

**BASIC COURT OF GJILAN/GNJILANE**

**PKR. No. 53/13**

**16 October 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 GJILAN/GNJILANE**, in the trial panel composed of EULEX Judge Arkadiusz Sedek as Presiding Judge, EULEX Judge Franciska Fiser and the Kosovan Judge Emine Salihu as panel members, assisted by Legal Officer Tobias Lapke as recording clerk, in the criminal case against:

- 1. V.J., father's name X, date of birth X, charged with count 1, COMMISSION OF TERRORISM, contrary to Article 109 paragraph 1 n. 10, 110 paragraph 1 of the Criminal Code of Kosovo (CCK), currently criminalized by Article 135(1.10) and 136(1) of the Criminal Code of the Republic of Kosovo (CCRK), count 2, ORGANIZATION OF A TERRORIST GROUP, contrary to Art. 113(1) of the CCK, currently criminalized by Article 143(1) of the CCRK and count 3, UNAUTHORISED CONTROL AND POSSESSION OF WEAPONS, foreseen and punished by Article 328 of the criminal Code of Kosovo, currently criminalized by Article 374 of the CCRK,**
- 2. S.J., father's name X, date of birth X, charged with count 1, COMMISSION OF TERRORISM, contrary to Article 109 paragraph 1 n. 10, 110 paragraph 1 of the Criminal Code of Kosovo (CCK), currently criminalized by Articles 135(1.10) and 136(1) of the Criminal Code of the Republic of Kosovo (CCRK), count2, PARTICIPATION IN A TERRORIST GROUP, contrary to Art. 113 (3) of the CCK, currently criminalized by Article 143(2) of the CCRK and count 3, UNAUTHORISED CONTROL AND POSSESSION OF WEAPONS, foreseen and punished by Article 328 of the Criminal Code of Kosovo, currently criminalized by Article 374 of the CCRK,**
- 3. G.L., father's name X, date of birth X, charged with count 1, COMMISSION OF TERRORISM, contrary to Article 109 paragraph 1 n. 10, 110 paragraph 1 of the Criminal Code of Kosovo (CCK), currently criminalized by Articles 135(1.10) and 136(1) of the Criminal Code of the Republic of Kosovo (CCRK) and count2, PARTICIPATION IN A TERRORIST GROUP, contrary to Art. 113 (3) of the CCK, currently criminalized by Article 143(2) of the CCRK,**

4. **G.Xh., father's name X, date of birth X, charged with count 1, COMMISSION OF TERRORISM, contrary to Article 109 paragraph 1 n. 10, 110 paragraph 1 of the Criminal Code of Kosovo (CCK), currently criminalized by Articles 135(1.10) and 136(1) of the Criminal Code of the Republic of Kosovo (CCRK) and count 2, PARTICIPATION IN A TERRORIST GROUP, contrary to Art. 113 (3) of the CCK, currently criminalized by Article 143(2) of the CCRK,**
5. **Q.R., father's name X, date of birth X, charged with count 1, COMMISSION OF TERRORISM, contrary to Article 109 paragraph 1 n. 10, 110 paragraph 1 of the Criminal Code of Kosovo (CCK), currently criminalized by Articles 135(1.10) and 136(1) of the Criminal Code of the Republic of Kosovo (CCRK), count 2, PARTICIPATION IN A TERRORIST GROUP, contrary to Art. 113(3) of the CCK, currently criminalized by Article 143(2) of the CCRK, UNAUTHORISED OWNERSHIP and count 3, CONTROL AND POSSESSION OF WEAPONS, foreseen and punished by Article 328 of the Criminal Code of Kosovo, currently criminalized by Article 374 of the CCRK,**
6. **M.A., father's name X, date of birth X, charged with count 1, COMMISSION OF TERRORISM, contrary to Article 109 paragraph 1 n. 10, 110 paragraph 1 of the Criminal Code of Kosovo (CCK), currently criminalized by Articles 135(1.10) and 136(1) of the Criminal Code of the Republic of Kosovo (CCRK) count 2, PARTICIPATION IN A TERRORIST GROUP, contrary to Art. 113(3) of the CCK, currently criminalized by Article 143(2) of the CCRK,**
7. **S.S., father's name X, date of birth X, charged with count 1, COMMISSION OF TERRORISM, contrary to Article 109 paragraph 1 n. 10, 110 paragraph 1 of the Criminal Code of Kosovo (CCK), currently criminalized by Articles 135(1.10) and 136(1) of the Criminal Code of the Republic of Kosovo (CCRK) and count 2, PARTICIPATION IN A TERRORIST GROUP, contrary to Art. 113(3) of the CCK, currently criminalized by Article 143(2) of the CCRK,**
8. **E.M., date of birth X, charged with count 1, COMMISSION OF TERRORISM, contrary to Article 109 paragraph 1 n. 10, 110 paragraph 1 of the Criminal Code of Kosovo (CCK), currently criminalized by Articles 135(1.10) and 136(1) of the Criminal Code of the Republic of Kosovo (CCRK) and count 2, PARTICIPATION IN A TERRORIST GROUP, contrary to Art. 113(3) of the CCK, currently criminalized by Article 143(2) of the CCRK,**
9. **A.Z., father's name X, date of birth X, charged with count 1, COMMISSION OF TERRORISM, contrary to Article 109 paragraph 1 n. 10, 110 paragraph 1 of the Criminal Code of Kosovo (CCK), currently criminalized by Articles 135(1.10) and 136(1) of the Criminal Code of the Republic of Kosovo (CCRK) and count 2, PARTICIPATION IN A TERRORIST GROUP, contrary to Art. 113(3) of the CCK, currently criminalized by Article 143(2) of the CCRK,**

**10. J.S. father's name X, date of birth X charged with count 1, UNAUTHORISED CONTROL AND POSSESSION OF WEAPONS, foreseen and punished by Article 328 of the CCK, currently criminalized by Article 374 of the CCRK, count 2, UNAUTHORISED CONTROL AND POSSESSION OF WEAPONS, foreseen and punished by Article 328 of the CCK, currently criminalized by Article 374 of the CCRK, count 3, UNAUTHORISED CONTROL AND POSSESSION OF WEAPONS, foreseen and punished by Article 328 of the Criminal Code of Kosovo, currently criminalized by Article 374 of the CCRK, count 4, UNAUTHORISED SUPPLY AND SALE OF WEAPONS, foreseen and punished by Article 327 of the Criminal Code of Kosovo, currently criminalized by Article 372 of the CCRK, count 5, UNAUTHORISED CONTROL AND POSSESSION OF WEAPONS, foreseen and punished by Article 374 of the CCRK and count 6, USE OF WEAPON, foreseen and punished by Article 375 of the CCRK.**

After having held the initial hearings in public on 11 March, 15 April, and the main trial hearings in public 25, 26 and 27 June, 22, 23, 24 and 26 July, 19 August, 10 and 11 September and 7, 8 and 14 October 2013 in the presence of:

- the defendant Mr. V.J. and his defense counsel Mr. M.D.,
- the defendant Mr. S.J. and his defense counsel Mr. R.S.,
- the defendant Mr. G.L. and his defense counsel Mr. S.P.,
- the defendant Mr. G.Xh. and his defense counsel Mr. S.Sh.,
- the defendant Mr. Q.R. and his defense counsel G.E.,
- the defendant Mr. M.A. and his defense counsel M.M.,
- the defendant S.S. and his defense counsels D.R.,
- the defendant E.M. and his defense counsel S.Sy.,
- the defendant A.Z. and his defense counsels H.A.
- the defendant J.S. and his defense counsel L.A.,
- the Public Prosecutor Mr. Maurizio Salustro,

after the trial panel deliberation and voting held on 14 October 2013, based on Article 359 of the Kosovo Criminal Procedure Code (KCCP),

on 16 October 2013, pursuant to Article 366 KCCP, pronounces in public, the following

## J U D G M E N T

The defendant V.J. is

### FOUND GUILTY

of count 1, COMMISSION OF TERRORISM, contrary to Article 109 paragraph 1.10, 110 paragraph 1 of the Criminal Code of Kosovo (CCK), currently criminalized by Article 135 paragraph 1.10 and 136 paragraph 1 of the Criminal Code of the Republic of Kosovo (CCRK) because it was proven beyond a reasonable doubt that the defendant, in co-perpetration with other participants in a self-styled terrorist group known as “MOF”, with the intent to unduly compel the Government of the Republic of Serbia to cease its policing activities in the Bujanovac region, unduly compel members of the Serbian Police forces of Albanian nationality to leave their work place, and unduly compel the “international community” to deploy peacekeeping forces in the region,

1. took part in an attack which damaged the Serbian Border Police container located in Bujanovac and caused light bodily injuries to the Serbian police officer B.M., by firing with different weapons, all illegally possessed and used, an undetermined number of various calibre rounds (in any case superior to 100), in co-perpetration with G.Xh. and E.M.; The attack took place in Dobrosin (Gjilan/Gnjilane municipality), on 28 June 2012 at around 04.00 hrs,
2. he illegally possessed and controlled an undetermined number of weapons (including assault rifles, machine guns and rocket launchers) which were at the disposal of the terrorist group “MOF”, in co-perpetration with G.Xh., G.L., S.J., A.Z., E.M., S.S., M.A., Q.R. in an unspecified location, starting at the latest from April 2012 and until 1 July 2012.

The defendant V.J. is also found guilty of count 2, ORGANIZATION OF A TERRORIST GROUP, contrary to Article 113 paragraph 1 of the CCK, currently criminalized by Article 143 paragraph 1 of the CCRK, because it was proven beyond a reasonable doubt that the defendant organized and directed a self-styled terrorist group known as “MOF”, by procuring armaments, uniforms and other means needed for the activities of the group, deciding what activities are to be carried out by the group, deciding when, where and by whom such activities are to be carried out, personally taking part in at least one of the attacks carried out by the group, described above, laying out the political objectives of the group, including by dictating claims of responsibility for attacks carried out by the group. The activities took place in an unspecified location, starting at the latest from April 2012 and until 1 July 2012.

The count of UNAUTHORISED CONTROL AND POSSESSION OF WEAPONS, foreseen and punished by Article 328 of the criminal Code of Kosovo, currently criminalized by Article 374 of the CCRK against the defendant V.J. is **REJECTED** according to Article 363 paragraph 1.1 of the CPC because the prosecutor withdrew the charge.

The defendant V.J. is

### **SENTENCED**

For the criminal offense described in count 1, based on Article 3 (2) of the Criminal Code of the Republic of Kosovo in conjunction with Article 136 (1) and 135 (1.10) to imprisonment of 6 (six) years;

For the criminal offense described in count 2, based on Article 3(1) of the Criminal Code of the Republic of Kosovo in conjunction with Article 113(1) of the Criminal Code of Kosovo to imprisonment of 7 (seven) years and fine of 1000 (one thousand) Euro based on Article 39(1) and (2) of the latter code paid no later than 3(three) months after the judgment is final;

Based on Article 71 (1) (2) point 2 of the Criminal Code of Kosovo an aggregate punishment of 9 (nine) years is imposed on V.J.

The time spent in detention on remand by V.J. is to be credited against the punishment, pursuant to Article 365 paragraph 1 sub-paragraph 5 of the KCCP;

The defendant shall be relieved of the duty to reimburse the costs of the criminal proceedings in accordance with Article 453 paragraph 4 of the KCCP.

\* \* \*

The defendant S.J. is

### **FOUND GUILTY**

of count 1, COMMISSION OF TERRORISM, contrary to Article 109 paragraph 1.10, 110 paragraph 1 of the Criminal Code of Kosovo (CCK), currently criminalized by Articles 135 paragraph 1.10 and 136 paragraph 1 of the Criminal Code of the Republic of Kosovo (CCRK) because it was proven beyond a reasonable doubt that the defendant, in co-perpetration with other participants in a self-styled terrorist group known as “MOF”, with the intent to unduly compel the Government of the Republic of Serbia to cease its policing activities in the Bujanovac region, unduly compel members of the Serbian Police forces of Albanian nationality to leave their work place and unduly compel the “international community” to deploy peacekeeping forces in the region, took part in an attack which damaged the Serbian Border Police container located in Bujanovac, by firing with different weapons, all illegally possessed and used, an undetermined number of various calibre rounds, in co-perpetration with E.M. and with an unidentified number of additional perpetrators. The attack took place in Dobrosin (Gjilan/Gnjilane municipality), on 7 October 2012 at around 21.35 hrs and because he illegally possessed and controlled an undetermined number of weapons (including assault rifles, machine guns and rocket launchers) which are at the disposal of the terrorist group “MOF”, in co-perpetration with V.J., E.M., G.L., A.Z., G.Xh., S.S., M.A., Q.R. in an unspecified location, starting at the latest from April 2012 and until 16 October 2012.

The defendant S.J. is also found guilty of count 2, PARTICIPATION IN A TERRORIST GROUP, contrary to Art. 113 paragraph 3 of the CCK, currently criminalized by Article 143 paragraph 2 of the CCRK, because it was proven beyond a reasonable doubt that the defendant, in co-perpetration with V.J., E.M., G.L., A.Z., G.Xh., S.S., M.A., Q.R., actively participated in a self-styled terrorist group known as “MOF”, by drafting claims of responsibilities, looking for armaments, committing the criminal offences described above, and otherwise putting himself at the disposal of the terrorist group for its activities. The activities took place in an unspecified location of Kosovo, starting at the latest from April 2012 and until 16 October 2012.

The count of UNAUTHORISED CONTROL AND POSSESSION OF WEAPONS, foreseen and punished by Article 328 of the criminal Code of Kosovo, currently criminalized by Article 374 of the CCRK against the defendant S.J. is **REJECTED** according to Article 363 paragraph 1.1 of the KCCP because the prosecutor withdrew the charge.

The defendant S.J. is

### **SENTENCED**

For the criminal offense described in count 1, based on Article 3 (2) of the Criminal Code of the Republic of Kosovo in conjunction with Article 136 (1) and 135 (1.10) to imprisonment of 6 (six) years;

For the criminal offense described in count 2, based on Article 3(1) of the Criminal Code of the Republic of Kosovo in conjunction with Article 113(3) of the Criminal Code of Kosovo to imprisonment of 4 (four ) years;

Based on Article 71 (1) (2) point 2 of the Criminal Code of Kosovo an aggregate punishment of 8 (eight) years is imposed on S.J.;

The time spent in detention on remand by S.J. is to be credited against the punishment, pursuant to Article 365 paragraph 1 sub-paragraph 5 of the KCCP;

The defendant shall be relieved of the duty to reimburse the costs of the criminal proceedings in accordance with Article 453 paragraph 4 of the KCCP.

\* \* \*

The defendant G.L. is

### **FOUND GUILTY**

of count 1, COMMISSION OF TERRORISM, contrary to Article 109 paragraph 1.10, 110 paragraph 1 of the Criminal Code of Kosovo (CCK), currently criminalized by Articles 135 paragraph 1.10 and 136 paragraph 1 of the Criminal Code of the Republic of Kosovo (CCRK) because it was proven beyond a reasonable doubt that the defendant in co-perpetration with other participants in a self-styled terrorist group known as “MOF”, with the

intent to unduly compel the Government of the Republic of Serbia to cease its policing activities in the Bujanovac region, unduly compel members of the Serbian Police forces of Albanian nationality to leave their work place and unduly compel the “international community” to deploy peacekeeping forces in the region, illegally possessed and controlled an undetermined number of weapons (including assault rifles, machine guns and rocket launchers) which are at the disposal of the terrorist group “MOF”, in co-perpetration with V.J., S.J., A.Z., Q.R., G.Xh., M.A., E.M., S.S. in an unspecified location, starting at the latest from April 2012 and until 13 February 2013.

The defendant G.L. is also found guilty of count 2, PARTICIPATION IN A TERRORIST GROUP, contrary to Art. 113 paragraph 3 of the CCK, currently criminalized by Article 143 paragraph 2 of the CCRK, because it was proven beyond a reasonable doubt that the defendant, in co-perpetration with V.J., S.J., A.Z., Q.R., G.Xh., M.A., E.M., S.S., actively participated in a self-styled terrorist group known as “MOF” which committed the attacks on Serbian Police installations on 17 May, 28 June, and 7 October 2012, by putting himself at the disposal of the terrorist group for its activities and by committing the criminal offences described above in an unspecified location, starting at the latest from April 2012 and until 13 February 2013.

The defendant G.L. is

### **SENTENCED**

For the criminal offense described in count 1, based on Article 3 (2) of the Criminal Code of the Republic of Kosovo in conjunction with Article 136 (1) and 135 (1.10) to imprisonment of 5 (five) years;

For the criminal offense described in count 2, based on Article 3(1) of the Criminal Code of the Republic of Kosovo in conjunction with Article 113(3) of the Criminal Code of Kosovo to imprisonment of 2 (two) years;

Based on Article 71 (1) (2) point 2 of the Criminal Code of Kosovo an aggregate punishment of 5 (five) years and 6 (six) months is imposed on G.L.;

The time spent in detention on remand by G.L. is to be credited against the punishment, pursuant to Article 365 paragraph 1 sub-paragraph 5 of the KCCP;

The defendant shall be relieved of the duty to reimburse the costs of the criminal proceedings in accordance with Article 453 paragraph 4 of the KCCP.

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The defendant **G.Xh.** is

### **FOUND GUILTY**

of count 1, COMMISSION OF TERRORISM, contrary to Article 109 paragraph 1 n. 10, 110 paragraph 1 of the Criminal Code of Kosovo (CCK), currently criminalized by Articles 135(1.10) and 136(1) of the Criminal Code of the Republic of Kosovo (CCRK) because it was proven beyond a reasonable doubt that the defendant, in co-perpetration with other participants in a self-styled terrorist group known as “MOF”, with the intent to unduly compel the Government of the Republic of Serbia to cease its policing activities in the Bujanovac region, unduly compel members of the Serbian Police forces of Albanian nationality to leave their work place and unduly compel the “international community” to deploy peacekeeping forces in the region, took part in an attack which damaged the Serbian Border Police container located in Bujanovac and caused light bodily injuries to the Serbian police officer B.M., by firing with different weapons, all illegally possessed and used, an undetermined number of various calibre rounds (in any case superior to 100), in co-perpetration with V.J. and E.M. in Dobrosin (Gjilan/Gnjilane municipality), on 28 June 2012 at around 04.00 hrs and because he illegally possessed and controlled an undetermined number of weapons (including assault rifles, machine guns and rocket launchers) which are at the disposal of the terrorist group “MOF”, in co-perpetration with V.J., S.J., G.L., A.Z., E.M., S.S., M.A., Q.R. in an unspecified location, starting at the latest from April 2012 and until 1 July 2012.

The defendant G.Xh. is also found guilty of count 2, PARTICIPATION IN A TERRORIST GROUP, contrary to Article 113 paragraph 3 of the CCK, currently criminalized by Article 143 paragraph 2 of the CCRK, because it was proven beyond a reasonable doubt that the defendant, in co-perpetration with V.J., S.J., G.L., A.Z., E.M., S.S., M.A., Q.R., actively participated in a terrorist group which refers to itself as “MOF”, by looking for armaments, committing the criminal offences described above, and otherwise putting himself at the disposal of the terrorist group for its activities in an unspecified location of Kosovo, starting at the latest from April 2012 and until 1 July 2012.

The defendant **G.Xh.** is

### **SENTENCED**

For the criminal offense described in count 1, based on Article 3 (2) of the Criminal Code of the Republic of Kosovo in conjunction with Article 136 (1) and 135 (1.10) to imprisonment of 6 (six) years;

For the criminal offense described in count 2, based on Article 3(1) of the Criminal Code of the Republic of Kosovo in conjunction with Article 113(3) of the Criminal Code of Kosovo to imprisonment of 2 (two) years;

Based on Article 71 (1) (2) point 2 of the Criminal Code of Kosovo an aggregate punishment of 6 (six) years and 6(six) months is imposed on G.Xh.;

The time spent in detention on remand by G.Xh. is to be credited against the punishment, pursuant to Article 365 paragraph 1 sub-paragraph 5 of the KCCP;

The defendant shall be relieved of the duty to reimburse the costs of the criminal proceedings in accordance with Article 453 paragraph 4 of the KCCP.



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The defendant **Q.R.** is

### **FOUND GUILTY**

of count 1, COMMISSION OF TERRORISM, contrary to Article 109 paragraph 1.10, 110 paragraph 1 of the Criminal Code of Kosovo (CCK), currently criminalized by Articles 135 paragraph 1.10 and 136 paragraph 1 of the Criminal Code of the Republic of Kosovo (CCRK) because it was proven beyond a reasonable doubt that the defendant in co-perpetration with other participants in a self-styled terrorist group known as “MOF”, with the intent to unduly compel the Government of the Republic of Serbia to cease its policing activities in the Bujanovac region, unduly compel members of the Serbian Police forces of Albanian nationality to leave their work place; and unduly compel the “international community” to deploy peacekeeping forces in the region, illegally possessed and controlled an undetermined number of weapons (including assault rifles, machine guns and rocket launchers) which are at the disposal of the terrorist group “MOF”, in co-perpetration with V.J., S.J., G.L., A.Z., G.Xh., M.A., E.M., S.S. in an unspecified location, starting at the latest from April 2012 and until 1 July 2012.

The defendant Q.R. is also found guilty of count 2, PARTICIPATION IN A TERRORIST GROUP, contrary to Art. 113(3) of the CCK, currently criminalized by Article 143(2) of the CCRK, because it was proven beyond a reasonable doubt by evidence that the defendant, in co-perpetration with V.J., S.J., G.L., A.Z., G.Xh., M.A., E.M., S.S., actively participated in a self-styled terrorist group known as “MOF” which committed the attacks on Serbian Police installations on 17 May, 28 June, and 7 October 2012 by putting himself at the disposal of the terrorist group for its activities and by committing the criminal offences described above in an unspecified location, starting at the latest from April 2012 and until 1 July 2012.

The count of UNAUTHORISED CONTROL AND POSSESSION OF WEAPONS, foreseen and punished by Article 328 of the criminal Code of Kosovo, currently criminalized by Article 374 of the CCRK against the defendant Q.R. is **REJECTED** according to Article 363 paragraph 1.1 of the KCCP because the prosecutor withdrew the charge.

The defendant **Q.R.** is

### **SENTENCED**

For the criminal offense described in count 1, based on Article 3 (2) of the Criminal Code of the Republic of Kosovo in conjunction with Article 136 (1) and 135 (1.10) to imprisonment of 5 (five) years;

For the criminal offense described in count 2, based on Article 3(1) of the Criminal Code of the Republic of Kosovo in conjunction with Article 113(3) of the Criminal Code of Kosovo to imprisonment of 2 (two) years;

Based on Article 71 (1) (2) point 2 of the Criminal Code of Kosovo an aggregate punishment of 5 (five) years and 6(six) months is imposed on Q.R.;

The time spent in detention on remand by Q.R. is to be credited against the punishment, pursuant to Article 365 paragraph 1 sub-paragraph 5 of the KCCP;

The defendant shall be relieved of the duty to reimburse the costs of the criminal proceedings in accordance with Article 453 paragraph 4 of the KCCP.

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The defendant **M.A.** is

### **FOUND GUILTY**

of count 1, COMMISSION OF TERRORISM, contrary to Article 109 paragraph 1.10, 110 paragraph 1 of the Criminal Code of Kosovo (CCK), currently criminalized by Articles 135 paragraph 1.10 and 136 paragraph 1 of the Criminal Code of the Republic of Kosovo (CCRK) because it was proven beyond a reasonable doubt that the defendant in co-perpetration with other participants in a self-styled terrorist group known as “MOF”, with the intent to unduly compel the Government of the Republic of Serbia to cease its policing activities in the Bujanovac region, unduly compel members of the Serbian Police forces of Albanian nationality to leave their work place, and unduly compel the “international community” to deploy peacekeeping forces in the region, illegally possessed and controlled an undetermined number of weapons (including assault rifles, machine guns and rocket launchers) which are at the disposal of the terrorist group “MOF”, in co-perpetration with V.J., S.J., G.L., A.Z., G.Xh., S.S., E.M., Q.R. in an unspecified location, starting at the latest from April 2012 and until 1 July 2012.

The defendant M.A. is also found guilty of count 2, PARTICIPATION IN A TERRORIST GROUP, contrary to Art. 113 paragraph 3 of the CCK, currently criminalized by Article 143 paragraph 2 of the CCRK, because it was proven beyond a reasonable doubt by evidence that the defendant, in co-perpetration with V.J., S.J., G.L., A.Z., G.Xh., S.S., E.M. and Q.R., actively participated in a self-styled terrorist group known as “MOF” which inter alia committed the attacks on Serbian Police installations on 17 May, 28 June, and 7 October 2012 by putting himself at the disposal of the terrorist group for its activities and by committing the criminal offences described above in an unspecified location, starting at the latest from April 2012 and until 1 July 2012.

The defendant **M.A.** is

### **SENTENCED**

For the criminal offense described in count 1, based on Article 3 (2) of the Criminal Code of the Republic of Kosovo in conjunction with Article 136 (1) and 135 (1.10) to imprisonment of 5 (five) years;

For the criminal offense described in count 2, based on Article 3(1) of the Criminal Code of the Republic of Kosovo in conjunction with Article 113(3) of the Criminal Code of Kosovo to imprisonment of 2 (two) years;

Based on Article 71 (1) (2) point 2 of the Criminal Code of Kosovo an aggregate punishment of 5 (five) years and 6(six) months is imposed on M.A.;

The time spent in detention on remand by M.A. is to be credited against the punishment, pursuant to Article 365 paragraph 1 sub-paragraph 5 of the KCCP;

The defendant shall be relieved of the duty to reimburse the costs of the criminal proceedings in accordance with Article 453 paragraph 4 of the KCCP.

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The defendant **S.S.** is

### **FOUND GUILTY**

of count 1, **COMMISSION OF TERRORISM**, contrary to Article 109 paragraph 1.10, 110 paragraph 1 of the Criminal Code of Kosovo (CCK), currently criminalized by Articles 135 paragraph 1.10 and 136 paragraph 1 of the Criminal Code of the Republic of Kosovo (CCRK) because it was proven beyond a reasonable doubt that the defendant in co-perpetration with other participants to a self-styled terrorist group known as “MOF”, with the intent to unduly compel the Government of the Republic of Serbia to cease its policing activities in the Bujanovac region, unduly compel members of the Serbian Police forces of Albanian nationality to leave their work place and unduly compel the “international community” to deploy peacekeeping forces in the region, illegally possessed and controlled an undetermined number of weapons (including assault rifles, machine guns and rocket launchers) which are at the disposal of the terrorist group “MOF”, in co-perpetration with V.J., S.J., G.L., A.Z., G.Xh., M.A., E.M., and Q.R. in an unspecified location, starting at the latest from April 2012 and until 16 October 2012.

The defendant S.S. is also found guilty of count 2, **PARTICIPATION IN A TERRORIST GROUP**, contrary to Art. 113 paragraph 3 of the CCK, currently criminalized by Article 143 paragraph 2 of the CCRK, because it was proven beyond a reasonable doubt by evidence that the defendant, in co-perpetration with V.J., S.J., G.L., A.Z., G.Xh., M.A., E.M. and Q.R., actively participated in a self-styled terrorist group known as “MOF” which committed the attacks on Serbian Police installations on 17 May, 28 June, and 7 October 2012, by putting himself at the disposal of the terrorist group for its activities and by committing the criminal offences described above in an unspecified of Kosovo location, starting at the latest from April 2012 and until 16 October 2012.

The defendant **S.S.** is

### **SENTENCED**

For the criminal offense described in count 1, based on Article 3 (2) of the Criminal Code of the Republic of Kosovo in conjunction with Article 136 (1) and 135 (1.10) to imprisonment of 5 (five) years;

For the criminal offense described in count 2, based on Article 3(1) of the Criminal Code of the Republic of Kosovo in conjunction with Article 113(3) of the Criminal Code of Kosovo to imprisonment of 2 (two) years;

Based on Article 71 (1) (2) point 2 of the Criminal Code of Kosovo an aggregate punishment of 5 (five) years and 6(six) months is imposed on S.S.;

The time spent in detention on remand by S.S. is to be credited against the punishment, pursuant to Article 365 paragraph 1 sub-paragraph 5 of the KCCP;

The defendant shall be relieved of the duty to reimburse the costs of the criminal proceedings in accordance with Article 453 paragraph 4 of the KCCP.

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The defendant **E.M.** is

### **FOUND GUILTY**

of count 1, COMMISSION OF TERRORISM, contrary to Article 109 paragraph 1.10, 110 paragraph 1 of the Criminal Code of Kosovo (CCK), currently criminalized by Articles 135 paragraph 1.10 and 136 paragraph 1 of the Criminal Code of the Republic of Kosovo (CCRK) because it was proven beyond a reasonable doubt that the defendant, in co-perpetration with other participants in a self-styled terrorist group known as “MOF”, with the intent to unduly compel the Government of the Republic of Serbia to cease its policing activities in the Bujanovac region, unduly compel members of the Serbian Police forces of Albanian nationality to leave their work place and unduly compel the “international community” to deploy peacekeeping forces in the region, took part in an attack which damaged the Serbian Border Police container located in Bujanovac and caused light bodily injuries to the Serbian police officer B.M., by firing with different weapons, all illegally possessed and used, an undetermined number of various calibre rounds (in any case superior to 100), in co-perpetration V.J. and G.Xh. in Dobrosin (Gjilan/Gnjilane municipality), on 28 June 2012 at around 04.00 hrs; because he took part in an attack on the Serbian Border Police container located in Bujanovac, by firing with different weapons, all illegally possessed, an undetermined number of various calibre rounds; in co-perpetration with S.J. and with an unidentified number of additional perpetrators in Dobrosin (Gjilan/Gnjilane municipality), on 7 October 2012 at around 21.35 hrs and because he illegally possessed and controlled an undetermined number of weapons (including assault rifles, machine guns and rocket launchers) which are at the disposal of the terrorist group “MOF”, in co-perpetration with

V.J., S.J., G.L., A.Z., G.Xh., S.S., M.A., and Q.R. in an unspecified location, starting at the latest from April 2012 and until 16 October 2012.

The defendant E.M. is also found guilty of count 2, PARTICIPATION IN A TERRORIST GROUP, contrary to Article 113 paragraph 3 of the CCK, currently criminalized by Article 143 paragraph 2 of the CCRK, because it was proven beyond a reasonable doubt by evidence that the defendant, in co-perpetration with V.J., S.J., G.L., A.Z., G.Xh., S.S., M.A., Q.R., actively participated in a terrorist group which refers to itself as “MOF”, inter alia by looking for armaments, putting himself at the disposal of the terrorist group for its activities and by committing the criminal offences described above in an unspecified location of Kosovo, starting at the latest from April 2012 and until 16 October 2012.

The defendant **E.M.** is

### **SENTENCED**

For the criminal offense described in count 1, based on Article 3 (2) of the Criminal Code of the Republic of Kosovo in conjunction with Article 136 (1) and 135 (1.10) to imprisonment of 6 (six) years;

For the criminal offense described in count 2, based on Article 3(1) of the Criminal Code of the Republic of Kosovo in conjunction with Article 113(3) of the Criminal Code of Kosovo to imprisonment of 2 (two) years;

Based on Article 71 (1) (2) point 2 of the Criminal Code of Kosovo an aggregate punishment of 6 (six) years and 6(six) months is imposed on E.M.;

The time spent in detention on remand by E.M. is to be credited against the punishment, pursuant to Article 365 paragraph 1 sub-paragraph 5 of the KCCP;

The defendant shall be relieved of the duty to reimburse the costs of the criminal proceedings in accordance with Article 453 paragraph 4 of the KCCP.

\* \* \*

The defendant **A.Z.** is

### **FOUND GUILTY**

of count 1, COMMISSION OF TERRORISM, contrary to Article 109 paragraph 1.10, 110 paragraph 1 of the Criminal Code of Kosovo (CCK), currently criminalized by Articles 135 paragraph 1.10 and 136 paragraph 1 of the Criminal Code of the Republic of Kosovo (CCRK) because it was proven beyond a reasonable doubt that the defendant in co-perpetration with other participants in a self-styled terrorist group known as “MOF”, with the intent to unduly compel the Government of the Republic of Serbia to cease its policing

activities in the Bujanovac region, unduly compel members of the Serbian Police forces of Albanian nationality to leave their work place and unduly compel the “international community” to deploy peacekeeping forces in the region, illegally possessed and controlled an undetermined number of weapons (including assault rifles, machine guns and rocket launchers) which are at the disposal of the terrorist group “MOF”, in co-perpetration with V.J., S.J., G.L., Q.R., G.Xh., M.A., E.M. and S.S. in an unspecified location, starting at the latest from April 2012 and until 17 October 2012.

The defendant A.Z. is also found guilty of count 2, PARTICIPATION IN A TERRORIST GROUP, contrary to Art. 113 paragraph 3 of the CCK, currently criminalized by Article 143 paragraph 2 of the CCRK, because it was proven beyond a reasonable doubt by evidence that the defendant, in co-perpetration with V.J., S.J., G.L., Q.R., G.Xh., M.A., E.M., S.S., actively participated in a self-styled terrorist group known as “MOF” (which *inter alia* committed the attacks on Serbian Police installations on 17 May, 28 June, and 7 October 2012) by putting himself at the disposal of the terrorist group for its activities and by committing the criminal offences described above in an unspecified location, starting at the latest from April 2012 and until 17 October 2012.

The defendant **A.Z.** is

### **SENTENCED**

For the criminal offense described in count 1, based on Article 3 (2) of the Criminal Code of the Republic of Kosovo in conjunction with Article 136 (1) and 135 (1.10) to imprisonment of 5 (five) years;

For the criminal offense described in count 2, based on Article 3(1) of the Criminal Code of the Republic of Kosovo in conjunction with Article 113(3) of the Criminal Code of Kosovo to imprisonment of 2 (two) years;

Based on Article 71 (1) (2) point 2 of the Criminal Code of Kosovo an aggregate punishment of 5 (five) years and 6(six) months is imposed on A.Z.;

The time spent in detention on remand by A.Z. is to be credited against the punishment, pursuant to Article 365 paragraph 1 sub-paragraph 5 of the KCCP;

The cost of the criminal proceedings in relation to the criminal offences which the accused are acquitted shall be paid from the budgetary resources, pursuant to Article 453 paragraph 2 of KCCP.

\* \* \*

The defendant **J.S.** is

### **FOUND GUILTY**

of count 4, UNAUTHORISED SUPPLY AND SALE OF WEAPONS, foreseen and punished by Article 327 of the Criminal Code of Kosovo, currently criminalized by Article 372 of the CCRK because it was proven beyond a reasonable doubt by evidence that the defendant without authorization brokered and concluded a number of transactions for the sale of firearms of different caliber, including selling of the unspecified firearm mentioned under Count 3 above in an undetermined location, on 7 November 2012.

of count 6, USE OF WEAPON, foreseen and punished by Article 375 of the CCRK, because it was proven beyond a reasonable doubt by evidence that the defendant used and fired a weapon which he illegally possessed. In an undetermined location, on an undetermined date prior or equal to 3 January 2013.

The counts 1, 2, 3 and 5 of UNAUTHORISED CONTROL AND POSSESSION OF WEAPONS, foreseen and punished by Article 328 of the criminal Code of Kosovo, currently criminalized by Article 374 of the CCRK against the defendant J.S. are **REJECTED** according to Article 363 paragraph 1.1 of the KCCP because the prosecutor withdrew the charges.

The defendant **J.S.** is

### **SENTENCED**

For the criminal offense of UNAUTHORISED SUPPLY AND SALE OF WEAPONS, foreseen and punished by Article 327 of the Criminal Code of Kosovo, currently criminalized by Article 372 of the CCRK described in count 4, based on Article 3 (2) of the Criminal Code of the Republic of Kosovo in conjunction with Article 327(1) to imprisonment of 2 (two) years;

For the criminal offense of USE OF WEAPON, foreseen and punished by Article 375 of the CCRK described in count 6 , based on Article 3(1) of the Criminal Code of the Republic of Kosovo in conjunction with Article 328(1) of the Criminal Code of Kosovo to imprisonment of 1 (one) year;

Based on Article 71 (1) (2) point 2 of the Criminal Code of Kosovo an aggregate punishment of 2 (two) years and 2 (two) months is imposed on J.S.;

The time spent in detention on remand by J.S. is to be credited against the punishment, pursuant to Article 365 paragraph 1 sub-paragraph 5 of the KCCP;

The cost of the criminal proceedings in relation to the criminal offences which the accused are acquitted shall be paid from the budgetary resources, pursuant to Article 453 paragraph 2 of KCCP.

## REASONING

### Procedural History

On 20 February 2013 the Special Prosecution Office of the Republic of Kosovo (SPRK) filed an indictment against V.J. represented by defence counsel M.D., S.J. represented by defence counsel R.S., G.L. represented by defence counsel S.P., G.Xh. represented by defence counsel S.Sh., Q.R. represented by G.E., M.A. represented by defence counsel M.M., S.S. represented by defence counsel D.R., E.M. represented by defence counsel X.X., A.Z. represented by defence counsel H.A. and J.S. represented by defence counsel L.A.

V.J. was charged with count 1, commission of terrorism, contrary to Articles 109 paragraph 1 n. 10 and 110 paragraph 1 of the Criminal Code of Kosovo (CCK), currently criminalized by Article 135 paragraph 1.10 and 136 paragraph 1 of the Criminal Code of the Republic of Kosovo (CCRK), count 2, organization of a terrorist group, contrary to Article 113 paragraph 1 of the CCK, currently criminalized by Article 143 paragraph 1 of the CCRK and count 3, unauthorized control and possession of weapons, foreseen and punished by Article 328 of the criminal Code of Kosovo, currently criminalized by Article 374 of the CCRK.

S.J. was charged with count 1, commission of terrorism, contrary to Articles 109 paragraph 1 n. 10 and 110 paragraph 1 of the CCK, currently criminalized by Articles 135 paragraph 1.10 and 136 paragraph 1 of the CCRK, count 2, participation in a terrorist group, contrary to Article 113 paragraph 3 of the CCK, currently criminalized by Article 143 paragraph 2 of the CCRK and count 3, unauthorized control and possession of weapons, foreseen and punished by Article 328 of the Criminal Code of Kosovo, currently criminalized by Article 374 of the CCRK.

G.L. was charged with count 1, commission of terrorism, contrary to Articles 109 paragraph 1 n. 10 and 110 paragraph 1 of the CCK, currently criminalized by Articles 135 paragraph 1.10 and 136 paragraph 1 of the CCRK and count 2, participation in a terrorist group, contrary to Article 113 paragraph 3 of the CCK, currently criminalized by Article 143 paragraph 2 of the CCRK.

G.Xh. was charged with count 1, commission of terrorism, contrary to Articles 109 paragraph 1 n. 10, 110 paragraph 1 of the CCK, currently criminalized by Articles 135 paragraph 1.10 and 136 paragraph 1 of the CCRK and count 2, participation in a terrorist group, contrary to Art. 113 paragraph 3 of the CCK, currently criminalized by Article 143 paragraph 2 of the CCRK.

Q.R. was charged with count 1, commission of terrorism, contrary to Articles 109 paragraph 1 n. 10 and 110 paragraph 1 of the CCK, currently criminalized by Articles 135 paragraph 1.10 and 136 paragraph 1 of the CCRK, count 2, participation in a terrorist group, contrary to Article 113 paragraph 3 of the CCK, currently criminalized by Article 143 paragraph 2 of the CCRK, and count 3, unauthorized control and possession of weapons, foreseen and punished by Article 328 of the Criminal Code of Kosovo, currently criminalized by Article 374 of the CCRK.

M.A. was charged with count 1, commission of terrorism, contrary to Articles 109 paragraph 1 n. 10 and 110 paragraph 1 of the CCK, currently criminalized by Articles 135 paragraph 1.10 and 136 paragraph 1 of the CCRK count 2, participation in a terrorist group, contrary to Article 113 paragraph 3 of the CCK, currently criminalized by Article 143(2) of the CCRK.

S.S., father's name X, date of birth X, charged with count 1, commission of terrorism, contrary to Articles 109 paragraph 1 n. 10 and 110 paragraph 1 of the CCK, currently criminalized by Articles 135 paragraph 1.10 and 136 paragraph 1 of the CCRK and count 2,



participation in a terrorist group, contrary to Article 113 paragraph 3 of the CCK, currently criminalized by Article 143 paragraph 2 of the CCRK.

E.M. was charged with count 1, commission of terrorism, contrary to Articles 109 paragraph 1 n. 10 and 110 paragraph 1 of the CCK, currently criminalized by Articles 135 paragraph 1.10 and 136 paragraph 1 of the CCRK and count 2, participation in a terrorist group, contrary to Art. 113 paragraph 3 of the CCK, currently criminalized by Article 143 paragraph 2 of the CCRK.

A.Z. was charged with count 1, commission of terrorism, contrary to Articles 109 paragraph 1 n. 10 and 110 paragraph 1 of the CCK, currently criminalized by Articles 135 paragraph 1.10 and 136 paragraph 1 of the CCRK and count 2, participation in a terrorist group, contrary to Article 113 paragraph 3 of the CCK, currently criminalized by Article 143 paragraph 2 of the CCRK.

J.S. was charged with count 1, unauthorized control and possession of weapons, foreseen and punished by Article 328 of the CCK, currently criminalized by Article 374 of the CCRK, count 2, unauthorized control and possession of weapons, foreseen and punished by Article 328 of the CCK, currently criminalized by Article 374 of the CCRK, count 3, unauthorized control and possession of weapons, foreseen and punished by Article 328 of the CCK, currently criminalized by Article 374 of the CCRK, count 4, unauthorized supply and sale of weapons, foreseen and punished by Article 327 of the CCK, currently criminalized by Article 372 of the CCRK, count 5, unauthorized control and possession of weapons, foreseen and punished by Article 374 of the CCRK and count 6, use of weapons, foreseen and punished by Article 375 of the CCRK.

On 11 March 2013 the initial hearing was held in accordance with Article 245 of the Criminal Procedure Code, No. 04/L-123 (KCCP). In agreement with the defence, the Albanian translation of the charges from the indictment was read. All defendants pleaded not guilty.

During the session all defence counsel complained that they had been given access to the evidence as CDs only and that no as print-outs of the evidence had been provided by them. The presiding judge reminded the defence of the possibility to object to evidence according to Article 249 of the KCCP and request to dismiss the indictment according to Article 250 of the KCCP. All defence counsel requested to lift the restrictive measures against their defendants. The presiding judge rejected the motions.

The second hearing was held on 14 April 2013, the presiding judge noted that some of the defence counsel had objected to evidence and requested to dismiss the indictment. The defence counsel complained again that the prosecution had given them scans of the evidence rather than photocopies. The presiding judge instructed the defence counsel to notify the court and the prosecution of their defence line according to Article 256 of the KCCP. Defence counsel M.D. announced that he will present an Alibi for his client V.J., two girls named T. and L. from [municipality] and the waiters who worked in [restaurant] during the night of 28 June 2012. Defence counsel S.Sh. submitted on behalf of G.Xh. that the same applied to his case as he was together with V.J. that night.

The defence submitted objections to evidence according to Article 249 of the KCCP and requests to dismiss the indictment according to Article 250 of the KCCP. With Decision of 08 May 2013 the objections against evidence and the requests to dismiss the indictment were rejected as unfounded. The defence counsel filed appeals against this decision and the basic court forwarded them to the Court of Appeals on 23 May 2013. The Court of Appeals rejected the appeals as unfounded with ruling dated 12 June 2013.

The case proceeded to the main trial and the first session of the main trial was held on 25 June 2013. All main trial sessions were public with all defendants and their authorized defence counsel present and with Maurizio Salustro as public prosecutor with replacements from time to time. The session had to be adjourned because defence counsel of S.S. and A.Z. were not present. On 26 June 2013 the presiding judge informed defendants and prosecution of the composition of the panel. There were no motions to disqualify any of the panel members. In agreement with the defence, a summary of the charges was read in accordance with Article 324 of the KCCP. All defendants pleaded not guilty. The defendants were informed about their right as per Article 323 of the KCCP. Opening statements were presented in accordance with Article 328 of the KCCP. The prosecution proceeded with playing back recordings of phone interceptions in the order they are mentioned in the indictment. On 27 June 2013 the prosecution continued with playing back recordings of phone interceptions. On 22 July 2013 the witness K.M. was questioned. On 23 July 2013 the expert witnesses H.H. and S.Z. were questioned. On 24 July 2013 expert witness F.L. was questioned. On 26 July 2013 the prosecution introduced the reports mentioned in the indictment as evidence. The witnesses M.R.B. and F.G. were questioned. On 19 August 2013 the expert witness L.R. was questioned. The prosecution continued to introduced the pictures and reports referred to in the indictment as evidence. Defendant V.J. was questioned regarding his previous statements. Defendants S.J., G.L. and G.Xh. were questioned regarding their previous statements. On 11 September 2013 defendants Q.R., M.A., S.S., E.M. and J.S. were questioned regarding their previous statements. On 26 September 2013 A.Z. was questioned regarding his previous statements. The prosecutor submitted that, according to Article 8 paragraphs 1 and 2 of the law number 4/L-209 on amnesty and based on Article 3 paragraph 1.1.10 and 1.2.5 he issued the decision to grant the amnesty to the following accused for the following charges: V.J. for Count 3, Unauthorised Ownership, Control, Possession or Use of Weapons; S.J. again for Count 3; Q.R. for Count 3 and which includes Count 3, 4, 5, 6, 7, and 8; J.S. for Counts 1, 2, 3, and 5. On 07, 08 and 14 October 2013 prosecution and defence presented their final speeches.

The judgment was announced on 16 October 2013. the presiding judge issued a ruling dated 16 October 2013 on extension of the detention on remand against the defendants V.J., S.J., G.L., G.X. and E.M. until the judgment becomes final, on replacing the measure of house detention with detention on remand against defendants Q.R., M.A., S.S. and A.Z. until the judgment becomes final and on replacing the measure of detention on remand with the measure of house detention against the defendant J.S. until the judgment becomes final. The ruling was appealed and the Court of Appeals upheld the ruling and rejected the appeals as unfounded with ruling dated 25 of October 2013.

**The following evidence was considered in particular by this panel when deciding on the matter of criminal responsibility attributed to the defendants:**

28/06/2012 - Police Report on crime scene inspection – Binder 1 C

Kosovo Police forensic unit report regarding the evidence collected on 28/06/2012

14/08/2012 - Duty report (forensic examination of evidence seized on 18/05/2012) -

29/10/2012 Duty report (Analysis of DVD D8- doc folder structure/Internet Evidence/Pictures) with 9 attachments – Binder 6, 20

01/07/2012 – Report on search activities conducted on 01/07/2012 at the premises of Q.R. DOB 15/03/1993 and attached list of confiscated items – Arrest and Searches 17

26/09/2012 - Duty report (Analysis of a diary found in V.J. and S.J.'s) and 5 attachments – Binder 4, 6

21/06/2012 - First 15 days report (numbers +XXX(X)XXXXXXXXX; +XXX(X)XXXXXXXXX) with attachments – Binder 1 D

28.11.2012 - Duty report regarding the transfer of terminated intercepted lines with attachment: CD related to V.J.'s interceptions – Binder 6, 16

30/08/2012 – 15 days report of covert measures on mobile phone numbers +XXX(X)XXXXXXXXX, +XXX(X)XXXXXXXXX (V.J. and E.M.) – Binder 3, 10

04/10/2012 - Duty report (follow up report on the evidence seized during the searches in V.J. and G.Xh.'s house on 01/07/2012) with 8 attachments – Binder 5, 15

05/10/2012 - Duty report (analysis of “DVD B8 – Documents” extracted from V.J. and S.J.'s computer) and 9 attachments – Binder 5, 14

01/10/2012 - Duty report (handwritten notebook seized at the J. brothers' house) – Binder 4, 4

27/12/2012 - Duty report (analysis of 2 DVDs marked Y2 8 part 1 and 2 from S.J.'s computer) and 5 attachments – Binder 6, 4

16/10/2012 - Search report Execution of search order issued verbally by the pre-trial judge and attached list of seized evidence – Arrests and Searches 5

08/10/2012 - 15 days report of covert measures on telephone numbers +XXX(X)XXXXXXXXX, +XXX(X)XXXXXXXXX, XXX(X)XXXXXXXXX – Binder 5, 12

05/07/2012 – Second 15 days report, phone numbers +XXX(X)XXXXXXXXX, +XXX(X)XXXXXXXXX and 10 attachments, Binder 2, 18

11/07/2012 - 15 days report, interception of 044290130 used by Mentor – duty report, Binder 2, 16

30/08/2012 – 15 Days report of covert measures on mobile phone numbers +XXX(X)XXXXXXXXX, +XXX(X)XXXXXXXXX – Binder 3, 10

20/07/2012 - Third 15 days report, phone numbers +XXX(X)XXXXXXXXX, +XXX(X)XXXXXXXXX and 7 attachments, Binder 2, 15

16/11/2012 - Duty report (Analysis of asusPro50 laptop SN 82NOASO47055 – A2, seized at Q.R.'s) – Binder 6, 19

01/07/2012 - Arrest report report on detention of V.J. – Arrests and Searches 15

30/08/2012 – 15 Days report of covert measures on mobile phone numbers +XXX(X)XXXXXXXXX, +XXX(X)XXXXXXXXX – Binder 3, 10

09/07/2012 – First 15 days report on Surveillance conducted on 25, 26, 28, 29 and 30 June and 01 July 2012 – Binder 2, 17

23/01/2013 - Duty report “Analysis of content of DVD Mobile phone + floppies + memory cards”- Binder 8, 2

10/09/2012 - Duty report (forensic examination of evidence seized on 28/06/2012) - Binder 3, 1

15/11/2012 - Duty report (Analysis of Z-Mobile antennas metering for 27/28 June 2012) - Binder 6, 21

08/10/2012 - Police Report on crime scene inspection

08/10/2012 - 15 days report covert measures on telephone numbers +XXX(X)XXXXXXXXX, +XXX(X)XXXXXXXXX, XXX(X)XXXXXXXXX (S.J.; A.Z.; G.L.) – Binder 5, 12

08/10/2012 - Duty report (position of the mobile phones of G.L., S.J. and E.M. on 7/10/2012) and 5 attachments – Binder 5, 10

21/06/2012 – First 15 days report, phone number +XXX(X)XXXXXXXXX, +XXX(X)XXXXXXXXX – Binder 1 D

15/08/2012 – Fifth 15 days report of covert measures on telephone number +XXX(X)XXXXXXXXX – Binder 3, 20

29/08/2012 – 15 Days report of covert measures on mobile phone number +XXX(X)XXXXXXXXX – Binder 3, 11

23/10/2012 – 15 days report of covert measures on telephone numbers +XXX(X)XXXXXXXXX, +XXX(X)XXXXXXXXX – Binder 5, 4

22/11/ 2012 – 15 days report on interception of telephone numbers XXX-XXXXXX and XXX-XXXXXX and 11 attachments – Binder 6, 18

04/01/2013 – OCIU IT Forensic Unit Evidence examination report - Binder 8, 6

14/01/2013 – (should be 15/01/2013) 15 days report interception of mobile phone +XXX(X)XXXXXXXXX (J.S.) – Binder 8, 12

22/11/2012 - 15 days report, interception of telephone numbers XXX-XXXXXX, XXX-XXXXXX and 11 attachments, Binder 6, 18

07/11/2012 - 15 days report on covert measures XXX-XXXXXX and XXX-XXXXXX – Binder 6, 22

## **Review of evidence indicating individual responsibility of the defendants for the specific criminal offences**

**V.J.**

### **A. Organization of a terrorist group.**

#### **1. First 15 days report dated 21/06/2012 (binder 1, 21with attachments)**

In this report, a series of intercepted phone conversations between J.S. and V.J. was analyzed, based on the order of the pre-trial judge from District Court of Gjilan. The order for interception was issued in connection with discovery of weaponry hideout in Kamenica region by KFOR patrol.

Intercepted conversations analyzed in this particular report were of significant importance to the trial panel since they revealed the role of defendant V.J. played in organization of the terrorist group known as “MOF”. The following intercepted conversations depict V.J. as the organizer and coordinator of the activities undertaken by this self-styled terrorist organization:

On 13/06/2012 at 21:50 Q.R. called V.J.: V.J. said: “We are 8-9”. He adds that another time there will be place for [first name of Q.R.]’s cousin as well. He says that this job is not suitable for him, since “that thing is not very suitable it is too heavy to hold in the hand”.

On 07/06/2012 from 12:26 to 13:06 there is series of calls from G.Xh. to V.J.: the discussion is about buying a German uniform because V.J. has bought only 5 uniforms. V.J. asks G.Xh. to call Q.R., V.J. said that “we will go and we will be two groups one group with me and the other one with S.”, V.J. also said that it is better to meet in Prishtina “because most of you are unknown faces and then we will separate in groups and decide in which direction to go”. Then he learns that the German uniform is not available so V.J. says “ok this time we will go like this but keep in mind that you cannot discuss this - tell [first name of Q.R.] too”.

On 08/06/2012 (04:02) V.J. calls Q.R.: [first name of Q.R.] says that they are coming down, V.J. says “Try to relocate those things”, [first name of Q.R.] says they are very tired.

The following conversations showed that V.J. also had the final word on the participation of individual members in the activities of “MOF”:

On 05/06/2012 at 16:16 G.Xh. calls V.J., who tells him that “V.” [i.e. E.M.] cannot come. V.J. says “To do 14 km for one is not worth it” and adds “V.” can rest this time”.

On 18/06/2012 (19:03) G.Xh. calls V.J. : V.J. tells him that “Tomorrow S. and “A.” will go and survey if anything is moving there so we won’t go there and just stay for nothing”; “We will not go with tomahawks in our hands”.

On 17/06/2012 from 16:09 till 16:44 a series of contacts among V.J., M.A. and A.Z. are recorded. V.J. says “Get ready for what you know”.

The other phone interceptions clearly showed that V.J. was also aware of the needs of the group, which means he knew what initiatives will be taken and what equipment is necessary to carry them out, and tries to address them:

On 15/06/2012 at 22:59 (less than two days before the first attack) G.L. calls V.J., telling him that he found “One pair of eyes that you can see at night therefore you can borrow.” V.J. says “That is nice I will let you know one day in advance”.

On 06/06/2012 at 12:12 Q.R. calls V.J. The latter tells him to find “Some kind of shoes that you can walk in”.

On 17/06/2012 at 12:32 Q.R. calls V.J.: V.J. says “Listen by Monday or Tuesday I will let you know”, [first name of Q.R.] says “OK but we have to tell the others to take with them the bag, water...”, V.J. says “Yes, they know.”

Some other intercepted conversations illustrate that V.J. was responsible for procuring weapons and uniforms for the group personally including middle man J.S., and as a coordination point for others who were active in this respect namely Q.R., G.Xh. and G.L.:

On 04/06/2012 there is an exchange of phone calls between G.Xh. and V.J.: G. [i.e. G.Xh.] is going to meet someone to see something that interests V.J. Shortly after there is another call in which G. [i.e. G.Xh.] informs V.J. that it is “Chinese made, semiautomatic”, and that “when you squeeze the trigger it has a position that [...] it will burst in automatic like the 10 one.” V.J. asks “Can you see the magazine?” and G. [i.e. G.Xh.] replies “It looks the same one like 30, like the Serbian ones”. The price is 330 euros.

On 10/06/2012 at 16:46 V.J. calls G.L., who tells him that one person “Has a heavy chicken with 30 birds and it costs 300”. V.J. replies that he does not have the money but he says “Check it first if it works or not”.

On 06/06/2012 at 16:44 V.J. calls Q.R. and asks him if G. [i.e. G.Xh.] has called [first name of Q.R.]. Then he informs Q.R. that “They could not bring today the machinegun”.

All these interceptions clearly demonstrate the leading role exercised by V.J. within “MOF” as the organizer and leader of this terrorist organization.

**2. Both statements of the defendant V.J. provided during the investigation and main trial were focused on the count of organization of a terrorist group and commission of terrorism.**

V.J. was interrogated on 1 July 2012 and on 18 February 2013, he was informed about his rights and in the presence of the defense lawyer. In particular he was notified that if he chooses to give a statement or answer questions, he will not be under oath and the information he provides may be used as evidence before the court. V.J. stated:” *First I would like to say that I am the president of the ‘MOF’”. This movement is a political movement which is active in Presheve, Bujanov and Medvegje (...).The movement’s goal is to express dissatisfaction for the violation and injustices perpetrated against our people (Albanians) by the Serbian Government. I am a former war veteran of the UCPMB (Liberation Army of Presheve, Medvegje and Bujanovac).*”

During the main trial on 19 August 2013 this defendant confirmed his previous testimonies given during the investigation only with minor amendments that did not change the general content of his testimonies.

The statements of V.J. are of crucial importance not because he voluntarily provided certain information not previously known to the investigators but because in confrontation with other reliable evidence they show that V.J. was deeply driven by extremist ideology aiming at reaching its goals not with peaceful, politically approved solution but rather with weaponry and use of violence.

During the first interrogation on 1 July 2012 V.J. admitted he signed the communiqué admitting responsibility of the “MOF” for terrorist attacks on 17 May and 28 June of 2012. In case on attack dated 28 June 2012 he gave the account that he prepared this message on the computer belonging to his brother. During the second interrogation on 18 February 2013 he simply denied his previous testimony and blamed translation as the source of misunderstanding. That attitude clearly shows that V.J. has no problem to change his testimony when he considers it more convenient to present him in more favorable light. The defendant seems not to care too much about providing the panel with more convincing arguments than translation, panel did not find this argument convincing as the presence of the interpreter was secured on both occasions and defendant signed all the minutes. In the opinion of the panel, this defendant wants to avoid criminal responsibility for criminal offences he is charged with.

When confronted with various pictures found during the search in the residence belonging to him and his brother S.J., he confirmed the identity of persons depicted in the pictures and identified most of them. V.J. used as an excuse loss of memory, being questioned when and where the pictures were taken. When he was questioned on second occasion on 18 February 2013 in relation to the very same pictures, V.J. changed his testimony significantly claiming this time that they were taken in 2000/2001 during the time V.J. served as a soldier in UCPMB. This account was not considered as consistent as it remains in contradiction with the objective evidence namely metadata taken when the pictures in question were taken considering in particular the exact date when the pictures were taken. This metadata information was stored not only on memory card of the camera used but also on the computer confiscated in the place of residence of The J. brothers. The defense failed to prove that any other person than the defendant himself and his brother S.J. had the access to this metadata of taken pictures. The panel took the notice that no one had a motive to alternate the data,

providing consequently that V.J. and other defendants had participated in the sort of training expedition just before the attacks were undertaken. Additionally it did not escape attention of the panel that collation of appearance of defendants during main trial with pictures leads to conclusion that is exactly the same, under no circumstances the men on pictures are ten years younger as V.J. claims. Taking into consideration only the pictures of V.J. accompanied by armed men, the inference is V.J. cannot present himself as a president/ former president of "MOF" who shaped only political and peaceful aims of the movement. The pictures clearly showed that V.J. at least knew about military actions undertaken by the movement as he participated the training when the members got used to weaponry.

There are other evidence other than his statement, photographs and intercepted conversations that leads to unambiguous conclusion, despite what V.J. claims in his defense, that he played a leading role within the "MOF" as an organizer.

### **Evidence seized during the searches in V.J. and S.J. place of residence on 1 June 2012.**

During the search conducted on 1 July 2012 in the place of residence of The J. brothers, the police came across very significant evidence that show the level of V.J.'s involvement in the daily conduct of "MOF":

- Stamped and signed original of the communiqué related to the 28 June 2012 attack;
- Official stamp of the Movement corresponding to the stamp found on the claim;
- Various materials related to "MOF" activities, including its statute, regulations, and application form;
- Military manuals, pictures, and sketches related to military activities and weapons;
- Personal computer containing electronic documents related to terrorism, ballistics, paramilitary arguments, hostage taking (Beslan, Horn of Africa...), explosives, insurgency, and similar;
- Google Earth maps of the D. area, found on the same PC;
- A handgun.

All this crucial evidence considered separately and jointly leads to conclusion that V.J. was an active leader of "MOF" who coordinated its terrorist activities as a procurer of its resource and a focal point. The panel drew a valid and obvious inference about the goals of the said movement having, evaluated the evidence. "MOF" was not a political platform focus on achieving goals in a peaceful manner but a terrorist organization building up its human and military resources with one clear-cut aim of starting yet another military conflict in the region and V.J. was its fully devoted organizer.

### **2. Commission of terrorism through the 28 June 2012 attack with respect to V.J., G.Xh. and E.M.**

On 28 June 2012 at around 04.00 am the Serbian Police checkpoint located in D. was attacked by gunfire. During this attack, a Serbian police officer B.M. was lightly wounded. According to the report prepared by Kosovo Police forensic unit 157 cartridges of 2 different calibres, 7,62x39 mm and 7,9x57 mm were found on the crime scene

- Weapon calibre 7.62x39 mm, which fired the 44 retrieved shells of the same calibre;
- Weapon of the same calibre, which fired other 24 shells of the same calibre;
- Weapon calibre 7.62x54 mm, which fired the 93 retrieved shells of the same calibre.

The next day, "MOF" published a communiqué on the internet, claiming responsibility for the attack.

There was a crushing body of evidence collected during the investigation and presented in the trial proving that members “MOF” carried out the attack: V.J., G.Xh. and E.M.

V.J. denied he took part in the terrorist attack on 28 June 2012 and presented his versions of events on the critical day. His line of defence seems to be that on the critical day he was together with G.Xh. by sheer coincidence in Gjiilan where he spends some time accompanied by two ladies. At a certain moment of time he got the phone call informing him that a friend was wounded in Podgragje and he has to come to collect him. So V.J. together with G.Xh. went to Podgragje to collect that person, but it did not happen since that person could not cross the border. When V.J. and G.Xh. realized that Serbian police is close to them, they left for Prishtina.

This line of defence was not considered by the panel as plausible as it is in evident contradiction with credible evidence presented by prosecution.

First of all a series of phone conversations, enumerated in the police reports demonstrate that members of “MOF” make preparations including surveillance of the place of attack.

In the evening hours on 27 June 2012, just before the attack on critical day, a sequence of phone conversations between V.J., G.Xh. and E.M. was intercepted:

In the evening hours of the same day, 27 June 2012, a frenetic phone activity starts among V.J., E.M. and G.Xh.:

- At 19:40 V.J. calls G.Xh.; V.J. asks G. [i.e. G.Xh.]’s opinion about asking the car from “V.”; G. [i.e. G.Xh.] thinks that he –”V.”- would lend them his car; V.J. says *“if he is off, we will go tonight and come back, we only need two hours there, just to put three pieces in the car, you know, and take those at the tap there/on that side, do you know, ”*;
- At 19:44 G.Xh. calls E.M., the call ends at 19:46;
- At 20:00 G.Xh. sends an SMS to V.J. *“Please call me on 044791314”* (G. [i.e. G.Xh.]’s number);
- At 20:01 V.J. calls G.Xh.; G. [i.e. G.Xh.] says that *“E. [i.e. E.M.] agrees but tomorrow at 10:00 he has to be at the University”*;
- At 20:03 G.Xh. calls E.M., the call ends at 20:07;
- At 20:08 G.Xh. calls V.J.:
  - G. [i.e. G.Xh.] has just spoken to E. [i.e. E.M.] and he is also interested to participate in the action.
  - G. [i.e. G.Xh.] asks if they are going to do “any job today”, V.J. says “Yes for sure”;
  - G. [i.e. G.Xh.] will ask E. [i.e. E.M.] and if he agrees they will start and pick him up.
- At 20:14 G.Xh. calls V.J.; G. [i.e. G.Xh.] tells V.J. that he agreed with E. [i.e. E.M.], provided he can come back by 11:00. Everything is agreed: E. [i.e. E.M.] will pick up G. [i.e. G.Xh.] in Ferizaj and then they will go to Prishtina to pick up V.J.
- At 20:19 V.J. calls an unknown person and tells him that he is on his way to Gjiilan and asks if “the other” wants to join, if yes he should find his way to Podgraxha.



- At 20:55 V.J. calls G.Xh., who is still waiting for “*that person*” to pick him up. V.J. tells G. [i.e. G.Xh.] that when they are in Prishtina they can pick him up at the bus station.
- At 21:56 V.J. Jahsari calls G.Xh.: G. [i.e. G.Xh.] says they are at the roundabout, V.J. is at the bus station, and they should go inside and tell at the gate that they are going to M..
- At 00:11 V.J. receives an SMS on his mobile phone; his phone activates the antenna located in Gjilan area.

These legally intercepted telecommunications are a clear indication that these defendants were making preparation to undertake the attack on Serbian Police checkpoint. The most convincing evidence emerges from positioning of defendants’ mobiles in the area where the terrorist attack took place. G.Xh.’s mobile on 28 June activated GSM antenna Capari\_2 at 02:38:33 and at 02:38:41 (SMS from a technical number). V.J.’s mobile on 28 June activated GSM antenna Pograxha\_1 at 05:58:49. E.M.’s mobile on 28 June activated GSM antenna Pograxha\_1 (he received a series of SMS from a technical number) at 05:57:34, 05:57:41, 05:57:50, 05:57:55.

The most incriminating evidence arises from the content of phone call on 05:58:49 between V.J. and G.Xh. during which V.J. said;” border police just went upward... remove the car as soon as possible and come to Pograxha.” In reply Xh. [i.e. G.Xh.] confirms:” OK”. In the police report it was explained that during that conversation a GSM antenna in Pograxha that is close to the crime scene was activated. This evidence puts definitely an end to the defence line presented by defendants V.J. and G.Xh., who claimed they spent the evening in a restaurant being accompanied by two ladies.

Further evidence, on participation of V.J. in the attack of 28 June 2012, came to light from interception of telecommunications between V.J. and K.M. During this phone conversation V.J. provided his brother S. with detailed information regarding the attack and the text of the communique is drafted over the phone. It has to be underline that the text read out by S.J. by the phone corresponds to every detail to the release that was released some time on that day thus showing that both J. brothers work together in same organization.

## **2. S.J.**

### **A. Participation in a terrorist group.**

The participation of S.J. in the “MOF” was proven by a body of consistent and plausible evidence.

The panel considered that an important element of involvement in the terrorist group “MOF” was participation in military type expeditions during which they had the unique occasion to get used to heavy weaponry. The evidence collected in that respect – photographs – is unambiguous as it depicts S.J. and other defendants during these expeditions. The photographs were seized, during the search at S. and V.J.’s residence on 1 July 2012, on the confiscated digital camera. The same pictures were found on a personal computer confiscated at the residence of the J. brothers. The pictures found on the J. brothers’ computer clearly show that S.J. took part at least four additional expeditions on 18 March, 28 April, 1 and 6 May 2012.

One set of pictures show S.J., G.Xh. and E.M. in a forest. All three are dressed in black clothes with KLA logos on them. The pictures were stored digitally with file names

DSC00431/DSC00441, DSC00435, DSC00431 and DSC00432 and located on D / USB per Bruksel ke kam pas / New Folder on the hard disc drive of the J. brothers' computer found during the search. Another set of pictures taken in the woods on 29 April 2012 shows S.J. and G.Xh. who are holding a Barrett M95, a second weapon not clearly identified and a third one of which only the muzzle can be seen. The file names of the pictures are DSC00477, DSC00479, DSC004780 and DSC004781 stored on the Lenovo computer s/n UMBXD5C under D/ USB per Bruksel ke kam pas / New Folder / teli1: Other pictures show S.J. seated nearby a big blue barrel half buried assembling the weapons, holding them and then pretending to aim at something, the pictures are named Photo011 - Photo030, reference is made to the duty report dated 29 October 2012 (Analysis of DVD D8) – this report is contained in the folder 'Police Reports 6'. The same duty report also refers to pictures taken on 01 May 2012 those pictures show S.J., on one picture the blue barrel can be seen half buried and covered with dead leaves, this specific picture is named DSC00485. There is another series of pictures taken during the expedition on 6 May 2012 that depict S.J. and E.M. in a forest being dressed in black and carrying long rifles.

Within the group, S.J. was also responsible for drafting communications to the public regarding the attack from 28 June 2012. The original document was found in S.J.'s residence – it is marked Public 84/12 and dated 28.06.2012, it is contained in the file 'Evidence Binder' under 29 as 'EVIDENCE Property OCIU/CTU/2012/0013 ITEM NO. B5 E1213b17 Suspect work room. Telephone interceptions show, that S.J. drafted the communications after consultations with his brother V.J. Based on the statements of witness K.M. from 09 August 2012 who was questioned during the main trial on 22 July 2013 it is beyond doubt that V.J. asked K.M. to facilitate a telephone conversation between V.J. and S.J. on K.M.'s mobile telephone on the early morning, 06:42 hours, of 28 June 2012. It has been established beyond doubt that during this telephone conversation V.J. had informed S.J. about the details of the attack. S.J. then prepared the communication dated 28 June 2012 mentioned above. During the interrogation on 19 February 2013 S.J. admitted he signed the announcement admitting responsibility for the attack of 28 June 2012.

The other crushing evidence that exemplifies the involvement of S.J. in the terrorist movement is two diaries an electronic diary and paper confiscated during the search.(divider 30 with reference number 'OCIU/CTU/2012/0013 item no. B-17 E1213b17 Suspect work room' in the binder marked 'EVIDENCE BINDER'). S.J. refers to as 'us' clearly making reference to a group, specifically naming at least the four members V.J., himself, A.Z. and G.Xh., that aims at undertaking armed attacks against 'Serbs'. Specifically, as indicated in the indictment, the diary contains several entries that prove this fact beyond a reasonable doubt. The first relevant entry is dated "May – June 2011" and reads as follows: "[...] *After this the group that we organized to act against Serbia in Presheva, during this month we named it UCKL (Liberation Army of East Kosovo) [...] With the end of the war in Macedonia, we directed ourselves in organizing guerrilla groups in Presheva [...]*". The second relevant entry is dated "19/01/2007, time 21:00" it reads as follows: "[...] *The plan was to attack Serbian points in [unclear], Konatoc [...] the intention was to make aware the Albanians not to vote...*". The third relevant entry is dated "29/03/2008 time 15:30" and read as follows: "*A.Z. came to our apartment in Prishtina ([street]) gave me a promise that he will come to Prshevo to attack Serbs!!!*". The fourth relevant entry is dated 22/10/2010 and reads as follows: "*Prishtina, me, [...], and G.Xh. made a secrete group that will enter in Prsheva the summer of 2011*". Again S.J. admitted he was the author of this written diary in which he presented the political credo of this organization.

The paper diary was of special importance not only it shows direct involvement of S.J. in "MOF" but also illustrates the persistent ventures undertaken on numerous occasions by

“MOF” to collect weaponry and consequently bring into effect the ideas of compelling the Government of Republic of Serbia to cease its policing activities in Bujanovac region, compelling members of Serbian police forces of Albanian nationality to leave their work place, compelling international community to deploy peacekeeping forces in this region. The same quest for weapons is easy to be noticed in the electronic form of the diary too.

An important piece of evidence presenting profound involvement of S.J. in “MOF” is the letter addressed to Belgium authorities and it describes the history of the movement and S.J.’s involvement in it since early 2000’s.

The reading of diaries and a letter addressed to Belgium authorities leads to one possible conclusion that the movement developed radical political programme, actively looked for politically driven activists who were ready to implement political programme by undertaking armed rebellion. With high degree of certainty one can conclude unless stopped by intervention of respective prosecution in Kosovo, the warfare actions would lead to reciprocal military action of the Government of Republic of Serbia against an armed terrorist group.

S.J. presented himself as extremely publically driven person, so even after first arrest in the case on 1 July 2012, after being released he intensified his involvement in the movement and finally participated in the attack of 7 October 2012.

### **B. commission on terrorism through the 7 October 2012 attack with respect to S.J. and E.M.**

It was established during the investigation that on 7 October 2012 the Serbian Check In D. was attacked by gunfire; this time no casualties were reported. It was indicated that 15 shells calibre 7.62 mm and 48 additional shells of unknown calibre were recovered at the crime scene located near Stubline close to the border between Serbia and Kosovo.

The main body of evidence in that respect derives from legally ordered interception of telecommunications. From the intercepted telecommunications it was known that all these three defendants conversed with each other preparing the attack.

The following intercepted phone calls have to be cited to shed light on the course of events preceding the attack.

On 29/09/2012 at 01:03 am G.L. calls S.J. He tells S. to come the next day in the afternoon because he is going to “**bake a chicken**”, a good one that he got. S. agrees. On 29/09/2012 at 20:11 S. calls G.L., who complains that S. did not go; S. says that he could not; G.L. replies that “he will not have those kind of chances every day”. On 30/09/2012 at 11:54 S.J. calls E.M. telling him that **they should not speak too much on the phone**. E. [i.e. E.M.] will visit him at his apartment. On 05/10/2012 at 12:56, E.M. calls S.J. asking where he is; S. is going to G.L. by bus and asks E. [i.e. E.M.] if he can join them, but the latter refuses. S. is going to “**eat chicken**”. On 05/10/2012 at 16:52, S.J. calls G.L. and tells him that he will be in Gjilan in half an hour, G. [i.e. G.Xh.] should have the chicken ready for him; G. [i.e. G.Xh.] agrees. On 05/10/2012 at 17:43, S. calls G. [i.e. G.Xh.] to tell him that he is at the station. On 06/10/2012 at 20:14, E.M. calls S.J. asking if he has **eaten any chicken**; S. says that not really then he asks E. [i.e. E.M.] to meet the following day at 2/2:30 and not to speak on the phone; E. [i.e. E.M.] is busy but if he has to be there he will be. On 07/10/2012 at 14:08 S.J. calls G.L. to tell him to find a vehicle because they will go to Ferizaj later on; G. [i.e. G.Xh.] agrees.

The panel was left with no doubts that the defendants engaged in this conversation were making in fact arrangements for the attack that took place on the very next day. This pseudo

cryptic language did not delude the panel that the defendants were talking really about chickens and consumption of these tasty birds, but in fact by chicken they meant weapons.

The presence of these two defendants in the crime spot is properly evidenced by GSM antennas located in the area in question.

On 07/10/2012 at 23:27 S.J. sends the following SMS to G.L. “if you want to fuck come right now I am at the spot”. S.J.’s mobile phone [no.] activates (a) the cell “capari\_2” at 21:08, two times at 21:09, at 21:23, at 21:38, and then twelve times between 22:00 and 23:15; and (b) cell “Pograxha\_3” nine times between 23:20 and 23:30. Both cells cover areas located close to Stubline. E.M.’s mobile phone 045.223174 activates the cells “capari\_2” (two times at 17:51), “Pograxha\_1” (two times at 19:49), and “capari\_2” (4 times at 20:14).

There is no other explanation why these defendants were present in this area at particular time other than they took part in the armed attack.

Further evidence regarding this particular attack emerges from the testimony of S.J. given during the interrogations. Interrogated on 16 October 2012 S.J. admitted he signed the claim of responsibility as G.S. He also admitted this claim of responsibility was published in the internet using his email address

E.M. claimed that on the critical day of 7 October 2012 he was cutting woods in the forest nearby his village from 7 am till 11 pm with some other family members. He denied he was in the area of attack namely Stubline at the border between Kosova and Serbia. Additionally he confirmed he was using [phone number] at the time of attack. The testimony of E.M. was not considered as reliable, as defendant want to avoid criminal responsibility for the criminal offenses he is charged with. His testimony remains in contradiction with credible evidence collected by SPRK in particular intercepted telecommunications and GSM cells that located both defendants on 7 October in the area close to the place from which they conducted an attack.

### **3. G.L., the criminal counts of commission of terrorism and participation in a terrorist group.**

It was proven beyond a reasonable doubt that G.L. was an active member of the terrorist group “MOF” since he carried out important functions within the group by participating in its activities in particular by procuring weapons by this organization.

The facts as to his criminal responsibility were established based on evidence collected during the investigation mainly interceptions of telecommunications and the electronic diary of S.J.

Telephone interceptions between G.L. and V.J. proved that G.L. was a member of the group and engaged in furthering the common goals of the group by participating in the purchasing of weapons for the Movement.

One relevant telephone conversation is dated 10 June 2012, 16:46 hours. This telephone interception like the other telephone interceptions referred to in this judgment have been played back during the main trial on 26 and 27 June 2013 and the recordings on CD as well as transcripts and translations are contained in the case file. V.J. calls G.L., who tells him that one person “has a heavy chicken with 30 birds and it costs 300”. V.J. replies that he does not have the money but he says “*check it first if it works or not.*”

The participants in the conversation like in many others were using the encrypted language developed by the defendants for the purpose of this criminal undertaking to hide the true meaning of the conversations. This allegation is well grounded and based on hard evidence.

This is proven by the fact that upon arrest and personal search, in Q.R.'s pocket a list of code words was found, according to which two words which are frequently recurring in the interceptions, i.e. "Chicken" and "Birds" mean "Kalashnikov" and "Ammunitions" respectively. This is consistent with the fact that the conversations only make sense if decoded accordingly.

Desperate attempt of the defence to prove that in fact the defendants were talking about setting up a factory farming of poultry (considering considerable amount money they allegedly invested) or decorating the cars with depictions of small chicks was assessed as a pointless attempt to avoid criminal responsibility. No other evidence was presented that the defendants want to establish a poultry factory than a few pictures of a hen with small chickens and a car decorated with paper cutting of chickens. All evidence corroborates with the well-grounded presumption presented by the prosecution that the main concern of this organization was procurement of weapons to implement political goals.

Implementing the plan of "MOF" G.L. informs V.J. about the possibility to buy a weapon, a 'Kalashnikov' aka AK47, with 30 rounds of ammunition for 300 Euro. G.L. also procured other equipment needed by the group for its activities. On 15 June 2012 at 22:59 hours and hence less than two days before the first attack, G.L. called V.J. about "*One pair of eyes that you can see at night therefore you can borrow*". V.J. replies: "*That is nice. I will let you know one day in advance*". While G.L. repeatedly maintained during the trial that in that conversation he indeed referred to ordinary reading glasses, it is clear that this is just an obdurate attempt to justify his behaviour, and it does not provide a reasonable explanation for his reference. It is clear, that the term "pair of eyes that you can see at night" indeed refers to night-vision goggles used by military.

The participation of G.L. in the group and his activities in the field of obtaining of weapons is also evidenced by entries in S.J.'s electronic diary. The electronic was found at the J. brothers' residence as detailed in the duty report dated 26/09/2012 - diary in the computer V.J./S.J.

In the diary, there is an entry dated 24 February 2012 where S.J. refers to a chat that he had with G.L. on Facebook, during the course of the conversation G.L. told S.J. that "he has a rifle machine gun 84 with 500 cartridges with chain" for the price of 500 Euro. On 28 February 2012 G.L. told S.J. during a conversation on Facebook "to go tomorrow to Gjilan to pick up a chain for 84". Both conversations evidently refer to the purchase of a Yugoslavia made Zastava M84, a Russia made PK, or a Chinese made M80, a general purpose machine gun and its 7.62 x 54mm cartridges. The type of gun was recognized during the main trial at the session held on 24 July 2013 by expert witness F.L. who confirmed that pictures SAM\_0053 – SAM\_0085 and e.g. in particular picture SAM\_0056 stored in C:/Doc & Settings/User/Desktop/00000 as per duty report dated 29 October 2012 (Analysis of DVD D8) shows such a machine gun held by S. The opinion of this expert was considered as reliable since it was prepared and presented by professional who acquired comprehensive knowledge in the field of weaponry.

Full commitment of G.L. in the activities of "MOF" is reflected in one of the interceptions dated 28 June 2012 at 14:45 a few hours after the second attack on Serbian Police Station in D., G.L. called V.J. complaining he did not take part in this attack the night before and asked if anyone from the group was injured. The panel notes that this defendant was so involved in implementation of military strategy of "MOF" that he seriously regretted he did not take part in launching one of military raids.

On top of this, there is sufficient evidence that G.L. took part in a military type expedition on 14-15 June 2012.

All in all, all the evidence collected clearly indicated that G.L. significantly contributed to development of this movement by actively participating in its activities by obtaining weapons and putting himself in the disposal on this terrorist group.

#### **4. A.Z. the criminal counts of commission of terrorism and participation in a terrorist group.**

It was proven beyond a reasonable doubt that A.Z. was an active member of the terrorist group "MOF". A.Z. was in close contact with V.J. and S.J., from 01 January 2012 until 01 July 2012, 111 telephone calls between A.Z. and V.J. and S.J. were intercepted. The number of conversations clearly shows intensity of the relations. Additionally, there is strong evidence that A.Z. participated in two military-type expeditions in mid-May and mid-June 2012.

On top of that, it was proven by intercepted telecommunications that A.Z. took part in one additional mission as a member of the Movement. He took part in a reconnaissance activity together with S.J. on 17-18 June 2012. On 17 June 2012 from 16:09 till 16:44 a series of contacts among V.J., M.A. "M." and A.Z. are recorded. V.J. says *"get ready for what you know"*. M.A. tells V.J. to call only *"Ma."* V.J. then calls A.Z., who is exactly from Ma., but he has an exam the following day. On 18 June 2012 at 19:03 G.Xh. calls V.J., V.J. tells him that *"tomorrow S. and "A." will go and survey if anything is moving there so we won't go there and just stay for nothing"*. On the same day V.J. calls Q.R. and informs him that there are two who are patrolling a certain place to see *"if they are passing"*. Q.R. asks V.J. to tell them to *"fix those things on the way back"*. V.J. informs him that there are "S.", reference is made to S.J., and "A." and so they can fix the things better. He adds *"they are here near Gjilan"*. From these intercepted communications and the general context it is clear that A.Z. together with S.J. participated in a military style reconnaissance mission at the border with Serbia in order to acquire information on movement of Serbian border police in the area.

The membership of A.Z. in the group is also proven by a picture found on both from the camera and the personal computer confiscated at the residence of V.J. and S.J. that shows A.Z. dressed in Turkish uniform with a hand gun holstered in his belt. The picture was taken inside the residence of V.J. and S.J. on 06 May 2012, reference is made to the Duty report dated 29/10/2012, Analysis of DVD D8.

On the digital camera confiscated at the residence of S. and V.J. on 01 July 2012 there are also photos showing A.Z. and S.J. somewhere in the forest on two earlier occasions. In some pictures taken on 08 May 2012, S.J. and A.Z. are depicted, both of them carrying an AK-47 with "UCPMB" is carved in the wooden butt. Other photos taken on 20 May 2012 again show S.J. and A.Z. The latter is also pictured while standing on a tree and giving an "OK" sign towards the camera.

A.Z.'s membership in the group is also proven by the fact that he was aware of the location of the weapons depots of the group which were later stolen. The fact that he was aware of the location of the weapons depot is proven by an interception of communications from 30 June 2012 at 11:36. In this conversation V.J. calls Q.R., who says that he spoke to "A.", reference is made to A.Z. and learnt that the things that were taken, reference is made to the weapons depot.

It was also proven that A.Z. had first-hand knowledge of the location of the weapons of the group because on Mr. A.Z.'s telephone the investigators found three close-up pictures of a rocket lying on the ground. The pictures were taken on 26 April 2012 in a wooden area.

Reference is made to the duty report dated 23 January 2013 “Analysis of content of DVD Mobile phone + floppies + memory cards”.

There is yet another clear evidence of the deep involvement of A.Z. in “MOF” namely a hand-written note on S.J.’s diary that suggests that A.Z.’s collaboration with V.J. and S.J. and the group dates far back in time. An entry dated 29 March 2008 time 15:30 reads as follows: “A.Z. came to our apartment in Prishtina ([street]) gave me a promise that he will come to Preshevo to attack Serbs!!!”. The diary also reads: “2003-2004 During our period in Kosova, me and V.J. tried to create groups. [...] Members were [...] A.Z. [...] etc.”

All evidence collected against A.Z. considered separately and together is a strong prove that also this defendant participated in a terrorist group am

### **5. E.M. the criminal counts of commission of terrorism and participation in a terrorist group.**

Based on the evidence collected it was proven beyond reasonable doubt that E.M. was an active member of the terrorist group “MOF” and committed the act of terrorism.

E.M. assisted the group in its constant search for weaponry. On the personal computer of V.J. and S.J. the following entry dated 04 March 2012 was found: “*Wednesday, G.Xh., E.M., one boy from C. area and 3 other boys from P. area (one of their surnames is R.; his father is a hero) and I went to G for weapons...*”, [...] “*in the end I let him talk to E.M. so that he could tell him something more*”.

E.M. proved to be a devoted member of “MOF” who took active role in two terrorist attacks launched against the Serbian Border Police on 28 June and 7 October 2012. His actions as to these attacks were argued in other corresponding parts of this reasoning.

E.M. was in very close contact with V.J. before and in relation with attacks. On 05 June 2012 at 16:16 hours G.Xh. calls V.J. and tells him that “V.” (a nickname of E.M.) cannot come. V.J. replies “*Come alone and “V.” can rest this time*”. This Conversation shows that the initial plan was that E.M. take part in the attack. The next relevant communication took place on 13 June 2012 at 12:35 hours. V.J. calls E.M. V.J. is again looking for G. [i.e. G.Xh.], he thought that “V.” and G. [i.e. G.Xh.] worked in the same place but “V.” says that they finished at G. [i.e. G.Xh.]’s. On 15 June 2012 at 14:10 hours E.M. sends an SMS to V.J. and asks “*How was yesterday?*” The expedition of the group in the area of Gjilan took place exactly on 14-15 June 2012. On 15 June 2012 at 16:27 hours E.M. calls V.J. These conversations prove that E.M. was a member of the group that was closely involved in the planning of the expedition and interested in the outcome.

It did not escape the attention of the panel that E.M. participated in two additional “MOF” expeditions, on 18 March and 6 May 2012. The understanding of this panel is that these military expeditions were meant to enhance military capacities of the group preparing it for terrorist attacks against the government of Republic of Serbia.

This is proven by the pictures recovered on the personal computer confiscated at the residence of S. and V.J. on 01 July 2012. There is a series of pictures taken between 15:53 and 18:43 hours on 18 March 2012 which show S.J., G.Xh. and E.M. in a forest. All three men are dressed in black clothes with KLA logos on them. It is clear from the posture of Xh. [i.e. G.Xh.] and M. [i.e. E.M.] in one of the pictures that they are about to dig a hole.

The last expedition mentioned, the one of 6 May 2012, is referred to in a “MOF” Communiqué for another attack which supposedly took place exactly on 6 May 2012 at 02:54

hours, and an ultimatum dated 05 May 2012. A series of pictures taken between 03:54 and 5:49 hours on 06 May 2012 show S.J. and E.M. in a forest, both men are dressed in black and both carry long rifles. While there is no documented evidence that this action actually took place, the pictures depicting S.J. and E.M. in a forest, armed and uniformed, and the picture of a bruised knee bearing the same date and time, suggests that the two were in the forest that night ready to carry out the attack mentioned in the 06 May 2012 communique'. It has to be underlined that alleged attack of 6 May 2012 was not considered among the counts of the indictment.

E.M.'s close affiliation with V.J. and S.J. and the group was also proven by the fact that tried repeatedly to contact V.J. after his arrest on 01 July 2012. E.M. tried repeatedly to contact him on his mobile; ten times on 01 July 2012 between 18:47 and 22:58 hours, and two times on 02 July 2012 between 11:38 and 15:24 hours.

#### **6. G.Xh. the criminal counts of commission of terrorism and participation in a terrorist group.**

Evidence collected in the case files proved that G.Xh. was an active member of the group and that he carried important functions within the group.

G.Xh. has been in close telephonic contact with V.J. until they were both arrested on 01 July 2012. From 01 January until 01 July 2012, 437 incoming and outgoing phone calls were documented between G.Xh. and the phone used by V.J. and S.J. The telephone conversations show that G.Xh. had an important role within the movement. These enormous numbers of phone conversation in comparison with their content indicate nature of the relationship between G.Xh. and the J. brothers.

By way of illustration, in his "first 15 days report" dated 21 June 2012, CTU investigator Mitrano reports that G.Xh. informed V.J. by telephone on 04 June 2012 about a "*Chinese made semi automatic*" for the price of 330 Euro that "*when you squeeze the trigger it has a position that [...] it will burst in automatic like the 10 one.*" In reply to V.J.'s question "*Can you see the magazine?*" G. [i.e. G.Xh.] replied that "*it looks the same one like 30, like the Serbian ones*", this conversation obviously refers to the obtaining of weapons and it proves that G. [i.e. G.Xh.] was assisting in procuring weapons for the group.

As detailed in the "first 15 days report" dated 21 June 2012, on 07 June 2012 G.Xh. and V.J. had several telephone conversations regarding the procurement of at least 6 or 7 German uniforms for the group. On 18 June 2012 at 19:03 G.Xh. calls V.J., they discuss about reconnaissance activities to be carried out. V.J. tells G.Xh. that "*tomorrow S. and "A." will go and survey if anything is moving there so we won't go there and just stay for nothing*"; he adds: "*we will not go with tomahawks in our hands*". This conversation shows that G.Xh. and V.J. were discussing the strategy of the groups with relation to the preparation and launching of the armed attacks.

On 27 June 2012 at 19:40, hours before the second attack in D. was carried out, V.J. calls G.Xh., asking his opinion about borrowing "V."s car (E.M.'s car). G.Xh. expects E.M. to make his car available and V.J. says "*if he is off, we will go tonight and come back, we only need two hours there, just to put three pieces in the car, you know, and take those at the tap there/on that side, do you know,*". This shows that G.Xh. and V.J. were working together for the benefit of the group to arrange transport for the members of the group when performing activities related to the group in the border area. On 29 June 2012 at 16:30 a telephone conversation between V.J. and G.Xh. took place during which V.J. offers to send "S.", reference is made to S.J., if G.Xh. should need to dig something because the hand of the latter



hurts. This telephone conversation refers to the fact that the group kept weapons and ammunitions depots buried under ground and leaves in the blue plastic barrels.

The membership of G.Xh. in the group is also proven by a picture with file name SAM\_0015, retrieved both from the camera and the PC confiscated at the residence of V.J. and S.J. which shows G.Xh. holding a handgun. The picture was taken inside the apartment of the V.J. and S.J. on 6 May 2012. The fact that the picture was taken in the residence of V.J. and S.J. has been established through the examination of the defendant S.J. on 03 July 2012, question 3: “PP: Mr. J., please have a look at this picture and tell me if you recognize anyone. [...] S.J.: *This is G. [i.e. G.Xh.]. From the furniture, I think that the picture was taken at my apartment in Prishtina. I was not present when the picture was taken. I don’t recognize the pistol that G. [i.e. G.Xh.] has in his hand.*”

Notes in S.J.’s handwritten diary confirm that G.Xh. had been involved in the procurement of weapons for the group; an entry dated 10 May 2008 reads as follows: “*We gave 100 to purchase one Beretta and rest 120 add by G.Xh. who purchased one optic sigma*”. The membership of G.Xh. to the group is also proven by the following entry dated 22 October 2010: *Prishtina. Me [...] and G.Xh. made a secrete group that will enter in Presheva the summer of 2011*”.

The electronic diary found in the personal computer of V.J. and S.J. also makes reference to G.Xh. One entry dated 20 February 2012 reads: “*Prishtina, Facebook. I spoke to G.Xh. about bullets 84, optics and chains as well as for one 100.*” One entry dated 29 February 2012 reads: “*Thursday, Gjilan, afternoon 14:30- 15:20 hrs. I, G.Xh. and G.L. Gjilan. V.J. had asked G.L. for some chains of 84. G.L. told that he had “a PKT, with a barrel of bullets, then a rusty 84, a big quantity of mines”. [...] “G.Xh. said that there is someone selling a machine gun and someone else form Lipjan sells two snipers.*” Another entry dated 04 March 2012 reads: “*Wednesday, Grejkovc. G.Xh., E.M., one boy form C. area and 3 other boys from P. area (one of their surnames is R.; his father is a hero) and I went to G for weapons...”, “in the end I let him talk to E.M. so that he could tell him something more*”. Another entry dated 27 April 2012 reads: “*Friday, Ferizaj. G.Xh., Q.R. [...]: looking for ammunitions.*” All these entries in the electronic diary of the personal computer of V.J. and S.J. proved that G.Xh. was indeed a member of the group and not just an acquaintance of V.J. and involved in the procurement of weapons for the group over an extended period of time.

It was also proven that G.Xh. was participating in the implementation of the missions goals through participation in the group’s activities in the border Zone between Kosovo and Serbia because G.Xh. had participated in the expedition in the woods with E.M. and S.J. on 18 March 2012, this, as explained before is evidenced by a series of pictures taken between 15:53 and 18:43 on 18 March 2012 showing S.J., G.Xh. and E.M. in a forest with all three men dressed in black clothes bearing KLA logos. From the posture of G.Xh. and E.M. in one of the pictures it appears that they are about to dig a hole. As detailed before, three pictures taken in the woods on 29 April 2012 show S.J. and G.Xh. wielding a Barrett M95, a second weapon which is not clearly identified and a third weapon of which only the muzzle can be seen.

G.Xh. also participated in the two military-style expeditions with the other “MOF” members V.J., S.J., Q.R., M.A., S.S., A.Z. and G.L. on 15 May and 14/15 June 2012, as already described above.

G.Xh.’s membership to the group is also proven by the fact that, as explained above, he was seen together with V.J. and E.M. on the day when he participated in the attack the Movement carried out on 28 June 2012.

## **7. Q.R. the criminal counts of commission of terrorism and participation in a terrorist group.**

It was proven beyond a reasonable doubt that Q.R. was an active member of the terrorist group “MOF” and a close associate of V.J.

Q.R. participated in an expedition in the night between 7 and 8 June 2012 together with V.J. This expedition was to move an unidentified object for the benefit of the group. This is evidenced by telephone conversations between the two. On 06 June 2012 at 12:12 V.J. received a phone call by Q.R.; V.J. tells him to *find “some kind of shoes that you can walk in”*; on 06 June 2012 at 16:44 V.J. calls Q.R. and asks him if G. [i.e. G.Xh.] has called Q.R.; then he informs Q.R. that *“they could not bring today the machine gun”*. On 07 June 2012 from 12:26 to 13:06 there is an exchange of phone calls about German uniforms. V.J. asks G.Xh. to call Q.R. and *adds “we will separate in groups and decide in which direction to go”*. The German uniform is not available so V.J. says *“ok this time we will go like this but keep in mind that you cannot discuss this tell Q. [i.e. Q.R.] too”*. From these conversations it is clear that on several occasions the defendants left aside their cryptic language and freely explained themselves.

On 08 June 2012 in the middle of the night, at 04:02, V.J. calls Q.R.: Q. [i.e. Q.R.] says that *“they are coming down”*. V.J. tells Q.R. *“try to relocate those things”*. Q.R. replies that they are very tired. On 08 June 2012 at 15:33 an unknown person calls V.J.; V.J. says that “last night” they got lost and stayed in the woods till morning. On 08 June 2012 at 20:23 V.J. calls Q.R.; Q. [i.e. Q.R.] says that *“it is good to change the place to relocate the things”* and V.J. agrees. Q.R. adds: *“I would come but I thought of something else. I thought of taking one of those 12.5’s here, to clean it properly and try it for 2 or 3 times, to see if it pushes my shoulder and to see if I can carry it. We should also find a binocular for it.”* V.J. continues: *“We will go one day when you are freer, we will clean them and change their place.”* To this Q.R. replies *“Yeah, yeah we should definitely change their place; we should dig the place deeper”*. While it is uncertain what object the V.J. and Q.R. refer to it is, it more likely based of the proven facts and logical reasoning that they are talking about the relocation of weapons, possibly a machine gun, since previously they have been in contact and discuss the issue of obtaining the weapons. One more matter is crystal clear, the subject of these conversations are not chicken.

Q.R. was also involved in actions of the group that served as preparation of attacks described above this is shown by a telephone conversation of 13 June 2012. On 13 June 2012 at 21:50 Q.R. called V.J. V.J. says *“We are 8-9”*. A lot, but he adds that another time there will be place for Q. [i.e. Q.R.]’s cousin as well; V.J. clarifies that *“this job”* is not suitable for him and *“that thing is not very suitable it is too heavy to hold in the hand.”* V.J. adds *“you know what I am saying”* and Q. [i.e. Q.R.] confirms by saying “Yes”. Again the panel concludes that the subject of this conversation is not poultry, but heavy weaponry.

The fact that Q.R. tried to engage his cousin in the group’s activities shows a high level of involvement of Q.R. in the group. Q.R.’s willingness to participate in the group’s activities is also evidenced by the telephone conversations from 18, 28 and 29 June 2012.

On 18 June 2012 V.J. calls Q.R. and informs him that there are two who are patrolling a certain place to see *“if they are passing”*. The next day two more will go and the day after V.J. and Q.R. can go. Q.R. asks if they saw anything, but V.J. does not have an answer. Q.R. asks V.J. to tell them to *“fix those things on the way back”*. V.J. informs him that there are “S.” and “A.” and so they can fix the things better. He adds *“they are here near Gjilan”*. Q.R. says *“if you want I can come”*. On 28 June 2012 at 12:30 on the morning following the

second attack, Q.R. calls V.J., to complain that he was not called. Q.R. explains that he would have come by bus “as always”, V.J. says “*Do not worry the other one is very near don’t talk on the phone*”, “no longer than 2/3 days”, “G. [i.e. G.Xh.] will tell you more about it.” On 29 June 2012 at 11:32 V.J. calls Q.R. and Q.R. is still offended; V.J. says that it was G. [i.e. G.Xh.]’s fault; Q.R. wants to know if there are other plans; V.J. says that “*very soon*” and he will call him back.

These conversations are of special importance as they show strong commitment Q.R. to the goals of “MOF” his readiness to take part in a terrorist raid and he even feel offended that he did not take part in one the attacks. The devotion and commitment of this defendant is evidenced by the fact that Q.R. had entrusted his personal Kalashnikov, a war memory from his uncle, to the Movement.

Q.R. knew the location where the group held his Kalashnikov together with other weapons, Q.R. also knew what other weapons were stored at that location. Q.R. also knew the other location where more of the group’s weapons were stored because he helped the group place them there. These facts are evidenced by the telephone call between V.J. and Q.R., recorded on 30 June 2012 at 11:36: Q.R. calls V.J. and they talk about the disappearance of some weapons from a hiding place near Pograxha, a village across the border from Dobrosin. V.J. says that “*they took everything what was downhill, two 500’s, the Barrett, the bullets of the Barrett, the bags that were there with the two Kalashnikovs.*” To which Q.R. replies “*Fuck man, they have taken everything!*” V.J. also mentions that some uniforms were stolen. V.J. is particularly sorry about a Kalashnikov which Q.R. had received from his uncle. They suspect that the thief is a shepherd who was seen wearing “uniform like A.’s one” and plan to go and force him to give back the weapons, possibly by beating him up. V.J. further adds: “*The only ones remaining are the ones that we left close to the stream, you know where we were that night. They took everything what was uphill.*”

The other evidence that demonstrate involvement of Q.R. in the terrorist activities of “MOF” is a kind of list with code words found in the pocket of this defendant out which two words which are frequently recurring in the interceptions, i.e. “Chicken” and “Birds” mean, respectively, “Kalashnikov” and “Ammunitions.”

Evidence the panel considered when deciding criminal liability of this defendant was a series of documents found on Q.R.’s computer which clearly show his political views and indicate clearly that this defendant is an activist of armed against Serbian authorities. The following evidence was considered

- Series of photos showing Q.R. posing with Kalashnikovs, pistols, and a machine gun.
- Copy of “MOF” communiqués dated 06/05/2012 and 17/05/2012.
- Internet conversation in Albanian from 14/12/2011 during which Q.R. explains his theory that now is the time for arm struggle and that diplomacy will not do anything because if they wait, other lands populated with Albanians will not be freed. He says “*When we start to liberate, we must extend our army in all of our lands.*” He says about uniting all the organizations into one big army in order to achieve their goal – liberation of all Albanian lands.
- Internet conversation in Albanian from 25/03/2012 where Mr. Q.R. says “*God help me, I have sworn on the weapons I carry with me, and the weapon I have loaded with gunpowder I won’t fire it without causing blood, and it is only you who knows about the gun, now I have 19 pieces of Scorpion*” and also “*It can’t go any longer, the weapon has been loaded, and it shouldn’t be wasted*”.
- Conversation dated 19/05/2011 between Q.R. and other person showing that [first name of Q.R.] wants to participate in an organization in Mitrovica ran by this other

person. It is some kind of recruitment interview. Q.R. explains that although he is only 18 years old, he is ready and willing to participate and fulfil his father's last will – all territories with Albanian population to be united. The person explains to him that he will need to give 300 EURO in the beginning. After that he will receive everything he need – weapons, equipment etc. Q.R. informs him that he can use his father's weapon. The guy explains that they get the weapons and equipment from Albania and everybody is equipped equally and not less than KFOR soldiers, just with different brands.

All the above evidence explicitly shows that Mr. Q.R. is one of the most dedicated, highly politicized, and active members of "MOF".

### **8. M.A. the criminal counts of commission of terrorism and participation in a terrorist group.**

During the main trial it has been proven beyond a reasonable doubt that M.A. was an active member of the terrorist group "MOF". This is evidenced by the enormous number of telephone contacts, that is 232, between M.A. and the phone used by V.J. and S.J. between January and June 2012, and especially in the period 04 - 26 June 2012.

Some telephone conversations proved that M.A. was involved in the preparation of the military-type expedition in mid-June 2012. For example, on 14 June 2012 at 12:27, M.A. calls V.J. who tells him not to *"take anyone without tools, don't come with empty hands"*. M.A. membership in this terrorist organization is also proven by the fact that he took part himself in the mid-June 2012 as well as in the mid-May 2012 expedition, during which he was photographed while wielding war weapons.

The close contact of M.A. with V.J. is evidenced by the results of court ordered surveillance; *see the First 15 days report on surveillance dated 09 July 2012*. From the report it can be seen that M.A. met with V.J. right after carrying out the attack on 28 June 2012. A few hours after the attack, V.J. is seen in the company of M.A., V.J. is seen miming the shooting action with gestures. The report reads that *"using his left hand he constantly reproduced a curve in front of him and the movement uphill and downhill; shortly after for three times he emulated with both hands the shooting with a machine gun"*. M.A. was also seen in the company of V.J. on many other occasions. On 27 June 2012 at about 22.00 a meeting between V.J., G.Xh. and M.A. took place at the bus station where the latter works. On 30 June 2012 another meeting between V.J., Q.R. and M.A. took place again at the bus station in the evening hours. On the next day, 01 July 2012, V.J. is met again with V.J. and they are arrested together.

It was proven beyond a reasonable doubt that M.A. and V.J. were not merely acquaintances but that they worked together for the benefit of the group. Certain handwritten notes are of special importance:

- One entry dated 31 January 2007 time 20:30 reads as follows: *"M.A.[...] came to me [...] to organize better, to fight for East Kosovo [...] since I called him."*
- One entry dated 08 November 2007 reads *"[...] We also talked about the involvement of M.A.- M. – in command of our group or separate groups but to coordinate actions"*.

The fact that M.A. aka 'M.' intended to incite a conflict in the region in concurrence with the intentions of the Movement is documented in an entry in an electronic diary found on the personal computer used by V.J. and S.J. The entry dated 30 February 2012 reads: *"Monday, Prishtina. I met M. and S. (M.'s friend)... We also spoke about war against Serbs where M., S. (M.'s friend), another friend of M. and I would take part. But they said they would attack"*

*in the morning before sunrise*". The same entry also shows that M.A. also found new members, such as S.S., for the group.

The electronic diary found in the residence of V.J. and S.J. also shows that M.A. also known as 'M.' was engaged in procurement of weapons for the group and cooperating with them for a long period of time to wage 'war' against 'Serbs' and thus furthering the common terrorist goals of the group to incite yet another conflict in the region. One entry dated 19 January 2012 reads "*Prishtina. I met M. and asked him to find an electrical detonator*". Another entry dated 27 January 2012 reads: "*Prishtina. At the bus station with M., spoke about "electrical detonators and projectiles (type 500) as well as chains of 84"*". Another entry dated 30 April 2012, Monday, Prishtina [...] *I met M.; he told he would look for an M84 and chains*".

Considering all evidence collected in the main trial this panel had no doubt that M.A. was one of prominent members of the terrorist organization "MOF".

### **9. S.S. the criminal counts of commission of terrorism and participation in a terrorist group.**

It was proven beyond reasonable doubt that S.S. was an active member of the group. As described before, S.S. gathered together with other members of the group for photographs posing and holding heavy weapons. S.S. did not deny that he was present and that he was posing together with the other persons that can be seen on the photos but claims that his presence at the scene was merely coincidental. This statement was considered by the panel as not credible at all. The group was acting cautious and e.g. using coded language to speak about weapons by referring to them as "chicken" and using the term "birds" for ammunition. Giving someone who did not belong to the group access to a meeting and the weapons seems utterly incredible. Another aspect that makes the stance incredible is the fact the nature of pictures of a keepsake of a memorable moment would not be achieved with someone in the picture who does not belong to the group and was on the spot by sheer coincidence. S.S. was at the gathering of the group for the picture opportunity because he was an active member of the group. Finally the fact that S.S. was not just an acquaintance and bystander is proven by an entry in the electronic diary found on V.J. and S.J.'s computer. The entry date 20 February 2012 reads as follows: "*I met M. and S. (M.'s friend). We also spoke about war against Serbs where M., S. (M.'s friend), another friend of M. and I would take part. But they said they would attack in the morning before sunrise*".

In the context of the other information available, "S. (M.'s friend)" refers to S.S. "S. (M.'s friend)" cannot be S.J., since S.J. is himself the author of the note. As a matter of fact, S.S. himself admitted that he is a friend of M.A.'s ["M."] and that he came to know other members of the group through M.. It is not reasonable to consider that there might have been another S. friend of M. who talked to S.J. about "war against Serbs", because there is clear comprehensive evidence showing S.S. and M.A. together with other members of "MOF" in other instances. It has therefore been established that S. Selmain already knew S.J. very well as early as February 2012 at the very least - months before the 15 May 2012 pictures were taken. The topic of the entry and the conclusion of the shared interest in "war against Serbs" attest to the affiliation and membership of S.S. with the Movement.

It was also established that S.S. took part not only in the expedition in May 2012, but also in in another in mid-June 2012. The evidence in this respect is an interception dated 15 June 2012 at 02:32 when S.S. calls V.J.; they discuss about some clothes that should be taken; S.S. states "*we are returning downwards*" and then V.J. confirms "ok".

All the circumstances and evidence show that S.S. under no circumstances can be considered as an external guest that took part in two expeditions but as an active member of this terrorist group that willingly participated in its actions.

#### **10. J.S.**

Regarding count 4, unauthorized possession and control, and then sale, of a firearm, an analysis of intercepted telephone conversations proves beyond reasonable doubt that J.S. first possessed, and then sold to a buyer a firearm.

On 03 November 2012 at 18:02 hours, a certain M.K. calls J.S.; M.K. wants to buy “something” but he wants to test it with bullets. It is clear that this conversation relates to the intended purchase of a firearm. On 07 November 2012 at 15:08 hours, M.K. calls J.S.: M.K. asks what J.S. did with “that brand”, J.S. says he did nothing; J.S. needs the money, he will give it to M.K. if he gives him “30 birds”; M.K. offers “bigger ones 48”, for 20 euros J.S. could have 50 of them for that price. From this conversation it is clear that J.S. was negotiating to buy ammunition from M.K. On 07 November 2012 at 15:15 hours, J.S. calls M.K.: J.S. says “they are not taking it but bring me 90 euros and 20 or 30 pieces”; M.K. says he will come later. On 07 November 2012 at 15:52 hours, J.S. sends an SMS to M.K.: “bring me 90 euros and 40 or 50 pieces of birds from those 48 then I will find something for you, I may get one of this 48 ok”. On 07 November 2012 at 16:23 hours, J.S. calls M.K.: M.K. says “I will come now”, J.S. says “Ok, bring all of them plus 90 euros”. On 07 November 2012 at 17:18 hours, M.K. calls J.S.: M.K. says “I will be there in 30 minutes, so get it ready”, J.S. says “it is ready”. On 07 November 2012 at 17:44 hours, M.K. calls J.S.: M.K. asks “Where are you?” J.S. says “I am at home”, M.K. replies “Ok, I am on my way, so come outside”, J.S. says “ok”. The exchange contained in the series of telephone conversations including the last phone call proves that the transaction was finalized and that J.S. sold the firearm, which he possessed, to M.K.

Regarding count 6, Unauthorized use of a firearm, it was proven beyond a reasonable doubt that J.S. used a firearm by an analysis of an intercepted telephone communication. On 03 January 2013 at 21:39 hours, J.S. calls M.K. From the conversation, it is clear that M.K. wants to buy something and J.S. is acting on his behalf, meaning he can go and pick it up from the seller and pass it to M.K.; J.S. says that it is a good one because “I have fired it”. This proves, by J.S.’s own admission, that he possessed and fired the firearm sometime prior to the telephone call on 3 January 2013.

The defence raised general concerns against the dating of digital photographs. The Prosecution established the dates of the photographs found in digital format on the computers of V.J. and S.J., this based on the so called meta-data contained in digital photographs that show certain additional information such as aperture, shutter speed but also date and time. While there is no doubt that theoretically such information could be altered at some time after the pictures were taken, the defence did not present any plausible scenario why anyone should have accessed the computer hardware of the J. brothers to alter the meta-data of digital pictures stored on it. Therefore, in the absence of any indications to the contrary, the dates of the pictures can be assumed to be accurate.

#### **Interception of telecommunications.**

The panel took into consideration as the crucial evidence numerous interceptions of telecommunications that plausibly and thoroughly show *modus operandi* of the defendants, their roles in commitment of the criminal offences as they are charged with.

The panel again scrutinized the admissibility of evidence obtained through orders of interception of telecommunications as per Article 97 of the code of criminal procedure. The following orders were subject to additional examination:

#### **Binder II**

- Ruling dated 14 August 2012 correcting order for interception of telecommunications dated 03 August 2012 – Vladimir Mikula
- Order dated 14 August 2012 terminating interception of telecommunications – Vladimur Mikula
- Order dated 13 August 2012 for Covert Measures Interception of Telecommunications – Vladimir Mikula
- SPRK Ruling dated 07 August 2012 on expansion of investigation
- Order dated 03 August 2012 on termination of interception of telecommunications – Mariola Pasnik
- Order dated 03 August 2012 for Covert measures – Mariola Pasnik

#### **Binder III**

- Order dated 13 July 2012 interception of telecommunication/termination of interception of telecommunications – Vladimir Mikula
- SPRK Ruling dated 03 July 2012 on Expansion and partial amendment of the Investigation
- SPRK Ruling dated 01 July 2012 on Expansion and partial amendment of the Investigation
- Order dated 01 July 2012 On confirmation of emergency order for interception of telecommunications/order for interception of telecommunications – Ingo Risch
- Order dated 25 June 2012 for tracking and positioning devices – Mariola Pasnik
- SPRK Ruling dated 20 June 2012 on expansion of the investigation
- Order dated 05 June 2012 for the interception of telecommunications – Vladimir Mikula
- Order dated 05 June 2012 for the interception of telecommunications – Vladimir Mikula
- SPRK Ruling dated 04 June 2012 on Initiation of Investigation

#### **Binder IV**

- Ruling dated 01 October 2012 for the Interception of Telecommunications – Vladimir Mikula
- Order dated 26 September 2012 for covert measures Interception of Telecommunications – Vladimir Mikula
- SPRK Ruling dated 31 July 2012 on expansion of the investigation
- Order dated 14 September 2012 for termination of interception of telecommunications – Vladimir Mikula
- Order dated 12 September 2012 for covert Measures Interception of Telecommunications – Vladimir Mikula
- Order dated 10 September 2012 for Interception of Telecommunications – Vladimir Mikula
- Order dated 30 August 2012 for Disclosure of Financial Data – Vladimir Mikula
- Order dated 10 September 2012 for extension of interception of telecommunications – Mariola Pasnik
- Order dated 1 July 2012 for interception of telecommunications – Vladimir Mikula

## **Binder V**

- SPRK Ruling dated 22 October 2012 on Expansion of the Investigation
- SPRK Ruling dated 15 October 2012 on Expansion of the Investigation
- SPRK Ruling dated 11 October 2012 on Expansion of the Investigation
- Order dated 10 October 2012 for Covert measures (interception of telecommunications) – Mariola Pasnik

## **Binder VI**

- Divider 1 - Ruling dated 28 December 2012: Extension of investigation for six months until 04 June 2013 – Vladimir Mikula
- Divider 5 – Ruling dated 24 August 2012 on termination of telecommunications (only Alb. translation and Annex) – Vladimir Mikula
- Divider 8 – Order dated 10 December 2012 for covert measures interception of telecommunications – Vladimir Mikula
- Divider 11 – SPRK ruling dated 22 November 2012 on expansion of investigation
- Divider 11 – Ruling dated 27 November 2012 on extension of the investigation for six months until 04 June 2013 (J.S.) – Vladimir Mikula
- Divider 11 – Ruling dated 26 November 2012 interception of telecommunications – Vladimir Mikula

## **Binder VII**

- Order dated 12 November 2012 for Covert Measures Interception of Telecommunications – Vladimir Mikula (Divider 3)
- Order dated 07 November 2012 for Covert Measures Interception of telecommunications – Vladimir Mikula (Divider 3 and 4)
- Order dated 24 October 2012 for termination of interception of telecommunication – Vladimir Mikula (Divider 5)
- Order dated 24 October 2012 for termination of interception of telecommunication – Vladimir Mikula (Divider 5)
- Oder dated 24 October 2012 for termination of interception of telecommunications – Vladimir Mikula (Divider 11)

## **Pre-trial Binder 8**

- Order dated 07 February 2013 for Covert Measures Interception of Telecommunications – Vladimir Mikula
- Order dated 05 February 2013 for Covert Measures Metering of Telephone Calls and SMS – Vladimir Mikula
- Order dated 24 January 2013 for extension of Interception of Telecommunications – Vladimir Mikula
- Order dated 04 January 2013 for Covert Measures Interception of Telecommunications – Dariusz Sielicki (divider 30).

The panel came to the conclusion that all orders of pre-trial judges were issued in conformity with relevant legal procedures based on the applications of SPRK that properly and as requested by legal provisions substantiated necessity of such measures. The orders were properly justified and issued against the defendants who were subject to criminal proceedings. The panel was of the opinion that the defendants' constitutional rights were not violated as the criminal offences came under the scope of Article 90 of the CPC; the prerequisites of Article 88 par. 3 were fulfilled. Further outcome of the investigations proved



that the interceptions of telecommunications assisted in the investigation of the criminal offences and facilitated to collect crucial evidence. The panel came to the conclusion that SPRK had the right to continue the investigation even though the criminal activities were known to the this law enforcement agency since the main objective was both to stop criminal activities of the defendants already involved in the terrorist organization and at the same time to all individuals involved in this terrorist organization and future plans and objects that were placed on the list of possible terrorists attacks.

### **Admissibility of evidence collected from search.**

Additionally this panel considered the admissibility of evidence collected from search since this evidence was considered as crucial and assisted in establishing the facts and criminal responsibility of the defendants.

The evidence that was considered of essential importance was confiscated at V.J. and S.J.'s residence. The special attention was put to the following evidence:

- Stamped and signed original of the communiqué related to the 28 June 2012 attack;
- Official stamp of the Movement corresponding to the stamp found on the claim;
- Various materials related to “MOF” activities, including its statute, regulations, and application forms namely:
  - a) Compilation from different web sites about the attack of 17 May 2012 (attach. 3);
  - b) Same kind of compilation for the attack of 28 June 2012 (attach. 4);
  - c) 18 “MOF” membership certificate forms (attach. 5);
  - d) 48 Albanian Army military equipment forms (attach. 6);
  - e) A political statement from “MOF” regarding the situation in the region of Preshevo dated May 2012 (attach. 7);
  - f) Statute of to “MOF” (attach. 8).
  - g) Document “Secret organization...” signed by “G.S.”, “S.J.” (attach. 2).
  - h) Document “Announcement for the situation in the region”, signed by “S.J., Regional Political Directorate of the “MOF”” (attach. 3).
- Military manuals, pictures, and sketches related to military activities and weapons
  - a) 1-Notebook with handwritten notes. (It is about weapons)
  - b) 3-Document headed “Secret Organization ...” (Translated: it is an old original document dated 18/09/2000 signed by “G.S.Z.”, which is one of Skanderbeg nicknames)
  - c) 4-Drawings of missiles and missiles launchers.
  - d) 6-Book about landmines.
  - e) 7-Notebook with handwritten notes and drawing of different weapons. (It is about weapons)
  - f) 10-Handbook “How to fight to survive”.
  - g) 11-Suspicious ID of A.S.
  - h) 14-Letter with the logo of “MOF”.

- i) 15-idem. Translated
- j) 16-idem. Translated
- k) 17-Assorted documents (about weapons)
- l) 18-idem. (It is about weapons)
  - Personal computer containing electronic documents related to terrorism, ballistics, paramilitary arguments, hostage taking (Beslan, Horn of Africa...), explosives, insurgency, and similar;
  - Google Earth maps of the Dobrosin area, found on the same PC;
  - A handgun

All this evidence was collected based on court order of the pre-trial judge as required by article 111 of CPC and no other irregularities mentioned in this article were noticed.

## **Legal analysis**

### **Existence of the terrorist group “MOF”.**

Having considered all evidence collected in the case, the panel came to the conclusion that the terrorist group known as “MOF” has existed in Kosovo at least since May 2012. This terrorist organization “MOF” had political objectives related to the situation of ethnic Albanians living in Southern Serbia. The group comprised at least the following nine members, all ethnic Albanians, from Serbia and from Kosovo: V.J. and S.J., G.L., G.Xh., Q.R., M.A., E.M., S.S. and A.Z. The panel concluded that that terrorist organization had a structure and its members were assigned different roles. This group owned and controlled heavy weapons, stored as of May/June 2012 in at least two locations in Eastern Kosovo. This terrorist organization owned the military uniforms. Moreover “MOF” launched three armed attacks against installations of Serbian Police near the village of Dobrosin, on 17 May, 28 June and 7 October 2012. This terrorist organization planned to execute other attacks on the Republic of Serbia. In preparation of implementing a military strategy and capacities against Republic of Serbia, this terrorist organization, carried out at least two other military-type expeditions in Eastern Kosovo, on 15 May 2012 and on 14-16 June 2012. The political aim of this terrorist organization was

- Compel the Government of the Republic of Serbia to cease its policing activities in the Bujanovac region;
- Compel members of the Serbian Police forces of Albanian nationality to leave their work place; and
- Compel the “international community” to deploy peacekeeping forces in the region.

### **Participation in the terrorist group “MOF”.**

The evidence collected during the main trial clearly shows that all the defendants charged in the indictment with the exception of J.S., were active members of “MOF”. The evidence in that respect was presented and evaluated in details above.

## **Commission of terrorism through**

- **The attack of 28 June 2012**

The Police Report on crime scene inspection dated 28/06/2012, on 28 June 2012 at around 04.00 am the Serbian Police checkpoint located in D. was attacked by gunfire. During this attack, a Serbian police officer (B.M.) was lightly wounded. The Kosovo Police forensic unit report regarding the evidence collected on 28/06/2012 after the attack indicates that 157 cartridges of 2 different calibres, 7,62x39 mm and 7,9x57 mm were retrieved from the crime scene. A further report clarified that three weapons were used for the attack:

1. Weapon calibre 7.62x39 mm, which fired the 44 retrieved shells of the same calibre;
2. Weapon of the same calibre, which fired other 24 shells of the same calibre;
3. Weapon calibre 7.62x54 mm, which fired the 93 retrieved shells of the same calibre.

The next day, "MOF" published a communiqué on the internet, claiming responsibility for the attack.

There is crushing evidence (collected through telephone interceptions, cells positioning, metering of telephone calls, photographic surveillance) that the following "MOF" members carried out the attack: V.J., G.Xh. and E.M.

- **The attack of 7 October 2012.**

The Police Report on crime scene inspection dated 8 October 2012, on 7 October 2012 at around 21.40 the Serbian Police checkpoint located in D. was again attacked by gunfire. No casualties were reported. The report indicates that 15 shells calibre 7.62 mm and 48 additional shells of unknown calibre were recovered from the crime scene, located near the Stubline (at the border between Kosovo and Serbia). The attack was launched by S.J. and E.M.

### **Applicable substantive law**

The panel decided, based on article 3 of the Criminal Code of Republic of Kosovo that in relation to all defendants the Criminal Code of Kosovo (UNMIK /Reg/2003/25) will be applied as a general rule. In cases where the new Criminal Code is more favourable to the defendants, these legal provisions will be applied accordingly.

The provisions of the above-mentioned Article read as follows:

- "1. The law in force at the time a criminal offence was committed shall be in applied to the perpetrator.*
- 2. In the event of a change in the law applicable to a given case prior to final decision, the law most favourable to the perpetrator shall apply."*

The panel notes that Criminal Code of the Republic of Kosovo came to force as of 1 January 2013 and regulates the criminal offence of terrorism in:

#### **Article 135**

##### **Definitions for terrorism provisions in articles 121-145**

For the purposes of Articles 121-145 of this Code terms used below shall have the following meaning:

1. Terrorism, act of terrorism or terrorist offense - the commission of one or more of the following criminal offenses with an intent to seriously intimidate a population, to unduly compel a public entity, government or international organization to do or abstain from doing any act, or to seriously destabilize or destroy the fundamental political, constitutional, economic or social structures of the Republic of Kosovo, another State or an international organization:

- 1.1. murder or Aggravated murder in violation of Articles 178 and 179 of this Code;
- 1.2. inciting or assisting suicide in violation of Article 183 of this Code;
- 1.3. assault, Assault with Light Bodily Injury and Assault with Grievous Bodily Injury in violation of Articles 187-189 of this Code;
- 1.4. sexual offenses in violation of Articles 230-232, 235-239 or 241 of this Code;
- 1.5. hostage-Taking, Kidnapping or Unlawful Deprivation of Liberty in violation of Articles 175, 194 or 196 of this Code;
- 1.6. pollution of drinking water or, food products; or pollution or destruction of the environment in violation of Article 270 and Chapter 27 of this Code;
- 1.7. causing general danger, arson or reckless burning or exploding in violation of Articles 334 or 365 of this Code;
- 1.8. destroying, damaging or removing public installations or endangering public traffic in violation of Articles 129, 366, 378 or 380 of this Code;
- 1.9. unauthorized supply, transport, production, exchange or sale of weapons, explosives or nuclear, biological or chemical weapons in violation of Articles 176, 369 or 372-377 of this Code;
- 1.10. unauthorized acquisition, ownership, control, possession or use of weapons, explosives, or nuclear, biological or chemical weapons, or research into or development of biological or chemical weapons in violation of Articles 176, 369 or 372-377 of this Code;
- 1.11. endangering internationally protected persons in violation of Article 173 of this Code;
- 1.12. endangering United Nations and associated personnel in violation of Article 174 of this Code;
- 1.13. hijacking aircraft or unlawful seizure of aircraft in violation of Article 164 of this Code, or hijacking other means of public or goods transportation;
- 1.14. endangering civil aviation safety in violation of Article 165 of this Code;
- 1.15. hijacking ships or endangering maritime navigation safety in violation of Article 166 of this Code;
- 1.16. endangering the safety of fixed platforms located on the continental shelf in violation of Article 167 of this Code;
- 1.17. un-authorized appropriation, use, transfer or disposal of nuclear materials in violation of Article 176 of this Code;
- 1.18. threats to use or to commit theft or robbery of nuclear materials in violation of Article 177 of this Code; or
- 1.19. threatening to commit any of the acts listed in sub-paragraphs 1.1 to 1.18 of this paragraph.
2. Funds - includes assets of any kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evincing title to or interest in such assets, including, but not limited to, bank credits, travelers cheques, bank cheques, money orders, shares, securities, bonds, drafts, and letters of credit;
3. Material resources - includes, but is not limited to, lodging, safe houses, false documentation or identification, financial services, facilities, personnel, weapons, means of transportation, communications equipment and other physical assets, except necessary medicine.
4. Terrorist group - a structured group of more than two persons, established over a period of time and acting in concert to commit terrorism. A structured group is a group that is not randomly formed for the immediate commission of an offense and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure.

## **Article 136**

### **Commission of the offense of terrorism**

1. Whoever commits an act of terrorism shall be punished by imprisonment of not less than five (5) years.
2. When the offense provided for in paragraph 1 of this Article results in grievous bodily injury of one or more persons, the perpetrator shall be punished by imprisonment of not

less than ten (10) years.

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3. When the offense provided for in paragraph 1 of this Article results in death of one or more persons, the perpetrator shall be punished by imprisonment of not less than fifteen (15) years or life long imprisonment.

### **Article 143**

#### **Organization and participation in a terrorist group**

1. Whoever organizes or directs a terrorist group shall be punished by a fine of up to five hundred thousand (500,000) EUR and by imprisonment of ten (10) to twenty (20) years.

2. Whoever participates in the activities of a terrorist group shall be punished by imprisonment of five (5) to ten (10) years.

The Criminal Code of Kosovo regulated the criminal offence in the following articles:

#### **Definition of Terrorism**

##### **Article 109**

For the purposes of Articles 110 – 113 of the present Code:

(1) The term “terrorism” means the commission of one or more of the following offences with an intent to seriously intimidate a population, to unduly compel a public entity, government or international organization to do or abstain from doing any act, or to seriously destabilise or destroy the fundamental political, economic or social structures of Kosovo, a country or an international organization:

- 1) Murder;
- 2) Grievous bodily harm;
- 3) Hostage-taking;
- 4) Kidnapping;
- 5) Unlawful deprivation of liberty;
- 6) Pollution of drinking water or food products;
- 7) Causing general danger;
- 8) Destroying, damaging or removing public installations;
- 9) Unauthorised supply, transport, production, exchange or sale of weapons ;
- 10) Unauthorised ownership, control, possession or use of weapons;
- 11) Endangering internationally protected persons;
- 12) Endangering United Nations and associated personnel;
- 13) Hijacking aircraft;
- 14) Endangering civil aviation safety;
- 15) Endangering maritime navigation safety;
- 16) Endangering the safety of fixed platforms located on the continental shelf;
- 17) Unauthorised appropriation, use, transfer or disposal of nuclear materials; or
- 18) Threats to use or to commit theft or robbery of nuclear materials.

(2) The term “funds” shall include assets of any kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evincing title to or interest in such assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, and letters of credit;

(3) The term “material resources” shall include lodging, safe houses, false documentation or identification, financial services, facilities, personnel, means of transportation, communications equipment and other physical assets, except necessary medicine.

(4) The term “structured group” shall mean a group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure.

(5) The term “terrorist group” means a structured group of more than two persons, established over a period of time and acting in concert to commit terrorism.

(6) The term “support to a terrorist group” means recruiting members for a terrorist group, concealing the existence of a terrorist group or its members, obstructing the discovery or apprehension of a terrorist group or its members, or providing or collecting funds or other material resources with the intent, knowledge or reasonable grounds for belief that they will

be used, in whole or in part, by a terrorist group.

### **Commission of Terrorism**

#### **Article 110**

- (1) Whoever commits an act of terrorism shall be punished by imprisonment of ten to twenty years.
- (2) When the offence provided for in paragraph 1 of the present article results in serious bodily injury, the perpetrator shall be punished by imprisonment of at least fifteen years.
- (3) When the offence provided for in paragraph 1 of the present article results in death, the perpetrator shall be punished by imprisonment of at least fifteen years or by long-term imprisonment.

#### **Organization, Support and Participation in Terrorist Groups**

##### **Article 113**

- (1) Whoever organizes or directs a terrorist group shall be punished by a fine of up to 500.000 EUR and by imprisonment of seven to twenty years.
- (2) Whoever provides support to a terrorist group shall be punished by imprisonment of three to ten years.
- (3) Whoever actively participates in a terrorist group shall be punished by imprisonment of one to ten years.

#### **Criminal offences against J.S.**

#### **Unauthorised Supply, Transport, Production, Exchange or Sale of Weapons**

##### **Article 327**

- (1) Whoever, without authorisation, supplies, transports, produces, exchanges or sells weapons shall be punished by a fine of up to 7.500 EUR or by imprisonment of one to eight years.
- (2) When the offence provided for in paragraph 1 or 2 of the present article involves a large amount of weapons, the perpetrator shall be punished by imprisonment of one to ten years.
- (3) The weapons shall be confiscated.

#### **Unauthorised Ownership, Control, Possession or Use of Weapons**

##### **Article 328**

- (1) Whoever uses or brandishes a weapon in a threatening, intimidating or otherwise unauthorised manner or directs another person to do the same shall be punished by a fine of up to 10.000 EUR or by imprisonment of one to ten years.
- (2) Whoever owns, controls, possesses or uses a weapon without a valid Weapon Authorisation Card for that weapon shall be punished by a fine of up to 7.500 EUR or by imprisonment of one to eight years.
- (3) When the offence provided for in paragraph 2 of the present Article involves a large amount of weapons, the perpetrator shall be punished by imprisonment of one to ten years.

##### **Article 372**

#### **Unauthorised import, export, supply, transport, production, exchange, brokering or sale of weapons or explosive materials**

1. Whoever, in violation of the applicable law relating to weapons or explosive materials imports, exports, buys, supplies, transports, produces, exchanges, brokers or sells weapons or explosive materials shall be punished by a fine of up to seven thousand and five hundred (7,500) EUR and by imprisonment of one (1) to eight (8) years.
2. When the offense provided for in paragraph 1 of this Article involves more than four (4) weapons, more than four (4) explosive materials or more than four hundred (400) bullets, the perpetrator shall be punished by a fine and imprisonment of one (1) to ten (10) years.
3. For the purposes of this Article, “production” of weapons includes conversion or modification of any object to make a weapon or of any weapon into a different type of weapon, or the deactivation or reactivation of any weapon.
4. The weapons, the means for transporting weapons and the means for the production of weapons shall be confiscated.

## **Article 375**

### **Use of weapon or dangerous instrument**

1. Whoever uses a weapon or explosive in violation of the applicable law relating to such weapon or explosive shall be punished by imprisonment of one (1) to eight (8) years.
2. Whoever uses a weapon or a dangerous instrument in a threatening or intimidating manner shall be punished by a fine of up to ten thousand (10,000) EUR and by imprisonment of one (1) to ten (10) years.
3. The weapon or dangerous instrument used in violation of this Article shall be confiscated.

### **Commission of terrorism**

Collation of both criminal codes regarding criminal offence of commission of terrorism leads to the conclusion that new criminal code is more favourable to the defendants as the punishment varies from not less than 5 year till no more than 25 years (article 45) whereas the previous criminal code provides punishment of 10 years to 20 years. Considering all the circumstances of the case in particular involvement of the defendants in the terrorist organization, the number of criminal attacks and prospective further actions, this panel came to the conclusion that regarding all defendants, punishment should be imposed starting from more lenient legal qualification namely 5 years instead 10 years.

### **Organization of a terrorist group**

In case of criminal offence of organization of the terrorist group that applies exclusively to V.J. collation of both criminal legislations leads that previous criminal code was favourable to this defendant. Leaving aside fine that in both cases is the same – up to 500. 000 Euro, the imprisonment is different and in in case of old code it starts from 7 to 20 years whereas the new code stipulates the punishment of 10 to 20 years. The panel again was of the opinion that involvement of V.J. in the organization of the terrorist group, his personal circumstances, all mitigating and aggravating circumstances should result in punishment of 9 years.

### **Participation in the terrorist group**

Considering the criminal offence of participation in the terrorist group in comparison with new criminal code that provides imprisonment of 5 to 10 years, the old criminal code treats more favourably as the punishment starts with 1 year and ends up with maximum punishment of 10 years. Considering all the circumstances of the case in particular involvement of the defendants in the terrorist organization, the number of criminal attacks and prospective further actions, this panel came to the conclusion that regarding all defendants, punishment should be imposed starting from more lenient legal qualification namely 1 year instead 5 years, so the old criminal code prevails.

### **Unauthorised supply and sale of weapons**

Considering this criminal offence, the panel came to the conclusion that legal provisions of an old criminal code were more favourable to the defendant J.S. The Article 327 of the old criminal code reads that for this criminal offence, culprit shall be sentenced by a fine of up to 7.500 Euro or by punishment of 1 to 8 years, whereas the new criminal code for the same criminal offence in article 372 provides the punishment of a fine up to 7.500 Euro and imprisonment of 1 to 8 years. Collation of these two provisions leads to the conclusion that the previous criminal code is more favourable to the defendant as the court is given the alternative of a fine or imprisonment, while new criminal code seems only one option; a fine

and imprisonment. In that case, the panel considered the old criminal code as legal basis for sentencing this defendant.

### **Use of weapons**

From the evidence it emerges that J.S. committed the criminal offence of use of weapons on an undetermined date prior or equal to 3 January 2013. Considering the doubts as to when exactly the criminal offence took place, the panel decided to resolve the doubts to the benefit of the defendant J.S. and applied provision of Article 375 of the new code.

### **Law on amnesty**

It has to be noted, that the prosecutor applying law on amnesty (Law NO.04/L-209) dropped the following charges against

- V.J., the count of unauthorised, control and possession of weapons
- S.J., the count of unauthorised, control and possession of weapons
- Q.R., the count of unauthorised, control and possession of weapons
- J.S., the counts 1,2 and 5 of unauthorised, control and possession of weapons

Consequently, the panel decided to reject the charges in conformity with Article 363 1.1 of the CPC. Contrary to submission presented by the defence, this panel came to the opinion that the Law on Amnesty under no circumstance had an impact on criminal responsibility as far as criminal offence of commission of terrorism is concerned. It has to be strongly underlined that the Law on Amnesty precisely lists the criminal offences that are subject to amnesty and in no paragraph it is mentioned that commission of terrorism is amnestied.

Moreover, the fact that certain criminal offence is amnestied does not mean that it was not committed at all or de-penalised it in the meaning it is no longer a criminal offence and no longer prosecuted. The bottom line is that amnestied criminal offence remains in the criminal legislature, but for different reasons they are not prosecuted. On top of that, the panel notes that it completely escaped the attention of the defence, that according to the legal definition of terrorism, this criminal act is committed with special intention namely to seriously intimidate the population, to unduly compel a public entity or international organization to do or to abstain from doing any act or to seriously destabilize or destroy the fundamental, political or social structure of Kosovo, a country (different than Kosovo - emphasis added) or an international organization. Commission of criminal offences enumerated in Article 109 is only a way, a means to obtain the goals. During the trial it was proved beyond any reasonable doubts that all defendants established clear goals and exercised forms of terror to put it into operation.

The panel thoroughly examined all evidence collected in this case and came to the conclusion that the defendants committed the following criminal offences:

The defendant V.J. is

## **FOUND GUILTY**

of count 1, COMMISSION OF TERRORISM, contrary to Article 109 paragraph 1.10, 110 paragraph 1 of the Criminal Code of Kosovo (CCK), currently criminalized by Article 135 paragraph 1.10 and 136 paragraph 1 of the Criminal Code of the Republic of Kosovo (CCRK) because it was proven beyond a reasonable doubt that the defendant, in co-



perpetration with other participants in a self-styled terrorist group known as “MOF”, with the intent to unduly compel the Government of the Republic of Serbia to cease its policing activities in the Bujanovac region, unduly compel members of the Serbian Police forces of Albanian nationality to leave their work place, and unduly compel the “international community” to deploy peacekeeping forces in the region,

1. took part in an attack which damaged the Serbian Border Police container located in Bujanovac and caused light bodily injuries to the Serbian police officer B.M., by firing with different weapons, all illegally possessed and used, an undetermined number of various calibre rounds (in any case superior to 100), in co-perpetration with G.Xh. and E.M.; The attack took place in Dobrosin (Gjilan/Gnjilane municipality), on 28 June 2012 at around 04.00 hrs,
2. he illegally possessed and controlled an undetermined number of weapons (including assault rifles, machine guns and rocket launchers) which were at the disposal of the terrorist group “MOF”, in co-perpetration with G.Xh., G.L., S.J., A.Z., E.M., S.S., M.A., Q.R. in an unspecified location, starting at the latest from April 2012 and until 1 July 2012.

The defendant V.J. is also found guilty of count 2, ORGANIZATION OF A TERRORIST GROUP, contrary to Article 113 paragraph 1 of the CCK, currently criminalized by Article 143 paragraph 1 of the CCRK, because it was proven beyond a reasonable doubt that the defendant organized and directed a self-styled terrorist group known as “MOF”, by procuring armaments, uniforms and other means needed for the activities of the group, deciding what activities are to be carried out by the group, deciding when, where and by whom such activities are to be carried out, personally taking part in at least one of the attacks carried out by the group, described above, laying out the political objectives of the group, including by dictating claims of responsibility for attacks carried out by the group. The activities took place in an unspecified location, starting at the latest from April 2012 and until 1 July 2012.

The defendant S.J. is

### **FOUND GUILTY**

of count 1, COMMISSION OF TERRORISM, contrary to Article 109 paragraph 1.10, 110 paragraph 1 of the Criminal Code of Kosovo (CCK), currently criminalized by Articles paragraph 1.10 and 136 paragraph 1 of the Criminal Code of the Republic of Kosovo (CCRK) because it was proven beyond a reasonable doubt that the defendant, in co-perpetration with other participants in a self-styled terrorist group known as “MOF”, with the intent to unduly compel the Government of the Republic of Serbia to cease its policing activities in the Bujanovac region, unduly compel members of the Serbian Police forces of Albanian nationality to leave their work place and unduly compel the “international community” to deploy peacekeeping forces in the region, took part in an attack which damaged the Serbian Border Police container located in Bujanovac, by firing with different weapons, all illegally possessed and used, an undetermined number of various calibre rounds, in co-perpetration with E.M. and with an unidentified number of additional perpetrators. The

attack took place in Dobrosin (Gjilan/Gnjilane municipality), on 7 October 2012 at around 21.35 hrs and because he illegally possessed and controlled an undetermined number of weapons (including assault rifles, machine guns and rocket launchers) which are at the disposal of the terrorist group “MOF”, in co-perpetration with V.J., E.M., G.L., A.Z., G.Xh., S.S., M.A., Q.R. in an unspecified location, starting at the latest from April 2012 and until 16 October 2012.

The defendant S.J. is also found guilty of count 2, PARTICIPATION IN A TERRORIST GROUP, contrary to Art. 113 paragraph 3 of the CCK, currently criminalized by Article 143 paragraph 2 of the CCRK, because it was proven beyond a reasonable doubt that the defendant, in co-perpetration with V.J., E.M., G.L., A.Z., G.Xh., S.S., M.A., Q.R., actively participated in a self-styled terrorist group known as “MOF”, by drafting claims of responsibilities, looking for armaments, committing the criminal offences described above, and otherwise putting himself at the disposal of the terrorist group for its activities. The activities took place in an unspecified location of Kosovo, starting at the latest from April 2012 and until 16 October 2012.

The defendant G.L. is

### **FOUND GUILTY**

of count 1, COMMISSION OF TERRORISM, contrary to Article 109 paragraph 1.10, 110 paragraph 1 of the Criminal Code of Kosovo (CCK), currently criminalized by Articles 135 paragraph 1.10 and 136 paragraph 1 of the Criminal Code of the Republic of Kosovo (CCRK) because it was proven beyond a reasonable doubt that the defendant in co-perpetration with other participants in a self-styled terrorist group known as “MOF”, with the intent to unduly compel the Government of the Republic of Serbia to cease its policing activities in the Bujanovac region, unduly compel members of the Serbian Police forces of Albanian nationality to leave their work place and unduly compel the “international community” to deploy peacekeeping forces in the region, illegally possessed and controlled an undetermined number of weapons (including assault rifles, machine guns and rocket launchers) which are at the disposal of the terrorist group “MOF”, in co-perpetration with V.J., S.J., A.Z., Q.R., G.Xh., M.A., E.M., S.S. in an unspecified location, starting at the latest from April 2012 and until 13 February 2013.

The defendant G.L. is also found guilty of count 2, PARTICIPATION IN A TERRORIST GROUP, contrary to Art. 113 paragraph 3 of the CCK, currently criminalized by Article 143 paragraph 2 of the CCRK, because it was proven beyond a reasonable doubt that the defendant, in co-perpetration with V.J., S.J., A.Z., Q.R., G.Xh., M.A., E.M., S.S., actively participated in a self-styled terrorist group known as “MOF” which committed the attacks on Serbian Police installations on 17 May, 28 June, and 7 October 2012, by putting himself at the disposal of the terrorist group for its activities and by committing the criminal offences described above in an unspecified location, starting at the latest from April 2012 and until 13 February 2013.

The defendant **G.Xh.** is

### **FOUND GUILTY**

of count 1, COMMISSION OF TERRORISM, contrary to Article 109 paragraph 1 n. 10, 110 paragraph 1 of the Criminal Code of Kosovo (CCK), currently criminalized by Articles 135(1.10) and 136(1) of the Criminal Code of the Republic of Kosovo (CCRK) because it was proven beyond a reasonable doubt that the defendant, in co-perpetration with other participants in a self-styled terrorist group known as “MOF”, with the intent to unduly compel the Government of the Republic of Serbia to cease its policing activities in the Bujanovac region, unduly compel members of the Serbian Police forces of Albanian nationality to leave their work place and unduly compel the “international community” to deploy peacekeeping forces in the region, took part in an attack which damaged the Serbian Border Police container located in Bujanovac and caused light bodily injuries to the Serbian police officer B.M., by firing with different weapons, all illegally possessed and used, an undetermined number of various calibre rounds (in any case superior to 100), in co-perpetration V.J. and E.M. in Dobrosin (Gjilan/Gnjilane municipality), on 28 June 2012 at around 04.00 hrs and because he illegally possessed and controlled an undetermined number of weapons (including assault rifles, machine guns and rocket launchers) which are at the disposal of the terrorist group “MOF”, in co-perpetration with V.J., S.J., G.L., A.Z., E.M., S.S., M.A., Q.R. in an unspecified location, starting at the latest from April 2012 and until 1 July 2012.

The defendant G.Xh. is also found guilty of count 2, PARTICIPATION IN A TERRORIST GROUP, contrary to Article 113 paragraph 3 of the CCK, currently criminalized by Article 143 paragraph 2 of the CCRK, because it was proven beyond a reasonable doubt that the defendant, in co-perpetration with V.J., S.J., G.L., A.Z., E.M., S.S., M.A., Q.R., actively participated in a terrorist group which refers to itself as “MOF”, by looking for armaments, committing the criminal offences described above, and otherwise putting himself at the disposal of the terrorist group for its activities in an unspecified location of Kosovo, starting at the latest from April 2012 and until 1 July 2012.

The defendant **Q.R.** is

### **FOUND GUILTY**

of count 1, COMMISSION OF TERRORISM, contrary to Article 109 paragraph 1.10, 110 paragraph 1 of the Criminal Code of Kosovo (CCK), currently criminalized by Articles 135 paragraph 1.10 and 136 paragraph 1 of the Criminal Code of the Republic of Kosovo (CCRK) because it was proven beyond a reasonable doubt that the defendant in co-perpetration with other participants in a self-styled terrorist group known as “MOF”, with the intent to unduly compel the Government of the Republic of Serbia to cease its policing activities in the Bujanovac region, unduly compel members of the Serbian Police forces of Albanian nationality to leave their work place; and unduly compel the “international community” to deploy peacekeeping forces in the region, illegally possessed and controlled

an undetermined number of weapons (including assault rifles, machine guns and rocket launchers) which are at the disposal of the terrorist group “MOF”, in co-perpetration with V.J., S.J., G.L., A.Z., G.Xh., M.A., E.M., S.S. in an unspecified location, starting at the latest from April 2012 and until 1 July 2012.

The defendant Q.R. is also found guilty of count 2, PARTICIPATION IN A TERRORIST GROUP, contrary to Art. 113(3) of the CCK, currently criminalized by Article 143(2) of the CCRK, because it was proven beyond a reasonable doubt by evidence that the defendant, in co-perpetration with V.J., S.J., G.L., A.Z., G.Xh., M.A., E.M., S.S., actively participated in a self-styled terrorist group known as “MOF” which committed the attacks on Serbian Police installations on 17 May, 28 June, and 7 October 2012 by putting himself at the disposal of the terrorist group for its activities and by committing the criminal offences described above in an unspecified location, starting at the latest from April 2012 and until 1 July 2012.

The defendant **M.A.** is

### **FOUND GUILTY**

of count 1, COMMISSION OF TERRORISM, contrary to Article 109 paragraph 1.10, 110 paragraph 1 of the Criminal Code of Kosovo (CCK), currently criminalized by Articles 135 paragraph 1.10 and 136 paragraph 1 of the Criminal Code of the Republic of Kosovo (CCRK) because it was proven beyond a reasonable doubt that the defendant in co-perpetration with other participants in a self-styled terrorist group known as “MOF”, with the intent to unduly compel the Government of the Republic of Serbia to cease its policing activities in the Bujanovac region, unduly compel members of the Serbian Police forces of Albanian nationality to leave their work place, and unduly compel the “international community” to deploy peacekeeping forces in the region, illegally possessed and controlled an undetermined number of weapons (including assault rifles, machine guns and rocket launchers) which are at the disposal of the terrorist group “MOF”, in co-perpetration with V.J., S.J., G.L., A.Z., G.Xh., S.S., E.M., Q.R. in an unspecified location, starting at the latest from April 2012 and until 1 July 2012.

The defendant M.A. is also found guilty of count 2, PARTICIPATION IN A TERRORIST GROUP, contrary to Art. 113 paragraph 3 of the CCK, currently criminalized by Article 143 paragraph 2 of the CCRK, because it was proven beyond a reasonable doubt by evidence that the defendant, in co-perpetration with V.J., S.J., G.L., A.Z., G.Xh., S.S., E.M. and Q.R., actively participated in a self-styled terrorist group known as “MOF” which inter alia committed the attacks on Serbian Police installations on 17 May, 28 June, and 7 October 2012 by putting himself at the disposal of the terrorist group for its activities and by committing the criminal offences described above in an unspecified location, starting at the latest from April 2012 and until 1 July 2012.

The defendant **S.S.** is

### **FOUND GUILTY**

of count 1, **COMMISSION OF TERRORISM**, contrary to Article 109 paragraph 1.10, 110 paragraph 1 of the Criminal Code of Kosovo (CCK), currently criminalized by Articles 135 paragraph 1.10 and 136 paragraph 1 of the Criminal Code of the Republic of Kosovo (CCRK) because it was proven beyond a reasonable doubt that the defendant in co-perpetration with other participants to a self-styled terrorist group known as “MOF”, with the intent to unduly compel the Government of the Republic of Serbia to cease its policing activities in the Bujanovac region, unduly compel members of the Serbian Police forces of Albanian nationality to leave their work place and unduly compel the “international community” to deploy peacekeeping forces in the region, illegally possessed and controlled an undetermined number of weapons (including assault rifles, machine guns and rocket launchers) which are at the disposal of the terrorist group “MOF”, in co-perpetration with V.J., S.J., G.L., A.Z., G.Xh., M.A., E.M., and Q.R. in an unspecified location, starting at the latest from April 2012 and until 16 October 2012.

The defendant S.S. is also found guilty of count 2, **PARTICIPATION IN A TERRORIST GROUP**, contrary to Art. 113 paragraph 3 of the CCK, currently criminalized by Article 143 paragraph 2 of the CCRK, because it was proven beyond a reasonable doubt by evidence that the defendant, in co-perpetration with V.J., S.J., G.L., A.Z., G.Xh., M.A., E.M. and Q.R., actively participated in a self-styled terrorist group known as “MOF” which committed the attacks on Serbian Police installations on 17 May, 28 June, and 7 October 2012, by putting himself at the disposal of the terrorist group for its activities and by committing the criminal offences described above in an unspecified of Kosovo location, starting at the latest from April 2012 and until 16 October 2012.

The defendant **E.M.** is

### **FOUND GUILTY**

of count 1, **COMMISSION OF TERRORISM**, contrary to Article 109 paragraph 1.10, 110 paragraph 1 of the Criminal Code of Kosovo (CCK), currently criminalized by Articles 135 paragraph 1.10 and 136 paragraph 1 of the Criminal Code of the Republic of Kosovo (CCRK) because it was proven beyond a reasonable doubt that the defendant, in co-perpetration with other participants in a self-styled terrorist group known as “MOF”, with the intent to unduly compel the Government of the Republic of Serbia to cease its policing activities in the Bujanovac region, unduly compel members of the Serbian Police forces of Albanian nationality to leave their work place and unduly compel the “international community” to deploy peacekeeping forces in the region, took part in an attack which damaged the Serbian Border Police container located in Bujanovac and caused light bodily injuries to the Serbian police officer B.M., by firing with different weapons, all illegally possessed and used, an undetermined number of various calibre rounds (in any case superior to 100), in co-perpetration V.J. and G.Xh. in Dobrosin (Gjilan/Gnjilane municipality), on 28

June 2012 at around 04.00 hrs; because he took part in an attack on the Serbian Border Police container located in Bujanovac, by firing with different weapons, all illegally possessed, an undetermined number of various calibre rounds; in co-perpetration with S.J. and with an unidentified number of additional perpetrators in Dobrosin (Gjilan/Gnjilane municipality), on 7 October 2012 at around 21.35 hrs and because he illegally possessed and controlled an undetermined number of weapons (including assault rifles, machine guns and rocket launchers) which are at the disposal of the terrorist group “MOF”, in co-perpetration with V.J., S.J., G.L., A.Z., G.Xh., S.S., M.A., and Q.R. in an unspecified location, starting at the latest from April 2012 and until 16 October 2012.

The defendant E.M. is also found guilty of count 2, PARTICIPATION IN A TERRORIST GROUP, contrary to Article 113 paragraph 3 of the CCK, currently criminalized by Article 143 paragraph 2 of the CCRK, because it was proven beyond a reasonable doubt by evidence that the defendant, in co-perpetration with V.J., S.J., G.L., A.Z., G.Xh., S.S., M.A., Q.R., actively participated in a terrorist group which refers to itself as “MOF”, *inter alia* by looking for armaments, putting himself at the disposal of the terrorist group for its activities and by committing the criminal offences described above in an unspecified location of Kosovo, starting at the latest from April 2012 and until 16 October 2012.

The defendant A.Z. is

### **FOUND GUILTY**

of count 1, COMMISSION OF TERRORISM, contrary to Article 109 paragraph 1.10, 110 paragraph 1 of the Criminal Code of Kosovo (CCK), currently criminalized by Articles 135 paragraph 1.10 and 136 paragraph 1 of the Criminal Code of the Republic of Kosovo (CCRK) because it was proven beyond a reasonable doubt that the defendant in co-perpetration with other participants in a self-styled terrorist group known as “MOF”, with the intent to unduly compel the Government of the Republic of Serbia to cease its policing activities in the Bujanovac region, unduly compel members of the Serbian Police forces of Albanian nationality to leave their work place and unduly compel the “international community” to deploy peacekeeping forces in the region, illegally possessed and controlled an undetermined number of weapons (including assault rifles, machine guns and rocket launchers) which are at the disposal of the terrorist group “MOF”, in co-perpetration with V.J., S.J., G.L., Q.R., G.Xh., M.A., E.M. and S.S. in an unspecified location, starting at the latest from April 2012 and until 17 October 2012.

The defendant A.Z. is also found guilty of count 2, PARTICIPATION IN A TERRORIST GROUP, contrary to Art. 113 paragraph 3 of the CCK, currently criminalized by Article 143 paragraph 2 of the CCRK, because it was proven beyond a reasonable doubt by evidence that the defendant, in co-perpetration with V.J., S.J., G.L., Q.R., G.Xh., M.A., E.M., S.S., actively participated in a self-styled terrorist group known as “MOF” (which *inter alia* committed the attacks on Serbian Police installations on 17 May, 28 June, and 7 October 2012) by putting himself at the disposal of the terrorist group for its activities and by committing the criminal offences described above in an unspecified location, starting at the latest from April 2012 and until 17 October 2012.

The defendant **J.S.** is

## **FOUND GUILTY**

of count 4, UNAUTHORISED SUPPLY AND SALE OF WEAPONS, foreseen and punished by Article 327 of the Criminal Code of Kosovo, currently criminalized by Article 372 of the CCRK because it was proven beyond a reasonable doubt by evidence that the defendant without authorization brokered and concluded a number of transactions for the sale of firearms of different caliber, including selling of the unspecified firearm mentioned under Count 3 above in an undetermined location, on 7 November 2012.

of count 6, USE OF WEAPON, foreseen and punished by Article 375 of the CCRK, because it was proven beyond a reasonable doubt by evidence that the defendant used and fired a weapon which he illegally possessed. In an undetermined location, on an undetermined date prior or equal to 3 January 2013.

### **Punishment**

The panel was guided by the provision of article 64 deciding about punishment of every defendant.

#### **General Rules on Calculating Punishments**

##### **Article 64**

(1) The court shall determine the punishment of a criminal offence within the limits provided for by law for such criminal offence, taking into consideration the purpose of punishment, all the circumstances that are relevant to the mitigation or aggravation of the punishment (mitigating and aggravating circumstances) and, in particular, the degree of criminal liability, the motives for committing the act, the intensity of danger or injury to the protected value, the circumstances in which the act was committed, the past conduct of the perpetrator, the entering of a guilty plea, the personal circumstances of the perpetrator and his or her behaviour after committing a criminal offence. The punishment shall be proportionate to the gravity of the offence and the conduct and circumstances of the offender.

(2) When determining the punishment for a recidivist, the court shall especially take into consideration whether he or she has previously committed a criminal offence of the same type as the new criminal offence, whether the two acts are committed for the same motives, and the period of time that has elapsed since the previous conviction was pronounced or since the punishment was served or waived.

(3) When determining the punishment of a fine, the court shall consider the material situation of the perpetrator, and, in particular, the amount of his or her personal income, other income, assets and obligations. The court shall not set the level of a fine above the means of the perpetrator.

### **V.J.**

Regarding this defendant, this panel considered the following

#### **Mitigating circumstances**

- Young age,
- No previous criminal record

### **Aggravating circumstances**

- Highly political approach and determination in achieving goals
- Disrespect to the rule of law, in the sense that he was ready to destroy or destabilize fragile political structure of Kosovo by starting military conflict between Kosovo and Republic of Serbia by launching guerrilla war.
- Exceptional and leading role he played in the group
- Taking part in the terrorist attack on Serbian Border Police in D. on 28 June 2012

On careful consideration and after evaluation of mitigating and aggravating circumstances, the panel came to the conclusion that the punishment that is proportionate to the gravity of the criminal offences is 6 years of imprisonment for commission of terrorism and 7 years imprisonment and a fine of 1000 Euro for organization of the terrorist group. The aggregate punishment of 9 years of imprisonment shall result that in the future he respects legal order.

### **S.J.**

Regarding this defendant, this panel considered the following

#### **Mitigating circumstances**

- Young age,
- No previous criminal record

#### **Aggravating circumstances**

- Highly political approach and determination in achieving goals
- Disrespect to the rule of law, in the sense that he was ready to destroy or destabilize fragile political structure of Kosovo by starting military conflict between Kosovo and Republic of Serbia by launching guerrilla war.
- Taking part in the terrorist attack on Serbian Border Police in D. on 7 October 2012
- Exceptional and leading role he played in the group.

After consideration of both mitigating and aggravating circumstances, the panel concluded that the proportionate punishment for the count of commission of terrorism is 6 years, for the criminal count of participation in a terrorist group 4 years and the aggregate punishment of 8 years.

### **G.L.**

Regarding this defendant, this panel considered the following

#### **Mitigating circumstances**

- Young age,
- No previous criminal record

#### **Aggravating circumstances**

- Highly political approach and determination in achieving goals



- Disrespect to the rule of law, in the sense that he was ready to destroy or destabilize fragile political structure of Kosovo by starting military conflict between Kosovo and Republic of Serbia by launching guerrilla war.

After consideration of both mitigating and aggravating circumstances, the panel concluded that the proportionate punishment for the count of commission of terrorism is 5 years, for the criminal count of participation in a terrorist group 2 years and the aggregate punishment of 5 years and 6 months.

#### **G.Xh.**

Regarding this defendant, this panel considered the following

##### **Mitigating circumstances**

- Young age,
- No previous criminal record

##### **Aggravating circumstances**

- Highly political approach and determination in achieving goals
- Disrespect to the rule of law, in the sense that he was ready to destroy or destabilize fragile political structure of Kosovo by starting military conflict between Kosovo and Republic of Serbia by launching guerrilla war.
- Taking part in the terrorist attack on Serbian Border Police in D. on 28 June 2012

After consideration of both mitigating and aggravating circumstances, the panel concluded that the proportionate punishment for the count of commission of terrorism is 6 years, for the criminal count of participation in a terrorist group 2 years and the aggregate punishment of 6 years and 6 months.

#### **Q.R.**

Regarding this defendant, this panel considered the following

##### **Mitigating circumstances**

- Young age,
- No previous criminal record

##### **Aggravating circumstances**

- Highly political approach and determination in achieving goals
- Disrespect to the rule of law, in the sense that he was ready to destroy or destabilize fragile political structure of Kosovo by starting military conflict between Kosovo and Republic of Serbia by launching guerrilla war.
- After consideration of both mitigating and aggravating circumstances, the panel concluded that the proportionate punishment for the count of commission of terrorism is 5 years, for the criminal count of participation in a terrorist group 2 years and the aggregate punishment of 5 years and 6 months.

## **M.A.**

Regarding this defendant, this panel considered the following

### **Mitigating circumstances**

- This defendant has a family
- No previous criminal record

### **Aggravating circumstances**

- Highly political approach and determination in achieving goals
- Disrespect to the rule of law, in the sense that he was ready to destroy or destabilize fragile political structure of Kosovo by starting military conflict between Kosovo and Republic of Serbia by launching guerrilla war.

After consideration of both mitigating and aggravating circumstances, the panel concluded that the proportionate punishment for the count of commission of terrorism is 5 years, for the criminal count of participation in a terrorist group 2 years and the aggregate punishment of 5 years and 6 months.

## **S.S.**

Regarding this defendant, this panel considered the following

### **Mitigating circumstances**

- Relatively young age
- No previous criminal record

### **Aggravating circumstances**

- Highly political approach and determination in achieving goals
- Disrespect to the rule of law, in the sense that he was ready to destroy or destabilize fragile political structure of Kosovo by starting military conflict between Kosovo and Republic of Serbia by launching guerrilla war.

After consideration of both mitigating and aggravating circumstances, the panel concluded that the proportionate punishment for the count of commission of terrorism is 5 years, for the criminal count of participation in a terrorist group 2 years and the aggregate punishment of 5 years and 6 months.

## **E.M.**

Regarding this defendant, this panel considered the following

### **Mitigating circumstances**

- Young age
- No previous criminal record

### **Aggravating circumstances**

- Highly political approach and determination in achieving goals
- Disrespect to the rule of law, in the sense that he was ready to destroy or destabilize fragile political structure of Kosovo by starting military conflict between Kosovo and Republic of Serbia by launching guerrilla war.
- Taking part in the terrorist attack on Serbian Border Police in D. on 28 June and 7 October 2012

After consideration of both mitigating and aggravating circumstances, the panel concluded that the proportionate punishment for the count of commission of terrorism is 6 years, for the criminal count of participation in a terrorist group 2 years and the aggregate punishment of 6 years and 6 months.

### **A.Z.**

Regarding this defendant, this panel considered the following

#### **Mitigating circumstances**

- Relatively young age
- No previous criminal record

#### **Aggravating circumstances**

- Highly political approach and determination in achieving goals
- Disrespect to the rule of law, in the sense that he was ready to destroy or destabilize fragile political structure of Kosovo by starting military conflict between Kosovo and Republic of Serbia by launching guerrilla war.

After consideration of both mitigating and aggravating circumstances, the panel concluded that the proportionate punishment for the count of commission of terrorism is 6 years, for the criminal count of participation in a terrorist group 2 years and the aggregate punishment of 6 years and 6 months.

### **J.S.**

Regarding this defendant, this panel considered the following

#### **Mitigating circumstances**

- Young age
- No previous criminal record

#### **Aggravating circumstances**

- Determination to achieve illegal income by selling lethal weapons
- Disrespect of human life considering that the weapons may be used to seriously harm people and deprive them of lives,

After consideration of both mitigating and aggravating circumstances, the panel concluded that the proportionate punishment for the count of unauthorised supply and sale of weapons is

2 years, for the criminal count of use of weapons 1 year and the aggregate punishment of 2 years and 2 months.

In the case of defendant J.S. did not consider that the aggregate punishment is to be suspended. Involvement of this defendant in procuring the terrorist organization clearly implies that if he will not serve the sentence the objective of the punishment will not be achieved.

#### **Calculation of time spent in detention on remand**

In case of all defendants, the panel decided to calculate the time they spent in detention on remand and to include it in the amount of the punishment. The legal provision is that respect is in line with Article 365 paragraph 1 sub-paragraph 5 of the KCCP.

#### **The costs of criminal proceeding**

The defendant shall be relieved of the duty to reimburse the costs of the criminal proceedings in accordance with Article 453 paragraph 4 of the KCCP. The panel took into consideration that they have to serve the sentences thus finding additional money to cover the costs of criminal proceedings would be very difficult and finally would have to be covered by their families.

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**Arkadiusz Sedek**

**EULEX Presiding Trial Judge**

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**Tobias Lapke**

**Recording Clerk, EULEX Legal Officer**

**LEGAL REMEDY:** Authorized persons may file an appeal in writing against this Judgment to the Appeal Court through the Basic Court of Gjilan/Gnjilane within fifteen (15) days from the date the copy of the Judgment has been received, pursuant to Article 380 (1) of the CPCR.