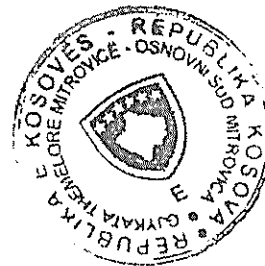


BASIC COURT OF MITROVICË/MITROVICA
P. nr. 941/2013



IN THE NAME OF THE PEOPLE

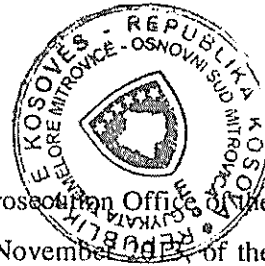
THE BASIC COURT OF MITROVICË/MITROVICA, in the Trial Panel composed of EULEX Judge Philip Kanning as Presiding Judge and EULEX Judges Roxana Marilena Comsa and Paulo Teixeira as Panel Members, with the participation of EULEX Legal Officer Chiara Tagliani as the Recording Officer, in the criminal case against:

I. [REDACTED] H. [REDACTED], father's name [REDACTED] mother's name [REDACTED] born on [REDACTED] in [REDACTED] residing in [REDACTED] [REDACTED], in detention on remand since 25 September 2013;

S. [REDACTED] H. [REDACTED], father's name [REDACTED] mother's name [REDACTED] born on [REDACTED] in [REDACTED] residing in [REDACTED] house detention until 20 June 2013, in detention on remand since 20 June 2013;

N. [REDACTED] Q. [REDACTED] father's name [REDACTED] mother's name [REDACTED] born on [REDACTED] in [REDACTED] residing in [REDACTED] [REDACTED] in detention on remand since 25 September 2013;

S. [REDACTED] father's name [REDACTED] mother's name [REDACTED] born on [REDACTED] in [REDACTED] residing [REDACTED] [REDACTED] currently in detention on remand in Criminal Case P. 938/13;



All of them accused through the Indictment of the Special Prosecution Office of the Republic of Kosovo dated 13 November 2013, and filed on 13 November 2013, of the criminal offence of :

“War Crimes against the Civilian Population” under multiple counts, pursuant to Article 142 of the Criminal Code of the Socialist Federal Republic of Yugoslavia (CC SFRY), currently criminalized under 152 of the Criminal Code of Kosovo (CCK)¹;

After having held the Main Trial hearings, open to the public on 14 April 2014 and on 07, 08 May and partly on 19 May 2014, and in closed session on 22, 23, 24, 25 April 2014, and on 6 May 2014 and partly on 19 May 2014 in the presence of all the Accused and their Defence Counsel and the State Prosecutor,

Following the Trial Panel’s deliberation and voting held on 27 and 28 May 2014,

Pursuant to Article 366 Paragraph (1) of the Criminal Procedure Code of Kosovo² (CPC) on 29 May 2014 in a public hearing and in the presence of all the Accused, their Defence Counsel and the State Prosecutor;

Renders the following:

¹ Code No. 04/L-082;

² CRIMINAL No. 04/L-123;

JUDGMENT



I. The Accused [REDACTED] is

FOUND NOT GUILTY

Because it was not proven beyond reasonable doubt that the Defendant [REDACTED] H [REDACTED] in his capacity as KLA soldier, in co-perpetration with N [REDACTED] Q [REDACTED] and another KLA soldier so far identified as ' [REDACTED] ', violated the bodily integrity and health of Witness A, a Kosovo Albanian female civilian, by taking part in the crime by using his position of authority to keep the victim at the disposal of the direct perpetrators of the criminal offence and allowing them to carry out the beatings, in Vaganica village (Mitrovica municipality), on an unspecified date in late 1998/early 1999.

It was further not proven beyond reasonable doubt that the Defendant, in his capacity as KLA soldier, in co-perpetration with N [REDACTED] Q [REDACTED] and another KLA soldier so far identified as ' [REDACTED] ', tortured Witness B, a Kosovo Albanian female civilian, by repeatedly beating her and forcing her to write a false confession concerning her alleged cooperation with the Serbian authorities. It was not proven beyond reasonable doubt that the Defendant took part in the crime by using his position of authority to keep the victim at the disposal of the direct perpetrators of the criminal offence and allowing them to carry out the criminal acts, in Vaganica village (Mitrovica municipality), on an unspecified date in late 1998/early 1999.

It was also not proven beyond reasonable doubt that the Defendant, in his capacity as KLA soldier treated inhumanely Witness A and Witness B, by staging a mock execution whereby the Defendant made the victims kneel on the ground and then fired firearm shots from behind their backs, in an unspecified location between the villages of Vaganica and Likovc/likovac, on an unspecified date in late 1998/early 1999.



Therefore, pursuant to Article 364 Paragraph (1) Subparagraph (1.3) of the
CPC,

the Defendant [REDACTED] is **ACQUITTED** of committing the criminal offence of War Crimes against the Civilian Population, provided for and punished by Article 142 of the Criminal Code of the Socialist Federal Republic of Yugoslavia (CCSFRY), currently criminalized under 152 of the Criminal Code of the Republic of Kosovo (CCRK), in violation of Article 3 Common to the four Geneva Conventions of 12 August 1949, and of Articles 4 and 5 of Protocol II of 8 June 1977, Additional to the 1949 Geneva Conventions, under three counts.

II. The Accused SH [REDACTED] H [REDACTED] is

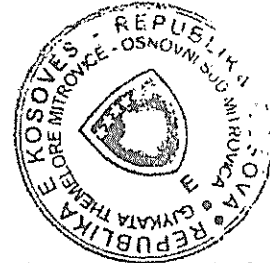
FOUND NOT GUILTY

Because it was not proven beyond reasonable doubt the Defendant raped Witness A, a Kosovo Albanian female civilian detained at the hands of the KLA, by having sexual intercourse with her against her will, in Vaganica village (Mitrovica municipality), on an unspecified date in late 1998/early 1999.

Therefore, pursuant to Article 364 Paragraph (1) Subparagraph (1.3) of the CPC, the Defendant SH [REDACTED] H [REDACTED] is **ACQUITTED** of committing the criminal offence of War Crimes against the Civilian Population provided for and punished by Article 142 of the Criminal Code of the Socialist Federal Republic of Yugoslavia (CCSFRY), currently criminalized under 152 of the Criminal Code of the Republic of Kosovo (CCRK), in violation of Article 3 Common to the four Geneva Conventions of 12 August 1949, and of Articles 4 and 5 of Protocol II of 8 June 1977, Additional to the 1949 Geneva Conventions, under one count.

III. The Accused SH [REDACTED] H [REDACTED] is

FOUND NOT CRIMINALLY LIABLE



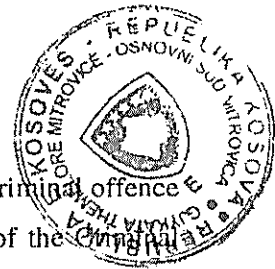
Although it was proven beyond reasonable doubt that the Defendant approached Witness A and Witness B one night in the winter of 1998, when they were in café “Mulino Bianco” in Mitrovica, and he told Witness A “stand up and come with me”. It was proven beyond reasonable doubt that, when Witness A refused to do so, the Defendant H [REDACTED] pointed a gun at her back and told her “do as I say”. Witness B followed Witness A. After this, the Defendant urged both Witnesses to get into a car and drove them to a taxi station; he subsequently placed them in a taxi, which he directed to forcibly take them to an address in the village of Vaganica.

Therefore, it was proven beyond reasonable doubt that the Defendant S [REDACTED] H [REDACTED] committed the criminal offence of Kidnapping, provided for and punished by Article 64 Paragraph (1) of the Criminal Law of the Republic of Serbia³, in force at the time of the offence.

However, pursuant to Article 364 Paragraph (1) Subparagraph (1.2) of the CPC, in conjunction with Article 64 Paragraph (1) of the Criminal Law of the Republic of Serbia and Article 95 Paragraph (1) item 4) of the Criminal Code of the Socialist Federal Republic of Yugoslavia⁴,

³ The Criminal Law of the Socialist Republic of Serbia was published in the *Official Gazette* of SR Serbia, No. 26/77. Amendments to the Law as well as the corrections were published in the *Official Gazette* of SR Serbia, No. 28/77, 43/77, 20/79, 24/84, 34/86, 51/87, 6/89, 42/89 and 16/90, and in the *Official Gazette* of the Republic of Serbia, No. 21/90, 49/92, 23/93, 67/93, 47/94 and 17/95;

⁴ adopted by the SFRJ Assembly at the session of the Federal Council held on September 28, 1976; declared by a decree of the President of the Republic on September 28, 1976; published in the *Official Gazette* SFRJ No. 44 of October 8, 1976; a correction was made in the *Official Gazette* SFRJ No. 36 of July 15, 1977; took effect on July 1, 1977;



the Defendant S[REDACTED] H[REDACTED] is **ACQUITTED** of committing the criminal offence of Kidnapping, provided for and punished by Article 64 Paragraph (1) of the Criminal Law of the Republic of Serbia.

IV. The Accused N[REDACTED] Q[REDACTED] is

FOUND NOT GUILTY

Because it was not proven beyond reasonable doubt that the Defendant, in his capacity as KLA soldier, and in co-perpetration with S[REDACTED] H[REDACTED] and another KLA soldier so far identified as "S[REDACTED]", violated the bodily integrity and health of Witness A, a Kosovo Albanian female civilian, by repeatedly beating her with various tools, while in Vaganica village (Mitrovica municipality), on an unspecified date in late 1998/early 1999.

It was further not proven beyond reasonable doubt that the Defendant in his capacity as KLA soldier, in co-perpetration with S[REDACTED] H[REDACTED] and another KLA soldier so far identified as "S[REDACTED]", tortured Witness B, a Kosovo Albanian female civilian, by repeatedly beating her with various tools and at the same time forcing her to write a false confession concerning her alleged cooperation with the Serbian authorities, while in Vaganica village (Mitrovica municipality), on an unspecified date in late 1998/early 1999.

Therefore, pursuant to Article 364 Paragraph (1) Subparagraph (1.3) of the CPC, the Defendant N[REDACTED] Q[REDACTED] is **ACQUITTED** of committing the criminal offence of War Crimes against the Civilian Population provided for and punished by Article 142 of the Criminal Code of the Socialist Federal Republic of Yugoslavia (CCSFRY), currently criminalized under 152 of the Criminal Code of the Republic of Kosovo (CCRK), in violation of Article 3 Common to the four Geneva Conventions of

12 August 1949, and of Articles 4 and 5 of Protocol II of 8 June 1977, Additional to the 1949 Geneva Conventions, under two counts.



V. The Accused S [REDACTED] S [REDACTED] is

FOUND NOT GUILTY

Because it was not proven beyond reasonable doubt that the Defendant, in his capacity as high-ranking KLA member, in co-perpetration with other so far unidentified KLA members, violated the bodily integrity and health of Witness A and Witness B, two Kosovo Albanian female civilians, by repeatedly beating them, in Likoc/Likovac (Skenderaj municipality), on an unspecified date in late 1998/early 1999.

Therefore, pursuant to Article 364 Paragraph (1) Subparagraph (1.3) of the CPC, the Defendant S [REDACTED] S [REDACTED] is **ACQUITTED** of committing the criminal offence of War Crimes against the Civilian Population provided for and punished by Article 142 of the Criminal Code of the Socialist Federal Republic of Yugoslavia (CCSFRY), currently criminalized under 152 of the Criminal Code of the Republic of Kosovo (CCRK), in violation of Article 3 Common to the four Geneva Conventions of 12 August 1949, and of Articles 4 and 5 of Protocol II of 8 June 1977, Additional to the 1949 Geneva Conventions, under one count.

VI. Costs of Proceedings

Pursuant to Articles 451 Paragraph (1) and 454 Paragraph (1) of the CPC, the costs of criminal proceedings under Article 450 Paragraphs (2.1) to (2.5) of the CPC, the necessary expenses of the Defendants and the remuneration and necessary expenditures of their Defence Counsel, as well as the costs of interpretation and translation shall be paid from budget resources.

VII. Property claim

No ruling is rendered on the property claim as it was filed by Prosecution and not by an authorized person as requested by Article 459 of the CPC.

Recording Officer
Chiara Vaghiani

Presiding Trial Judge
Philip Kanning

