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Anti-Corruption

WEEK

3-9 DECEMBER 2017

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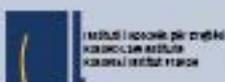
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ABOUT KLI

Kosovo Law Institute (KLI), is non-governmental organization and non-profit of public policy, and specialized ideal in the justice sector.

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I. Executive summary

The "Pronto" interception affair, through which is proven an illegal activity, is still in the phase of investigations by the team of three prosecutors of the Special Prosecution of the Republic of Kosovo, Ms. Drita Hajdari, Mrs. Lulezim Sylejmani and Mr. Elez Blakaj. The incriminating elements of the protagonists of the pronto affair are clear to the public, but the actions of this team of prosecutors who started the investigation in August 2016 have not yet provided the expected results in public.

Investigations according to the State Prosecutor's public announcement have begun against Adem Grabovci, and later have been extended to several other protagonists of the interception.

The Pronto affair is one of the biggest cases involving senior state officials. According to state policies, policies of the Kosovo Prosecutorial Council and Chief State Prosecutor, these cases should be treated with absolute priority. Such a thing in this case is proving it is not happening.

Pronto interception affair does not appear to be in the top 50 cases of truffle, which are treated with absolute priority and are selected by the Chief Prosecutor of the Special Prosecution of the Republic of Kosovo. There is no Pronto interception affair in the top ticker case list. This proves not seriousness of the prosecutorial system to make the selection of cases to be investigated, prosecuted and adjudicated. The Pronto affair belongs to a high political profile and, incidentally, it turns out that it is not included in these top cases.

This interception affair was published in the media and it is not known whether the Prosecution has provided interception materials from media or by EULEX. There has been much discussion in the public about the legality of the investigations in this case, but the prosecution team has continued investigations, questioning different parties and extending investigations. Since the public was informed of the content of the illegal activities of the Pronto interception stakeholders and that more than one year has passed since the investigations have started, public expectations are great for this case to be treated with absolute priority.

II. Case description

In 2011, EULEX had under interception the former Deputy Minister of Infrastructure and Telecommunication, Adem Grabovci. The EULEX mission did not find any incriminating elements of Grabovci and had closed investigations against him. However, the interception materials had never been disposed of in accordance with the legal provisions. These materials had begun to flow into the media. Some interceptions = between Adem Grabovci and Hashim Thaci were immediately publicized in 2012, in which content was more insulted by individuals from politics and others by the protagonists of the interception.

A larger number of pronto interception affair began to be published in 2016.¹ Through the content of these phone interceptions, there is evidence of an illegal activity of the protagonists who had made numerous bargains with different public positions.

Following the announcement of the "Chief's File" series, Chief State Prosecutor Aleksander Lumezi, on August 3, 2016, had invited the media at the conference to notify the prosecution's position on this case.² "The level of evidence, which was subject to assessment by the international prosecutor, according to him, was not enough to raise charges. Now, those evidence cannot be re-evaluated as sufficient grounds for raising charges because they violate the principle of security.

New evidence needed to reopen the investigation, which was not subject to assessment by the international prosecutor, "said Chief Prosecutor Lumezi. Further, Lumezi had said they still did not have all the proper data so it may be premature to give comments on the case, but has ensured that it will act in accordance with the law and the case will deal with maximum dedication and professionalism, as long as they will have the legal opportunity to act.

After 23 days, respectively on 26 August 2016, the Special Prosecution Office of the Republic of Kosovo has established the team of three prosecutors of this Prosecution Office with the leader Mrs. Drita Hajdari, Mr. Lulezim Sylejmani and Mr. Elez Blakaj and made a decision to initiate investigations regarding two criminal offenses against Adem Grabovci, deputy and former Head of the Parliamentary Group of the Democratic Party of Kosovo (PDK) in the Assembly of the Republic of Kosovo.

According to the Prosecution, "there is a reasonable suspicion that Defendant Adem Grabovci, as an official person, deputy and PDK parliamentary group chairman, during 2011 and beyond, has used his official duty and authority to secure political power and influence on the decision-making process within the institutions, government agencies and public enterprises of the Republic of Kosovo.

According to the State Prosecutor's current knowledge, Grabovci, intending to benefit for himself or other persons, intentionally violated the laws and procedures of employment and selection of directors and members of management bodies of public enterprises, independent agencies and other institutions, thus securing illegal employment for a certain number of persons.

Based on these actions of Grabovci, the Special Prosecution has established a reasonable suspicion that he has committed the following criminal offense: Abuse of official position or authority, under Article 422 of the Criminal Code of the Republic of Kosovo, in relation with Article 81 of this Code. He is suspected to have committed this offense in co-perpetration with other persons, unidentified so far.

¹ The Online Newspaper Insajderi has published a series of interceptions in which the protagonist was Adem Grabovci. The interception series is titled "Dossier of the Chiefs".

² "Speech of Chief State Prosecutor Aleksander Lumezi at a press conference". 3 August 2016. (Last seen on February 26, 2017 <http://www.psh-ks.net/sq/lajme/fjalimi-i-kryeprokurorit-te-shtetit-aleksander-lumezi-ne-konference-per-media>)

The Special Prosecution of the Republic of Kosovo also has a reasonable doubt that Grabovci, by the actions described above, in 2011 illegally denied and restricted the freedoms and rights of the other citizens of the country for employment and in contradiction with the Constitution of the Republic of Kosovo and other positive laws has given priority to favored persons on the basis of their political affiliation during employment in public institutions of the Republic of Kosovo. This has discriminated against the employment rights of other citizens on the basis of equal conditions, which are foreseen by law.

Grabovci is also suspected to have committed the criminal offense of co-perpetration: Violation of the equal status of citizens and residents of the Republic of Kosovo "from Article 193 paragraph 4, related to paragraph 1 of the Criminal Code of the Republic of Kosovo, 31 and 81 of this Code.

The prosecution's decision to initiate the investigation was based on the announcements of the interception of Grabovci's phone conversations, "Insajderi" online newspaper, as well as on some evidence received by EULEX, which based on the court order were conducted during the development of another investigation against him by EULEX prosecutor. The investigation against Adem Grabovci is an initial investigation and depending on the result, prosecution will include all other persons, who will prove to have collaborated with the defendant Grabovci"³

Further, through a media announcement,⁴ the Prosecution has announced that it has extended its investigations in the interception affair pronto 2 against seven other officials: Arbenita Pajaziti, former Chief of Supply Unit at the Department of Pharmacy at the Ministry of Health, Ilhami Gashi, former Secretary General of the Ministry of Internal Affairs, Besim Beqaj, former Minister of the Ministry of Economic Development, Nijazi Kryeziu, former Chairperson of the Assembly in Prizren Municipality, Zenun Pajaziti, deputy of Kosovo Parliament, Fatmir Shurdhaj, former - deputy minister at the Ministry of Labor and Social Welfare, and Sedat Gashi, former political advisor at the Ministry of Internal Affairs.

All defendants are suspected of committing two criminal offenses: Abuse of official position or authority by Article 422 of the CCRK and Violation of the Equal Status of Citizens and Residents of the Republic of Kosovo under Article 193 paragraph 4 related with paragraph 1 of the CCRK.

The incriminating elements of the protagonists of the pronto affair are clear to the public, but the actions of this team of prosecutors who started the investigation in August 2016 have not yet yielded the expected results in public. Pronto affair is one of the biggest cases involving high state officials and should have been handled with top priority as a result of state policies,

³ "The Special Prosecution of the Republic of Kosovo has taken the decision to initiate investigations regarding two criminal offenses against Adem Grabovci, deputy in the Assembly of the Republic of Kosovo". 26 August 2016. (Last seen on 26.11.2017 <http://www.psh-ks.net/sq/lajme/prokuroria-speciale-e-republikes-se-kosoves-kamarr-vendim-per-initiation-of-investigations-associated-with-two-offenses-criminal-counter-adem-grabovecit-deputy-in-the-parliament-of-republic-of-kosovo>)

⁴ "The prosecution extends investigations in Pronto 2 affair - including Zenun Pajaziti, Besim Beqaj and 5 others. October 4, 2016. (Last seen on 26.11.2017 <http://archive.koha.net/?id=&l=135828>)

policies of the Kosovo Prosecutorial Council and Chief State Prosecutor, but that such a thing it is not happening.

III. Concrete findings

- The "Pronto" interception affair, through which is proven an illegal activity, is still in the phase of investigations by the team of three prosecutors of the Special Prosecution of the Republic of Kosovo, Mrs. Drita Hajdari, Mr. Lulezim Sylejmani and Mr. Elez Blakaj. The incriminating elements of the protagonists of the ready affair are clear to the public, but the actions of this team of prosecutors who started the investigation in August 2016 have not yet yielded the expected results in public.
- The Pronto affair is one of the biggest cases involving high state officials. According to state policies, policies of the Kosovo Prosecutorial Council and Chief State Prosecutor, these cases should be treated with absolute priority. Such a thing in this case is proving it is not happening.
- Pronto affair does not turn out to be top 50 targeted cases, which are treated with absolute priority and are selected by the Chief Prosecutor of the Special Prosecution Office of the Republic of Kosovo. In the top list of targeted cases, pronto interception affair does not appear. This proves not seriousness of the prosecutorial system to make the selection of cases to be investigated, prosecuted and adjudicated. The Pronto affair belongs to a high political profile and, incidentally, it turns out that it is not included in these top cases.
- This interception affair was published in the media and it is not known whether the Prosecution has provided interception materials by media or by EULEX. There has been much discussion in the public about the legality of the investigations in this case, but the prosecution team has continued investigations, questioning different parties and extending investigations. Since the public was informed of the content of the illegal activities of the Pronto interception stakeholders and that more than one year has passed since the investigations have started, public expectations are great for this case to be treated with absolute priority.

IV. Public questions

- Interceptions in the Pronto affair after media publication, have been provided by the media or by EULEX?
- Why the Pronto interception affair was not included in the top cases of truara signs?
- Why the Pronto interception affair as one of the biggest cases was not handled with top priority by SPRK?
- When will it end the case of Pronto interception affair?