present, so first he tried to establish who the people they needed to talk to were. He said he believed it was 7 or 8 men; they could be distinguished from other people present by their clothing.

He said during his testimony to the court that they were all wearing dark trousers, black police or military trousers and they had black shirts and were also wearing black boots like military ones. They went to talk with these men through a translator and he was very cognizant of the fact there were other people present. He did not know who they were and did not have the means to establish who they were. Because of the sensitivity of the subject he decided to seek to speak with one of the individuals in a private area. He took this group of individuals aside and they identified one of them as their speaker. Following the identification of that person they went to a smaller room away from that place, he was present together with Mr. P. and a translator and the person from that group. He believed it was B. and his second name he thought was M.

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<sup>20</sup> Video link session on 20 May 2015

He told the court that the first conversation was to explain to B. what their task was. So he told him that they were EULEX policers and not investigators and if he had any complaint or if any member of the group had any complaint from Kosovo police they should go to other authorities or report them to Kosovo Police Inspectorate. B. told him that he understood the limitations why they were there. So then he asked him to tell them what had happened, he said that he and his associates were stopped by police, he said that they had no issues with any of the uniformed police or anybody else involved. He said he had no problems or issues with investigators who spoke to them, the only problem that B. complained was that they did not like the food while they were arrested. He said that the beating occurred while they have been transported from the police detention centre to the court. He described how they were transported individually from the centre of the detention area to the stairs and outand then they started to be beaten by the police officers who were on both sides of the stairs. He also went on to say that some of the police officers were taking photographs with their mobile phones. He then described being threatened with a firearm and he also said they were taunted by them asking them where you live, where do you come from, this is Independent Kosovo and whoever refuses to say so was beaten. He then went to say that one of the members of the group asked to go to the toilet and he was accompanied by two police officers and when he came back he stated he was kicked in the toilet. He said he was threatened with a firearm by a person who was the driver, this happened while they entered the van and that the driver leaned back and cocked the weapon. There were no injuries to be seen however he complained of pain in his legs and he continued rubbing his legs. Yes he said he was beaten on his torso and lower ribs in order not to leave signs. He said that for him and other it was psychological impact which was more than the physical. He was instructed to offer these men the opportunity to have medical examination by EULEX doctors. So he said, he discused with the group and they discussed among themselves and they initially said yes then 3 of them changed their minds. They said they are not going to spread as a group either they all go for examination or none of us will go and their decision was not to go.

When he first mentioned it to B. they said they will be willing to be examined by EULEX medical examiners in Mitrovica, and then he relayed this to the chain of command and they said that they should be examined in the Prishtina medical centre of EULEX. They said they will not go to Prishtina medical examination centre of EULEX even though he told them that this is separate area and secure but still they didn't accept so his involvement with the case was finished when he left them in the Monastery of Gracanica and went back to Prishtina.

### 3.2.1.17 – i.P.1 (Nun)<sup>21</sup>

The Nun from Gracanica monastery had contact with the prisoners immediately after they were released from the court. She told the court that she is a general practitioner (GP) and had been working a long time in the Clinical Centre in Prishtina which has been displaced for a long time

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<sup>21</sup> Minutes of the session of 12 May 2015

now in Gracanica. Currently she worked at the health centre in Susica. She practiced as a doctor for 16 years. She declared at the main trial that she stood by her previous testimony, since two and a half years have elapsed and now she can say what she remembered at that moment. She said that she remembers having been summoned late at night. It was after 10 p.m. when she was called to examine some guests who were there to spend the night. They were defendants or arrested people, she didn't know at the time. There were a lot of them, but she could not remember where they were from. She said she has been called for one young man who was complaining of chest pain and trouble breathing. She asked who he was and he exited the group and they discussed the event and he was very upset and she tried to calm him down to be able to examine him. She said that he was holding that painful spot on his chest and was very upset and was telling her they were beaten. She examined him and gave him some medicine. After that she wrote down what happened. She also gave him her phone number to call her in case he has any problems during the night and told them that the next morning he should visit a medical centre and maybe have an x-ray and get treatment. He told her they were beaten in the detention centre but she did not know by whom, the security or the police, she did not ask him. He told her he was beaten by hands and bats and at one point he fell on the floor. She didn't ask him much and he told me that he was beaten

In regard to the medical examination she explained to the court that it was just a classical examination, she was checking for injury spots, she did palpation and did everything she can to find out about the injuries and she did notice injuries on him. She further narrated that she gave him some analgetics ibuprofen and some Hepatronbin and referred him for some further treatment and that was the medicine she had. She did not have time to talk to others, but they showed her one who had a scratch on him and it was not serious. She had to wake up early in the morning, therefore, went to bed. The next day she went to do some work and when she returned they were not there anymore and the next day or following day she drafted a medical report.

### Other prosecutor witnesses

3.2.1.18 *A. A.* <sup>22</sup>

As a ~~xxx~~ of the special police unit he was questioned in regard to the assignment of the ROSU unit, since 2011 September. For a while he was acting director and then in June 2012 he was appointed a director.

He declared at the main trial session that in January 2013, he received an order from his superior, Deputy General Director, *N. R.*, prior to being called by Captain *B. H.* who asked them to transport the suspects in the *V.* case, and he told him that he has to receive an order from his superior Deputy general director called him *N. R.* and it was 8 January 2013. He

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<sup>22</sup> Minutes of the session of 8 October 2014

further told the court that since the special units are elite units of KP in this specific case it was decided that due to the sensitivity of the case the senior management decided detainees should be transported by a special unit, since he said whenever they had minorities who were arrested the focus of managerial staff was that they always conduct the escort in a professional way and in this case it was because of the level of the risk which by senior management was considered at medium level. So he told at main trial that it was because of their ethnicity and the risk assessment that management decided to assign ROSU.

He said during the assessment KP has two ways of assessing the risk. One assessment is from the arrested persons and this is taken from their criminal records and the other assessment is the external threat to which the arrested persons will be exposed. The Deputy General Director gave the order to conduct the escort with the special unit.

While assigning the case he called the Deputy Commander who in fact was acting Commander and together with the Commander of the unit he said he explained their duties to Sergeant B.A. (now Lt.) and Sergeant A.Z. He said at the main trial that he told them there is an operation they have to carry out and told them to be very professional, to anticipate sufficient capacities to transport the detainees and to explain this to each police officer in detail about the sensitivity and to be very careful because these were the instructions of the Deputy General Director. He also told the court that in the post operational report which he received, it said the operation was conducted successfully and without problems. There was no report of anything unusual or strange. The witness was also shown footage in the pre-trial testimony from camera 3 which is outside of the detention centre. It was played from minute 14 until the 17 minute and 28 seconds. And in the pre-trial testimony he said that he was not sure but it seemed to him that one person was G. while the footage shows that one person kicks another person in the bottom and punched him in the head in front of the police while entering into the van.

### 3.2.1.19 B.A. <sup>23</sup>

At the time the events took place he was a Sergeant with the position of ~~xxx~~ of Operations and ~~xxx~~ ( ~~xxx~~ ) of the Special Operational Unit and he confirms that on the day the events took place he was called by Major A.A. , since as chief of operations he was responsible for the administration section and three platoons of special units and on the day he was informed platoon 3 was on duty and sergeant A.Z. was in charge. He told to the court that on that day he received the order by phone and he was told about a duty and he asked who was in charge, since Sergeant A. was on duty and he told him that he would contact him. Subsequently, they met in the hall right after the phone call, all three of them as he was going for physical training and he remembers when the director told the sergeant about a sensitive duty and he gave the task to him.

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<sup>23</sup> Minutes of the session of 8 October 2014



Similarly, **B.A.** also stated that usually the special unit team is assigned when there is at least a medium risk assessment or case sensitivity and mainly the risk assessment is made by the Risk Assessment Office. He also stated that they considered the medium level of risk and take all the measures as per the level and they consider a risk might come from within or outside and at the time they did not perceive anything specific. He further added, that this matter took the attention of the media and maybe this was the reason it was assessed as sensitive but he did not make that assessment. He was also asked by the prosecutor about whether there was a use of force by detainees or who assigns the number of police officer to undertake the escort, and he stated that is for the platoon leader to decide.

The same footage was shown to **A.A.** and he observed punches being thrown. He stated during the main trial that the police officer who opened the door, based on his appearance he suspected to be **G.K.**

### 3.2.1.20 **A.Z.** <sup>24</sup>

He told to the court during his testimony at the main trial that he was Sergeant and head of a platoon, in the absence of the platoon commander who was sick and he was acting in his position at the time the event took place. On 8 January 2013 he said he remembered that there was an order which came at 13:00 hours from the Director of Special Operations Unit, **A.A.**, and he told him that they have to transport some detainees from the detention centre to the court. He said they usually do not deal with such issues, however if the order comes from the chain of command they have to obey and also it depends on the assessment of the risk. The risk was evaluated as medium risk and he appointed 11 police officers.

In response to the questions of the prosecutor as to why they were assigned to this escort, he told the court that there are cases sometimes when they are assigned to transport detainees on certain occasions, but the reasons and the risk assessment are made higher in the chain of command. He also said they only had to provide the transport and had no idea who they were transporting. He only had a phone call from the superior. He said they only told him to prepare the operators and proceed to the detention centre and the director instructed him to conduct the escort as always. He told him when they reached there they should contact investigation unit and they instruct them further.

In that case he appointed **S.S.** as the leader of the group in order to transport the detainees and he received the information that the persons to be transported could be violent, therefore they

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<sup>24</sup> Minutes of the session of 8 October 2014

should be careful. In regard to the instruction given to the police on escort he said that they are trained on how to act. They usually keep their heads down in order to be safer and when they are handcuffed they should be able to see where they walk. Likewise footage was shown to him where kicking and pulling of the persons in front of the police van happened and he said that he was not aware of that until he saw the footage and that was unprofessional and unethical.

3.2.1.21 M.P.2. 25

He told the court that on 7 January 2013 he was called by regional director through the police officer in the detention centre on duty. He was called to provide assistance since there were only two police officers on duty because of the long procedure of admitting the detainees which they referred to and he stated there were 120 police officers. He remembers they were in good condition and there was no complaint by them whatsoever. There was also a monitor from OSCE called V. who makes visits to detention centres, and she visited them, although if there are complaints she contacts the supervisor; however no one called them to complain about anything. Apart from the others he mentioned on the question of the lawyer N.S.A., that one of the detainees had an injury in the head which he sustained days before. And he also said that there was no behaviour out of the standards from the police officers who took them out.

3.2.1.22 M.B. 26

She was also among the police officers who admitted the detainees on the night they were arrested. She remembers the shift before her admitted already 7 of them before arriving and then she arrived while they were admitting them and she admitted personally some of them and she declared that they were all in very good conditions and there were no complaints at all. Similarly, as questioned by the prosecutor she also confirmed that one of the detainees had an injury in the head which he had from earlier. The rest of her short testimony is not relevant to the case.

3.2.1.23 S.S.H. 27

She was also a police officer within the detention facility when the shift was starting on the 8 January 2013 the day after they were arrested, basically the day when the detainees were taken to the Court. She stated during her testimony that while they accompanied them to the toilet, they asked for a cigarette and delivery of food, this was their duty and they had no complaints, she said "we offered them cigarettes and they smoked and thanked us". On the questions of the lawyers she stated that when they were taken by the Special Operations Unit, they acted very professionally, they provided signatures and nothing else happened-it was in normal way. She clarified that her position in the detention facility was in the admission room they were all brought to her before

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<sup>25</sup> Minutes of the session of 9 October 2014

<sup>26</sup> Minutes of the session of 9 October 2014

<sup>27</sup> Minutes of the session of 9 October 2014

departure. She said she remembered the name of **D.V.** since his surname is the same as some of her colleagues and then he told her that his father is Albanian. She told the court that until that point she did not notice any injuries on any of the detainees and that was the end of her testimony.

### 3.2.2 Defence witnesses

#### 3.2.2.1 **N.G.** <sup>28</sup>

The witness **N.G.** is a police officer and at the time of the event she was working at central police station, in the office for tickets, accidents and lost documents. She explained that ROSU police officers are all the time around the central police station, if there is a football or basketball match they are there and if there is a protest they are there as the central police officer covers all of it, because there are a lot of training programmes held within the central station therefore they are always there. She described to the court the building and her working position and the stairs leading toward the exit and she said that her office and the stairs are divided by a space of ten feet. In regard to the 8 January 2013 she told that she had to go out of her office many times during the day. She told the court that in regard to that day the prosecutor **N.V.** showed her photos of that day and she was in plain clothes because of health issues and she confirms that on that day she saw ROSU police officers. She told to the court that she did not see anything unusual that day and if there would be mistreatment or beating at least she would have heard it and she did not even see anyone being escorted on that day.

#### 3.2.2.2 **G.M.** <sup>29</sup>

The witness **G.M.** is a police officer and worked at the detention centre in Prishtina, and he remembered the event when the lawyer referred to the case as the Gracanica case and he stated that together with a colleague of his they conducted the transferring of ten people if he remembers well. In this regard he told the court that there are reports of admission of detainees together with their health conditions. When the transfer of detainees started, his task was presentation of their belongings he further explained that these belongings were presented to the detainees and they asked them to sign if everything was in order. They sealed the envelope and then the police investigators took them. He also told the court that he was the one who opened the cell door when the detainees were taken but then after he carried out his other duties and he did not see them being escorted out. He also said he did not see police officers standing on the side of the staircase since it was narrow and he did not hear screams and there were no complaints although the transport of the detainees started during his shift and continued with the next shift.

#### 3.2.2.3 **R.R.H.** <sup>30</sup>

<sup>28</sup> Minutes of the session of 14 May 2015

<sup>29</sup> Minutes of the session of 14 May 2015

His position is lieutenant and head of training office, regional department. He stated he remembered 8 January 2013, connecting the case with the Gracanica case and on that day they were carrying out their usual daily duties. Whereas the office where they worked was in the containers located outside the central police station. The containers are attached to the central police station, but they are considered as part of Prishtina regional police directorate and he worked from 08:00-16:00hrs. He remembered that on 8 January 2013 there were training programmes going on and he also remembered seeing the ROSU police unit there, he did not know why they were there however the only information that he had, it was hearsay that there was a group of narcotic smugglers. In addition to that he also told at the main trial that he saw some handcuffed people there sitting in the van right outside of the facility, he saw detainees and also two police officers sitting inside the van, there was nothing significant and he did not recognize any of the police officers. He testified that he has heard that this case was Gracanica *or. V.* case after two or three days in the media.

The prosecutor questioned him in regard to the photos shown to him in the interview taken on 27 February 2013, since he said he saw two police officers inside the van, while the prosecutor claims that the video does not show any police officer inside the van.

#### 3.2.2.4 *B.A.A.* <sup>31</sup>

He remembers the case but he did not know the time and date exactly, and he said he was summoned to represent ex-officio a defendant in front of police authority whose name he does not remember now, he remembers he was told it was the Gracanica case and it was the police station at "Muhaxheri" neighbourhood. He said they were given some time for consultations, taking into consideration that he spoke the Serbian language very well, they communicated directly, and he could say that he was rather satisfied with defence, advices and assistance in general. He told the court also that his client had no remarks whatsoever for the interrogation, either remarks against the actions of investigator. He said that his client was very satisfied and he personally signed it with no remarks, everything was alright.

#### 3.2.2.5 *I.XH.* <sup>32</sup>

The witness *XH.* is a police officer working in major crimes. He was told by the lawyer *N.S.* that he was summoned in order to testify about the events that took place in the case known as the Gracanica case. He told the court that he was assigned by his supervisor to participate in the session in the Minor Offences Court and to obtain the final decision after the court session was over. He said that he and his colleague went there and he had a chance to see the

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<sup>30</sup> Minutes of the session of 14 May 2015

<sup>31</sup> Minutes of the session of 12 May 2015

<sup>32</sup> Minutes of the session of 12 May 2015

injured parties when they were brought to the corridor of the court and he said that there was no unprofessional behaviour and he declared that behaviour of Kosovo Police towards them was very professional.

### 3.2.2.6 G, H. <sup>33</sup>

Mr. H. was the ex officio lawyer of one of the injured parties, which at the time were sent to the Minor Offences Court and was proposed as a witness by the defence counsels. He declared at the main trial that he remembered the date of the event very well, it was evening time. He was invited by the regional investigation unit and he went there in the capacity of a defence counsel for one suspect for whom he was told that he is a member of Civil Protection Group and he presented himself in the capacity of an ex-officio lawyer. He told the court that the defendant to which he was assigned was Serbian, resident of Northern Mitrovica, born in Kraljeve and member of "Civilna Zastita". He consulted with him in the Serbian language, he also explained the procedure in the investigation unit and in regard to the behaviour of the Kosovo police was he maltreated he told that they behaved well and that there was no physical violence used against him and then he signed the minutes.

### 3.2.2.7 A, H. <sup>34</sup>

Likewise he was assigned as the ex-officio lawyer for one of the injured parties at the time defendant and he told the court that his name started with letter "D" and what he can also remember is that he was resident in North Mitrovica, or one of the municipalities in the north of Kosovo. He also testified that he received a call from the Prishtina investigation unit to report at the police station no 2. So, he was called at Muhaxheri neighbourhood to defend one person ex-officio for a criminal offense and as usual, within 20-30 minutes he went at the police station. Once he arrived there he said that he asked the police officer what is happening and for what reason this defendant is here. The police officer said that "we will interview several persons, it is not only him". He remembers that the criminal offense was of a character against the constitution, Endangering the public safety of Kosovo. He said that his client understood the charges from the Police and this was obvious, with the flow of the statement, there were sequences of the highway Mitrovica to Prishtina and Prishtina to Gracanica and the event in Gracanica. He remembered that the suspicion was from the side of the police that these persons were providing illegal escort for A.V., by obstructing the Kosovo police in his protection on the highway, by getting in the vehicle lines, with their vehicles and also the event in Gracanica when they were providing protection by physically obstructing the Kosovo police officers in performing their duty and this was the suspicion for their action. Once he arrived there he was given some time to consult with his client and spoke to him in the Serbian language and he said his client felt relaxed. He told at

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<sup>33</sup> Minutes of the session of 14 May 2015

<sup>34</sup> Minutes of the session of 14 May 2015

the court that his client at the time had no remarks whatsoever and he said will answer all their questions and everything was all right, the interview was over the statement was signed and it was all right.

3.2.2.8 A.R. 1. <sup>35</sup>

This witness is a ROSU police officer. He was referred by the defence counsel A.R. to the events that took place on 8 January 2013, while he confirmed that on that day he was present at the police station number one and he was participating in training within the station from 8:00 until 16:00 hours. He told the court that during that day he saw special police officers who were escorting some men. There were police officers from the ROSU unit and he spoke to them at the place where smoking was allowed and they were telling him they were waiting for some people to come in order to escort them to the court. He said he knew them as they were his colleagues. During that day and at the moment he was chatting to his colleagues he did not see anyone being escorted. He told the court that he was present at the police station but hasn't seen anything as there was nothing special going on.

3.2.2.9 S.Z. <sup>36</sup>

He is also a Police officer, a firearms instructor in the training unit in the Regional Directorate of Prishtina. The defence counsel A.R. told the witness his questions were not related to training but where he was that day and if he remembered that on the 8<sup>th</sup> of January 2013 there were police officers escorting men of Serbian nationality to the detention centre. He stated the issue was about persons of Serbian nationality who were an escort for A.V.'s visit in Kosovo and part of a convoy going from Mitrovica to Prishtina. The witness said in his testimony that he did not remember that day because as a training unit they used the conference room of the police station and they went in and out all the time and he did not remember and he did not see anyone escorting anybody, during the periods when he went in and out from the training conference room. He was reminded of his previous statement and he told the court it had been a long time and that is why he did not remember what he had stated, but while the statement was read to him he remembered he said he saw one person, one detainee who was escorted in a regular manner, by ROSU or maybe FIT since at the time they had the same uniform, but now they are different.

3.2.2.10 - N.T.H. <sup>37</sup>

He was a Recording clerk at the Basic Court for Minor Offences and he stated he worked in that position since 2001. Having been reminded by the defence counsel A.R. he remembered

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<sup>35</sup> Minutes of the session of 18 May 2015

<sup>36</sup> Minutes of the session of 18 May 2015

<sup>37</sup> Minutes of the session of 18 May 2015

what the case he was about. He told the court that as far as he remembered there were no complaints before the judge Murat Paqarada by the detainees at the time, all the condition foreseen by the law to hear them were completed and they all signed the minutes at the end of the session and at the end they greeted the staff. He also told the court that before every signature the statement was read to them in their language and they were wearing some types of uniforms in black and blue and t-shirts that had some inscriptions on the front.

### 3.2.3 Defendant's statements

#### 3.2.3.1 – G, K. <sup>38</sup>

The defendant took the stand and testified during the main trial. He told the court that from 8 January 2013 he was part of special unit for one more month and after that was suspended and until now works with a police patrol in Vushtrri. He said that during his career he received many awards, an appreciation letter and he had two appreciation letters that he received from the Ministry of Internal Affairs, an award from General Directorate of the police of Kosovo, and recently an award from the police station in Vushtrri. He said that his supervisor is Sgt. A. Z.

who is the platoon Commander and on the day referred to he was wearing the police unit uniform, a tactical vest, he had a short barrel weapon which every police officer carries, and also a long barrel weapon. He claimed during his testimony that he did not escort anyone from the detention facility to the van since the role of the operator who carries the long barrel weapon is to secure the perimeter, meaning he was outside of the facility securing the perimeter. Furthermore, he stated that after everybody was inside the vehicle, he was the last to enter. He also stated that once the vehicle started to move they turned on the rotation lights since it was emergency driving, according to him the driving from the detention facility to the Minor Offence Court lasted three minutes. He denied that he used violence toward any of the detainees who were transported on the 8 January 2013, in the van or in the toilet of the Minor Offences Court.

#### 3.2.3.2 – N. D. <sup>39</sup>

N. D. in his testimony told the court the he was admitted on September 2009, to the Special Unit in Prishtina, and he has been working in the police station in Vushtrri as of 2<sup>nd</sup> of August 2013. While he was in the special unit he used to work in the Unit Platoon number 3, and the head of the unit was the sergeant A. Z. and the platoon number three was comprised of 34-45 police officers. He told the court that while they were in the gym Sgt. A. Z. came and told the leader of the unit S. S. about the assignment, and the told the court that he was assigned with a long barrel weapon as well, together with three other police officers who were also assigned with long barrel weapons. He told the court that he was inside the van with S. A. and G. K. He told the court that the moment they arrived at the

<sup>38</sup> Minutes of the session of 30 June 2015

<sup>39</sup> Minutes of the session of 7 July 2015

detention facility, since he was having a long barrel weapon he stayed at the parking lot close to the vehicles, in order to secure the perimeter. Afterwards, he saw some colleagues who were accompanying the suspects from the detention centre to the vehicles. As far as he could see there were six or seven suspects that went outside, and they were accompanied by the police officers, and then he also went to accompany one suspect from the detention centre to the vehicle.

He explained to the court that he went downstairs, a police officer from the detention centre opened the door, there was a suspect there, there were around three or four police officers, two or three of them were investigators wearing civilian clothes, as far as he remembered there was a lady police officer who was taking data at the detention centre. As soon as the detainee was ready he handcuffed him, with plastic handcuffs, took the suspect, holding his right hand with his left hand, went outside from that room into the corridor, then the door was again opened by a police officer at the detention centre and they went upstairs to the parking lot. He accompanied the detainee to the vehicle, and he does not know exactly to which van he sent him to. While accompanying the detainees he told the court that the head of the detainee was in a normal position since he did not have any possibility to keep his head in any position while he was holding the suspect with his left arm, and he had the long barrel weapon in his right hand, which means that he was walking in the normal position. He denied also that he used any kind of violence toward any of the detainees neither in the detention facility nor at the Minor Offences Court and he did not see any of the police officers either use force. Once they departed from the detention centre, he said that the journey to the Minor Offence Court lasted for about three to four minutes. He said at the moment they arrived at the court, he went out of the vehicle, in front of the vehicle, and provided traffic regulation whereas the other colleagues escorted the suspects inside the court. As far as he remembers, the same duty was undertaken by the guys to the rear namely two police officers were there, he said if he is not mistaken, it was *N. S.* and *N. SH.*

### 3.2.3.3 – *S. A.*

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*S. A.* told the court that he was working in the special unit from 2009 until 2013 and now works in the police station in Vushtrri. He said that on 8 January 2013 he was on regular duty in regular working hours when he met the leader of the platoon *A. Z.* who informed him that they will be engaged in an operation of transporting some detainees. He told the court that he was not briefed in regard to the details. He said initially he did not know about the nationality of the detainees but as soon as they went from the police station centre in the van between the two seats the personal envelopes were placed, and he saw an inscription in the Serbian language on it, and it was clear then that among the suspects there were some persons of Serbian ethnicity. He stated he was the driver of the van and inside with them there was *G. K.* and *N. O.* . He said that when they arrived at the parking lot at the police station

<sup>40</sup> Minutes of the session of 7 July 2015



Centre, he parked the vehicle in question and placed the equipment that was usual for such an operation and waited until the persons were ready for transportation since the police officer of the investigation unit were in charge of the case.

He further added that personally he was wearing the usual equipment they use for every operation, which is a bullet-proof vest, another vest called a tactical vest and it has pockets and nothing else special. He also told stated he saw some police officers transporting detainees but the one that he specifically remembered was his colleague N., escorting the person from the detention centre, but the part that he was able to see was outside the entrance door. Of course he said could have seen others as well, but cannot mention them by name because apart from N. and G., it was the first operation that he took part in with the others because some of the operators were from Gjilan, and it was that time when they came to their unit, while the other group was belonging to another platoon and he did not know them by name at that time.

He explained how the escort of a detainee is done, he said initially they do handcuff in the back position, as soon as they do that the detainee is ready for escorting, the arm of the person that escorts him should be placed hand on the back, the right one on the shoulder, and that is done from the left side, because that is usually the dominant side and respectively the side where you hold the weapon should be as far as possible from the subject. It is done in this way because in case of any attempt by the suspect to run away, it is the quickest and easiest way to keep him under control. He did not remember in which of the vans he escorted the detainee and he stated that he noticed that their garments were the same, once they waited for the last person to be placed in the van and started the journey to the Minor Offences Court. He explained that he was the driver. He was sitting in the driver's seat, driving, on the right side in the front side was his colleague N. D., while G. K. was sitting in the last seat on the right hand side. This was the sitting position when they departed from the police station Centre up to the moment of their arrival at the Minor Offences Court. He said after entering the vehicle the police investigators in charge of the case were positioned close to the vehicle on the left side and just before that he asked them to which court they were going to take them and they replied to the Minor Offences Court and they continued further.

In regard to the question of whether they have stopped during the transportation of the detainees to the Minor Offences Court, he said he never stopped the vehicle during the transportation in any of the operations he ever attended and he also said that the vehicle beside the official radio communication did not have any other cassette player or radio player. He said that once they arrived there he had to arrange the vehicle and by the time he was inside all of the detainees were sitting. He denied that he used any kind of force toward the detainees from the moment they were taken from the detention facility to the Minor Offences Court.

In regard to who does the risk assessment for the operations, he stated that there is a specific office and that is a matter of command structure and, it was not their entitlement as operators to deal with these matters and in regard to the cocking of the weapon he said that was not true since according to him the weapon of an officer is always loaded and cocked.

### 3.2.3.4 – J. R. <sup>41</sup>

He said that he was a police officer since 2005 and from 2007 he was working in the Special Unit of Kosovo police in Prishtina and he started to work in Prishtina three months before the incident and while working in Prishtina he was never engaged in transporting detainees. He told the court that they departed from the base and went to the station, for a brief time they stayed at the backyard and from there they went and took a person and escorted him to the vehicle, which was a Toyota vehicle and he was sitting in the front passenger seat. When they took the detainee he said first they got to the detention centre. There was space and they could both take him. He took his belongings so when they got outside nearby that entrance, it was impossible for three people to go through at the same time. Therefore, it was V. who left with him first outside and he went behind them. He stated he put him in the vehicle where there were also Z., I. and V. and they headed for the court. After reaching the Minor Offences Court as far as he remembered he was standing at the end of the corridor where there is a door at the very end, he stayed there for a sometime, but now he did not know if it was a longer time or a shorter time and he spent some time in a room in the court building where he was with I. and Z. where they had some rest.

While there, one of the detainees complained in regard to the handcuffs and he went there to confirm that and noted that although he was complaining, the handcuffs had enough space, they were loose enough, but still he took the scissors from I. and cut the plastic straps and replaced them with another one. He denied hitting anyone during the transportation or while waiting for the session in the Minor Offence Court or that he insulted or threatened anyone. In regard to stopping the vehicle during the transportation he stated that it is a rule that while being on an escort one cannot stop anywhere and as far as he remembered that day they did not stop at all and the trip lasted between 3-5 minutes. While answering the questions of the prosecutor he said they did not know or have a briefing that they will deal with detainees of Serbian nationality, but he found out that when reaching the detention centre and also that once they are assigned to a duty then the risk should be evaluated at medium to high, although the specific evaluation of the risk is done by a risk assessment office. He also declared that while the detainee was escorted from the detention cell to the van his head was kept bent since it is a rule and it is for the benefit of the person being escorted.

### 3.2.3.5 – V. K. <sup>42</sup>

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<sup>41</sup> Minutes of the session of 14 July 2015

<sup>42</sup> Minutes of the session of 14 July 2015

He told the court that he works with Kosovo police since 2003 and in November 2004 he was re-deployed to SPU in Gjilan whilst in November 2012 he was re-deployed to the Special Unit in Prishtina. On the day of the event in question he said he started his shift at 10 o'clock as usual and at that time they were doing some physical exercise. He was together with J.R. at that time and some other police officers were also present. Sergeant A. came to the gym and who told them to get ready. He told them to get prepared as they have to go to Prishtina to perform an escort from the detention center to the court. So after getting prepared he said that after reaching the court he entered the building of the police station and some of the operators went there to the holding centre down there. As far as he remembered there was a detention officer and two police investigators and they were about to get ready to prepare the detainees so they could take and transport them.

He stated he and officer J. took the first detainee which at that time they thought was the first detainee but he was the second detainee so they took him and brought him to a Toyota vehicle and they placed him in the back seat and then an officer stayed there as one officer has always to perform security but he did not remember now who that was because usually they changed and they went back if there was a need to assist any other colleagues. After describing the manner they escorted people he said that usually when they conduct the transport of persons all SPU do the same because that is how they are trained. They put one of their hands underneath the detainee's shoulder and the other hand they put it behind his back. If necessary, they bent detainees over and in that manner they put them inside. That day together with J.R. three of the detainees left in the same manner, but when they reached the stairs it was a narrow space so he remained on the right side of the detainee, one remained behind him and in that manner they escorted him until they exited the station and in the same manner they transported him to the vehicle. Usually when such transport took place, the detainees would have his hands behind his back and his head has to be bent forward or leaned forward and bent because if he stays straight then he can feel pain from his handcuffs. Once the defendant was placed in the Toyota vehicle they departed, he was the driver of the Toyota, J.R. was in the passenger seat and I and Z. were in the back seat together with the detainee. During the transport the lights and siren of the vehicle were on. Usually when people are transported from the detention centre to the court or other place they always would use the blue light and he said that the trip from the detention centre to the Minor Offences Court at most lasted 4-5 minutes. He stated during his testimony that neither did he exercise any violence nor did he see any of his colleagues exercise any violence or offending any of the detainees. Upon arrival at the Minor Offences Court, he said that he and J. approached a van and took one of the detainees from there and escorted him inside the court because the detainee that they had in the back seat of their vehicle was escorted by two other police officers, in fact they went to assist their colleagues in another van. They escorted them inside the court and there were a few chairs, they placed them there and waited for the attorneys and judges to come

and deal with them. The remainder of his testimony was merely a repetition of these things when asked by different parties.

### 3.2.3.6 – Z. S. <sup>43</sup>

He stated he worked as a police officer for 15 years and was currently working in Viti, in the patrol unit along with other communities such as Serbians and Croatians. He said that they were on duty at camp Vrella and they were conducting a training there and he knew someone from upstairs came down, he stated it was a Sergeant named A. whose surname he doesn't remember and he told them that a few of them would go to Prishtina to conduct an escort to a certain court, but he did not know to which court exactly because he continued with preparations. They did not know about the ethnicity and they also did not know the court where they were supposed to transport them because they were not familiar with the area since were newly assigned to Prishtina and usually, he said when they are invited, they are prepared for the highest risk, from the medium to high level of risk and consider for both to happen, either internal or external risk.

After they arrived at the station in Prishtina, got off the vehicle and went to the detention centre. He did not remember, but some police officers entered there before and among them he was together with I. After they entered into the detention centre, a detention centre officer told them to wait at the door where the detainees were handed over by the detention centre officers. He said they waited there for a little bit, until his colleagues took detainees and as far as he remembered he and Ilmi escorted the third person. When the detention centre officers told them that they are ready, they continued with the task. He communicated with I, who handcuffed the detainee and he carried both of his plastic bags and proceeded further. He stated I was in front of him escorting the detainee and he was behind them with these two plastic bags. He continued that after they got out of the yard they noticed that another detainee was escorted in the vehicle and therefore they handed over the detainee to the closest van that in the parking lot. They sent the detainee to that van and they were received by one of their colleagues whose name he didn't remember. He took over the detainee and he placed these two plastic bags on the seat which was empty and he and his colleague I continued to their vehicle. Inside the vehicle he was sitting on the backseat on the left side, as far as he remembered, I was on the right side, J was on the right front seat, whereas V was driving. He told the court that everything was normal and nothing unusual happened. Upon arrival at the court, he said we went outside the vehicle and as far as he remembered, he escorted one detainee from one of the vans, which number he cannot recall now, he escorted him until the corridor of the court and told him to sit on the seat close to the other detainees who were there. He denied using any kind of force towards the detainees nor did he see any of his colleagues doing that. Referring to the questions of the prosecutor he said they were not briefed as usual, since he said usually, they invited them to a meeting and give them

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<sup>43</sup> Minutes of the session of 14 July 2015

more details but on that date it seemed to him unusual to tell them in the corridor to just go without providing any proper information, since he did not know who were the detainees or their nationality. During the escort from the detention facility towards the exit door he repeatedly stated that the route was free although according to prosecutor there were discrepancies with the testimony given at pre-trial stage, but he said that there were two pair of stairs, on the one he used to go out there were no obstacles whilst on the other stairs going to the conference room there were some police offices on that stairs.

### 3.2.3.7 – *I.R.* <sup>44</sup>

During his testimony he told the court that initially he was working in Kaçanik. At the beginning of 2005 he was transferred to the ROSU unit. Currently, he was working as an officer in the police patrol in Gjilan. Referring to the date when the incident occurred, he stated he remembered escorting the detainees and he told the court he escorted the second or the third to the Mercedes minibus van in front of the entrance and handed him over to the operator inside the minibus. After escorting the detainee he entered the Toyota vehicle and he stated that they were four operators there. *V.K.* and *J.R.* and his colleagues were waiting to pick up their detainee to be escorted and he was behind them and he said he did not see any others. He said he handcuffed the detainee to the back with plastic handcuffs and escorted him. He was staying in the position to the side of the detainee and that position during the escort is banned. He said that usually whenever they placed the handcuffs, regardless if they are metal or plastic, they put one of their fingers in between in order to see if they are loose enough and not to cause any injury to the detainee and he said they acted in the same way towards these detainees as well.

He stated to the prosecutor they were tasked by Sergeant *A.Z.* and he was brief, he just told them that there is an operation to transfer some persons from the detention centre to the court, without specifying which court, but later when in the detention centre he heard some of the police investigators say they had to be sent to the Minor Offences Court. The prosecutor asked him in regard to alleged discrepancies with his testimony in the pre-trial stage and he said there were some police officers and some from administration, in the stairs on the way to the corridor at the police station and in relation to the descending stairs there was no operatives staying static there, also when he went to take the detainees and also when he left there was no operatives at all. While transporting the detainees he saw *J.R.* and *V.K.* waiting to escort other persons.

The defendants *S.S.*, *N.Z.*, *N.SH.*, and *X.H.H.* remained silent and did not want to testify.

## 4. Prosecutor and defence counsel closing arguments

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<sup>44</sup> Minutes of the session of 14 July 2015

#### 4.1. Prosecutors closing arguments

The prosecutor's closing arguments during the main trial session of 25 August 2015 stated a number of facts to support his allegations that the events that allegedly happened on 8 January 2013 were true. He stated in order to assume the defendants are not guilty then they needed to establish a theory that all the injured parties blatantly lied. In this regard he referred to the testimony of all witnesses which contacted the injured parties after the event, and also the medical reports. He added that the evidence presented in the case was direct evidence, which either shows or describes the criminal actions while they were happening, or describe the effects and consequences of the criminal actions immediately after they happened. He claimed that the injured parties were detainees on suspicion of performing illegal security. He said he had tried and searched everywhere for the criminal offence of "Performing the Illegal Security" but he did not find such a criminal offence. They were arrested for a non-existent criminal offence, and even worse, it was sure they never performed any kind of escort and as such considers that the actions of Kosovo police were highly unprofessional. He further denied the injured parties represented the escort of Mr. **A. V.**, and referring to the statements of some of the victims, what is in the minutes is not true, allegedly some said they were part of the so-called Civil Protection and that they had been assigned to provide security for Mr. **V.** or **Z. M.**. Afterwards taking all into account they were sent in the end to the Minor Offences Court which means there was no criminal liability whatsoever toward the injured parties. The prosecutor also referred to the statement of police officers **M.P.**, **M.B.** and **S.S.H.** who admitted the injured parties at that time and mentioned that they were all in good condition. However the mistreatment according to the prosecution happened the next day when the Special Operations Unit was deployed (former ROSU unit).

The Prosecutor alleged that while the injured parties were being escorted from the detention centre to the vehicles each of the detainees was handcuffed, bent, facing down, led up the stairs through the exit door and from there to the parking area and into the vans and during this escort each detainee was forced to pass through the corridor of special unit officers who physically assaulted them from both sides and all of them were hit on their backs, stomachs, chests, necks, but not in the faces. In this regard he referred to the testimony of the prosecution witnesses who had direct contact with the injured parties, the medical reports made immediately after the events and he also mentioned the testimony of three anonymous witnesses. He pointed out also the footages where it could be seen that one of the Police officers was seen hitting and slapping a detainee. The prosecutor elaborated their testimonies given before the judge at the Minor Offences Court where they denied having been mistreated but he argued that they did not know if they were going to be released or acquitted, they were still inside a Kosovo institution building, they had just been mistreated and beaten by the representatives of a Kosovo institution. They had to face the trip back from Prishtina to Leposavic.

Apart from the footage shown, the prosecutor referred also to the interrogation of the injured parties during the investigations stage where they identified several Police Officers who participated in the mistreatment. He declared that when the court and the judges will go through their statements they would find a lot of corroborating evidence and a lot of coherence and credibility and some contradictions between each other, some minor details in numbers, the times and details, distance etc, this is what most of the defence counsels try to do to highlight their lack of credibility as regards minor details, therefore the prosecution motioned the court to punish all the defendants for all the counts of the indictment.

## 4.2. Defence counsel arguments

### 4.2.1 A.R. closing arguments

Referring to the charges against his client defence counsel R. stated that many formal pieces of the evidence that were presented in this main trial are in contradiction and such formal pieces of evidence cannot be taken into account. The lawyer stated in his closing that the legal qualifications in the indictment are thoroughly political and unlawful. Different factual situation was established in regards to the factual situation that is alleged and established by the Prosecutor, and by the injured parties in general.

He consider that in the specific case, it was not established in any way that his client, had any motive to cause injured parties any kind of body injuries, mistreat them, assault them. The conclusions of the prosecution office are mainly based on the statements of the injured parties without any distinction. He claimed that during the whole process of escorting, his client was armed with a long barrel weapon and his duties were to secure the perimeter outside of the facility of the detention centre.

### 4.2.2 N.S.H.1. closing arguments

The defence counsel N.S.H.1. initially described the actions committed by the injured parties from the moment Mr. V. entered Kosovo, while he stated that such moves or acts could have been understood by the police as a criminal offence.

He further added that that charges in this case are exceedingly exaggerated only to present the matter as more serious, and in order to confer it criminal nature while adding that the prosecutor attempts to incriminate any act of the defendants as ill-treatment of the injured parties even when executing simple actions that are provided by the police rules that are applied in the majority of democratic countries, such as for example handcuffing, bending head, facing the floor and music as well.

The defence counsel also referred to Medical reports, as inadmissible evidence as in the physical evidence we have a medical report of the specialist of the Health Institution of the Monastery of Gracanica that bears the stamp of Dr. J.P.A. dated 8 January 2013, and he claims that nun J.P.A., a witness to this case, has issued medical reports in order to provide more evidence in order to mislead the trial panel.

In total the defence counsel considered that from a professional and moral point of view, this matter is not as aggravated as claimed in the Indictment and needlessly has been handled as a criminal offence, while it should be treated as disciplinary procedure by the Kosovo Police Inspectorate. Lastly he added that be it the trial panel finds his client S.S. guilty, proposes to impose a reasonable sentence, in accordance with the legal provisions, taking into consideration the circumstances that go in his favour.

#### 4.2.3 B.M.2. closing arguments

Mr. M.2. while providing the closing speech for his client N.D. stated that there is no sufficient evidence that confirm incriminations from the indictment, at least not in the part for his client is concerned. He raised questions whether the legal qualifications are right.

He stated that the prosecution office expanded the number of criminal offences in a matter of 20 minutes from 15:10 to 15:30 hrs to several criminal offences without having grounds. He declared that in regard to his client there are no elements of the offence or at least there is no sufficient evidence that he was the perpetrator or co-perpetrator of the criminal offence of Mistreatment. There is no specification of the specific actions by his client.

It was not established that this happened because of ethnicity of the injured parties. In addition he said that there are testimonies that are characterized by many contradictions, incoherence and inconsistencies on whether there were police officer at the sides of the stairs or not, their number, in what position were, there was kicking and by whom. He declared that his client was equipped with long weapon and mainly observed the area, outside perimeter as assignment.

He stated that the only thing that was confirmed based on documentation is that there are some minor injuries, bruises and lacerations, superficial skin wounds. These are considered minor bodily injuries which mean that potential long term consequences are not supported by the available medical documentation and if we also add the confirmations of several injured parties that some of the injuries were caused previously.

He further added that on the occasion of material evaluation, we may be encountered with dilemmas if a fact or circumstance has been confirmed entirely and fairly. In this case the



presumption of in dubio pro reo comes to place when the commission of criminal offence was not grounded beyond the reasonable doubt.

#### 4.2.4 R.D. closing arguments

Mr. D. initiated his closing by stating that the case itself have political aspect, which means that ten persons that were initially suspects, while due to the political influence in the instances of EULEX became a criminal matter.

While the case was initially reported as brutal and then at the end came up that no one sustained any life threatening grievous bodily injuries. He pointed out that the prosecutor in his final statement dealt more with the professional skills of Kosovo police and with the territorial delineation of Kosovo rather than with specific matter. Mr. D. commented the ruling of the court of appeals which he considered as erroneous also by charging his client with ten criminal offences.

He was questioning the credibility of some conclusions made by the injured party, the nun and also the EULEX forensic expert C.B. , C.B. only examined the papers provided to her and did not perform clinical examination.

He required his acquittal from the charges, based on the known principal in 'dubio pro reo', while this is also requested by the justice itself.

#### 4.2.5 G.A closing arguments

He stated that the testimony of the injured party could not be taken as credible since they have changed their statement, indicating that they were all members of a parallel security force as it was Civil Protection in North of Kosovo, they have their own chief, for their service they were being paid well, while when V. came to Kosovo they had to provide him security because they have no trust in security authorities of the Republic of Kosovo.

He stated that they have stated differently at the interrogation at the police stage and yet another thing when they were asked by the Prosecution office.

While in regard to criminal liability of the defendants he emphasized that the prosecutor should be specific in assigning the criminal offence to a defendant and not make general allegations in group. He said that regarding the criminal liability of his client N.Z according to the claims expressed in the final or closing speech by the prosecutor, he failed to prove with a single piece of evidence that his client has perpetrated these criminal offences he is charged, while along with few others his client was assigned a long barrel weapon to secure the perimeter.

#### 4.2.6 N. S. closing arguments

He stated that the prosecutor made improper description of the charges for his client Jeton Ramadani for the criminal offence of assault. He further added that the prosecution has not completed its main obligation which is to provide facts to establish the grounded suspicion that such actions took place.

He stated that it is known that the first one to be escorted outside of the centre was B.M.1, himself. And, as it can be seen from the footages of camera no. 3 which was presented to the court, it is proven that the first detainee to get outside was B.M.1. There it can be seen that once he went outside of the building, later on his client S.R. went outside. Even in the camera we can see that his actions were conducted in a professional manner.

The very moment when the first arrested person B.M.1 was escorted one could see that outside were 8 ROSU police officers. This means that out of all the accused, 8 were outside, 2 were inside and those who were inside are S.R. and V.K..

He is concerned his client has by no action committed any criminal offence during the escort from the detention centre to the vehicle. In regard to the allegation of the prosecutor that S. hit M.S. while being static in the yard do not stand according to him since from the footage it can be seen that the first part of the indictment is ungrounded because from the footages of the camera in the part of the parking lot the action of his client is seen very clearly and the way how the arrested person was escorted to the van.

Furthermore, he stated that the law clearly determines that in order to establish the guilt of someone one single statement is not enough but the law requires substantiating and supporting evidence in support of this statement as per Article 262 of Criminal Procedure Code of Kosovo. And this is the case with the statement of M.S., a statement which is not reliable and unsupported by any evidence.

Further he said the criminal code in Article 31 speaks about co-perpetration, if two or more persons commit a criminal offence by participating in the commission of criminal offence or by essentially contributing to its commission in any way, each of them will be held responsible.

#### 4.2.7 F.B. closing arguments

She stated that the indictment and the amended indictment appear to be unclear in relation to the description of eventual actions undertaken by her client N.S.H., which should definitely contain the element of the criminal offence, which he is charged with.

She added that these charges, apart from containing uncertainties, they contain also self-contradictions with regard to description of eventual undertaken actions, the place, manners and the specification of each action of the accused and all of this comes as a result of the evidence of the prosecution that are partly inadmissible, because they were obtained in contradiction to the provisions of the criminal procedure and the contradictions of the testimonies of witnesses, who, despite the fact that they saw the events and circumstances always being together, they testify completely contradictory with one another for certain facts.

The fact that prosecution allegations did not happened are confirmed by the witnesses of the defence **D.M.**, **N.G.**, **S.Z.** and **A.R.**, who were the eye-witnesses of the event and confirmed that during the escort of the injured parties from the detention centre to the transportation vans, they did not see any mistreatment.

She emphasized that it is concluded that in the actions of her client, none of the elements of the criminal offence, mistreatment during the exercise of the official duty or public authorizations under Article 198, para. 1 in conjunction with Article 31 of the CPC, are laid out and all of this is because undoubtedly, the allegation of the indictment in relation to her client and the others, were not established as none of the pieces of evidence on which the indictment is based was proved to be credible and accountable, therefore she requires a Judgment of acquittal for her client.

#### 4.2.8 **XH.M.** closing arguments

He stated in his closing that the indictment is ungrounded and unlawful. It contains many flaws due to which it cannot be taken into consideration. He said that according to his point of view and to that of the other defense counsels, the first charge of the indictment was amended, referring to the ruling of the Court of Appeals that the prosecutor considers "part of the indictment". He focused closing initially at the right qualification of the charges while stating that dilemmas and pointing out the obscurities about which in the concrete indictment are seen.

He concluded his closing arguments by stating that during the stage of challenging the evidence and the request of dismissing this charge as well as at the main trial he has expressed his views that this politically motivated charge is constructed with flaws that were never removed and this was the reason that this charge were never corrected.

#### 4.2.9 **T.ZH.** closing arguments

Defence counsel **ZH.** while defending her client **V.K.** stated that by no action whatsoever did her client incriminate himself because such a thing he could not have done it even if he would want to, and this was clearly corroborated even during this main trial. She said that on the critical day her client was a driver, and only accompanied the injured party **M.S.**

Giving that the injured party **M.S.**, gave his statement to various departments and he never incriminated her client.

She concluded that even in the testimonies of other witnesses, neither indirectly, it was ever proven that her client has committed the criminal offences he is charged for, however the prosecutor at the end decided to accuse her client without any single evidence and without any legal basis. She further stated that during the review and administration of the evidence on this criminal case, prosecution was not able to justify the indictment as far as her client is concerned, and the factual description could not have corroborated and reasoned with the evidence during the corroboration of guilt and criminal liability of her client.

#### 4.2.10 **M.S. - E.** closing arguments

While providing closing arguments for her client **Z.S.** she stated that the whole process of this case affected the life of her client and his family. She added that Mr. **S.** has not carried out any incriminatory actions. Criminal liability is an individual and absolutely in no way should it be a collective punishment as it is being claimed by the prosecution.

She concluded the closing arguments by stating that, based on the factual situation during the proceedings, could not indisputably prove the guilt of her client. She further added that the only guilt of Mr. **S.** is that on the critical day he was on duty as requested by his superior, ultimately it is already clear that during the main trial it was not proved with single relevant evidence, that Mr. **S.** has committed the criminal offences he is charged with.

#### 4.2.11 **A.K.** closing arguments

She declared that charges against her client should be withdrawn because there is no sufficient evidence to support well-grounded suspicion that the same has committed the criminal offences he was charged with. With such allegations this indictment cannot stand as such, because it cannot find any support on the facts and evidence proposed by the EULEX prosecutor.

She stated that having in mind that the court of appeals has amended the indictment for legal qualification, and interpreting by mistake the qualification of criminal offences, further added that the ruling of the court of appeals is controversial and against the law, because it wrongly qualifies and interprets the legal provisions.

She further stated that all of the witnesses in their statements provided during the main trial, have declared that they knew each other, some of them knew each other superficially. They agreed upon what they should testify, this was also proved given by the injured party **M.S.** She proposed to the court not to give their trust, basing on the fact that they agreed with one another about what they should testify.

She also referred to the conclusion of Ms. B. that the bodily injuries that the injured parties received, could have been caused even before the 6<sup>th</sup> of January 2013, and concluded that on the critical day the actions of her client show no element of criminal offence as it was presented and alleged from the prosecutor. Therefore, she proposed to the court to acquit her client due to lack of evidence.

## 5. Factual Findings

### 5.1 Proven facts

The court, in the enacting clause of the judgment defined the facts which were proven beyond reasonable doubt. It was proven that G.K. was acting as a police officer in the special operational unit – ROSU, and this fact is proven from the statements of the defendants and also from the police reports. The same material was used for establishing the date and the place of the commission of the criminal offences (Police reports in binders). The statements of the injured parties were the central pillar of the evidence in this case. Regarding the attack against M.J.

Court relied on the statement of M.J. in the main trial sessions.

M.J. described many act of intimidation and mistreatment against his person, but in his statement before the court, he pointed out and identified a person who was hitting him namely G.K. (page 54, main trial minutes from 16.12.2012). In this statement M.J.

described a lot of actions but these actions are almost impossible to ascribe to a specific perpetrator beyond reasonable doubts. M.J. mentioned in his interview that one police officer was punching him trying to convince him to admit the murder of his colleague. From other statements of the witness and defendants it is difficult to assign such actions to a specific police officer. He described that in the vehicle he received blows from two police officer sitting behind him, and also he received blows from the co-driver but to identify those police officers without reasonable doubt is impossible. He described the active police officer who was beating him in the vehicle as a police officer with short black hair and clean-shaven. He described one of the police officers with light coloured eyes, blue or green. It has to be emphasised such a description can fit more than one police officer. In the pre-trial stage he pointed to

J.R., but later he didn't recognize him in front of the camera in the main trial.

M.J. also confirmed the beating of D.V. He was a direct witness who saw D.

V. already beaten coming from the toilet. For those reasons the court considers it as an indisputable fact that G.K. slapped and hit M.J. while escorting him in the Toyota vehicle. As it was said by M.J. he was handcuffed on his way from the Detention centre to the Minor offences court.

The statement of I.P. which was given on 11.12.2014, on page 25 states that he recognized G.K. who mistreated him and his friends in the van. From the police report it is evident that this was a Mercedes '288-01'. He was handcuffed – that is what he stated and also

it is asserted in the statements of other parties. I.P. also recognised N.Z. as a person who mistreated him, and S.S. as the one who gave him a so called a 'gypsy slap'. Also in his statement it is evident that on the stairs it was not possible to recognize the police officers who beat the injured parties because the detainees heads were bent down. He also confirmed that the police officers during the beating were constantly changing, and they were between four and six (page 15, main trial minutes from 10.12.2014). He is also the person who remembers that D.V. was beaten in the Minor Offense Court toilets; he saw D.V., exiting the toilet with a pale face and holding his right arm. From these reasons the court has no hesitation in finding G.K. mistreated I.P. inside the van bearing registration number Mercedes '288-01'.

B.M. in his statement in front of the court, on 3<sup>rd</sup> December 2014, page 44, recognised G.K. as a police officer who mistreated him and tried to humiliate him at the van. The van was driven by S.A., the van Mercedes 213-01 (see statements of S.A. and the police reports, binder number 6, page 4836). B.M. described in the main trial (see minutes from 19.11.2014, page 19) that G.K. put his gun to his head while S.A. pointed his gun on B.M.'s knee to make him say "Kosovo is a Republic", when he refused to answer it made the police officer (G.K.) next to him very angry. Then he received kicks with a boots, winding him. This statement is corroborated by the statement of B.M.1. from 24.10.2014, page 36 and page 19 from 23.10.2014.

D.V. also recognized G.K. who mistreated him in the toilet, in his statement before the court on 15.02.2015, page 31, where he stated that G.K. attacked him with blows to his groin. He also pointed to N.D. as the person, who was beating him in the toilet of the Minor Offences Court (see statement 14.02.2015, page 24).

S.S. was identified in the main trial session by B.M.1. as the person who tied him up and brought him to the van, hit him and asked him what he was doing in Gracanica (see page 36 of the minutes of main trial dated 9.10.2014). When D.V. saw the face of S.S. he was not sure about him, if he did something to him or to his colleagues (see the minutes 05.02.2015).

I.P. recognised S.S. via videolink in the main trial as the person who gave him this so called 'gypsy slap' and from the timing of the statement of B.M.1. and I.P. this happened in a timeframe which covers the counts 1, 2 and 3, of the indictment meaning it happened at the time when the vehicles started their journey in the parking lot of detention centre Prishtina.

In the case of B.M.1., S.S. also attacked his face. B.M.1. identified S.S. as the police officer who asked him what he was doing in Gracanica and when he said that he went for the liturgy he started to punch him (see main trial minutes dated 23.10.2014,

page number 15) and the same person as it is evident from his statement, (page 14-15, main trial minutes of 23.10.2014) kicked him in the buttocks and tied the seatbelt around his neck. On page 16 of the minutes, dated 23.10.2014, **B.M.1.** described how he was being kicked and punched but these punches were difficult to attribute to anybody. It is clear **B.M.** was the first detainee, and he was kicked more than twice by **S.S.** who started to move the detainees from the detention centre to the van. On page 37, of the minutes of 23.10.2014, to the question of the Defence Counsel, **B.M.1.** said the person who put the seatbelt around his neck was the same person who asked him 'what was he doing in Gracanica'. On page 16, he described in his answer that he was going to Gracanica for the liturgy and then he was hit on the head, kicked in the legs and punched to the chest. From the police report it is clear **S.S.** was appointed as a team leader of the entire group.

**S.A.** involvement was clearly described by **B.M.1.**, **D.V.** and **B.M.** **B.M.1.** pointed to **S.A.** in his statement in front of the court on the 24.10.2011, page 37, as the person who put the gun on **B.**'s knee. **D.V.** in his statement on page 30, main trial minutes from 05.02.2014, described **S.A.** as the driver of the van, who was next to **B. (I.M.)**. **B.M.** in his statement from 03.12.2014, page 43, recognised **S.A.** as the driver who pointed the gun on his knee. On page 18 and 19 of his statement, main trial minutes of 19.11.2014, **B.M.** described what happened when he refused to say that Leposavic is in the republic of Kosovo, he received a number of blows and the driver stopped the vehicle, cocked the handgun and put it on his left knee; the policeman on **B.M.**'s right side put his rifle to his head. The driver turned back to the steering wheel, **B.M.** stated that he believes that the driver was hitting him as well. He also stated that the policeman on his right pulled something from his belt and hit him in his stomach, when he realized that these blows did not have any results, the policeman started to hit **B.M.** in the lower part of the knee. **Z.M.** asked **B.M.** to say whatever they wanted, just to stop him being beating. **B.M.** described that the police officers who were mistreating him, took pictures of him, and the police officer said he did it because it would make identifying him much easier.

**N.D.** was identified by **B.M.** and **D.V.**, as the person who participated in the mistreatment of **B.M.** and **D.V.**. **B.M.** on 03.12.2014, in the court room via video link, identified **N.D.** as the person who tried to hit him at the court building and as the person who entered the toilet when **D.V.** was mistreated (see page 45, of main trial minutes dated 03.12.2014). The court has discovered during the main trial session on 19.11.2014 (see minutes page 20) that in the court building, police officers took him from the ground floor and beat him up to stairs towards the first floor. It was also discovered that when he was sitting in the chair he received a number of blows. This action covers count 5 of the indictment in regard to the kicking with the boots, as **B.M.** described on page 20 of his statement of 19.11.2014, when he spoke about more police officers. Based on the report, page 4936, **N.D.**, **G.K.** and **S.A.**, were in

the Mercedes. From the report it is evident that **N.D.**, **G.K.** and **S.A.** were one team assigned to the vehicle. The report also mentions **F.S.** and **N.F.** as member of the team but later the composition changed. From the statement of **B.M.**, the kicks can be assigned only to **G.K.** beyond reasonable doubt. This is so because **G.K.** was the person who talked to **B.M.** and he was the policeman who was sitting next to **B.M.** (see page 20). On the other hand it was **N.D.** and **G.K.** who were escorting **B.M.** in the building of the Minor Offences Court. From the statement of **D.V.** 05.02.2015, page 30, when **N.D.** was confronted by **D.V.** via video link, when **D.V.** saw **N.D.** he said "he is the person who escorted me from the detention centre up to the van, and he was the one who was in the toilet and who was beating me"; on page 31 he recognised **G.K.** as the person who was in the court house toilet and who inflicted him with the first blows to the groin. When **D.V.** was interviewed by the prosecutor, during the main trial on 04.02.2015, on page 24 of the minutes, **D.V.** described that when he was in the toilet of the Minor Offences Court, and before he was beaten in the police station, he had a swollen stomach. He was escorted to the toilets, his handcuffs were moved from behind to in front of his body. At the moment when **D.V.** tried to undress his pants **G.K.** hit his genitals and told him that he should not be having children and that his seed must be killed. At that point he fell. **G.K.** and **N.D.** lifted him up so he could wash his face. When he tried to drink water they started hitting him in his stomach and back and told him that he shouldn't tell anyone about anything. They said that they will come and rape his mother and his sister and kill them. He tried to escape from the toilet and at that moment they twisted his shoulder. The persons who were identified escorting **D.V.** to the toilet were **N.D.** and **G.K.** therefore it is clear they committed the offences in co-perpetration.

**N.Z.** was identified by **I.P.** during the main trial session, when he saw him via video link (see minutes from 11.12.2014, page 25). **I.P.** described **N.Z.** as the person who mistreated him in the van, he remembered **N.Z.** very well because he did not have a cap and he communicated with him. **N.Z.** escorted **D.S.**, **I.S.** and **I.P.**. **I.P.** said that, before the 7<sup>th</sup> of January 2013 he had back problems, and for that reason his bad posture cannot automatically be attributed to beatings which happened on 7 and 8 January. This action of **N.Z.** covers the counts 1, 2 and 11 of the indictment.

**I.R.** was identified in the court room on 24.10.2014, by **B.M.** (see minutes of the main trial, page 38) he recognised **I.R.** as the person who hit him in the neck, while he was in the van. **I.R.** was on duty schedule assigned to the team with **V.K.**, **Z.S.**, **J.R.**, and **M.K.**. From the report of the Police Inspectorate of Kosovo (see page 4815-4817, English version) it seems only eleven (11) police officer from team three (3) were assigned to escort the detainees of Serbian nationality from the detention centre to the Minor Offences Court. Members of team three (3) who took part in this operation under



sergeant **B.A.** chief of the Special Operations Unit (OSU), received their instructions came from the directorate of the special unit, namely from captain **F.X.H.**, initially by phone and later by e-mail, the risk was considered as medium (see email in the English version page 4824). The members of team three who took part in the operation were the eleven indicted defendants in this case. Team three had in total three vehicles at its disposal: A Toyota with plates 'police **XXX**', a Mercedes with plates 'police **XXX**' and a Mercedes with plates 'police **XX X**'. From the report of **G.K.** made on 09.01.2014, page 4875 English version, he wrote on 08.01.2013 their shift was from 10:00-18:00. At around 13:30, Sgt. **A.Z.** informed him about the transportation of some defendants who were held in the detention centre in Prishtina. They arrived at the police station at around 14:00, from the detention centre together with the 5 suspects in a Mercedes sprinter van, plate number **XXX**; together with their colleagues **S.A.** and **N.D.**. They left at around 14:30 in the direction of the Court of Minor Offences in Prishtina and they arrived at 14:40. They stayed in the hallway together with the suspects and their defence counsels. The same information was provided in the reports of **S.A.** and **N.D.**.

**S.S.** as a team leader in his report on page 4884, he mentioned that they placed the suspects in the vehicles, two suspects in Mercedes plate number **XXX**, five in the other Mercedes minivan and one suspect in the Toyota with plates **XXX**, **N.S.H.** in his report at page 4890 of the English version stated he transported five suspects with his colleagues in the vehicle with plate number **XXX**. The report of **X.H.H.** does not differ from the previous report of his colleagues, and neither did the report of **S.S.**. The Report of **V.K.** at page 4899 corroborates the report of **S.S.** because he mentioned one suspect was put in the Toyota with plate number **XXX**. The report does not differ from **Z.S.**'s at, page number 2902, who mentioned that one defendant was transported by **V.J.**, and **J.**. The report of **S.R.** and **I.R.** does not differ from the others.

### The records of cameras

The Court reached the conclusion it is impossible to obtain convincing information regarding the identification of the defendants from any of the cameras placed in Prishtina detention centre at the time of the alleged assaults. The records are black and white and the panel of the judges agreed that to see any decisive details and to identify beyond reasonable doubt the persons on the recordings with the human eye was impossible. It has to be mentioned that probably some participants of the situation could identify themselves or others because it is possible that the records even of low technical quality, could jog their memories. For those reasons the video records had only supportive value in the evaluating process of the presented evidence in the main trial.

The court collected a lot of evidence and there is no conflict in the facts that, the already mentioned injured parties were transported from Prishtina police station holding centre to the Court of Minor Offences, by the above mentioned defendants.

The conflict of evidence starts at the moment when the injured party described that during the transportation process violence was perpetrated by the defendants on them. The assertions of the injured parties are supported by indirect evidence and by the statements of the EULEX police officers, J.D., C.H.B. and the nun who was present in Gracanica Monastery, namely I.P.A. The evidence of I.P.A. and other evidence such as medical reports from the Belgrade hospital, support the assertions of the injured parties that their physical integrity was affected by violence on the 7 or 8 January 2013.

The court relies on the evidence formally presented during the main trial, and that is the only evidence on which the judgment can be issued. The identification via black and white photo line-ups of the defendants conducted in the pre-trial stage was inadequate and did not provide best conditions for the injured parties to recall and recount their experiences accurately. Human memory is not always the most reliable source for reconstructing the past. It is a widely known fact that human memory can be influenced and can have a tendency to forget unpleasant experiences. For these reasons the court relies on the statements of the witnesses in which the court does not expect emotional engagements with the situation which was the subject of the prosecution indictment. The most reliable sources for the court were the statements of J.D., C.H.B., and I.P.A. Their statements corroborate the experiences described by the injured parties. The court basically considered all of the injured parties to be credible witnesses. Their accounts of what happened were broadly similar in relation to all major issues in this case. The discrepancies that did exist were minor and stemmed from the fact they had been through traumatic experience. The defence assertions that everything was created by conspiracy between Belgrade and EULEX HQ was wholly without justification for such a conspiracy theory.

It must be noted the testimonies of several witnesses and the injured parties contradicted each other. Several witnesses proposed by the defence counsels testified that they did not notice any sign of violence while having contact with the injured parties. The testimonies of N.G., J.M. and R.R.H. the police officers who were present there when the injured parties were transferred testified that they did not notice any use of violence. Also the lawyers, B.A. and also A. and G.H., who were appointed ex officio and which represented injured parties in the session of the Minor Offence Court testified that they did not notice any mark or bruise in the injured parties while representing them at Minor Offence Court. Such a statements are in the contradiction with statement of injured parties.

The trial panel did not expect from the police officer to testify that they witnessed violence being used by their colleagues. The lawyers that defence called as witnesses testified they did not notice

any marks or bruises on the injured parties. However, this is entirely consistent with the evidence of the injured parties who testified they did not report their mistreatment to their lawyers or to the Judge. On the contrary they stated they were scared and simply wanted to leave the building as soon as possible.

The injured parties testified that the police officers who mistreated them took care not to hit them in visible places, and usually the hits were in the body and lower part of the body. We must note also that when they were asked by the Judge in the Minor Offence Court if anyone abused them, they have denied it, however, they all testified later that they were scared to tell about the abuse since they thought they might be sent back to detention and encounter even more severe violence.

The witnesses *J.D.*, *CH.B.* and Nun *I.P.A.* all had direct contacts with the injured parties. On the night when they went to Gračanica monastery immediately after they were released the nun *I.P.A.* examined them. The EULEX police officers met with them the day after. These witnesses all testified they saw signs of the use of violence against the injured parties. In addition, when we consider all the testimonies and the medical documentation evaluated by EULEX doctor *C.A.* and forensic doctor *C.B.* it is clear to this trial panel that violence has been used on the injured parties and that the evidence in that favor prevails.

The background to the case is in the breaching of the law on police, law number 4/L-076, chapter II, Article 12 and 13. These breaches were of such gravity which the court considers more than of minor significance (Article 11 of CCK). Every injured party, as was clear to the court, described a more intensive mistreatment of his person, within their interview during the main trial. This is declared in the part of the descriptions of the acts in this judgment. The factual scenario suffers from the fact that the criminal offences were investigated and later indicted, as criminal offences allegedly committed entirely in co-perpetration. Such an approach by the investigators and police and the prosecution resulted in lack of concentration on the establishment of the individual responsibility of each defendant (see evaluation of co-perpetration for further discussion). When the injured parties were asked for description of the specific actions against them, done by specific defendants, they were very terse.

## 5.2 Unproven facts

The court was limited in the evidentiary proceedings by the description of the facts, and by the timeframe of the facts contained in the indictment. The court did not deal with the facts that allegedly occurred before or after the timeframe of the description of the events in the enacting clause in the indictment. The indictment limited the actions of the defendants on the date of 8 January 2013 from 14:15 hours until 18:00 hours. It must also be stated the indictment in its description limited the indicted locations to Prishtina holding centre, certain vehicles, the parking lot and the Minor Offences Court. The injured parties described a lot of actions but their

descriptions missed the essential elements by which the court could beyond reasonable doubt or hesitation assign these actions to specific defendants for each counts. *D.S.* described in his statement that he was initially investigated as a suspect. During the investigation he was handcuffed and he described in his statement (on page 11 of the minutes of the main trial dated 3 February 2015 before the court), that his handcuffs were tightened to the full extent. It was not possible to assign this act to a specific defendant, although he described that the police officer who handcuffed him, had a special uniform. When he described that the injured parties were beaten on the stairway (in the indictment called "running the gauntlet") by legs, sticks and hands, somebody put a hood on his head so he was not able to recognize anybody, (see pages 12 and 13 of the minutes of the main trial dated 3 February 2015). He described that he could see the lower part of the bodies of the two police officers who took him to the van; he described that the two police officers were already in the van and they took him in and the blows continued. *I.P.* was in the right corner of the van, he described this at page 13, of the minutes of the main trial session that he received a few blows to the head and the member of the ROSU team came to his left side and hit him with his knee into his ribs and shoulder, he described that in the vehicle was very loud music. *I.P.* and *M.P.* were also there in front of him and *I.S.* was there too, he said that the police officer who beat them was mentioning his colleague who was tragically killed. He could not identify this police officer. He continued by saying he remembered some standard swear words. During the journey he had the hood over his head and he was not able to notice much things. He described that two police officers took him from the vehicle and they took him towards the building. He mentioned he fell in the courtroom and his blood circulation was stopped and stated that injured parties were separated into two groups, one group was at the very end of the corridor and the other group was on the bench. He described this when he spoke about the situation at the Minor Offences Court. Later on at Gracanica Monastery he received pain-killing tablets. He was checked into the Mitrovica Hospital and also into the Military Academy in Belgrade but he could not remember how many compensatory days he received. The witness wasn't able to assign the mistreatments of his colleagues or the ones he experienced to anybody. He described situations which were very difficult for him to remember correctly as he had a hood over his head. It was not possible to assign the beating which occurred during the escort of the injured parties from the holding centre to the vehicles on the stairway to any specific defendant. Also the standard cursing was not possible to be assigned to a specific defendant.

*I.S.* stated when he was escorted from Gracanica to Prishtina there was an attempt to hit him. When he was in Prishtina holding centre, they were standing with their heads against the wall and their feet separated. They were handcuffed. It must be said that such handcuffing was not severe or painful. They stayed in Prishtina overnight and on 8<sup>th</sup> of January the ROSU members came. He said that they wore bullet-proof vests and caps. When they asked to be handcuffed in front, his elbow was forcefully twisted from the back and the plastic handcuffs were placed on him. His head was pushed down and his head was hit an open hand (see page 16 from the main trial session, dated 15 January 2015). His hand was twisted to the back and his head was facing the

wall. They slapped his head with an open hand while he was taken to the corridor. When **I.S.** was at the end of the corridor, near the stairs, somebody kicked him in the stomach and pushed him. They took him upstairs and he was being hit in his head and back while going upstairs. His head was pushed down so he just guessed that the perpetrators were positioned on both sides of the stairs but he could not see their faces. At the end of the stairs there was a small group standing. They were wearing uniforms and boots. He received many blows to his head and body. Then he was put inside the van, behind the seat of the co-driver. He could not see anyone because his head was down. He just saw two men behind him. These were **D.S.** and **I.P.**. He was sitting there while constantly being hit on his head. Then **M.P.** was brought in. He also was being hit on his back. Meanwhile some songs were being played and the police officers were singing (**I.S.** said that those were probably some nationalistic songs). They asked them to say that this is the state of Kosovo. When they reached the Minor Offences Court in Prishtina, all the time his head was facing the floor. He received some blows in the corridor of the court when he was taken inside of the building. He saw **D.V.** when he went to the toilet and when he came back, he heard **D.V.** saying "don't go to the toilet" as he was severely beaten there. He admitted that he was not able to recognise anybody so all the actions that are described by him cannot be assigned to any specific defendant.

**B.M.I.** said the ROSU officer gave them dirty looks and he was scared because he heard what ROSU do to people. The ROSU officers pulled his arms behind his back and held his hands in order to put the handcuffs on. He was taken upstairs and he was beaten all the way to the exit where the van was waiting. He said he remembered one of police officers pushed him inside the van, placed him in a seat and put the seatbelt around his neck. Later on he identified this defendant. It is important to say that when he walked up the stairs he could not see the faces of anyone, but he could later on when he was in the van. He described how, while he was being escorted, he was on his knees, almost touching the ground with his knees. He was taken upstairs and the police officers were lined up on both sides of the staircase. They were hitting him in the stomach and in the back and head they were dragging him and pushing him. He recognised **S.S.** as the person who placed him in the van and put the seatbelt around his neck. **S.S.** punched him after he asked what he was doing there and he saw another person coming to the van later. He recognised them from the pictures. They were **G.K.** and **S.S.**. **D.V.** was taken into the van by a police officer who was beating him. At that point one officer said to the police officer who was with **D.V.** 'Shiptar – Shiptar' (Albanian – Albanian) in order to beat him more. This fact casts doubt on the prosecutor's theory that all mistreatments were based on ethnic motives i.e. the injured parties' Serbian ethnicity. The police officer was hitting his head, kicking his legs, punching his chest and body all over. He recognised **S.S.** as the person who did this. He received punches to his neck, and he still suffers pain and discomfort as a consequence of that. **G.K.** was hitting **B.M.** to make him say that Kosovo is Republic and then he was hit with a rifle to his chest. He recognised **S.A.** as the driver who put the gun on the knee of **B.M.**.

B.M. was mistreated and hit while being filmed on a cell phone. B.M.A. confirmed that he could not recognise anyone in the stairways.

I.P. distinguished the ROSU police officers from the regular police officers but later his statement was a bit vague regarding the description of specific perpetrators and specific actions. He stated on page 13, of the minutes/statement dated 10 December 2014, that the police officers escorted him upstairs and in one moment they started to kick him and hit him in his face, knees and all over his body until he was put in the vehicle where he was with B.M.A. and M.J. He stated the police officers who were beating him were changing constantly. He was able to see the faces of police officers but later on he identified only N.Z., G.K. and S.S. He heard that they were asked why they came to Gracanica, they cursed them and they forced them to say that Kosovo is a Republic. D.V. was beaten in the hallway. He remembered that D.V. said not to go to the toilet when he came back.

So except the defendants who were recognised by I.P. the court was not able to identify anybody who allegedly beat the detainees in the stairways. Also from the situation it was difficult to establish beyond reasonable doubt the persons who were beating them in the vehicle but I.P. sufficiently recognised S.S., N.Z. and G.K. The actions of the other defendants against Ivan Petrovic were not proven. In the case of I.P., I.P. said that he was familiar with the face but he could not connect it with anything. He said the same about S.A. I.P. said to the court that he had problems with his back, specifically the lower part of the back before January 2013. It is difficult if not impossible to connect his back problems after the 8<sup>th</sup> of January 2013 to the events which happened to I.P. on that date.

M.J. stated before the court in 16 December 2014, that after the arrest, on 8 January, he was brought by ROSU members from Prishtina holding centre to the Minor Offences Court. He said that he was taken out from the cell and when he reached the stairs the mistreatment started. He was punched in his head, knees and chest. His hands were tight behind his back. When he reached the stairs his head was pushed down and he was taken through two lines of police officers. He could not see the exact number of police officers but he said maybe there were ten (10). He said when they reached the platform one of the ROSU officers said 'camera, camera' and he was pulled back. He could not recognise anybody because they were wearing balaclavas. When he was taken to the vehicle, on the back seat he was approached by a ROSU police officer who raised his head up and asked him 'where do you come from?' He answered that he came from Leposavic. Then the police officer asked 'where is Leposavic?' He said 'Kosovo' and the police officer responded 'No, it is in the Republic of Kosovo' and then he slapped him. Then his Serbian mother was cursed.

The court does not consider that he was beaten because he is Serbian. To be beaten and simultaneously cursed about his origin does not automatically mean that the beating was caused by his nationality. The reason(s) why he was beaten were disclosed later on. It was probably, but not beyond reasonable doubt, in revenge for the murder of a ROSU colleague. He said he thought he was being driven in a Toyota with one officer as a driver and one as a co-driver and two others who were sitting either side of him in the back seat. The ones who were sitting in the back were the ones who were hitting him. The co-driver hit him in his head, whereas the other two were hitting him in his kidneys and neck. He was hit with fists. He stated the police officers were coming and going frequently and in the first instance they slapped him and on the second occasion they asked him if he was the one who killed their colleague. Then the other one who he could not recognise entered him the car.

He recognised **G.K.** in the pre trial stage. He also identified **J.R.** during the pre-trial but later in the main trial he did not recognise him as the police officer who hit him. He said they started beating him when the vehicle started moving. In the vehicle there were four police officers, he thinks that he was not beaten by the driver but he said that he was getting blows from the two other police officers. The court found proven that in the vehicle were **J.R., I.R., Z.S.** and **V.K.** who was the driver. He stated that he received blows from the co-driver and two police officers who sat with him. He did not recognize any of them in the main trial sessions. The Court cannot accept the allegation **Z.S., I.R.** and **J.R.** are responsible for the beating of **M.J.** beyond reasonable doubt. It was proven without any doubts that **G.K.** hit **M.J.**. This situation happened while **M.J.** was sitting in the vehicle. Then the passenger police officers in the vehicle changed (**V.K., Z.S., I.R.** and **J.R.**) When the vehicle was moving he said that two police officers beat him (page 16, 16/12/2014 minutes of the main trial) which was contrary to what he said previously (page 14-15, 16/12/2014 of the minutes, first paragraph) when he spoke about three police officers who hit him (the two sitting next to him and the co-driver). Although it is not impossible to hit the person sitting on the rear seat from the co-driver seat it is physically very difficult. The Court is aware that **M.J.** was in a very stressful situation and the impression that he was beaten by every police officer in the vehicle could automatically have occurred. Although he spent at least 20 minutes with **Z.S., I.R., J.R.,** and **V.K.** in a very small cabin of the Toyota Land cruiser he was not able to identify them via video link. He perfectly identified only **G.K.**. For the foregoing reasons the court is very critical of the part of his statement about the beating in the vehicle and considers as not proven that **I.R., Z.S., J.R.** and **V.K.** beat **M.J.** in the vehicle.

Because he did not recognise in the court room more persons than **G.K.**, the court cannot assign many aggressive actions inflicted on **M.J.** to anybody else but **G.K.** He said that in the vehicle he was beaten with hands and fists. When they reached the court he was

taken upstairs. He was the first one there, and then he went to the toilet to put some water in his mouth. The other person to go to the toilet was *D.Y.* . When he stepped out of the toilet he whispered that he was mistreated and kicked in the toilet.

In the case of *D.V.* , it was proven that he was beaten by other non-ROSU police officers in the police station on the 7 January 2013. These non-ROSU police officers kicked him between the legs when he was lying on the floor and cursed his Serbian mother. The reason why he was beaten according to his statement is because he was buying rosary beads for his mother and sister. It is evident that these assaults were carried out by police officers who were not in the ROSU team and also these assaults caused serious injuries, as a result of which he was urinating blood. For that reason this brutal act committed in the police station cannot be assigned to *G.K.* and *N.D.* who were not even present yet. However they were the ROSU police officers who beat *D.Y.* in the toilet of the Minor Offences Court because he recognised them. *G.K.* and *N.D.* attacked a body that was already injured and therefore the court cannot establish that these injuries were caused by *G.K.* and *N.D.* .

*M.P.* was evidently mistreated less than others. This mistreatment was difficult to assign to anybody. He said that when he was moved to the van from the Holding Centre of Prishtina by the ROSU officers, there were officers standing opposite each other in the stairways. When he entered the vehicle he was tied by a police officer with a seatbelt and this police officer hit him two or three times in the neck. Then he heard them saying that these are tigers of Vukovar or Arkan tigers. When the police officer tied him in the van he hit him two or three times in the neck and on his lips. Then he also heard the cocking of a gun and of automatic weapons and he heard Albanian music and he recognised that the lyrics were about Drenica. When he was brought to the court he was not hit anymore. When he was being taken upstairs in the court he was being kicked in the bench of the court corridor and he saw the dislocated shoulder of *D.V.* . No police officer was recognised as the one who beat *M.P.* . He also stated that when he was taken from the police cell by ROSU his hands were grabbed and put behind his back and tightened with plastic handcuffs. Then he was moved towards the corridor and when they reached the stairs they pulled him upstairs. When he reached the first stairs someone hit him in the stomach and he could not breathe. As his head was lowered he was not able to see. On the staircase he received a numerous blows from hands and legs.

Similar to the other injured parties *D.T.* stated that he was beaten probably by legs and hands when he was taken from the police cell to the vehicles and while he was escorted to the stairs he was hit in the stomach and kicked. When they reached the staircase they started hitting him on his back, his legs and his skull. He stated that he did not remember if he was hit by hands and feet. In addition he did not remember the exact number of hits but he was sure that he received blows in his face because his nose was hurting. When he was brought to the van he saw that almost everybody was there. *B., D.,* and *Z.* were certainly there. Inside the van he was



pushed roughly and then he was put on a seat and tightened with a seatbelt. Then they were hitting him in his body and asking him to say that Kosovo is a Republic, the same as happened to others. When he tried to raise his hands he received more blows. Then he described the situation with **B. M.**, exactly saying that '**B.**' was sitting in his seat and they put the security belt and they starting hitting him and kicking him and asked him to say that Kosovo is Republic. It is also fact that they placed a weapon to his knee and they tried make him to say Kosovo is a Republic. He said he was able to see the faces of the police officers in the van but later he was not able to identify them in the court room via video link.

**B. M.**, stated he was in the detention centre cell together with **D. T.**. He took his personal belongings from the police officers in the detention centre. He was put in a chair and asked to stand against the wall. He was brutally handcuffed and then he was asked if he heard of ROSU? When he replied he had they told him, "now you're going to see ROSU". He recognised they had black uniforms, firearms, different radio equipment, knives and rifles. He was pushed out of the room, into the corridor and they started to pull him on the left towards the door with bars. When he approached the door with metal bars, he saw the stairs where police officers were standing on both sides. As he stepped on those stairs he started receiving blows from the police officer who was behind him and he was holding him down and they moved slower through this gauntlet. He received blows to his stomach. He tried to pass through this line of police officers as fast as possible in order not to get hit. At the top of the stairs there were four police officers waiting for him and he received additional blows in the stomach, chest and shoulder. Then he was pushed and put in the blue van.

He was taken inside the van to a place which was isolated and then he was beaten. At that moment he could not see the faces of the police officers so those actions can not be assigned to anybody. He received a lot of blows and he was trying to protect himself as much as possible. He heard a lot of curses but not personal. Those curses were in the Serbian language. In front of the vehicle there were two seats, one for the driver and the other one for the co-driver. In the van one police officer put the seatbelt around his neck and started to strangle him, he was unable to breathe but it did not last long. Then he was asked in Serbian if he can sing. It is difficult to assign these actions to '**G. K.**' because it could also have been anybody else. The driver entered the van and then they departed for the Minor Offences Court. The music was loud and in Albanian. Drenica was mentioned in the lyrics. The police officer who was at his right side started to kick him with his boots in the stomach and back. The police officer asked where he lives and then he said Leposavic, but when he asked if that is in Independent Kosovo he did not answer. It was asked in the Serbian language.

Later he recognised **S. A.** as the driver who stopped the vehicle and put the gun on his left knee. He also asked the question of his colleague,(i.e. Is Kosovo a Republic?) but he refused to answer. Then his colleague who was on his right said something like 'mos' which

means "don't", and then he turned back to the steering wheel. After that the police officer put the rifle to his head and then they both started beating him and he believes that the driver was hitting him as well. In such a situation it is difficult to say who was the second person who was beating him but he recognised G.K. and S.A. as perpetrators. He recognised S.A. as the person who pointed the gun on his knee. Therefore the acts of G.K. and S.A. were committed in co-perpetration. He also recognised G.K. as the person who humiliated him in the van. From the police report it is evident that the Mercedes ~~XXX~~ was occupied by S.A., N.D. and G.K. Therefore it is difficult to assign all actions only to G.K. On the other hand N.D. was identified by B.M. in the court room as the police officer who tried to hit him and he thinks that he was the one who entered the toilet when D.V. was mistreated. However it is not correct to assign all actions which were described by B.M. to G.K. On the other hand the court can establish beyond any doubt that N.D. was very aggressive towards B.M. on the stairs. He also described that he was kneed. This action is difficult to assign to G.K. or N.D. Later he spoke about police officers who started kicking him with their boots, (see page 20). However, it is difficult to establish and to be certain who the other police officers were, who were kicking B.M. while the vehicle was reaching the Court. Logically N.D. could be one of the perpetrators but on the other hand G.K. cannot be excluded beyond reasonable doubts, what's more these actions were not assigned to N.D. in the time of recognition. Therefore this action cannot be assigned to G.K. or N.D.

## 6. Legal Qualifications

The court found that G.K. and the other defendants were police officers in the special operations unit of Kosovo Police, namely ROSU. They exercised their duties and they were official persons as defined by the CCK in ARTICLE 120, paragraph 2., Therefore they were also official persons, as it is prescribed in the criminal offence of Mistreatment during Exercise of Official Duty or Public Puthorization, contrary to Article 198 of the CCK. Article 198 paragraph 1, defines the criminal offence during exercise of official duty or public authorization as follows ... "An official person who, in abusing his or her position or authorizations, mistreats, intimidates or gravely insults the dignity of another person shall be punished by imprisonment up to three (3) years".

The Court consideres slapping and hitting of handcuffed prisoners as definitely excessive from the position and authorisation of the official person as such slaps, hits, kicks and beatings, insult the dignity of the other person, intimidates them and mistreats them. The Court is aware there is no need for any deeper injuries to the physical or psychological integrity of the injured party. For that reason the court qualified all actions of all defendants as Mistreatment during Exercise of Official Duty or Public Authorization contrary to Article 198 paragraph 1 of the CCK.

At the same time court qualified the actions of assault contrary to Article 187 paragraph 1 or paragraph 2, depending on the individual defendant and specific situation. According to paragraph 1 of Article 187 of the CCK, "Whoever intentionally applies force to another person without that person's consent shall be punished by a fine or imprisonment of up to three (3) years". It must be mentioned that the consent of the person is an absolute criteria for such qualification and the lack of such consent is visible from the evidentiary proceedings i.e. nobody wished to be beaten, mistreated, kicked or slapped. The court is of the opinion that every physical impact on the bodies of injured parties' including simple slaps can be considered as use of force. In the Albanian and Serbian versions the code provides a wider definition of what can be considered 'force' for example, implementing hypnosis etc. However, the legislator intended to prevent unsolicited physical impact to the body and to preserve the physical integrity of the citizens.

Paragraph 2 of Article 187 speaks about situations when the criminal offence is "committed with a weapon, a dangerous instrument or another object capable of causing grievous bodily injury or a serious impairment to health". The definition of 'dangerous instruments' can be found in paragraph 32 of Article 120 of the CCK, as "any object made or used to inflict bodily injury on a person or to threaten to cause injury to a person.". From the videos and from the witness statements, the court discerned the defendants were wearing boots which are typically worn by military forces. When such boots are worn by trained men (and the defendants were trained men), in the court's view they can be considered as dangerous instruments because unlike bare feet that are used to kick in sports like judo and karate, kicking with boots can cause serious bodily injury (see Article 120, paragraph 32). However, the court also found out that not every assault was perpetrated by kicking with boots therefore not all actions of the defendants were qualified as assault committed by a weapon (boots) contrary to Article 187 paragraph 1 and 2. In the situation which is described in the enacting clause, in the part regarding *G. K.*, in Article 3 which can be called as "attack against *B. M.*" it was also proven that weapons were used namely.....

The Court concluded the criminal offence of Assault does not factually consume that of Mistreatment during Exercise of Official Duty or Public Authorization. The social interest or objective which is protected by the criminal offense of Assault is different from the social interest which is protected by the criminal offense of Mistreatment during Exercise of Official Duty or Public Authorization. Proscribing Assault protects body and life whereas proscribing Mistreatment during exercise of official duty or public authorization protects the rights of citizens described in chapter number 17 of the CCK. For the above mentioned reasons, the court is of the opinion that these two criminal offences can co-exist and can be committed by one act, as they can be considered as two concurrent criminal offences which can be committed simultaneously by one act. It has to be mentioned that the definition of Mistreatment during exercise of official duty or public authorization covers different specifications of actions.

Firstly, the perpetrator should be a public person, secondly, the definition of Mistreatment is much wider and this criminal offence can also be committed not only by using force, as in the case of Assault contrary to Article 187 of the CCK. The criminal offence of Mistreatment during Exercise of Official Duty or Public Authorization can be committed even orally, like oral intimidation, which is not the case with assault. Therefore the court decided that these two criminal offences co-existed and were committed by one act and there is no factual consumption of one by the other. Some of the actions described in the indictment can be also qualified as the criminal offence of Threat contrary to Article 185 paragraph 1 of the CCK but not every action was charged in the indictment as Threat. The Court considers the criminal offence of Threat was committed by **S. A.** and **G. K.** against **B. M.** . Such a threat was committed by using a weapon, as it was proven.

Co-perpetration as it was described and alleged in the indictment was not proven “automatically” for all defendants, so the court was obliged to ascertain from specific actions and specific evidence including witness statements, if such a criminal offence was committed in co-perpetration or not. Therefore the court sees the co-perpetration only in actions against **B. M.** and **D. V.** and the co-perpetrators were **G. K.**, **S. A.** and **N. D.** . The court sees in the actions of **G. K.** four (4) actions by which he committed the criminal offences of Mistreatment during Exercise of Official Duty or Public Authorization, Assault and Threat. The Court, as it was said, is aware that these three criminal offences were committed by one action, meaning simultaneously and therefore they should be considered as concurrent criminal offences. The court has the same attitude towards the criminal offences committed by **S. S.** and **S. A.** . Although the action(s) of **S. A.** could be qualified as Assault, he was not charged with Assault and therefore the court did not qualify his actions as the criminal offence of Assault.

## 6.1 Co-perpetration

The court found within the evidentiary process that all defendants were present at the crime scene(s) as part of their employment. It was their duty to be there. The contact between defendants and injured parties was based upon the fact that the team of defendants (team 3) executed their duty tasks to escort the injured parties from the Prishtina Holding Centre to the Minor Offences Court.

Counts 1-4 of the indictment (the part called “Running the Gauntlet” by the prosecutor) describes four (4) criminal offences alleged to have been committed in Co-perpetration. These criminal offences were allegedly committed during the escort of the injured parties from the Prishtina Holding Centre to the vehicles in the yard and while seating the injured parties in the vehicles. Counts 11 and 12 describe two (2) criminal offences committed in Co-perpetration. These criminal offences were allegedly committed during the transport of the detainees from Prishtina Detention Centre to the Minor Offences Court. As it is described in the enacting clause part of the

judgement, the court has identified, based on the witness' statements, specific perpetrators of specific acts. The criminal responsibility of non identified police officers is deduced by the prosecutor from the principle of Co-perpetration. The Court disagrees with such an opinion. Mere presence at the crime scene because an officer was carrying out his/her duty cannot be considered as ".....jointly commissions criminal offences by participating in the commission a criminal offense ... or substantial contribution...." (per Article 31 of the CCCK). "Police officers who were not identified were at the crime scene with the intent to provide a police escort and any different reasons were not proven. The Criminal offences had the character of actions that were in excess of the normal duty tasks committed during the execution of duty. The beating started from moment when the injured parties/detainees were escorted from Prishtina Holding Centre to the vehicles. The exact number of police officers – defendants who participated in this mistreatment was not sufficiently proven as every injured party estimated a different number. As a result the court remained unclear as to who were the observers among the defendants in the stage of "Running the Guntlet"and who were the actual participants in this. Such knowledge is necessary to evaluate the participation of the defendants in the later stage referred to as "Driving defendants to the Minor Offences Court". To infer indirect intent to participate in the criminal offences from mere presence at the crime scene is incorrect.

The international legal theory, especially in war crimes, uses the joint enterprise as a terminus technicus when the co-perpetrators are responsible for the causalities or consequences committed by the other members of the group. Adopting this approach, all members of the team should not be responsible only for the criminal offences committed, referred to in the indictment as the 'running the gauntlet' alleged incident, but also for the other following –alleged episodes. The difficulty about the situation which was described by the prosecutor as 'running the gauntlet' (count 1, 2, 3 and 4) is that the witnesses who described the situation differ profoundly in their descriptions of the numbers of police officers who were standing on the stairs and who were beating them. For that reason the court cannot say without reasonable doubt that all the police officers were present at the crime scene within the phase called by the prosecutor, 'running the gauntlet'. Such a situation as it was described by some of the witnesses, can lead the court to the application of the presumption that everybody who was present on the crime scene, during the time of 'running the gauntlet' is a person who willingly contributed to the other colleagues who used violence against the injured parties. Because the fact all eleven (11) defendants were present at that time at the crime scene was not proven, the court did not conclude that mere presence at the crime scene amounted to participation in the commission of the criminal offences described in the indictment.

The final speech of the prosecutor contains the legal construction that the defendants who did not participate in the specific mistreatment, beating etc. and who were not identified by the injured parties) are criminally responsible for not taking action against their colleagues for breaching the rules by not protecting the lives of the defendants. However, the indictment contains the description of the criminal offences and these factual allegations are committed by acts not

omissions. These factual descriptions are crucial for the identity of the criminal offences. The defendants were not charged for offenses committed by omission and these descriptions were not modified or extended by the prosecutor (see indictment and Article 360 paragraph 1 of CPC).

## **7. Punishments and Acquittals**

### **7.1 Punishments**

The court imposed punishments according to the factual findings which are defined in the enacting clause of the judgment.

It is necessary to say that the character of the criminal offences has characteristics of continuation as prescribed in Article 81 paragraph 1, of the CCK. The Albanian and Serbian versions of the CCK contain the negative definition of the criminal offence in continuation (i.e. what cannot be considered as a criminal offence in continuation). However, the same elements are not mentioned in the English version (from Article 81 paragraph 2, English version)... "Criminal offences perpetrated against personality maybe considered as criminal offence in continuation only if committed against same person". The prevailing Albanian and Serbian versions do not use the term personality but person (persona/licna). For that reason the punishment of criminal offences in continuation cannot be used in this case, although such a punishment is much more lenient, therefore the court imposes a punishment for one or two criminal offences instead of nine (ex:

Ѓ. К. ). The Court is convinced that such a type of mistake in Albanian and Serbian version of the Criminal Code, which prevails, is not in favor of the defendants and for those reasons the court within the process of imposing the punishment accepts the fact that criminal offences which were committed by the defendants were practically committed in continuation and the imposed punishment reflects this fact.

The Court had to impose a specific punishment for each specific criminal offence as it is prescribed in Article 80 of the CCK. In the case of Ѓ, К. , the Court imposed punishment for four (4) criminal offences of Mistreatment during Exercise of Official Duty or Public Authorization, contrary to Article 198 paragraph 1, for two criminal offences of Assault contrary to Article 187 paragraph 1, and two criminal offences of Assault contrary to Article 187 paragraph 2 and one criminal offence of Threat contrary to Article 185, paragraph 1 in conjunction with paragraph 5 of the CC K. Even if the criminal offence can be considered as committed in continuation the court is aware that the punishment would be imposed in this case for three criminal offences committed in continuation, namely for the criminal offence of Mistreatment during Exercise of Official Duty or Public Authorization contrary to Article 198 paragraph 1 of the CCK, for the criminal offence of Assault contrary to Article 187 paragraph 1 and 2 in conjunction and for the criminal offence of Threat contrary to Article 185.

Pursuant to Article 80 paragraph 2, subparagraph 2.3 the aggregated punishment may not exceed eight (8) years. In the case of **G.K.** it is necessary to mention that he committed criminal offences against four injured parties, (**M.J., B.M., i.P.,** and **D.V.**) he used violence, (**B.M., D.V.** were kicked by combat boots to sensitive parts of the human body) and he misused the limited moving capabilities of handcuffed persons. The Court does not evaluate as an aggravated circumstance the fact that **G.K.** committed these criminal offences as a member of the Kosovo Police, ROSU unit. This aggravated circumstance is already covered by the legal definition of the criminal offence of Mistreatment during the Exercise of Official Duty or Public Authorization contrary to Article 198 paragraph 1 of the CCK. His engagement as a member of Kosovo Police calls for accessory punishment pursuant to Article 65 paragraph 1 of Criminal Code of Kosovo.

The Court bears in mind as an aggravating circumstance for the criminal offences committed by **G.K.**, pursuant to Article 74, paragraph 2 and 2.2.1. of the CCK that he highly participated in the committed criminal offences (i.e. he committed the most acts of violence). The Court also used the aggravating circumstance pursuant to Article 74 paragraph 2.2.6, that the victims were defenseless.

It was not proven beyond reasonable doubt that these criminal offences were committed against the victims because of their ethnic origin. For this reason this aggravating circumstance was not used by the court. In the same way it was not proven that the injuries of the injured parties were caused by the defendant. The Court sees as mitigating circumstances the facts that **G.K.** has no previous convictions or conflict with the law, that he is a father of three children, he was well regarded by his colleagues and superiors in his place of work and he behaved in a very good way during the trial.

The court imposed the punishment of imprisonment because the court did not consider an alternative punishment would reflect the gravity of the **G.K.'s** actions. With the punishment one (1) year and a half, court expects the rehabilitation of **G.K.**, but simultaneously the restriction of his freedom is necessary. The Court expects **G.K.** will understand the nature of the criminal offences he committed and the danger and negative effects on the victims and on society of such actions. The Court also imposed the accessory punishment of the prohibition of exercising public administration or public service functions for two (2) years. The court did not ignore the educational rehabilitation function of the punishment and expects **G.K.** to resume a normal life after his sentence.

The Court imposed the punishment in the case of **S.S.** for four (4) criminal offences, two (2) criminal offences of Mistreatment during Exercise of Official Duty or Public Authorization contrary to Article 198 paragraph 1 and two (2) criminal offences of Assault contrary to Article 187 paragraph 1 of the CCK. In case of **S.S.** the court saw the mitigating circumstances

as, his lack of previous convictions and prior conflict with the law, he is married and family man and he was held in high regard in his place of work and he behaved in a very good way during the trial. The reasons for not finding aggravated circumstances in the case of **S.S.** are the same as in the case of **G.K.**. In case of **S.S.** he was a team leader, so he had a higher responsibility but on the other hand the strong violence was not proven to the same level, degree and intensity as in case for **G.K.**. In case of **S.S.**, the court still believes in rehabilitation and the aggregated suspended sentence of two (2) years with the verification period of there (3) years, fulfills this requirement sufficiently but such a failure of execution of public duties deserves the punishment of prohibition from exercise of public duty or **public authorization** for three (3) years. The Court is aware that in the time of three years **S.S.** will not exercise any public duty. In that time **S.S.** will have a chance to think about his previous acts and he can reach a better understanding of the true values and purpose of public service.

**S.A.** In his case there was one criminal offence of Mistreatment in Exercise of Official Duty or Public Authorization, pursuant to Article 198 paragraph 1 and one criminal offence of Threat contrary to Article 185 paragraph 4 in conjunction with paragraph 1. The court decided to impose aggregated punishment which reflects the fact that **S.A.** committed two criminal offences by one act, and that he used a weapon. Although his proven criminal actions described in the enacting clause have the character of the criminal offence of Assault, **S.A.** was not charged with the criminal offence of Assault and for that reason Court did not want to go beyond the scope of the indictment and qualify his actions as Assault. The Court expect from the suspended sentence one (1) year and six (6) months, with verification period of two (2) years, that **S.A.** will think about his actions and refrain from carrying any kind of weapon for the time of the verification period. To impose a punishment of prohibition of exercising public administration or public service functions is also in the case of **S.A.** absolutely necessary. In the case of **S.A.** the court saw the mitigating circumstances as, his lack of previous convictions and prior conflict with the law, he is a father of one child and he was held in high regard in his place of work and he behaved in a very good way during the trial.

**N.D.** was sentenced for two (2) criminal offences of Mistreatment during Exercise of Official Duty or Public Authorization contrary to Article 198 paragraph 1, and for two (2) criminal offences of Assault contrary to Article 187 paragraph 2. The criminal offence against **D.V.** had a very violent character but it has to be mentioned that he committed it in co-perpetration with **G.K.** and although his responsibility should be considered in the same level as the responsibility of **G.K.**, the injuries which were caused to **D.V.** cannot be assigned to **G.K.** or/and **N.D.** because this was not proven. (**D.V.** was already beaten by other members of Kosovo Police in the police station in Prishtina). As an aggravating circumstance can be considered the fact that the beating of somebody who was already beaten and whom the perpetrator knew had already been beaten, deserves a strict response.



On the other hand, in the case of **N.D.** the imposition of the punishment of imprisonment is too severe and the court is convinced that a suspended sentence in his case will contribute to society much more effectively. The Court was more concerned with imposing the punishment of prohibition of exercising public administration and functions for three (3) years, and such a punishment was imposed to its prescribed maximum. In mitigation the court found that defendant had no previous convictions, he is the father of one child, he had strong work record and he behaved well during the trial.

In the case of **N.Z.**, the court has to mention that **N.Z.** behaved during the entire trial with discipline and dignity, and has no previous convictions. He also had no history of problems in his place of work. The court also considers **N.Z.** committed by one act, two criminal offences, namely Assault contrary to Article 187 paragraph 1 of the CCK and Mistreatment of Exercise of Official Duty or Public Authorization and that is why the court imposes lenient aggregated punishment of one (1) year of imprisonment with the execution being suspended for two years. The sentence of accessory punishment of prohibition of exercising public administration and functions was absolutely necessary. As mitigating circumstances it has to be mentioned that **N.Z.** is married and family man and he has no previous convictions or prior conflict with the law. Also it has to be mentioned that he committed a criminal offence only against **J.P.** and the level of violence he used was at the lower end of the scale.

**I.R.** is sentenced for two criminal offences committed by one act against Bojan Milajovic. The Court had to impose an aggregated punishment of one (1) year, with verification period of two (2) years, expecting from such a punishment that **I.R.** will think through his future actions and he will not participate in any violent activities. The court also imposes two (2) years of prohibition of exercising public administration and functions. In the case of **I.R.** the court saw the mitigating circumstances as, his lack of previous convictions, he is a father of two children and had no prior conflict with the law, he was held in high regard in his place of work and he behaved in a very good way during the trial.

It has to be mentioned that the court considers the pillar of the punishment in all cases, is the imposition of the accessory punishments of prohibition in exercising public administration of public functions. (Footnote according the paragraph 65, the prohibition can be from 1-5 years, after the punishment of imprisonment has been served and from 1-3 years if the perpetrator was punished by fine or suspended sentence.) The Court is aware all perpetrators presented with no previous convictions and the imposed punishments will have a strong impact on their lives. For these reasons the court chose to impose suspended sentences but for the protection of the society Court considers the sentence of the prohibition of exercising of public duties as being necessary. However, in case of **G.K.** the court considered an accessory punishment and a suspended custodial sentence were insufficient because of the particular gravity of his criminal actions. As it was mentioned in the part of judgement dealing with the justification of **G.K.'s** punishment, and all sentences of the convicted defendants, the court did not find the

criminal offences were committed because of the ethnicity of the injured parties. The Court also considers that if the criminal offence covers a special circumstance and such a circumstance is an essential element of the criminal offences (for example, Mistreatment during the Exercise of Official Duty or Public Authorization) this special circumstance (i.e. official duty) cannot be used as an aggravating circumstance.

## 7.2 Acquittals

The principle of co-perpetration cannot be applied for all the defendants who were allegedly present at the crime scene. In essence, if the defendant is not recognized by the victims/injured party, as a person who participated in their mistreatment, this must be considered a lack of evidence. The Court also very carefully observes the fact that the involvement of the defendant in specific beatings can be inferred from the indirect evidence, but all such deductions can be logically challenged and the inferences did not overcome the hurdle of beyond reasonable doubts. The indictment divides the criminal offence into 19 counts and six (6) chapters. Chapter number 1, ("running the gauntlet" (from count 1 to 4)) covers the actions against all injured parties, and according to the indictment these actions were committed by all eleven (11) defendants. The principle, on which Prosecutor based this legal construction, is the principle of co-perpetration. In this phase when the defendants were brought from the reception area of Prishtina detention center to the vehicles only some of the defendants were recognized beyond reasonable doubt as perpetrators of the indicted actions. None of the defendants could be recognized within the part when the defendants ran up the stairs, the number of the defendants is not exact and there are discrepancies between the witness statements. The perpetrators were identified in more detail in the vehicles where they were parked in the parking lot and during the journey to the Minor Offences Court. It has to be mentioned that some counts cover the same timeframe, for example "Running the gauntlet" also covers the actions which are described under the counts called 'drive from the detention center Prishtina to the Minor Offences Court'. The criminal offences which are assigned to *G.K.*, cover the counts 1, 2, 3, 5, 7, 8, 9, 13, 17, 18 and 19 of the indictment. For count 4 of the indictment, *G.K.* was acquitted because it was not proven that the victims were vulnerable victims as it is defined in Article 120 paragraph 37 of the CCK. For that reason all the accused who were indicted for that count should be acquitted. The same reasoning can be applied to '*G.K.* regarding counts 10, 14 and 19. Article 120 paragraph 37 of the CCK exhaustively defines "a vulnerable victim" as ... "a child, a physically or mentally handicapped person, a person suffering diminished capacities, a pregnant woman or a domestic partner". None of these elements were proven during the main trial.

Regarding *S.S.* the same argument can be used for counts 4 and 16. In the case of count 11, the court found there was no evidence *S.S.* mistreated in the phase of transport, in the Mercedes with the plate number Police 288-01, *I.P.*, *M.P.*, *D.S.*, and/or *I.S.* *S.S.* was found guilty for beating, and 'gypsy slapping' *I.P.* such an action took place when he was moved from the reception area to the vehicle.

Regarding *S. A.*, for count 4 the same argument can be used as before in respect of the issue of vulnerable victim, therefore *S. A.* is found not guilty on counts 1, 2 and 3 because he was not identified as somebody who has beaten any of the victims. He was found guilty of counts 5 and 6 of the indictment. Counts 5 and 6 do not cover the actions which are subsumed by counts 1, 2, 3 and 4.

*N. D.* was acquitted of counts 1, 2 and 3 because his participation was not proven. He was not identified as somebody who contributed to that action in that phase i.e. "running the gauntlet". However, the offences which are attributed to him are under the counts 5, 17 and 18. The same reasoning regarding the issue of "vulnerable victim" was also used regarding counts 4 and 19.

*N. Z.*'s acquittal on count 4 is based on the same inference as in the case of *G. K., N. D.* and *S. A.* as was mentioned above. He was found guilty of the act under counts 1 and 2. It was not proven that he committed an offence with a weapon, a dangerous instrument or another object capable of causing grievous bodily injury or a serious impairment to health as it is prescribed in Article 187 paragraph 2 of CCK. Respectively it was not proven that the mistreatment committed by him included also kicks with combat boots. Therefore he was acquitted of count 3.

The same reasoning in respect of the issue of the definition of a vulnerable victim as was set out previously can be used in the case of *I. R.* for acquittal on count 4. Regarding count 12, *I. R.* was acquitted because of the lack of evidence. It was not proven that he committed an offence with a weapon, a dangerous instrument or another object capable of causing grievous bodily injury or a serious impairment to health as it is prescribed in Article 187 paragraph 2 of the CCK. Respectively it was not proven that his mistreatment included also kicks with combat boots. Therefore he was acquitted of count 3.

In the case of *N. S. H., X. H. H., V. K.,* and *S. S.*, they were not identified in the identification process in a court room nor in front of the Prosecutor.

*J. R.*'s case was different. He was not identified in the court room through a video-conference. He was identified by *M. J.* in a black and white photo line-up in the pre-trial interview conducted by the prosecutor without the presence of defense counsel.

The Court was not satisfied with the identification conducted only in the pre-trial phase and such identification was not sufficient for the court especially when the identification process was made via photographs and this photo line-up consisted only of members of ROSU police and not unknown persons also. It is also to be mentioned that this recognition via photo line-up, according to Article 120 was incorporated into the Prosecutor's pre-trial interview. Later the defense counsel had a chance to challenge *M. J.* by questions in the main trial but the outcome of the identification procedure carried out during the main trial was in the contradiction

with identification procedure carried out during the pre-trial interview even though the conditions in the main trial for recognition were much more better due to colored video connection with typical computer TV screen on the side of injured parties. The description of *M.J.* can also fit to other members of the ROSU team who were on the crime scene.

None of the injured parties submitted a claim for compensation for damages.

#### 8. The costs of the proceedings

Pursuant to Article 450 of the CPK the costs of the proceedings shall be paid by the defendants who were convicted. The defendants who were convicted *G.K., S.S., J.A., N.D., N.Z.,* and *i.R.* are obliged to pay the costs of the criminal proceedings in the amount of 300 EUR for each defendant.

The defendants who were acquitted are not obliged to pay any costs.

**BASIC COURT OF PRISHTINË/PRISHTINA**  
**Date 18 November 2015; Case: PP. II 111/2013**

Presiding Judge  
Vladimir Mikula

  
Recording clerk  
Dea Dedi

#### Legal remedy:

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