

BASIC COURT OF MITROVICË/MITROVICA

P. No. 134/2015

02.11.2015

IN THE NAME OF THE PEOPLE

THE BASIC COURT OF MITROVICË/MITROVICA

EULEX Judge Iva Niksic acting as the Single Trial Judge with the participation of EULEX Legal Officer Agron Kelmendi as the recording officer, in the criminal case against:

1. The defendant B. H., Father's name H., mother's N. K., born on _____, in _____, resides in _____, _____ with second address in _____ Street _____, _____, Kosovo _____ with Kosovan and _____ citizenship, married, father of adult children, with finished secondary school, worker with monthly income of 250-300 Euros,

charged

with having committed the criminal offence of 'Receiving Stolen Goods' contrary to Article 272 (1) read with Article 23 of the CCK,

the criminal offence of 'Receiving Stolen Goods' contrary to Article 272 (1) read with Article 23 of the CCK in co-perpetration with **E. M.**

and

the criminal offence of 'Damage to Movable Property' contrary to Article 260 (1) read with Article 23 of the CCK in co-perpetration with **A. I.**

2. The defendant E. M., Father's name F., mother's name A. D., born on _____ in _____ Municipality, and lives at '_____' Street no. __, _____ Municipality, Kosovo _____ with Kosovan citizenship, single without children, with finished primary school, worker, works in construction with average monthly income of 250 – 300 Euros,

charged

with having committed the criminal offence of ‘Receiving Stolen Goods’ contrary to Article 272 (1) read with Article 23 of the CCK in co-perpetration with **B. H.**

and

3. The defendant A. I., Father’ name D., mother’s name A. F., born on ____ ____, in ____ Municipality, resides in ____ Street ____ ____, Kosovo ____ with Kosovan citizenship, single, without children, with finished secondary school, car electrician with monthly income of around 300 Euros,

charged

with having committed the criminal offence of ‘Damage to Movable Property’ contrary to Article 260 (1) read with Article 23 of the CCK in co-perpetration **B. H;**

all of them charged through the Indictment PP No: 158/11 of the Special Prosecution Office of the Republic of Kosovo dated 18 June 2012, filed with the Court on 26 June 2012 as amended on 8 April 2014;

after having held the main trial hearings, open to the public, on 26 and 27 March, 15 and 16 April, 18 May in the case P. No. 11/2013 and the severance of the proceedings of the mentioned case in relation to named defendants (pursuant to Article 36, paragraph 1. of the Criminal Procedure Code of Kosovo -CPC), and having the proceedings against them separated and under new case number P. No. 134/2015 the main trial sessions having held on 7, 13, 22, 23 and 27 October 2015, in the presence of the EULEX Prosecutor, all the Defendants and their Defence Counsels;

pursuant to Articles 364. Paragraph 1., Subparagraph 1.3. and 365 of the CPCK, on 02. November 2015 in a public hearing and in the presence of the EULEX Prosecutor,

renders the following:

J U D G E M E N T

I. Defendant B. H. is

FOUND GUILTY

of the charge under count V. of the indictment, because it was proven that he committed the following action:

- While knowing that the vehicle __ __, black in colour, bearing plates no. __-__-__, of chassis number _____, owned by the Injured party E. J., has been stolen, he bought it during the period from 15th March 2011 to November 2011 from unidentified person(s) for a significantly cheaper price than its market value (market value) and during November 2011 brought it by driving it himself to **A. I.** to his workshop “__” in _____ street in _____, who following **B. H.**’s instructions dismantled it with the intention to mount some of its parts (interior ones in particular) onto another vehicle of the same make, bronze in colour, which had been previously set on fire by unidentified persons in the _____ of _____ region and which **B. H.** transported to **A. I.**’s workshop;

By this he committed the criminal offence of “Receiving Stolen Goods” contrary to Article 272 (1) of the Criminal Code of Kosovo (CCK) and therefore :

B. H. is sentenced to 10 (ten) months of imprisonment.

II. Defendant **B. H.** is hereby

FOUND GUILTY

of the charge under count VI. of the indictment, because it was proven that he committed the following action:

- While knowing that vehicle make __ __, black in colour, bearing _____ plates no. __-__-__, unregistered in Kosovo and of unclear status, has been stolen, according to the agreement with its holder **E. M.** who allegedly had bought it during October/November 2011 in _____ from an unknown person called ‘ _____’, took it over from him to arrange the repair of its electrical equipment and during November 2011 had it brought by **E. M.** from _____ to _____ municipality, he brought this vehicle to **A. I.**’s workshop ‘ _____’ in _____ street in _____, however the same day the Police came there and took the vehicle.

By this, in co-perpetration with E. M., he committed the criminal offence "Receiving Stolen Goods" contrary to Article 272 (1) read with Article 23 of the of the Criminal Code of Kosovo (CCK) and therefore:

- B. H. is sentenced to 10 (ten) months of imprisonment.

Pursuant to Article 71 Paragraph (1) and Paragraph (2) Subparagraph 2) of the CCK for both of the criminal offences attributed to B. H. and having taken into account the individual punishments imposed for those offences he is hereby sentenced to **aggregate punishment of 1 (one) year and 6 (six) months,**

but, in accordance with Article 43 Paragraph (1) and Article 44 Paragraph (2) of the CCK, **this punishment shall not be executed if the convicted B. H. does not commit another criminal offense for a verification period of 3 (three) years.**

Pursuant to Article 73 Paragraph (1) of the CCK the time of being in detention on remand and during the deprivation of liberty in relation to **defendant B. H., respectively from 14.12.2011 until 06.04.2012** shall be included in the punishment of imprisonment in the case of revocation of the suspended sentence and execution of the punishment.

III. Defendant E. M. is hereby

FOUND GUILTY

of the charge under count VI. of the indictment, because it was proven that he committed the following action:

- While knowing that vehicle make __ __ __ __, black in colour, bearing _____ plates no. __ - __ - __, unregistered in Kosovo and of unclear status, has been stolen, had bought it during October/November 2011 in _____ from an unknown person called ' _____', and according to the agreement with B. H., during November 2011. he handed it over to him in _____ municipality to arrange the repair of its electrical equipment by A. I. in his workshop ' _____' in _____ street in _____, however the same day when B. H. brought it to A. I.'s workshop the Police came there and took the vehicle.

By this in co-perpetration with **B. H.** he committed the criminal offence “Receiving Stolen Goods” contrary to Article 272 (1) read with Article 23 of the of the Criminal Code of Kosovo (CCK) and therefore:

- **E. M. is sentenced to 10 (ten) months of imprisonment,**

but, in accordance with Article 43 Paragraph (1) and Article 44 Paragraph (2) of the CCK, **this punishment shall not be executed if the convicted E. M. does not commit another criminal offense for a verification period of 2 (two) years.**

Pursuant to Article 73 Paragraph (1) of the PCCK the time of being in detention on remand and during the deprivation of liberty in relation to **defendant E. M., respectively from 15.12.2011 until 21.03.2012** shall be included in the punishment of imprisonment in the case of revocation of the suspended sentence and execution of the punishment.

IV. Pursuant to Article 364 Item 1.3) of **Criminal Procedure Code (CPC)** Defendants **A. I.** and **B. H.** are hereby

ACQUITTED

of the charge described under count VII. of the indictment, because it was not proven that they committed the following action:

- While knowing that vehicle make __ __, black in colour, bearing plates no. __-__-__, of chassis number _____ (see Count 5) bought by **B.H.**, during the period from 15th March 2011 to November 2011 from unidentified person(s) for a significantly cheaper price that was its market one (market value), is owned by another person, during November 2011 **B. H.** brought it by driving it himself to **A.I.** to his workshop “__ __” in __ __ street in __ __, with the intention to make it unusable by cutting it (dismantling) into pieces, what **A.I.** according to their agreement did, with the intention to sell it as spare parts but on 14th December 2011 he was caught there by the Police.

- And by this in co-perpetration committed the criminal offence Damage to Movable Property contrary to Article 260 (1) read with Article 23 of the CCK.

The defendant **A. I.** is eligible for compensation in accordance with Article 529, Paragraph 1. of the CPC for the time having been detained in detention on remand.

V. Pursuant to Article 463 Paragraph (2) of the CPC, the injured party **E. J.** is invited to seek any compensation claim in relation to this case through the civil courts.

VI. Pursuant to Article 451, Paragraph (1) and Article 453, Paragraphs (1) and (4) of the CPC, the defendant **B. H.** shall pay 500,00 (five hundred) Euro as part of the costs of criminal proceeding, but is relieved of the duty to reimburse the remaining costs. Defendant **E. M.** shall shall pay 200,00 (two hundred) Euro as part of the costs of criminal proceeding, but is relieved of the duty to reimburse the remaining costs.

The Defendants must reimburse the ordered sum no later than 30 days from the day this Judgment is final.

VII. Pursuant to Article 454 Paragraph (1) of the CPC, in relation to the Defendant **A. I.**, the costs of criminal proceedings under Article 450 Paragraph (2) Items 1-5) of the CPC, his necessary expenses and the remuneration and necessary expenditures of his Defense Counsel, shall be paid from budget resources.

Basic Court of Mitrovicë/a

Legal Officer
Agron Kelmendi

Single Trial Judge
Iva Niksic

LEGAL REMEDY: The parties in this case have 15 days from service of this judgment to appeal in accordance with Articles 380(1) and 381(1) of the CPC. Any appeal must be filed with the Court of first instance under Article 388(1) of the CPC.