

Basic Court of Prishtinë/Priština
PKR.nr. 237/13
Prishtinë/Priština, 29 November 2013

The judgments published may not be final and may be subject to an appeal according to the applicable law.

In the name of the people

The Basic Court of Prishtinë/Priština in the trial panel composed of EULEX Judge Vladimir Mikula, as presiding Judge and, local Judges Florent Latifaj and Aferdita Bytyqi, as panel members, assisted by the recording officer Vlora Johnston and the interpreter Anila Shehu, in the criminal case against

Y.J.

Charged with Five (5) criminal offences of unauthorized purchase, possession, distribution and sale of dangerous narcotic drugs and psychotropic substances, in violation of Article 229, par. 1, 2, 3 and 4 of CCK related to Article 23 CCK;

one (1) criminal offence of unauthorized ownership, control, possession or use of weapons in violation of Article 328, par. 2 of CCK and,

the criminal offence of Organized crime in violation of Article 274, par. 1, 2 and 3 CCK

After the public main trial sessions held on 16, 18, 22, 23, and 24 July 2013; 1 and 7 August 2013; 4, 10, 11 and 25 September 2013; 22 October 2013; 13, 21 November 2013, and after hearing closing statements of the SPRK Prosecutor, Andrew Carney, the Defense Counsel Z.J. and R.G., and the defendant Y. J. on 27 November 2013

After the deliberation and voting session held on 27 November 2013, pursuant to Articles 359, 361, 365 and 366 of the Criminal Procedural Code of Kosovo (CPCK), the Main Trial Panel on 29 November 2013, publicly announces the following;

JUDGMENT

The defendant Y.J. formerly V., Kosovo, Kosovar Albanian,

Is guilty

Because

- Between 27 August 2010 and 12 October 2010, on the territory of Kosovo instructed, controlled and communicated by phone with the group of people comprising M.G., F.Z., S.A. and J.B. about the purchase, sale, transportation, delivery, exportation from Kosovo and importation into the Federal Republic of Germany through other countries in Europe of a shipment of 4.56 kg (net weight) of heroin, these narcotics being contained within 9 packages seized from the front tyre cap of a Mercedes Benz C class vehicle, with Slovenian registration plate XXX, in Munich, Germany on 11 October 2010, and every person in this group of people had specific roles in respect of this transaction.

- Between 13 August 2010 and 14 September 2010, Y.J. on the territory of Kosovo instructed, controlled and communicated by phone with the group of people comprising Y.V. M.D. and F.Z. about the purchase, sale, transportation, delivery, exportation from Kosovo and importation into the Federal Republic of Germany through other countries in Europe of a shipment of heroin weighing 418 grams which was seized from the apartment of M.D. in Munich, Germany on 14 September 2010 and every person in the group had specific roles in respect of this transaction.

- Between 2 January 2011 and 12 January 2011, Y. J. on the territory of Kosovo instructed, controlled and communicated by phone with the group of people comprising M.O. and A.M. about the purchase, sale, transportation, delivery, exportation from Kosovo and importation into the Federal Republic of Germany through other countries in Europe of a shipment of 1.992 kg (net weight) of heroin and which was seized from a Mercedes Benz vehicle, with registration plate M-BH 3997 in Munich, Germany on 11 January 2011 the heroin being wrapped within 4 packages each weighing approximately 0.497 kg

- On 2 October 2012, Y. J. on the territory of Kosovo, at street XXX, Pristina, possessed without authorization and with the intent to sell a mixture of heroin and paracetamol weighing 11.66 grams contained within a plastic bag seized by the Police from behind the bathroom toilet in the apartment of Y. J. Kosovo on 2 October 2012.

- On 2 October 2012, Y. J. on the territory of Kosovo on the ground floor of the house occupied by Y. J. in X, X, Kosovo possessed without authorization and with the intent to sell 3.38 grams of cannabis sativa these narcotics being seized by the Police on 2 October 2012.

Thus,

Ad1)

The Defendant Y. J. without authorization purchased, possessed with the intent to sell, distribute, offer for sale substances which have been declared to be dangerous narcotic drugs.

Thereby,

The defendant Y.J. committed the criminal offence unauthorized, purchase, possession, distribution and sale of dangerous narcotic drugs and psychotropic substances in violation of Article 229, par. 1, 2, 3 of the Criminal Code of Kosovo (old Criminal Code valid until 31/12/2012),

Pursuant to Articles 34, 38, 64, 73 and 229, par. 3 of the Criminal Code of Kosovo valid until 31st December 2012, **is sentenced** to the punishment of 6 (six) years imprisonment.

Pursuant to Article 54, paragraphs 1, 2, subparagraph 7, Article 60 and Article 229 paragraph 5 of the Criminal Code of Kosovo (valid until 31st December 2012), the 11.66 grams mixture of heroin and paracetamol and the 3.38 grams of cannabis sativa both seized on 2 October 2012 are **confiscated**.

And,

Ad2)

Thus,

The Defendant Y. J. supervised and managed the activities of an organized criminal group,

Thereby he committed the criminal offence of Organized crime pursuant to Article 274 paragraph 3 of the Criminal Code of Kosovo (valid until 31st December 2012).

Pursuant to Articles 34, 38, 39, 64, 73 and 229, par. 3 of the Criminal Code of Kosovo (valid until 31st December 2012), **is sentenced** to the punishment of 8 (eight) years imprisonment and a fine in the amount of 25 000 EUR payable within one month from the date when this judgment will become final.

If the defendant Y. J. will be unwilling to pay the fine and will not consent to the replacement of the fine with an order for community service work the fine will be replaced with a day of imprisonment for each 15 EUR, however the term of imprisonment will not exceed six months.

Pursuant to Article 71 of CCK, the Court imposes an aggregate punishment of 11 years of imprisonment and fine in the amount of 25 000 EUR payable within one month from the date when this judgment will become final.

If the defendant Y. J. will be unwilling to pay the fine and will not consent to the replacement of the fine with an order for community service work the fine will be replaced with a day of imprisonment for each 15 EUR, however the term of imprisonment will not exceed six months.

Pursuant to Article 54, paragraphs 1, 2, subparagraph 7, Article 60 and Article 229 paragraph 5 of the Criminal Code of Kosovo (valid until 31st December 2012), the 11.66 grams mixture of heroin and paracetamol and the 3.38 grams of cannabis sativa both seized on 2 October 2012 are **confiscated**.

In addition

The charge with the following description against defendant Y. J. (formerly V.), with the personal data as mentioned above,

Pursuant to Article 363, paragraph 1, subparagraph 1.3 of the CPC is **rejected**.

COUNT 5

Unauthorised Ownership, Control, Possession or Use of Weapons, in violation of Article 328 paragraph 2 of the CCK and punishable by a fine of up to 7.500 EUR or by imprisonment of one to eight years.

Because

On 2nd October 2012, Y. J. on the territory of Kosovo committed the offence of unauthorised ownership, control or possession of weapons in that he owned, had control of or possessed three weapons, namely, a Kratay Magnum pump-action hunting rifle serial number XX plus ammunition, a gas pistol Ekol Tuna serial number ET-XX plus ammunition, and a gas pistol Ekol Special-99 serial number XX plus ammunition.

Because this act is covered by the Law on Amnesty No. 04/L-209.

Detention on remand in relation to Y.J. is hereby extended until the Judgment becomes final, because the risk of flight still exists as foreseen by Article 187, paragraph 1, subparagraphs 1.1, 1.2 and 1.2.1 of the CPCK, but no longer than the expiry of the term of punishment imposed in the Judgment. The time spent by Y. J. in detention on remand as of 02.10.2012 onwards shall be credited against the punishment of imprisonment pursuant to Article 365 paragraph 1.5

The defendant is obliged to pay the costs of the criminal proceedings as follow:

The amount of 2.500 EUR for the Voice Expertise, the amount of 449 EUR for the Panel of Experts and, the lump sum in the amount of 1.000 EUR, pursuant to Article 365 paragraph 1, subparagraph 1.6 of the CPCK.

Legal remedy:

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

Vladimir Mikula

Florent Latifaj

Aferdita Bytyqi

Presiding Judge

Panel member

Panel member