



# FAILURES IN TARGETED CASES

ANALYTICAL REPORT BASED ON THE SYSTEMATIC MONITORING  
OF ALL TARGETED CASES FOR VISA LIBERALIZATION  
(JANUARY 2015 – MAY 2019)



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## ABOUT KLI

KLI, Kosovo Law Institute, is a non-governmental and non-profit organization of public policy, a think tank specialized in the justice sector.

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## II. Executive summary

Criminal justice in Kosovo since 1999 has gone through a variation of legislative and institutional reforms, with particular emphasis on the fight against organized crime, corruption and requests for sequestration and confiscation of property acquired unlawfully. While from 1999 to 2014, the main role in achieving results in the fight against organized crime and corruption has been played by the international mechanisms such as UNMIK and EULEX, since 2014, these competences have started to be transferred to local authorities with a special emphasis to prosecutors in the Special Prosecution of the Republic of Kosovo in terms of prosecution and to local judges in terms of adjudicating such cases.

The transfer of competencies to local authorities meant also being responsible to draft policies in this field. In this regard, on July 2014, the KPC adopted “*Standard Operating Procedures (SOPs) for the Selection of Serious Crimes Targets and Inter-institutional Cooperation*”. Through them, the institutions implementing the law in Kosovo aimed at preventing, detecting, investigating and adjudicating perpetrators of the most serious criminal offences, having in mind the final purpose – sequestration and confiscation of property acquired through criminal offences. One year after the KPC, on December 30, 2015, the KJC issued a decision obliging court presidents and other judges that all cases coming from the prosecution that have the “LV” sign [Visa Liberalization] to be handled with absolute priority.

From December 2014 to June 2019, 51 cases were targeted, involving a total of 372 individuals. Of these, 36 cases belong to corruption offences, involving 206 individuals, while 15 other cases involving 166 individuals belong to organized crime offences. The first targeted case was the indictment against the President of the PRB, the case “Hysni Hoxha and others” filed on December 4, 2014, whereas the last targeted case is the “Veterans” indictment filed on December 7, 2018.

Based on KLI’s analysis, it turns out that the Targeting Mechanism of serious crimes visa liberalization cases has repeatedly violated the criteria set out in *Standard Operating Procedures* while targeting cases. Many targeted cases do not meet SOP’s criteria, while many others that meet the targeting criteria are in fact not targeted.

The most representative cases that prove that the State Prosecutor targets cases just to increase the number of targeted cases and not fulfil the objective regarding which the targeting mechanism was established, are cases like “Lawyer 2”, where the accused was a municipal official and the value of the damage caused to the municipality of Gjakova was a property with a surface of 16 are. In this case, the municipal lawyer was acquitted of two corruption offences, while for another corruptive offence was sentenced by a punishment of a fine in the amount of 2,000 euros. In this report are included many similar cases, which have been identified and explained in detail.

While the State Prosecutor’s attention is focused on cases that do not match the purpose of SOPs, this institution has ignored cases that fall within serious crime offences and where the damage caused to the budget of Republic of Kosovo or its citizens exceeds the value of tens

or hundreds of millions of euros and where the possibility to sequester and confiscate such property acquired through criminal activity is very large.

Distinctive is the fact that the State Prosecutor in the course of targeting serious cases, has amnestied high profile individuals who come from politics or have strong political relations, even though they are accused for organized crime offences, corruption, fraud, etc. Among the most representative cases that meet the SOP's criteria but are not targeted, are cases such as "Toka", "Ukë Rugova and others", "Qemajl Mustafa and others", "Pal Lekaj and others", "Pronto", etc.

Out of 51 targeted cases, there are 38 indictments, eight (8) cases are under investigation, in four (4) cases the investigations have been terminated, whereas in one (1) case the investigations have been suspended.

Even though targeting cases aimed at addressing these cases with priority, KLI's monitoring and research process indicates that in over 90% of the targeted cases the judges are in violation of the legal – time limits provided by the Criminal Procedure Code of Kosovo. Inefficiencies in handling these cases are shown by their handling from December 2015 until the end of April 2019, in which period, only 39% of cases, or 15 cases have been completed with a final judgment, while 61% or 23 other cases are still ongoing at various judicial levels.

Out of 23 ongoing cases, ten (10) are being handled by the first instance, nine (9) of them have been completed in the first instance but are ongoing in the appellate procedure, while four (4) other cases are returned for retrial.

Another feature in dealing with these cases is the fact that most of the targeted cases are failing to end with judgements of conviction and confiscation of property. Of the 15 cases completed by a final judgement, involving 48 accused individuals, 34 or 71% of them were acquitted by the courts, while 14 individuals or 29% of them were convicted. The punishment policy against these 14 individuals is not adequate and it does not achieve the purpose of punishment. Nine of the accused were sentenced to effective imprisonment, while 5 of the accused were sentenced with a fine.

An inadequate punishment policy is also noted in the cases adjudicated in the first instance court, that are still ongoing in the appellate procedure. In these cases, where 76 accused individuals are involved, it results that the judges have convicted 51 individuals or 67% of them, while they have acquitted 24 of them or 33%. Of the 51 convicted persons by the first instance, it results that 14 individuals have been sentenced with effective imprisonment, against 11 individuals have been imposed punishments of a fine, while against 26 individuals have been imposed suspended punishments.

In 38 targeted indictments, 258 individuals were involved. Out of them 169 accused individuals belong to low profile, 51 of them belong to middle profile, whereas 38 individuals belong to high profile.

Prosecutors have failed to argue and file claims for confiscation of assets under suspicion that they have been gained through criminal activities in these targeted cases. In almost all cases

of final judgment of conviction, prosecutors have filed claims for confiscation of property or assets, that is confiscated by law in all cases regardless of whether there will be a judgement of conviction or judgment of acquittal.

Another issue that has led to the ineffectiveness and economization of targeted cases has been the frequent change of the prosecutors who have represented the indictment, as well as the changes of the presiding judges, which have affected the delays and the non-completion of these cases. It is worth mentioning the case “Damage”, in which until now three presiding judges have been changed, thus affecting that even after 19 court hearings held, this case will now be adjudicated from point 0.

KLI recommends to the State Prosecutor and Case Targeting Coordinator to strictly apply the criteria set out in the SOPs regarding the identification and targeting of serious crime cases, without increasing the number of cases in violation of the criteria, while avoiding cases of serious crimes, including high profile individuals and millions of damages.

Targeted cases should be treated as a priority by the courts and prosecution offices so that the judicial process and court proceedings at all levels will not be delayed and the same be completed within a reasonable time, with regard to the legal time limits set out in the Criminal Procedure Code.

Judges should apply legal obligations against prosecutors, lawyers and other parties, who do not reason their absences, thus postponing court hearings of targeted cases.

### III. Methodology

KLI in order to compile a more comprehensive and analytical report on the treatment of targeted cases by the prosecutorial and judicial system, has used the methodology of direct and systematic monitoring of all cases in the judicial system as well as mixed methodology of research to reflect reality on the selection and processing of each targeted case. The prosecutorial system and the judicial system still face with problems in unifying the data even with regard to this case targeting mechanism. The data of two systems does not match. KLI being the only organization that has systematically monitored the treating of these cases, findings, assessments and recommendations are based on direct monitoring of the performance of prosecutions and courts in law enforcement, policies and action plans for treating with priority targeted cases.

KLI based on legal obligations and policies of the Prosecutorial and Judicial Council of Kosovo, created a clear indicator for measuring progress in their implementation by the prosecutorial and judicial system. Report includes monitoring of all targeted cases in seven Basic Courts, Appeal Court in Pristina as well as Supreme Court of the Republic of Kosovo, including monitoring the statistical aspect of the prosecutorial system regarding the targeting of these cases in the investigation phase.

KLI besides direct monitoring of these cases in their proceedings to the judiciary of Kosovo, has continuously provided statistical data by the Judicial Council, Prosecutorial Council, KJC Coordinator Agim Maliqi, KPC Coordinator Reshat Millaku, and has collected the data individually throughout the monitoring process across all prosecutions and relevant courts.

The reports provided by the KLI are summarized in a database that included all targeted cases and persons involved in these cases at all phases of criminal proceedings in the prosecutorial and judicial system.

The database was used to identify the most worrying issues related to the implementation of the legal obligations and the obligations of the action plans, respectively regarding the solving, the way of solving and the non-solving of the targeted cases by prosecutors and judges. Through statistics, KLI has analyzed several aspects that were presented through concrete cases, commenting on all the specifics of targeted cases for each prosecution and court as well as for the way of solving cases.

Since November 2013, KLI's monitors and researchers have systematically monitored all cases of corruption, and since the creation of a mechanism for targeting cases, had a constant focus on monitoring each of these cases.

KLI has continuously monitored the activities of the Supervisory Commissions of Councils, Presidents of Courts, Chief Prosecutors of Prosecutions as well as local and international institutions involved in various forms related to targeted cases, as representative cases for the visa liberalization process. KLI during the entire monitoring process has conducted deep interviews with all stakeholders of prosecutorial and judicial functions, interviews based on

indicators determined in accordance with the legal obligations and the obligations of the action plans.

KLI's findings are treated by comparing cases, working with statistical data, and thoroughly analyzing any action or decision by the justice system regarding their compliance with the applicable legislation.



#### IV. Actions of the KJC and KPC in treating targeted cases

KPC on July 18 2014, adopted "*Standard Operating Procedures (SOPs) for the Selection of Serious Crimes Targets and Inter-institutional co-operation*".<sup>1</sup>

By these SOPs, law enforcement institutions in Kosovo aimed that through coordination and mutual cooperation to prevent, reveal, investigate and adjudicate perpetrators of the most serious criminal offenses. SOPs stipulate that law enforcement institutions led by the State Prosecutor shall make a selection of these cases according to assessment whether the suspicious offenses are serious offenses and criminal investigation in these cases require joint efforts of two or more public institutions, that the ultimate goal be the seizure and confiscation of assets acquired through criminal activities.

According to the SOP's, through the annexes, actions were defined based of which the cases should be targeted. These separate annexes have not been made public by the KPC, despite the KLI's request made based on Law on Access to Public Documents.

SOPs have determined that targets of serious crimes are persons or groups of persons that are suspected for planning of one or more serious offenses that have committed such offenses and that are intended to benefit from these crimes by thus causing damage to public and private interests.<sup>2</sup>

Based on this, KPC defined criteria of these cases, treated as serious cases, including:

- Serious nature of the suspicious offenses;
- Risk of damage caused by offenses;
- Level of organization of the criminal group;
- Continuity of criminal activity and previous criminal activity of perpetrators;
- Need to coordinate the actions of public institutions in preventing suspicious offenses;
- Specific needs to lead resources of public institutions for prevention of crime;
- Threats that result from criminal activity;
- Strategic Priorities of Public Institutions and international engagements of Kosovo.

All of these were as the basis in which prosecution bodies should be supported. In these SOPs, apart from the acts that should be prioritized to prosecute, were also foreseen for the actions that should be taken by the stakeholders of the prosecution system. It was determined that all targeting proposals be sent to the Chief Prosecutor of the Special Prosecution Office,

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<sup>1</sup>"*Standard Operating Procedures for the Selection of Serious Crimes Targets and Inter-institutional Cooperation*". Kosovo Prosecutorial Council, No.819/2014. (See the link <http://kpk-rks.org/assets/cms/uploads/files/Statistika%20dhe%20Raporte/Plane%20te%20punesh/Nr.819.2014.Procedurat%20standarde%20te%20veprimit%20per%20perzgjedhjen%20e%20shenjest....pdf>)

<sup>2</sup>"*Standard Operating Procedures for the Selection of Serious Crimes Targets and Inter-institutional cooperation*". Kosovo Prosecutorial Council, No.819/2014. Page 3.

Reshat Millaku<sup>3</sup>, who was appointed Coordinator for targeted cases and also to a representative assigned by the Chief State Prosecutor.

On the selection of these cases, in SOP's was determined that beside Chief State Prosecutor and Coordinator, depending on the nature of the case, will participate also the representatives from the Special Prosecution Office of the Republic of Kosovo, Basic Prosecution Offices, Kosovo Police, Kosovo Customs, Kosovo Tax Administration, Financial Intelligence Unit and the Anti-Corruption Agency. It was also foreseen that a representative from EULEX could also attend.

SOPs have also foreseen that the Chief State Prosecutor, for the purpose of co-ordinating, once every two months, will organize a meeting on selection of targets and monitoring of cases reported by the State Prosecutor who led the investigations.

While the Office of the Chief State Prosecutor was assigned tthat in coordination with the Office of the Special Prosecution, Basic Prosecution Offices, Kosovo Police, Kosovo Customs, Kosovo Tax Administration, Financial Intelligence Unit and the Anti-Corruption Agency, to be responsible for leading the actions defined with SOP.

After more than a year since KPC issued the SOPs, it was the KJC that with the request of the KPC, held an extraordinary meeting on 30 December 2015 and issued a decision by which obliged court presidents and judges of cases that all cases that come from the prosecution and have the sign "LV" [*Visa Liberalization*], be treated with absolute priority.<sup>4</sup>

KJC, also had foreseen that court presidents should report monthly on cases that are treated in the relevant courts.

## V. Selection of targeted cases and results

The European Commission (EC) on January 19, 2012, started the dialogue on visa liberalization with Kosovo. This Commission after six months on June 14, 2012, sent a Visa Liberalization Guide to the Government of Kosovo. There were given instructions, for steps that Kosovo should undertake to meet the criteria for visa liberalization.

On February 8, 2013, the EC published the first report regarding the progress of Kosovo, following the guide for visa liberalization.<sup>5</sup> In this report, it was clearly stated that although a

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<sup>3</sup> Chief Prosecutor of Special Prosecution of the Republic of Kosovo, Mr. Reshat Millaku retired on may 2019.

<sup>4</sup> Decision of the Kosovo Judicial Council, December 30 2015. (see the link <http://www.gjyqesori-rks.org/wp-content/uploads/decisions/Vendimet%20e%20mbledhjes%20144.pdf> )

<sup>5</sup>Note:First progress report of the European Commission regarding the requirements of Guideline for visa liberalization". 08.02.2013 (See the link

good legal basis was established, *"Kosovo continues to face major challenges in preventing and fighting effectively organized crime and corruption."*<sup>6</sup>

EC based on its findings, it recommended to justice institutions of Kosovo to prevent political interference in the investigation, prosecution and judgment of crimes, to have a transparent recruitment in the verification and appointment of judges and prosecutors, to implement disciplinary actions in all cases of corruption in the judiciary and to reduce the number of unsolved court cases.<sup>7</sup>

Even in the second report of July 24 2014, the European Commission has stressed that Kosovo *"has had improvements in the fight against corruption, but there still seems to be lack of concluding results of court cases."*<sup>8</sup> In this report it was stressed that *"The justice system has had a poor priority in targeting high profile cases of organized crime and corruption cases."*<sup>9</sup>

Progress Report for Kosovo for 2016, concluded that Kosovo has strengthened institutional capacity to fight corruption and organized crime by establishing multidisciplinary investigative teams, establishing a tracking mechanism for high levels of corruption and organized crime cases as well as strengthening the department of serious crimes of basic courts. This has led to an increase of the number of cases investigated and prosecuted. However, corruption remains widespread in many areas and continues to be a serious problem. Stronger political will is needed to treat this issue comprehensively. Kosovo is at an early phase of fighting organized crime. The number of final investigations and sentences remains low.

While the Progress Report for 2019, concludes that *"Kosovo is at an early stage / has a level of preparation in the **fight against corruption.**"* This report also mentions that *"Kosovo's progress is directed only towards important legislative reforms in the area of rule of law and the investigation and prosecution of high-level cases. Corruption is widespread and remains a concern matter. "*

According to this report, *"according to fight of organized crime, Kosovo is at an early stage and the only progress achieved is through important legislative reforms in the area of rule of law, investigation and criminal prosecution of high level cases and in the prior freezing of assets. However, little progress is achieved on the final seizure of assets and still there are very few financial investigations and final sentences. Measures are needed to ensure strictly that there is no political interference in the operational activities of law enforcement bodies and prosecution. "*

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[www.meiks.net/repository/docs/20180816123231\\_firstreport\\_on\\_progress\\_on\\_kosovo\\_visa\\_liberalisation\\_en.pdf](http://www.meiks.net/repository/docs/20180816123231_firstreport_on_progress_on_kosovo_visa_liberalisation_en.pdf)

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Note: Second progress report of the European Commission regarding requirements of Guideline for visa liberalization", 24.07.2014. (See the link [www.mei-ks.net/repository/docs/kosovosecondvisareport.pdf](http://www.mei-ks.net/repository/docs/kosovosecondvisareport.pdf))

<sup>9</sup> Ibid.

As KPC on July 18 2014 adopted SOPs to treat these cases, case targets were initiated. The first targeted case was the indictment raised on December 4, 2014, against the President of the Procurement Review Body, Hysni Hoxha, expert of PRB Hysni Muhadri and representatives of the company "Conex Group" to director Veton Fetahu, as well as to the accountant Arsim Robelli. They were accused for criminal offenses "abuse of official position or authority"; "Forgery of documents"; "Fraud" and "false declaration under oath". The first actions in this case started in 2013, that resulted with an indictment in 2014, but the final verdict was taken after four years, in 2018.

Whereas, the last indictment, as an targeted case, is the indictment of December 7, 2018, of the case "Veterans".<sup>10</sup>

KPC through SOPs had foreseen that the targeting of cases to be made taking into account the serious nature of criminal offenses, the risk of damage caused by offenses, the level of organization of the criminal group, continuity of criminal activity and previous criminal activity of the perpetrators, which for the final purpose has the identification, seizure and confiscation of the assets gained through criminal activity. However, despite this, the KLI has found that the targeting of cases was not guided by the criteria and purpose of the SOPs, as the State Prosecutor has targeted cases which emerge outside the scope defined in the SOP, and that almost in most cases there is a lack of identification and seizure of assets, and in those cases where the court has taken punitive decisions, there is a lack of confiscation of the assets.

Cases "Lawyer 1", "Lawyer 2", "Killokot 1", "Killokot 2" or "Construction" are only some of the cases that are targeted, but the indictments for these cases are of that kind that does not coincide with serious nature defined with SOPs. Moreover, most of these indictments have been finalized in final form with release convictions. As in most of the abovementioned cases, the requirements for seizure and confiscation of assets acquired through criminal offenses have been lacking, which is contrary to the spirit and purpose of the SOPs.

In the case "Lawyer I", eventhough indictment was raised on April 7, 2016 against AfrimRadoniqit<sup>11</sup> and Xhevat Rracit, prosecutor Agron Matjani, only six months after he had decided to withdraw from the criminal prosecution, with reasoning that the same did not commit criminal offense.

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<sup>10</sup> Accused in this case are members of the Governmental Commission for Recognizing and Verifying of the Status of Nation's Martyr, Invalids, Veterans, Members and Internants of war of the Kosovo Liberation Army Agim Çeku, followed by Nuredin Lushtaku, Sadik Halitjaha, Shkumbin Demaliaj, Qelë Gashi, Shukri Buja, Ahmet Daku, Rustem Berisha, Faik Fazliu, Smajl Elezaj, Fadil Shurdhaj and Xhavit Jashari.

<sup>11</sup> According to the indictment, Afrim Radoniqi in the capacity of the public lawyer of Gjakova and Xhevat Rraci in the capacity of director of the Directorate for Geodesy, Cadastre and Property of the municipality of Gjakova, had caused damage to this municipality in the manner they reached agreement on compensation with the previous owner of a property P.B. from municipality of Gjakova, whose right is recognized to permanent use, without obligation of compensation in the name of exploitation and regulation of construction land.

Case “Klllokoti II”, is another representative case that proves that the State Prosecutor has targeted cases out of the spirit and purpose of the SOPs.<sup>12</sup>

This indictment, on January 13, 2016, was dismissed by the Basic Court in Gjilan, with the reasoning that there was insufficient evidence to support a well-based suspicion that the defendant committed the criminal offense for which he was charged . Even in this case, have lacked the requests for for seizure or confiscation of acquired assets illegally.

These are just a few of the cases, in which non-seriousness of the targeting of cases is proven, because the actions of the State Prosecutor have been in contradiction with the standards which they have built to target serious cases where are involved serious crimes .

*a. Violation of the SOPs criteria by the State Prosecutor in targeting cases*

Even despite the fact that SOP regarding identification and targeting the most serious cases

Despite the fact that the SOP regarding the identification and targeting of the most serious cases has envisaged to include cases against persons or groups of persons that are suspected for planning one or more serious criminal offenses that have committed such offenses and which have for the purpose benefiting from these crimes, thus causing damage to public and private interests.<sup>13</sup> SOPs in addition to the investigation, prosecution and adjudication of persons involved in criminal activity as the final purpose have confiscation of assets acquired through criminal offenses.

Based on the analysis of identified and targeted cases it turns out that the State Prosecutor, has identified and targeted cases that contradict these principles and the purpose for which the SOPs have been adopted.

This is proved by the fact that even despite of what up to now there are 14 persons sentenced with a final judgment of conviction, in no case of corruption there is no confiscation of assets acquired by criminal offense. Even in those cases, where there is confiscation of assets, mainly were confiscated assets that is automatically subject to confiscation, regardless of guilty or non-guilty of the defendant as defined by Article 282 of the Criminal Procedure Code, related to criminal offenses against narcotics and arm trafficking.

From targeted cases completed with a final judgment and those in process, it is noticed that the State Prosecutor identifies and targets cases where suspects are mainly low profile persons and cases where the probability of seizure and confiscation of assets acquired illegally is too small.

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<sup>12</sup> In this case Sreqko Spasiq, was accused that in the capacity of the mayor of municipality of Klllokot committed criminal offense “conflict of interest”. It was said that this was done by using official authority and overtaking his official powers in the way that he issued a decision by which named his nephew Aleksander Spasic, acting director of primary school “Sveti Sava” in Klllokot, although the appointment of school directors in under the power of the Municipal Education Directorate of the Municipality.

<sup>13</sup> “Standard Operating Procedures for the Selection of Targets of Serious Crimes and Inter-institutional cooperation”. Kosovo Prosecutorial Council, No.819/2014. Page 3.

The most representative cases that prove that the State Prosecutor targets cases that for the primary purpose have increasing the number of targeted cases and not achieving the purpose for which the mechanism of treating serious cases was established, is the case "**Lawyer 2**" where the suspect was a municipal official and where the value of the damage caused to the municipality of Gjakova was a property with a surface of 16 are. In this case, we had convicted a municipal lawyer who was released for two corruption criminal offenses, while for another corruptive offense he was sentenced with a fine of 2000 euros.

Another case is "**Lawyer 1**" where again the same municipal lawyer and another official of the Municipality of Gjakova, are accused for corruption criminal offenses, related to a municipal property of 345 square meters, given to a citizen on permanent use. In this case, the prosecutor withdrawn from criminal prosecution after the initial hearing.

Cases as "**Kllokot 1**" and "**Kllokot 2**", State Prosecutor has raised two separate indictments against former Mayor of the municipality of Kllokot, Sreqko Spasic for criminal corruptive offenses. In either of the two indictments, the State Prosecutor did not submit any request for seizure or confiscation of assets, despite the fact that in the indictment "**Kllokot 1**" the prosecutor alleged that the accused caused damage in the amount of 90 thousand euros to the municipality of Kllokot. In the case "**Kllokot 2**", according to the indictment, Mr. Spasic, has committed a criminal corruption offense, naming his nephew, as A.D. of the Director in a primary school. In both cases, former Mayor Spasic was released from criminal responsibility.<sup>14</sup>

In the case "**Contract**" where the former Secretary of the MEST and that of the Constitutional Court were suspected for criminal offenses of corruption, the value of the damage caused in this case is alleged to be close to 31 thousand euros. Even in this case, in the indictment has lacked the request for seizure or confiscation of assets. Both officials accused by a court verdict were found guilty.

In the case "**Suhareka**", four municipal officials of municipality of Suhareka were accused for criminal corruptive offenses. According to the indictment, they were suspected for abusing about a property from 16 are. The prosecutor of the case was withdrawn from the criminal prosecution in the final word.

In the case "**Authority**" according to the indictment is suspected regarding abuse by the former Minister of MEST and two officials of this Ministry regarding a tender. Even in this case, the prosecutor did not identify assets acquired illegally, consequently did not submit a request for seizure or confiscation of assets.

While, during these years, the State Prosecutor has focused on the targeting of cases of this nature, by violating the criteria defined by the SOP, the same institution did not take into account the identification and targeting of cases that are in criminal proceedings that enter within the serious criminal offenses and where the damage caused to the budget of the Republic of Kosovo or its citizens exceeds the value of tens or hundreds of millions of Euros

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<sup>14</sup> Note: Sreqko Spasiq is charged and adjudicated in two court processes. In case "Kllokot 1" is acquitted from indictment, while in case "Kllokot 2" indictment was dismissed.

and where the possibility for seizure and confiscation of such assets acquired by criminal activity is very large.

Another characteristic is the fact that the State Prosecutor during the target of serious cases amnesties persons who come from politics or have strong political relations, despite the fact that the same are accused by the Prosecution for criminal offenses of organized Crime, corruption, fraud , etc.

Such a finding is proved by the following cases:

#### ***Case “Land”***

In this case, persons accused in 2016 are suspected for the criminal offenses of Organized Crime, Money Laundering, Fiscal evasion, corruption criminal offenses, fraud, etc. The profile of the accused persons includes former MPs such as Azem Syla, former Court President, former lawyer, and over 40 other persons divided into two indictments. According to Prosecution claims, only in this case, it is suspected that the assets acquired illegally amounts to over 30 million euros. Also, this case is among the rare cases when the State Prosecutor submits a request for seizure and confiscation of assets acquired illegally, which consists of a list of 27 properties.

It is meaningless that such a case of such a profile was not targeted by the State Prosecutor, although the purpose of the SOPs has been precisely to identify and target such cases.

#### ***Case “Uke Rugova and others”***

Another case that is not targeted is the case of former MP Uke Rugova, who together with former Minister Astrit Haraqija and 18 others, are being accused for various criminal offenses related to organized crime, as it is claimed that this criminal group aimed to secure material benefit in such a way that citizens be provided with Schengen visa by the Italian Embassy in Pristina. Indictment of the Special Prosecution of the Republic of Kosovo accuses Uke Rugova that during period May 2011 until February 2014 has managed a criminal group, supplying individuals with EU Schengen visas of the EU from the Italian Embassy in Pristina. All these visas are supposed that they were taken illegally through distortion or corruption.

Damage caused according to the SPRK claims, amounts from 1.668.000 to 2.224.000 euros. In this case, the Prosecution has not submitted a request for seizure or confiscation of assets acquired illegally.

#### ***Case “Pronto”***

Case “Pronto” is another case in which the State Prosecutor, for the accusation that have violated the equal status of the citizens of the Republic of Kosovo, has accused ministers, MPs and former MPs but has not been convinced that such a case should be targeted.

In the indictment raised on April 6, 2018, the Prosecution has charged 11 persons, among whom are former leader of parliamentary group of the PDK, Adem Grabovci, current Minister of Innovation and Entrepreneurship, Besim Beqaj, current MP of PDK, Zenun Pajaziti, former chairman of the Municipal Assembly of Prizren, Nijazi Kryeziu, former Chief of Supply Unit in the Ministry of Health, Arbenita Pajaziti, former Secretary of the Ministry of Internal Affairs, Ilhami Gashi, former Deputy Minister of Labor and Social Welfare, Fatmir Shurdhaj, former political adviser at MIA, Sedat Gashi etc.

Even in this case the prosecution did not submit a request for seizure and confiscation of assets.

#### *Case “Qemaj Mustafa and others”*

During 2016, SPRK raised an indictment against the former Mayor of municipality of Gjilan, Qemaj Mustafa and 38 other persons for the criminal offenses organized crime and corruption criminal offenses. Neither in this case, SPRK has not submitted a request for seizure or confiscation of assets acquired through criminal offense.

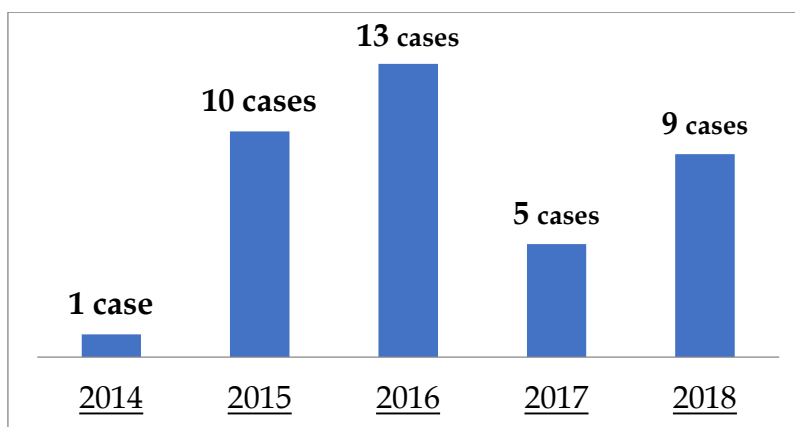
#### *Case “Pal Lekaj and others”*

SPRK on April 10, 2016 raised an indictment against Pal Lekaj former Mayor of Municipality of Gjakova Komunës, currently Minister in the Haradinaj Government and five other officials of the Municipality of Gjakova for criminal offenses of corruption.

According to claims of the SPRK, Pal Lekaj and others are accused that have abused the budget of the municipality of Gjakova in the amount of 630,000 Euros. The Prosecution did not submit a request for seizure or confiscation of assets acquired illegally even in this case where the claimed damage exceeds the value of half a million.

## VI. Efficiency and results in treating targeted cases

From 2015, since the beginning of targeting cases, it turns out that most cases were targeted in 2016, total 13 cases. For more see on the following graphic:



Graphic 1 - Indictments of targeted cases raised by years.



Out of all targeted cases, it is noticed that most of them have to do with criminal offenses of “organized crime and corruption”, but also other offenses as “fraud”, “smuggling with immigrants”, and other characteristic criminal offenses.

Based on SPRK data, from 51 targeted cases until April 2019, it results that 36 cases belong to corrupt nature, involving 206 persons, while 15 other cases involving 166 persons belong to the nature of organized crime.



**Graphic 2 – Total number of targeted cases and number of cases and persons involved in these cases, accused of corruption and organized crime.**

According to the data of the KJC coordinator, in investigative procedure are cases: 1) “Advancement-Embezzlement”, 2) “Klina”, 3) “Railway”, 4) “Qafa”, 5) “Stone Bridge”, 6) “Mati”, 7) “Lak” and 8) “Package”, while investigations have been terminated for cases 1) “Gjakova”, 2) “College”, 3) “Captain” and 4) “President”, whereas investigations have been suspended for case 1) “Prison”.

Based on the findings of the KLI from the systematic monitoring of targeted cases, it results that from 38 indictments raised in the targeted cases, the SPRK has raised 24 indictments, three (3) indictments have been raised by the Basic Prosecution in Mitrovica, by two (2) indictments have been raised by the Basic Prosecution in Pristina, Ferizaj, Gjakova, Gjilan, Prizren and one (1) was raised by the Basic Prosecution in Peja. Among the indictments raised, there is also a voluminous indictment known as “Stenta”, which is raised by the Prosecutor of the Office of the Chief State Prosecutor, Besim Kelmendi. The raising of this indictment by this office, according to the KLI, was assessed unlawfully.<sup>15</sup>

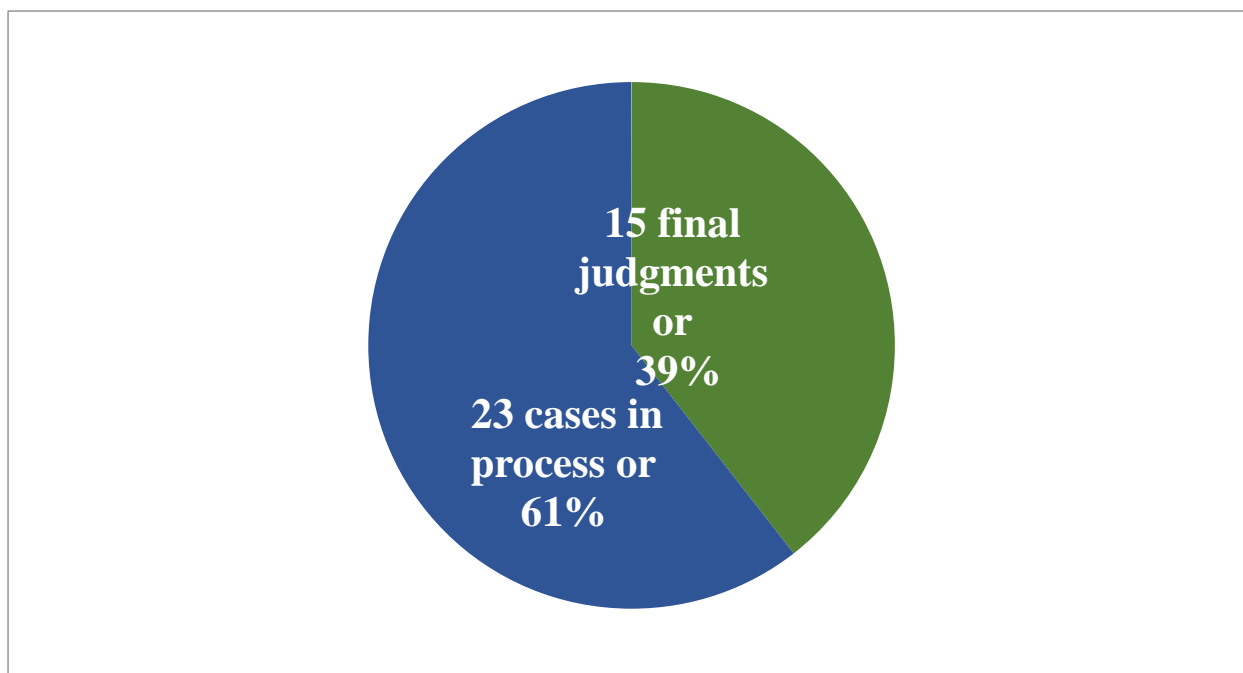
<sup>15</sup> Miftaraj E. and Musliu B. “‘Sea’ of corruption in Kosovo: “Catching” small fish, while big fish go free”. *Kosovo Law Institute, Pristina, March 28 2017.* (See the link <https://kli-ks.org/deti-i-korrupsionit-ne-kosove-peshqit-e-vegjel-kapen-te-medhenjte-lihen-te-lire/>.)

The largest number of targeted cases has the Basic Court in Pristina. From total 38 targeted cases this court has 22 cases.<sup>16</sup> After Pristina, comes the Basic Court in Prizren that has treated five (5) cases, the Basic Court in Mitrovica four (4) cases, the Basic Court in Gjilan three (3) cases, and with two (2) cases are the Basic Court in Gjakova and Ferizaj. While the Basic Court in Peja, is the only court that did not have in treatment any indictment of targeted cases. For more see the following table:

| Load of the Basic Courts with targeted cases |          |         |           |        |         |         |      |
|--|----------|---------|-----------|--------|---------|---------|------|
| Court  | Pristina | Prizren | Mitrovica | Gjilan | Gjakova | Ferizaj | Peja |
| Number of cases at work                      | 22       | 5       | 4         | 3      | 2       | 2       | 0    |

Table 1 – Handling cases according to competent courts.

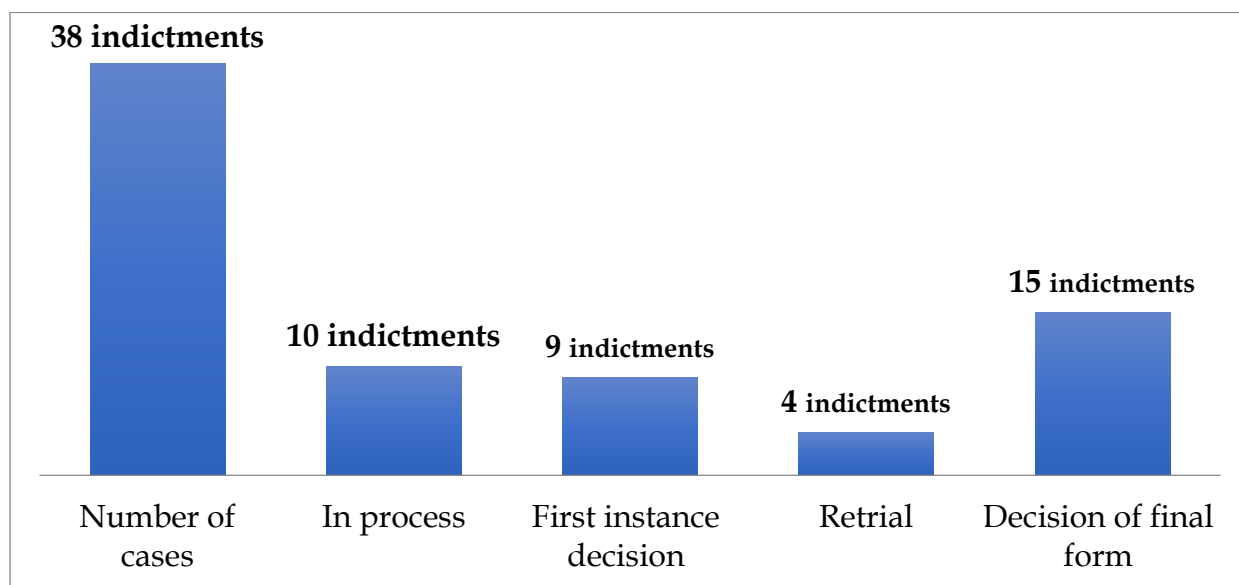
So far, from all targeted cases, which have started to be judged from 2015 onwards, it results that only 39% of cases or 15 cases have been completed with final judgment, while 61% or 23 other cases are still in process in different judicial levels.



Graphic 3 – Total number and percentage of completed cases with a final judgment and cases that are still in court proceedings in different instances.

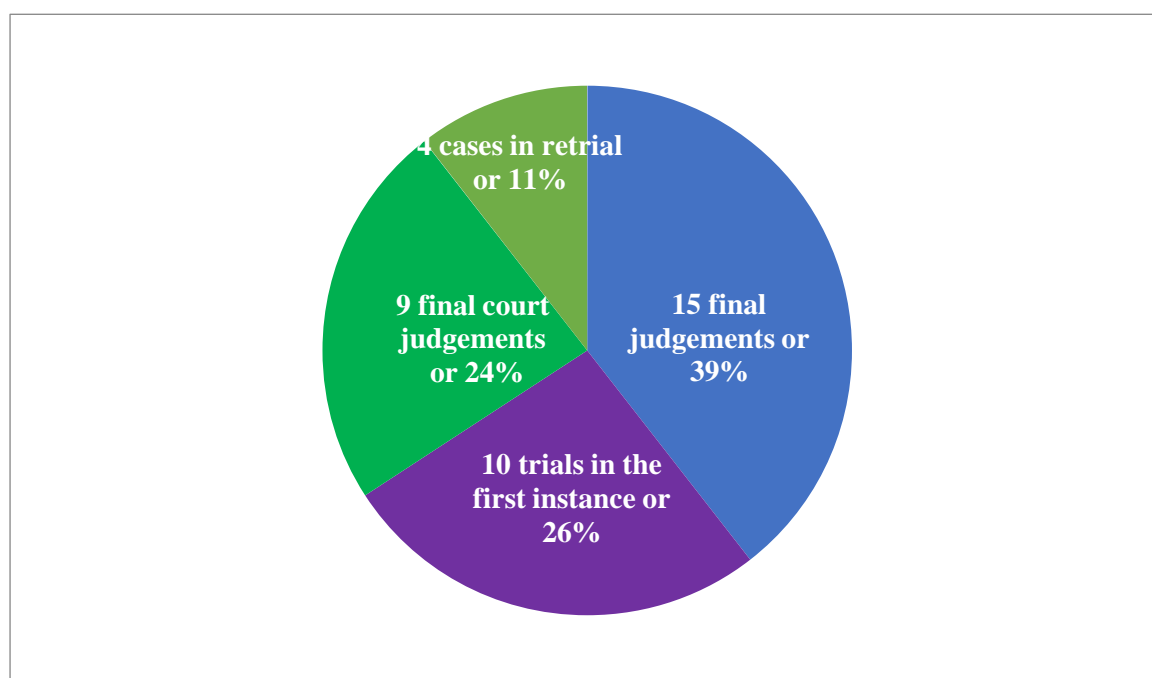
<sup>16</sup>Response to the KLI of the spokesperson of the Basic Court in Pristina, Mrs. Mirlinda Gashi. May 10 2019

From 23 cases that are in the process, (10) of them are being treated in the first instance, nine (9) cases have been completed in the first instance or are being treated by the Appeal Court, while four (4) other cases returned to retrial.



Graphic 4 – Procedural stage for all cases of targeted indictments.

Although targeting cases it was thought that would affect to the fast development of court proceedings, this has not happened. The findings of the KLI prove that a large number of cases are still being treated in the first instance in the judicial system and that 10 cases are being trialed for the first time.



Graphic 5 – Number and percentage of completed cases with final judgment and other cases that are still in court proceedings in different instances.

*a. Legal and policy violations of the KJC in targeted cases*

From 2015 until the end of April 2019, State Prosecutor has targeted 51 cases, in which are involved 372 persons.<sup>17</sup>

Despite legal obligations and policies of the Kosovo Judicial Council that targeted cases to be treated with priority by courts, KLI's findings prove that in practice the opposite is happening.

KLI through systematic monitoring of all targeted cases, finds that courts have not respected either legal deadlines or the KJC policies to treat these cases with priority. In most of the targeted cases, judges continuously violate procedural deadlines defined by the Criminal Procedure Code.

The following KLI brings some of the most representative cases, through which it is proved the lack of efficiency and seriousness of the judicial system in the proceeding of these cases:

*Case "Damage"*

In this case, the SPRK raised an **indictment on November 20 2015**. The case **was initiated** for the criminal offense of **Organized Crime** and ended only for the criminal offense of **Tax Evasion**. **The initial hearing** was held on **June 2016**, contrary to the CPC, while the **judicial review** is in the ongoing **procedure**. Only in this case, **the presiding judge has been changed four times**. This case, after the re-qualification of the indictment has passed from the Serious Crimes Department to the General Department of the Basic Court in Pristina. **From the raise of indictment until May 20, 2019, 1278 days** have passed.

*Case "Security"*

In this case **the indictment** was raised on **January 2015**, and **the judgment** was announced on **May 20 2019**, or **1586 days after** the indictment was raised. Despite the fact that with the indictment was alleged that the damage caused to the state budget was over 6 million euros, in the announcement of the judgement, the court assessed that the alleged damage in the indictment was not proven and all the suspects were acquitted from the charge, including former Mayor of Municipality of Skenderaj, Sami Lushtaku, former President of PRB, Hysni Hoxha and former Director of KEK, Arben Gjukaj.

*Case "HIB"*

SPRK in this case raised an **indictment on July 6, 2015** against the representatives of the HIB Petrol Company. In this case **the first instance court has adjudicated twice**, where in

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<sup>17</sup> Response for the KLI of the spokesperson of SPRK, Mrs. Ekrem Lutfiu. May 3 2019, that includes data until April 2019.

the **first time on May 18 2018, the court sentenced** Kujtim Bucaliu **with four years imprisonment** and punishment of a fine of 15 thousand euros, whereas after one year in the retrial process, the judge of the General Department **had acquitted** Bucaliu, assessing that there is **no evidence** to be found guilty. This case **ended on May 10, 2019, or 1404 days** after raise of the indictment.

#### *Case “MoH 2”*

In this case, SPRK raised an **indictment on July 6 2015**, against the former Secretary of the MH, Ilir Tolaj and seven (7) other persons, for criminal offenses of corruption. In this case, the **first instance court** has taken **judgment of acquittal on June 6 2018**, or after 2 years and 11 months from the time the indictment was raised. In this case, two persons have pleaded guilty and were announced guilty with a suspended sentence and punishment of a fine, while six others were acquitted from charges, including former Secretary of the Ministry of Health Ilir Tolaj. This case is in the appeal procedure at the Appeal Court. According to Prosecution claims, the damage caused is over 277 thousand Euros.

KLI’s findings, prove that, apart from the case **“Prosecutor”**, in which former prosecutor Vahide Badivuku, for committing the criminal offense of “accepting bribes” as a middle profile was sentenced to three years imprisonment and 5,000 euros fine, and she was also prohibited from exercising in public administration or public service functions for three years after the completion of imprisonment sentence. While, to other punitive judgements, mainly are adjudicated persons of low profile.

Case **“Appeal”**, is among the cases of great public interest, for the fact that one of the accused for corruption was also the former President of the Appeal Court, Salih Mekaj. Despite the fact that in this case there were spectacular arrests and bombastic statements by the State Prosecutor regarding the fight of corruption, during the court proceedings, indictment of the special prosecutor Drita Hajdari had failed to get the trust of the trial panel, because according to them, the indictment was not based on evidence. In the final judgement, Mekaj and the other three accused were acquitted from all charges for which they were charged.

Characteristic of the “Appeal” case is the fact that this case was adjudicated outside the public eye, according to the request of the defense lawyers, which was not contested by the prosecutor of the case, Drita Hajdari. The hearing was held without the presence of the public at court hearings with the justification that publication of family data could cause serious consequences for the accused and their family members.<sup>18</sup>

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<sup>18</sup> Monitoring session in the case “Appeal”. “Oath for Justice”, October 20 2016. (see the link <https://betimiperdrejtesi.com/shtyhet-gjykimi-ndaj-ish-kryetarit-te-gjykates-se-apelit-salih-mekaj-dhe-tre-te-akuzuarve-tjere-perjashtohet-publiku/>).

## VII. Final judgments in targeted cases<sup>19</sup>

Of the 51 targeted cases so far, there are 15 cases that have been completed with final judgment by Kosovo courts. In these 15 cases, where are involved 48 accused persons, the courts imposed sentences against 14 persons or 29% of them, whereas have released 34 persons or 71% of them.

Of the 14 sentenced persons with a final verdict, nine (9) persons have been sentenced with effective imprisonment<sup>20</sup> and against five (5) persons fines were imposed. Of the nine (9) persons sentenced with effective imprisonment, the courts have sentenced two (2) officials of middle profile (*one Prosecutor of the Serious Crimes Department in the Basic Prosecution, a municipal official*) and seven (7) citizens.

Whereas, out of 34 persons released by final judgments, it results that for 22 persons were announced judgments of acquittal, for nine (9) persons were announced rejection judgments and against three (3) persons were dismissed the indictments at the initial stage, without starting court hearing.

### *a. Punitive policy in targeted cases completed with final judgment*

#### **a) Sentences with effective imprisonment**

**Four persons** in the case of "**Shift**" were sentenced with effective imprisonment from two (2) years and four (4) months each and by (1000) one thousand euros for criminal offenses related to narcotics as well as the participation or organization of the organized criminal group. In this case, only narcotics and a vehicle were confiscated, but not the assets acquired with criminal offense.

In the "**Matrix-M**", **two (2) persons** were sentenced with effective imprisonment, where one was sentenced with five (5) years imprisonment and (5000) five thousand euros fine, while the second person with three (3) years and six (6) months imprisonment and (2000) two thousand euros fine for criminal offenses "organized crime" related to "trafficking in persons".

In the case "**Rent**" was sentenced with effective imprisonment **one (1) person**, in duration from (six) months imprisonment for criminal offense "Abuse of official position or authority".

In the case "**Prosecutor**" **two (2) persons** were sentenced with effective imprisonment, where former prosecutor Vahide Badivuku was sentenced with three (3) years effective imprisonment and punishment of a fine of 5,000 euros, and she was also prohibited to

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<sup>19</sup> Note: KLI at the bottom of this report, respectively in Chapter XI – "*Annex I: Detailed analysis of targeted cases completed by final judgement*", has analyzed each case of this category.

<sup>20</sup> Note: Four (4) persons in the case "Change", a person in the case "Prosecutor" and two (2) persons in the case "Matrix M" were sentenced with effective imprisonment and fine.

exercise functions in public administration or public service for three years, after the termination of imprisonment sentence for the criminal offense taking bribe. Whereas, the other accused was sentenced with one (1) year effective imprisonment for the criminal offense of "giving bribes".

KLI finds that in all above mentioned cases, lack the seizure of property acquired with criminal offense. Other characteristic is the fact that from nine (9) persons sentenced with effective imprisonment, two (2) are public officials, one of them former prosecutor and the other one municipal official.

#### **b) Punishments of a fine**

In the case "**PRB 1**" one (1) accused person was sentenced with a fine from 2600 euros for criminal offenses "forgery of the document" and "fraud".

In the case "**Lawyer 2**" one (1) lawyer of municipality of Gjakova was sentenced with fine from (2000) two thousand euros for criminal offense "conflict of interest", whereas was released for criminal offense "abuse of official duty" and forgery of official document".

In the case "**Prosecutor**" the third one was sentenced with (3000) three thousand euros fine, and was obliged to return (4000) four thousand euros of bribe.

In the case "**Rent**", sentenced with imprisonment from six (6) months he has accepted to replace his sentence from six (6) months effective imprisonment with fine sentence in amount of 1800 euros.

In the case "**Inspector**" sentenced with effective imprisonment from six (6) months and fine sentence from (2000) two thousand euros, he has accepted to replace his sentence with effective imprisonment with the fine sentence in amount of 3260 euros, thus imposing final sentence with fine in amount of 5260 euros.

#### ***b. Failures of indictments of the prosecution in cases of final judgments***

From 34 persons accused, which are released from charges, results that for twenty three (23) persons, judges have announced judgements of acquittal, for eleven (11) persons have announced rejection judgements and for three (3) persons have dismissed the indictments.

#### **a) Dismissal of indictments**

In the case "**Authority**" court dismissed the indictment against former Minister of Education, Science and Technology, Rame Buja and Secretary of this Ministry, Xhavit Dakaj, accused for corruptive criminal offenses.

In the case "**Klokot 2**" court dismissed the indictment against former Mayor of Municipality of Klllokot, Srecko Spasic, accused for corruptive criminal offenses.

### b) Rejection judgements

In the case "**Construction**" against the former Mayor of Dragas, Salim Jonuzi, as a result of the prescription of criminal prosecution, the prosecutor has given up from the criminal prosecution and in this way the court has taken a refusal verdict.

In the case "**Suhareka**" the prosecutor **in the closing statement** assessed that for **lack of evidence** was withdrawn from criminal prosecution against five (5) persons (four municipal officials and one businessman) with the reasoning that the claims of the indictment were not proved.

In the case "**Lawyer 1**" the prosecutor **after the initial hearing** has withdrawn the indictment against two (2) municipal officials in Gjakova, **with reasoning that they did not commit the criminal offense** of corruption according to the indictment submitted by the prosecutor himself.

In the case "**Rent**" against a person criminal proceeding have been ceased for the fact that one of the accused has died.

### c) Judgments of acquittal

The Courts against twenty-three (23) persons charged by the State Prosecutor have announced judgments of acquittal.

Rasti "**PRB**": The court in this case acquitted from charges the former President of the PRB, Hysni Hoxha, a official of the PRB and a businessman, who were charged for corruptive criminal offenses. **No request was made** in this case for confiscation of assets.

Case "**Klllokot 1**": Due to lack of evidence, court acquitted from charges the former Mayor of municipality of Klllokot, Srecko Spasic, charged for corruptive criminal offenses. **No request was made** in this case for confiscation of assets.

Case "**Contract**": Court has announced judgment of acquittal for the Secretary of MEST and three officials of this ministry, as well as the Secretary of the Constitutional Court for criminal offenses. No request was made in this case for confiscation of assets.

Case "**Matrix M**": The court has acquitted from criminal responsibility four (4) citizens of Kosovo, accused for organized crime and trafficking in persons.



Case "**Lawyer 2**": The court has taken a judgment of acquittal against the municipal official of Gjakova for two corruptive criminal offences. No request was made in this case for confiscation of assets.

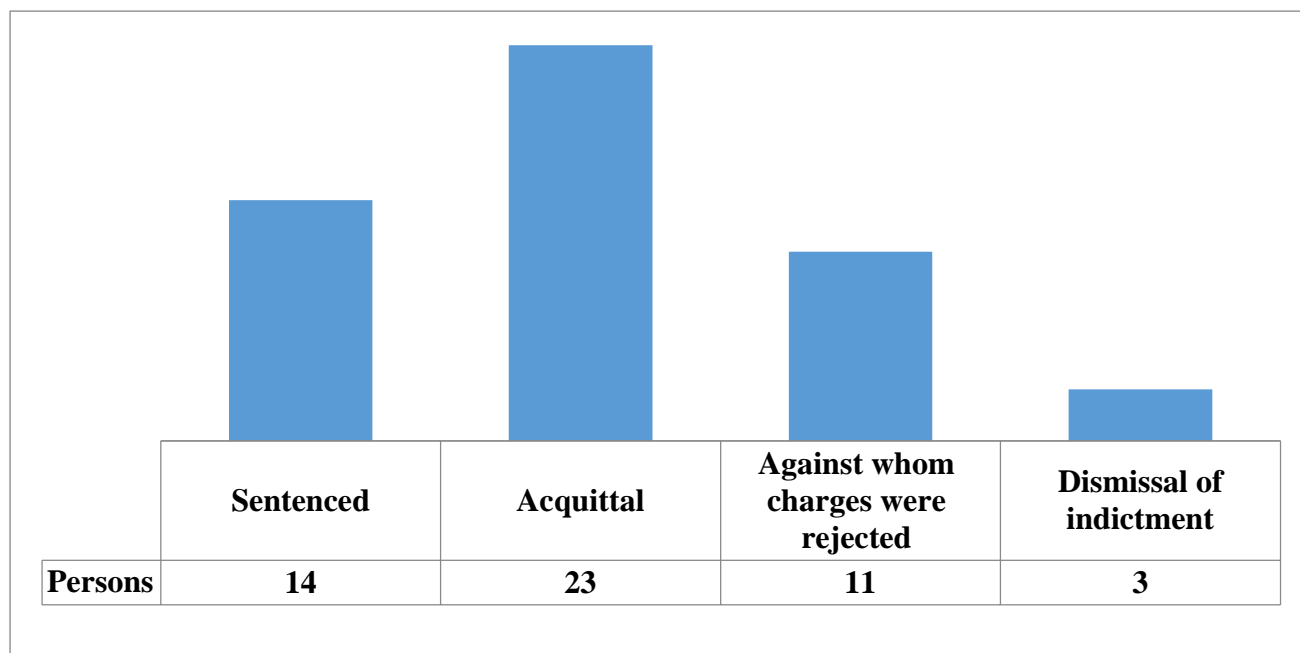
Case "**Appeal**": The court has acquitted from charges the former President of the Appeal Court, Mr. Salih Mekaj and three (3) other citizens accused for corruptive criminal offences. No **request was made** in this case for confiscation of assets.

Case "**Rent**": The court has acquitted from charges three (3) municipal officials of Skenderaj, accused of corruptive criminal offences. **No request was made** in this case for confiscation of assets.

Case "**Construction**": The court has acquitted from charges (2) municipal officials of Dragas accused of corruptive criminal offenses and one (1) businessman accused of "usurpation of illegal property". **No request was made** in this case for confiscation of assets.

Case "**Authority**": The court has acquitted from criminal responsibility one (1) official of the MEST, accused for corruptive criminal offenses and one (1) businessman for criminal offense of fraud. No request was made in this case for confiscation of assets.

KLI's findings show that from 38 targeted cases is achieved that only 15 or 39% of them to receive a final verdict. Within these are included cases: "PRB 1", "Lawyer II", "Prosecutor", "Kllokot I", "Contract", "Suhareka", "Matrix-M", "Lawyer I", "Appeal", "Rent", "Construction", "Kllokot II", "Authority", "Inspector", "Shift".

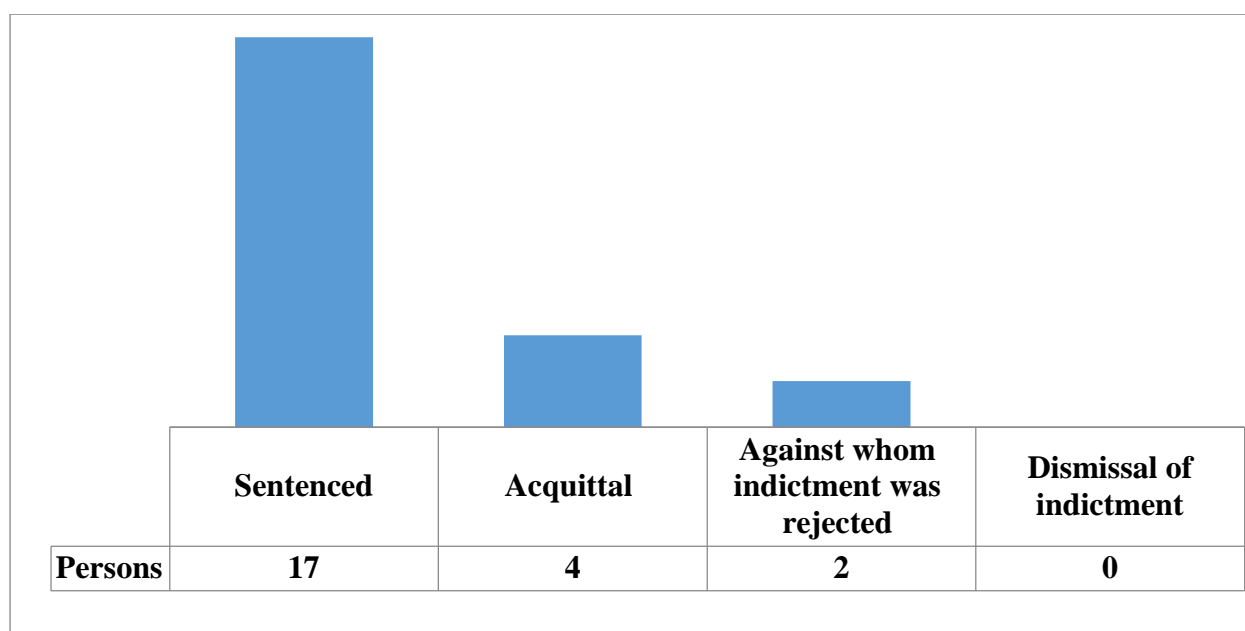


**Graphic 6 – Number and type of judgment announced against persons adjudicated by final judgment in targeted cases.**

### VIII. First instance judgments in targeted cases returned in retrial<sup>21</sup>

In all targeted cases which are being treated by the courts, four of these cases returned in retrial. In these cases, the highest court instances found violations of the law by the first court of first instance and have decided to return them in retrial.

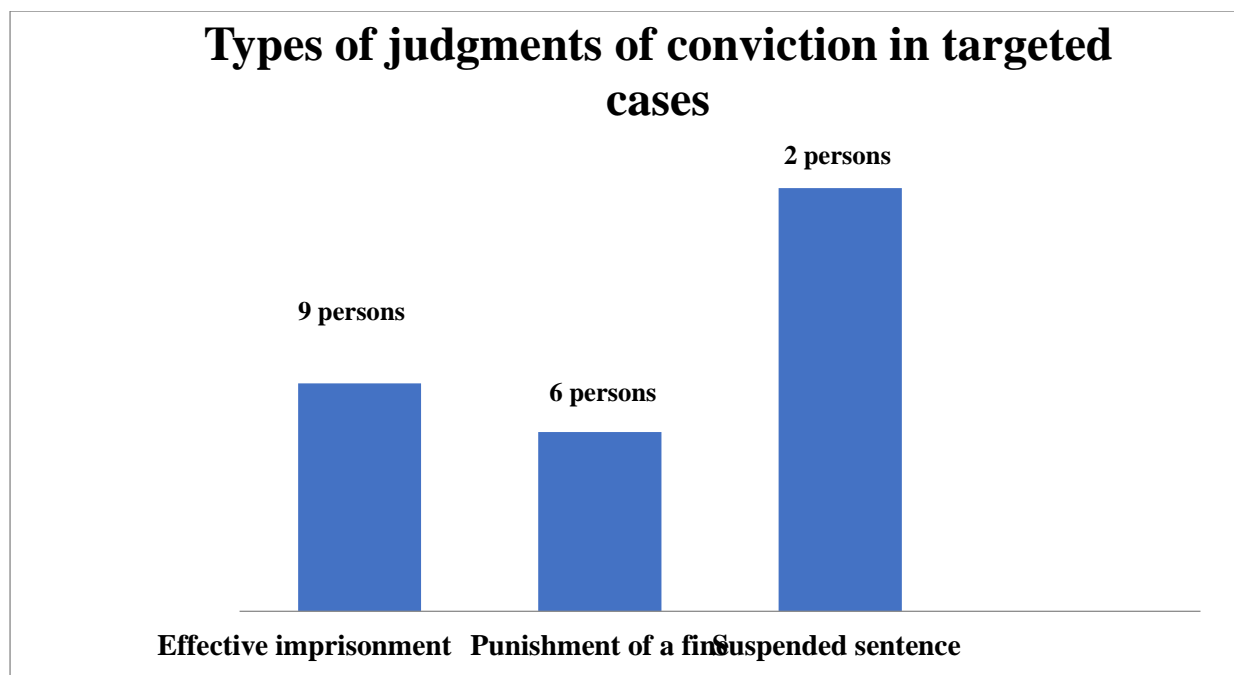
In these cases, 23 accused persons are involved. Regarding them in the first court process, the first instance announced guilty 17 people. Nine (9) of them were sentenced with effective imprisonment<sup>22</sup>, six (6) persons were sentenced with a fine, whereas two (2) persons were sentenced with conditional imprisonment. Whereas, against two (2) persons was taken refusal verdict and in the lack of evidence the judges have released four (4) persons.



**Graphic 7 – Number and type of verdict announced against persons judged in the first instance in cases returned for retrial.**

<sup>21</sup> Note: KLI at the bottom of this report, respectively in Chapter XII – “Annex II: Detailed analysis of targeted cases returned in retrial”, has analyzed each case of this category.

<sup>22</sup> Note: Two (2) persons in the case “Migrant” were sentenced with effective imprisonment and a fine.



**Graphic 8 – Number of persons and types of sentences according to judgments of conviction announced in the first instance in targeted cases returned for retrial.**

## I. PUNITIVE POLICY

### a) Sentences with effective imprisonment

In the case "**Migrant**" in which three persons were accused for organized crime and arms trafficking, among them former driver of Consulate of Kosovo in New York, Miftar Dobraj, after the court re-qualified the indictment by removing the criminal offense of organized crime, Dobran and two citizens were convicted with sentences of effective imprisonment and punishment of a fine. Miftar Dobraj was sentenced with five (5) years and six (6) months imprisonment and seven thousand (7,000) euros fine, Artan Kelmendi with five (5) years and two months imprisonment, while Daniel Prenecaj was sentenced with two (2) years imprisonment and three thousand (3000) euros fine. In this case, a citizen was punished with four thousand (4000) euros fine for illegal possession of weapons. The first instance court also seized weapon, 1,653 euros, mobile phones and a vehicle.

After returning for retrial, regarding this case the court process has not **yet** started.

In the case "**Judge**", son of judge Safete Tolaj, Fisnik Tolaj, was found guilty regarding the charges for criminal offenses "Falsification of official document"; "Exercise of Influence" and "Special Cases of Falsifying Documents", being sentenced with a unique sentence of four years and six months imprisonment.

In this case, the State Prosecutor had made a request for the confiscation of a residential property acquired through criminal offense, but this proposal was **rejected** by the court.

After returning for retrial, **nor in this case** the court process has not yet started.

In the case "**Crystal**", the court for charges of "usury", "organizing pyramid schemes" and "illegal gambling" had sentenced five citizens with imprisonment, with a duration from eight months to two years and five months.

SPRK, in this case, had requested seizure of money, property, residential property and business as well as vehicles in a total value of over one million euros, but the court of first instance **rejected** this request with the reasoning that the prosecution **has not achieved to prove** that seized assets is acquired with criminal offense.

#### **b) Punishments of a fine**

In the case "**Crystal**", court had sentenced five citizens for charges of "usury", "organization of pyramid schemes" and "illegal gambling". Four of them have replaced sentences with effective imprisonment into punishments of a fine, involving fines from 1,500 to 2,500 euros.

In the case "**Migrant**" a citizen after pleaded guilty for the criminal offense "Ownership", unauthorized control or possession of weapons", he was sentenced with a fine of 4,000 euros while the weapon was then confiscated. This sentence was also verified by the Appeal Court.

#### **c) Suspended sentence**

First instance court in its decision in the case "**KEDS**", sentenced with six months with suspended imprisonment a official of the Kosovo Metrology Agency, while a KEDS official was sentenced with two years with conditional imprisonment for the criminal offense "Abusing Official Position or Authority", and released for the criminal offense of "Fraud of the Buyers". After the case has gone to the Appeal Court, this court has fully released from charges the official of the KEDS, and has returned for retrial the process for the official of the Kosovo Metrology Agency.

## **II. JUDGMENTS OF ACQUITTAL, REJECTION AND DISMISSAL OF INDICTMENTS**

#### **a) Judgments of acquittal**

Case "**Judge**" first instance court, due to lack of evidences has acquitted from charges for corruption judge Safete Tolaj and police officer Granit Shehaj. Whereas, the Appeal Court returned the case in retrial, due to the essential violation of provisions of criminal procedure. However, nor in this case has **not yet** started with retrial process.

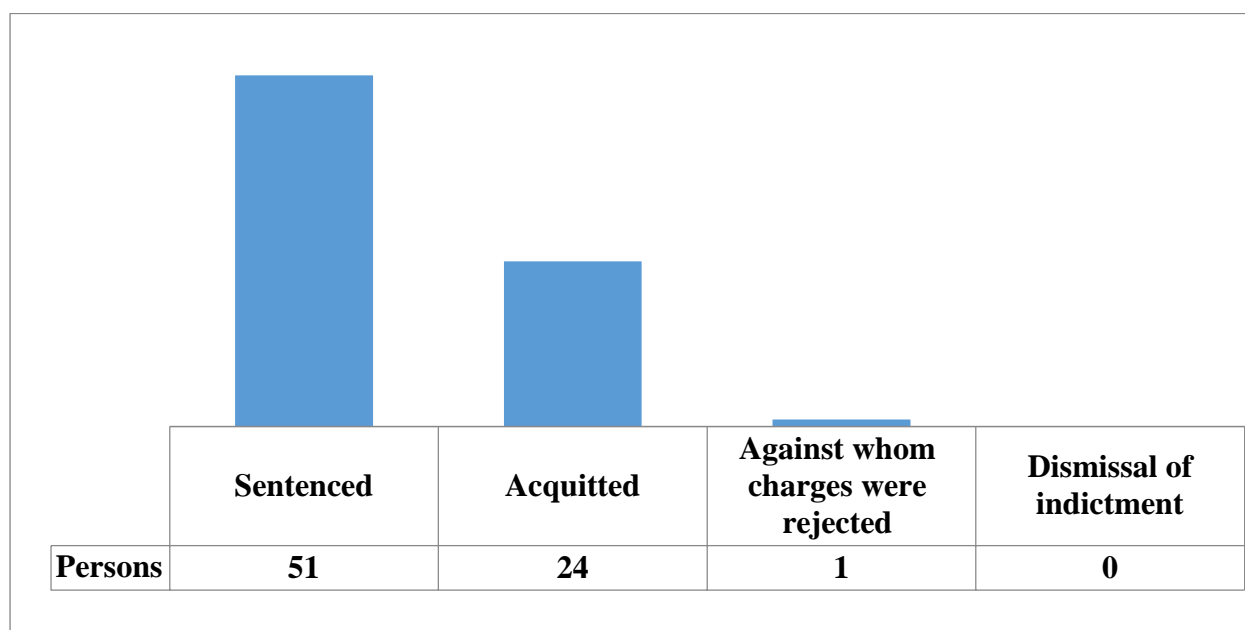
In case "**Crystal**", among the 12 accused persons, court has released from charges two citizens for "organizing pyramidal schemes".

### b) Rejection judgements

In case “**KEDS**”, prosecutor decided that against an official of the Kosovo Metrology Agency, with the reasoning that allegations and indictments have not been proven, to withdraw from criminal prosecution, whereas director of this Agency passed away and consequently also for him was taken a rejection judgment.

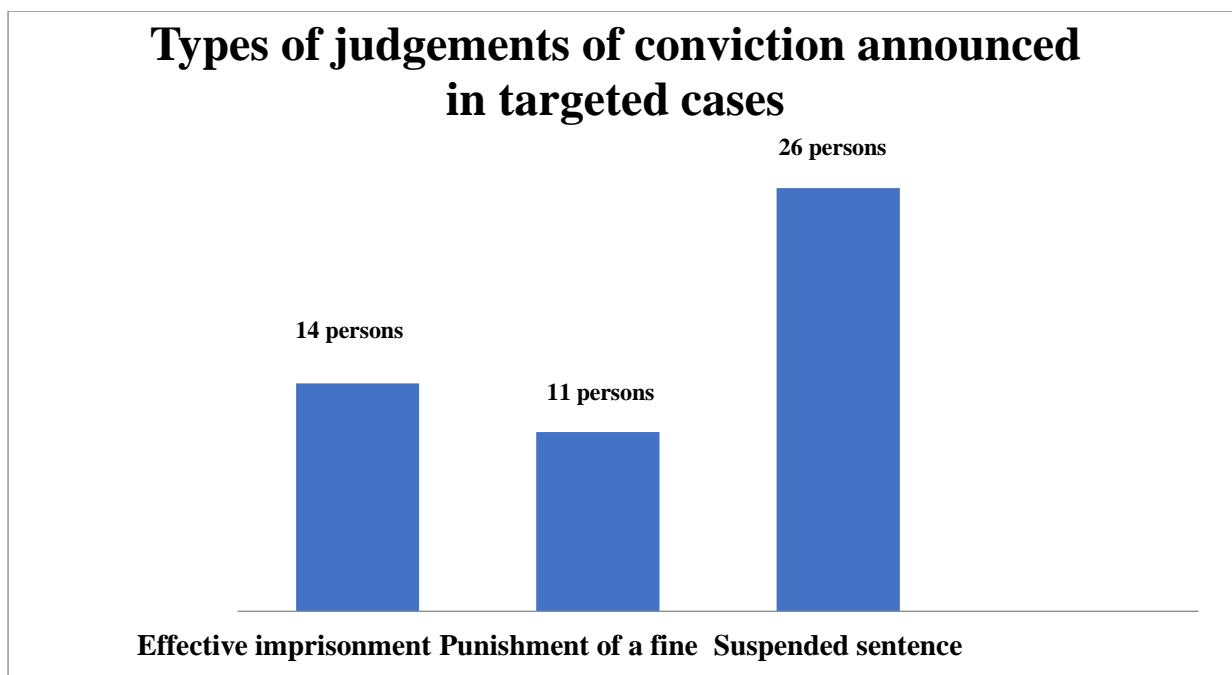
## IX. First instance judgements in targeted cases<sup>23</sup>

All cases in which judgements were completed only in first instance, are involved 76 persons. Courts have imposed punitive judgments against 51 persons, from them 14 are sentenced with effective imprisonment, 11 persons were punished of a fine, whereas against 26 persons are imposed conditional sentences. For the lack of evidences 24 persons are released from charges, whereas against one person was imposed rejection judgment.



**Graphic 9 – Number and type of judgment announced after the completion of procedure in first instance in targeted cases.**

<sup>23</sup> Note: KLI at the bottom of this report, respectively in Chapter XII – “ANNEX III: Detailed analysis of targeted cases completed in first instance, which are found in appeal procedure”, has analysed each case of this category.



**Graphic 10 – Number of persons and types of sentences according to judgements of conviction in first instance in targeted cases.**

## I. PUNITIVE POLICY

### a) Sentences with effective imprisonment

In case “**Obligation**” court for the criminal offense of “obligation”, in criminal union, announced guilty three citizens. Arben Bashota was sentenced with six years imprisonment, Osman Bajrami was sentenced with four years and six months imprisonment, whereas Sylejman Bajrami was sentenced with three years imprisonment.

In this case, court confiscated **three vehicles and 10,000 euros** gained with criminal offense.

Case “**UP**” with six months imprisonment are sentenced a official of the University of Pristina and a businessman. In this case, prosecution **did not make** any request for seizure of assets acquired with criminal offense.

In the case known as “**Stents**”, regarding charges for corruption, former minister of Health Ferid Agani was announced guilty and was sentenced with two and a half years imprisonment, while former secretary of this ministry, Gani Shabani with two years imprisonment. Nor in this case **was not made any** request for seizure of assets.

Case “**Feronikeli**”, is another rare case where a former senior official was sentenced for corruption with effective imprisonment, but the judgment in question has not yet become final. In this case, the court, for corruption charges has sentenced former mayor of Municipality of Lipjan Shukri Buja with three years imprisonment, whereas a official of this municipality was sentenced with two years and six months imprisonment. Against three other

municipal officials were imposed sentenced with six months imprisonment, whereas another official was sentenced with five months imprisonment. Officials sentenced with six respectively five months imprisonment have had the opportunity of replacing these sentences with punishment of a fine.

Nor in this case **there was no** request for seizure of assets acquired with criminal offense.

Case “**FAN**”, a businessman related to the charge of fraud and tax evasion, was sentenced with one year and eight months imprisonment. In this case the SPRK has made a request for the seizure of the "FAN" company, but court has **rejected** such a request.

#### **b) Punishments of a fine**

In this group of cases is only the case known as "**Gold**", in which for the criminal offenses "Smuggling of goods", "Forbidden trade" and "Tax Evasion", were imposed punishments of a fine to 11 citizens. These citizens were initially sentenced with three to six months imprisonment, but agreed to replace their sentence with punishment of a fine in amount of 1,100 and 3,000 euros.

In this case are **seized** 28,439.97 ares, 47,526.91 grams of silver and a bus, as a means which were acquired with criminal offence.

#### **c) Suspended sentences**

The court has decided that in the case of "**MoH 2**" to be sentenced with a suspended imprisonment in duration of two years and with 1,000 euros fine to two businessmen accused for the criminal offense of "unauthorized use of the firm, brand or foreign model". Neither in this case **there was no** request for seizure of assets.

In the case “**UP**”, former rector of the University of Pristina Enver Hasani was sentenced with one year suspended imprisonment for criminal offense of fraud on duty. Then Hasani was released from these charges by the Appeal Court and the same decision was confirmed by the Supreme Court. In this case, even though it was alleged that the damage caused to the state budget is over 70 thousand euros, **there was no** request for seizure of assets by the State Prosecutor.

The court has imposed suspended sentences against 23 citizens in the case "**Gold**" for criminal offenses "smuggling of goods", "forbidden trade", "tax evasion" and "buying, receiving or hiding items acquired by committing criminal offense". In this case, conditional sentences were imposed from three months to twelve months, that included a verifying period of two years.

## JUDGMENTS OF ACQUITTAL, REJECTION AND DISMISSAL OF INDICTMENTS

### a) Judgments of acquittal

In the case "**Security**", former Mayor of Skenderaj Sami Lushtaku, former President of the PRB, Hysni Hoxha and former Director of the KEK, Arben Gjukaj and four other persons after more than four years of judgement, due to lack of evidence, are acquitted from charges of corruption and other criminal offenses. Even though by the indictment is alleged that the state budget was damaged over 6 million euros, **there was no** request from the State Prosecutor to seize assets acquired with criminal offenses.

The court due to lack of evidence has released from charges also six persons in the case known as "**MoH 2**", in which for criminal offenses "abusing official position or authority", "fraud" and other criminal offenses were charged former secretary of the Ministry of Health Ilir Tolaj and five other officials of this Ministry. In this case it was alleged that the damage caused to the state budget is about 276,307.97 euros, **but there was no** request for seizure of assets.

Six persons, officials of the KPA, among which MP Naser Osmani, were acquitted from charges for corruption and other offenses in the case known as "**FAN**". In this case SPRK **has made a request** for seizure of the "FAN" company, but the **court rejected this request**.

In the case "**Ferronikeli**", the court due to lack of evidence, had released from charges for corruption three officials of Municipality of Lipjan. She had also released a businessman for the criminal offense "illegal construction works", and because of the statutory limitation he had received a rejection judgment for the criminal offense of "giving bribes".

In the case "**HIB**" the court in the retrial process has acquitted Kujtim Bucaliu, although in the first court process the same was sentenced with four years imprisonment. In this case the prosecution had requested to seize the tank truck of "HIB" company.

### b) Rejection judgments

In the case "**FAN**", prosecutor withdrawal from criminal prosecution against a official of the KPA charged for corruption and consequently against him was taken rejection judgement.

From 76 persons accused, seven (7) of them belong to high profile. In this group of persons, judgements with effective imprisonment were imposed against three persons (Shukri Buja, Ferid Agani and Gani Shabani), whereas for the other four (Sami Lushtaku, Hysni Hoxha, Ilir Tolaj, Enver Hasani) the indictments have failed because they due to lack of evidence are acquitted from charges.



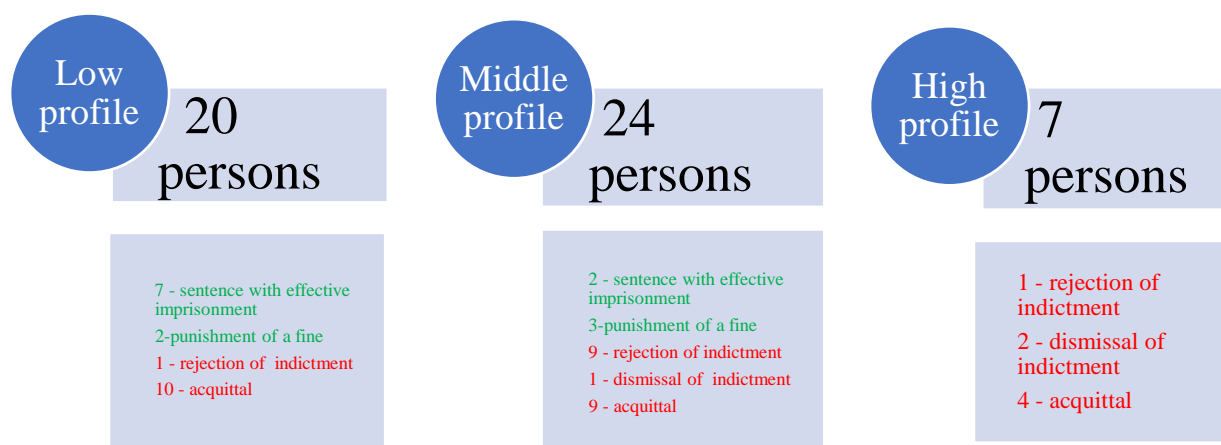
## X. Profile of persons accused in all targeted cases<sup>24</sup>

KLI also analyzed the profile of persons who are subject of court proceedings in targeted cases, which are for the first time in court proceedings, cases that have been adjudicated in the first instance and returned for retrial, cases that have been adjudicated in the first instance and found in the appeal procedure, as well as cases completed with final judgment. Out of all cases, results that 257 persons were charged, of whom 169 persons belong to low profile, 50 persons belong to middle profile, whereas only 38 persons of high profile were charged. For each of the categories, the following is the profile of persons and decisions of courts against these profiles.

### a. Profile of persons accused in cases that have been completed with final judgment

In these cases that have been completed with final judgments, seven (7) persons belong to high profile for which have failed the indictments for corruption as we have no judgment of conviction. Four (4) of these persons due to lack of evidence were released from the indictment (former-President of the Appeal Court Salih Mekaj, former Mayor of Municipality of Klllokot municipality Srecko Spasic in the case "Klllokot I", former President of PRB Hysni Hoxha and former expert of the PRB Hysni Muhadri.), for one person the prosecutor had withdrawal from criminal prosecution (former Mayor of Dragash Selim Jenuzi), whereas against two persons the indictment was dismissed without starting the court process (Former Minister of Education Science and Technology Rame Buja and former Mayor of Klllokot Srecko Spasic in the case "Klllokoti II")

Also, in these cases 24 persons accused belong to middle profile, whereas 20 persons belong to low profile.



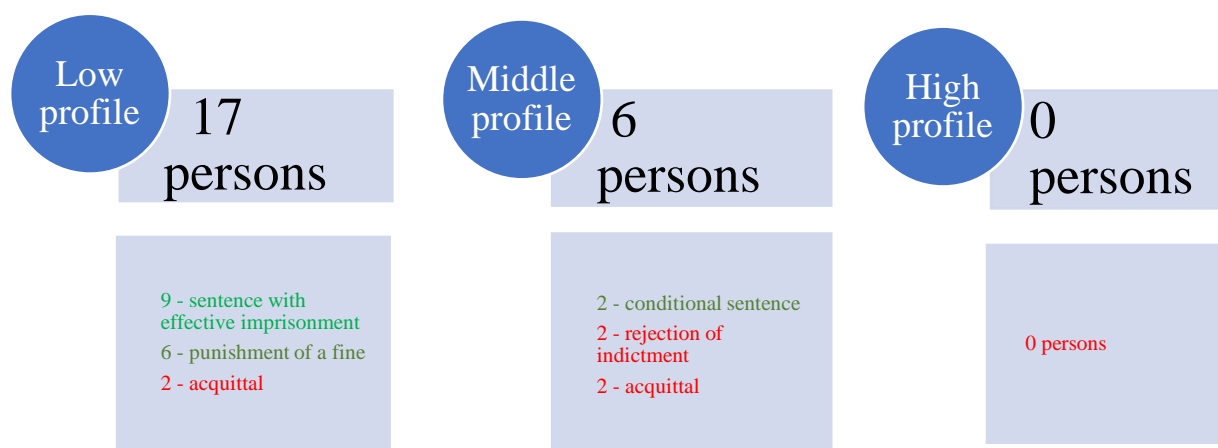
**Graphic 11 – Profile of persons accused in cases that have been completed with final judgement.**

<sup>24</sup> Defining the profiles of accused persons is done in two ways. The high profile is defined according to the KPC guide, adopted on November 3 2013, whereas the profile of middle and low persons is defined based on the research standard that KLI has built over the years, depending on their positions in institutions, organizations or persons without public positions.

From the 24 persons that belong to the middle profile, it results that judges have announced judgement of conviction against five (5) accused, of whom two (2) persons were sentenced with effective imprisonment and three (3) persons were sentenced with punishment of a fine, were taken rejection judgements against seven (9) persons, whereas have announced judgements of acquittal against eight (9) accused, and also the indictment was dismissed against one person. Of the 20 persons who belong to the low profile, it results that judges have announced judgements of conviction against nine (9) accused, of whom seven (7) persons have been sentenced with effective imprisonment and two (2) persons sentenced with punishment of a fine, was taken a rejection judgment against one (1) person, whereas have announced judgement of acquittal against ten (10) accused.

**b. Profile of persons accused in cases that were completed with judgement in the first instance and have returned in retrial**

of 23 accused persons, against whom the court have imposed judgements in the first instance, but were returned in retrial, it results that none of them do not belong to the high profile.



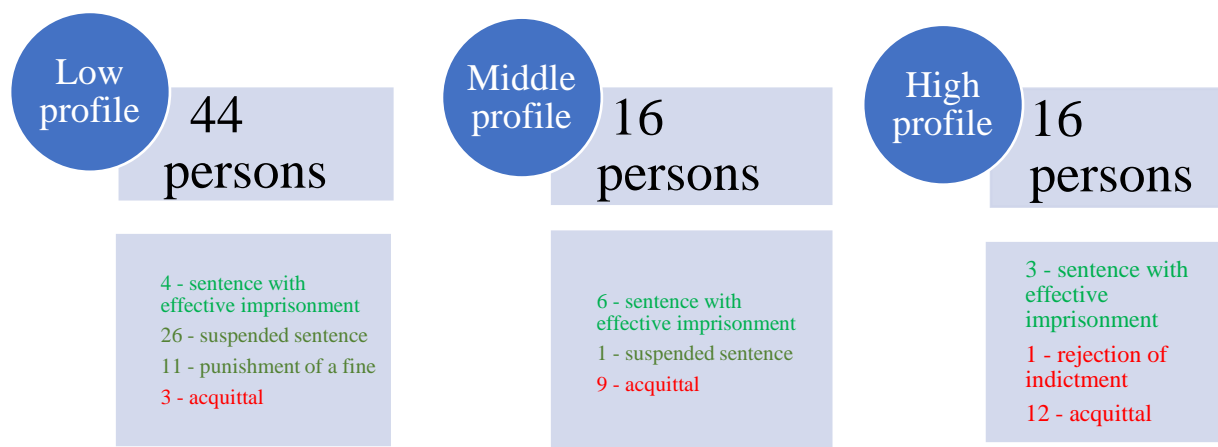
**Graphic 12 – Profile of persons accused in cases rastet that have completed with judgement in the first instance and have returned in retrial.**

Six (6) accused persons belong to the middle profile, against whom the courts have imposed judgements in the first instance, it results that only two (2) of them were convicted with a suspended punishment, againts two (2) persons the charge was rejected, whereas two (2) other persons were acquitted from criminal liability. In this group of cases are involved 17 persons, they belong to low profile - mainly citizens. Againts them, judges imposed judgments, where nine (9) accused were sentenced with imprisonment, six (6) accused were sentenced with punishment of a fine, whereas two (2) of the accused were acquitted.

**c. Profile of persons accused in cases were completed with the first instance judgement**

So far, courts have announced judgements against 76 persons accused in targeted cases, but which cases are still active because they are in appeal procedure at the Appeal Court in Pristina. Of this number, it results that 16 accused persons belong to the high profile, 16

accused persons also belong to the middle profile, whereas 44 persons belong to the low profile.



**Graphic 13 – Profile of persons accused in the cases that have been completed with judgement in the first instance.**

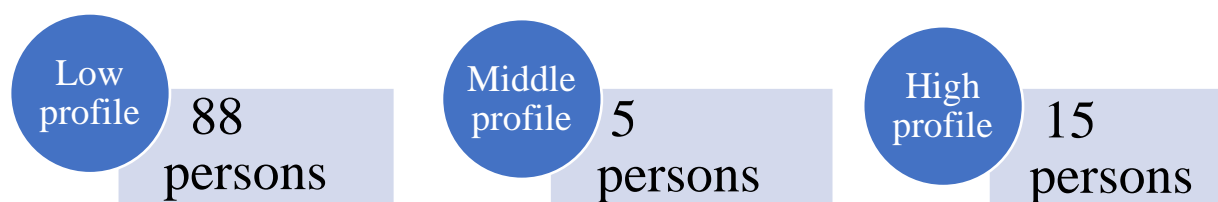
Of the 16 persons adjudicated in the first instance who belong to the high profile, it results that against three (3) accused, judges have announced judgement of conviction, sentence with three years imprisonment for the former Mayor of Lipjan Shukri Buja, former minister of Health Fehmi Agani was sentenced with two years and six months imprisonment, whereas former secretary of this ministry Gani Shabani was sentenced with two years imprisonment. Charge was rejected against one person, whereas the courts have announced judgement of acquittal against 12 of the accused (six persons in the case of "Security" and six other persons in the case "Fan").

Of the 16 accused persons that belong to the middle profile, it results that judges have announced judgement of conviction against six (6) persons, who are sentenced with effective imprisonment, five (5) of whom were sentenced with six months imprisonment and one (1) other with five months imprisonment, whereas one (1) person was sentenced with suspended punishment, whereas have announced judgements of acquittal against nine (9) of the accused.

Against low profile, involving 44 persons or the largest number of persons, against whom was announced judgment in the first instance, it results that judges have announced judgment of conviction against 37 of the accused, 26 of whom were convicted with a suspended punishment, against 11 persons were imposed punishments of a fine and only four (4) persons were sentenced with effective imprisonment, three (3) of the accused of case "Obligation" were sentenced with effective imprisonment, namely Arben Bashota, was sentenced with six years imprisonment, Osman Bajram was sentenced with four years and six months imprisonment and Sylejman Bajrami was sentenced with three years imprisonment. Also in the case "UP", businessman Albert Rakipi was sentenced with six months effective imprisonment, whereas the courts have announced also judgment of acquittal against three (3) of the accused.

**d. Profile of persons accused in cases that are in court proceedings**

In cases for the first time in court process, it results that 108 persons are accused, of which only 15 of the accused belong to high profile (*12 persons in the case of "Veterans"* Agim Ceku, Nuredin Lushtaku, Sadik Halitjaha, Shkumbin Demaliaj, Qele Gashi, Shukri Buja, Ahmet Daku, Rustem Berisha, Faik Fazliu, Smajl Elezaj, Fadil Shurdhaj and Xhavit Jashari, and *three persons in the case "Post office"*: Agron Mustafa, Ejup Qerim and Rexhe Gjonbalaj), also five persons belong to middle profile, whereas 88 persons belong to low profile.



**Graphic 14 – Profile of persons accused in cases that are in court proceedings.**

These cases are still in court procedure and according to KLI's findings, evidenced in this report, it results that judges, continuously violate legal deadlines for treating these cases, as set out in the Criminal Procedure Code.

So far in those cases against one (1) person was ceased the procedure, because in the case "Sekser", the indictment was dismissed against director of the Directorate for Economical Crime in Pristina, Emin Beqiri, who has managed not to be judged from three criminal offenses for which was charged by prosecution, respectively for criminal offenses "abusing official position or authority", "obstruction of evidence" and "failure to report criminal offenses or their perpetrators".

## XI. Main findings of the KLI in treating targeted cases

The following KLI has listed a number of main findings as a result of systematic monitoring, research and analysis of targeted cases for visa liberalization. Findings include violations of legal obligations and Council policies in treating targeted cases to the mismanagement of the judicial and prosecutorial system that have affected inefficiencies and in inefficiencies and ineffectiveness in treating of these cases.

- The mechanism for targeting cases of serious crimes for visa liberalization has continuously violated the criteria set out in the Standard Operating Procedures in case of targeting cases.
  - Many targeted cases do not meet criteria of the SOP.
  - Many cases that meet targeting criteria are not targeted.
- In over 90% of targeted cases, judges violate the legal deadlines for treating cases under the Criminal Procedure Code.
- Inefficiency in treating cases. From 2015 until the end of April 2019, the State Prosecutor has targeted 51 cases, in which are involved 372 persons. Out of the 51 targeted cases, the State Prosecutor raised indictments in 38 cases, whereas 13 cases are in the investigation stage. Of the 38 targeted indictments, only 15 of them or 39% have completed with final judgments.
- The State Prosecutor in the 15 adjudicated indictments with final judgment, where are involved 48 accused persons, failed to defend indictments against 34 persons or 71% of them, who were acquitted by the courts, and has been able to prove the indictments against 14 persons or 29% of them, who have been sentenced.
- The State Prosecutor in cases where court processes have been completed only in the first instance, where are involved 76 people has managed to prove the indictments against 51 or 67% of them, while he has failed to prove indictments against 24 persons, who have been acquitted by the court. The sentence policy in these cases completed in the first instance, results to be inadequate to achieve the purpose of the sentence. Of the 51 persons sentenced in the first instance, it results that 14 persons were sentenced with effective imprisonment, 11 persons were convicted with punishment of a fine, whereas against 26 were imposed suspended punishments.
- In the 38 targeted indictments, 258 persons are involved. Out of them 169 accused persons belong to the low profile, 51 persons to the middle profile, whereas 38 persons belong to the high profile.
  - **From 38 targeted indictments, 15 cases have been completed with a final judgment, involving 51 accused persons.**  
KLI finds that from this total of accused persons, 7 accused persons belong to the high profile. Indictments against them have failed, after they were acquitted by the courts.  
Of the 51 accused persons who have completed with final judgment, it results that 24 persons belong to the middle profile. From them, 2 of accused were sentenced with effective imprisonment, 3 were punished of a fine, whereas 19 persons were acquitted.

Of the 51 accused persons who have completed with final judgment, it results that 20 persons belong to low profile. From them, 7 accused were sentenced with effective imprisonment, two were sentenced with punishment of a fine, whereas 11 persons were acquitted.

- **From 38 targeted indictments, 4 cases have been completed with the first instance judgment, but have returned in retrial, where are involved 23 accused persons.**

KLI finds out of this total of accused persons, there is no high profile, whereas results that 6 persons belong to the middle profile. Of them, 2 of the accused were sentenced with suspended imprisonment, while 4 persons were acquitted. From the 23 accused persons who have been completed in the first instance and who have returned in retrial, it results that 17 persons belong to the low profile. From them, 9 accused were sentenced with effective imprisonment, 6 were punished of a fine, while 2 persons were acquitted.

- **From 38 targeted indictments, 9 cases have been completed with first instance judgment, but still are in appeal procedure, where involved are 76 accused persons.**

KLI finds out from the total number of accused persons, 16 accused persons belong to high profile. From them, 3 of accused were sentenced with effective imprisonment, whereas 13 persons were acquitted.

From the 76 accused persons who have completed with first instance judgment, that are still in the appeal procedure, it results that 16 people belong to the middle profile. From them, 6 of accused were sentenced with effective imprisonment, 1 was suspended sentence, while 9 persons were acquitted.

From the 76 accused persons who have completed with first instance judgment, that are still in the appeal procedure, it results that 44 persons belong to the low profile. From them, 4 accused were sentenced with effective imprisonment, 26 were convicted with a suspended punishment, 11 were convicted with punishment of a fine, whereas 3 persons were acquitted.

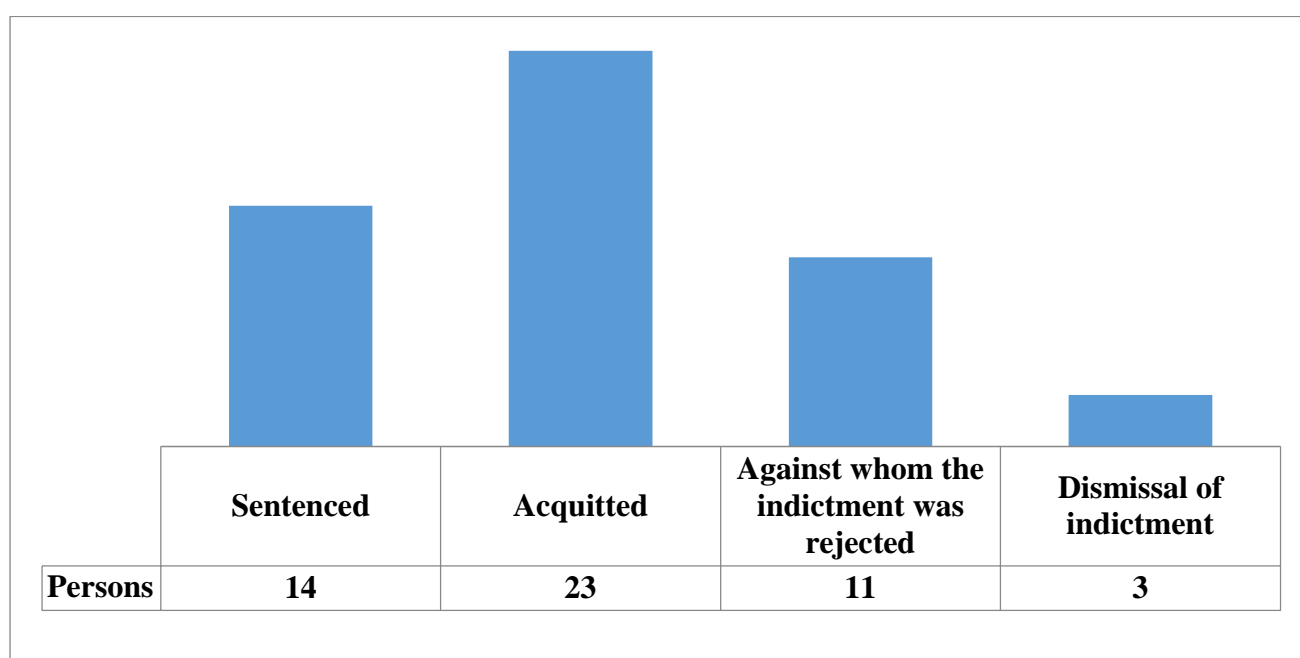
- From 38 targeted indictments, 10 cases are still in court procedures for the first time in the first instance, involving 108 accused persons. From them, 15 accused belong to the high profile, 5 accused belong to the middle profile, while 88 accused belong to the low profile.
- Prosecutors have failed to argue and submit requests for seizure of assets under suspicion that they were acquired through criminal activities in targeted cases.
- The Basic Court in Pristina continues to be the most loaded court with the trial of targeted cases for visa liberalization, total 22 cases.
- The Basic Court in Pristina during this period had engaged only 5 judges of the Serious Crimes Department who have been treating 11 targeted cases.
  - Judge Arben Hoti, who is also vice president of this court, was handled with four cases, another judge Shashivar Hoti with three cases. Whereas judges Vabona Musliu-Selimaj, Beqir Kalludra and judge of the General Department in this court, Rrustem Begolli have been handled with two cases.

- Other judges Mustafa Tahiri, Vesel Ismajli, Lutfi Shala, Kreshnik Radoniqi, Shpresa Hasaj Hyseni, Shadije Gerguri, Vehbi Kashtanjeva, Nushe Kuka-Mekaj, and Suzana Cerkini have been handled with only one targeted case for visa liberalization.
- While although more than 10 judges are engaged in the General Department-Criminal Division, it was decided that two targeted cases be treated by judge Rrustem Begolli.
- In the Basic Court in Prizren, judges Xheladin Osmani and Ajser Skenderi have been handled with two cases, while Rrahime Elezi with one case. In the Basic Court in Gjakova, judges Shaqir Zika and Artan Sejrani have been handled with one case, the same also in Ferizaj, with one case have been handled judges Shabi Idrizi and Ibrahim Idrizi.
- In the Basic Court in Gjilan, three judges Zyhdi Haziri, Aziz Shaqiri and Afrim Shala have been handled with one case. Whereas, in Mitrovica, judge Beqir Halili had two cases, while his colleagues Radoslav Markovic and Burim Ademi have been handled with one case.
- Disrespect of recommendations of the KJC and KPC issued on March 22, 2018 by judges and prosecutors for treating targeted cases.
- Another issue that has affected in the ineffectiveness and economization of these targeted cases has been the frequent change of both the prosecutors who have represented the indictment, and also the changes of the presiding judges. With the provisions of the CPCK it is stipulated that in case when during court review the presiding judge changes, that case should be initiated again and if during treating these cases such situations occur, then the same can not be completed within a reasonable deadline.
  - It is worth mentioning the case "Damage", in which until now three presiding judge have been changed that has influenced that even though 19 court hearings have been held, this case now will be judged from point 0.
- Violation of the rights of persons accused in criminal procedure, who are not adjudicated in a reasonable time.
- Problems continue in the evidencing of targeted cases for visa liberalization in the official evidences of the judicial system and the prosecutorial system.

## XII. ANNEX I: Detailed analysis of targeted cases completed with final judgment

From the findings of the KLI it results that from 38 cases in total, only 15 of them have reached a final decision (cases: "PRB 1", "Lawyer II" "Prosecutor", "Klokot I", "Contract", "Suhareka", "Matrix-M", "Lawyer I", "Appeal", "Rent", "Construction", "Klokot II", "Authority", "Inspector", "Shift").

Within 15 cases that were completed with a final judgment that compose 39% of all targeted cases, trials have been completed for 48 persons. From all these cases, courts at the country level have issued judgement of acquittal against 22 persons, that compose the largest number of judgements. On the other hand, sentenced are 14 persons, whereas against nine (9) persons were taken rejection judgments and against three (3) persons the courts have dismissed the indictments without starting court hearing.<sup>25</sup>



Graphic 15 – Number and type of judgement announced against persons adjudicated with final judgement in targeted cases.

KLI, has noticed that apart of the case “**Prosecutor**”, in which former prosecutor Vahide Badivuku, due to committing the criminal offense “accepting bribes”, was sentenced with three years and 5.000 euros fine, and was also prohibited from exercising public administration or public service functions for three years, after the completion of sentenced with imprisonment. While, at other judgment of conviction, mainly are adjudicated persons of low profile.

Case "**Appeal**" is a case that at the beginning has shocked the public opinion, because that for criminal offenses related to corruption was suspected the President of the Appeal Court

<sup>25</sup> Note: In the case “Layer II”, has been only one accused person but he was charged for three criminal offences, two of which for a criminal offence was sentenced, whereas for two criminal offenses was acquitted from charges.



Salih Mekaj, but the indictment of prosecutor of the special prosecutor Drita Hajdari, in the end remained unsupported in evidence and with final judgment, Mekaj and the other three accused were acquitted from all charges that they were accused.

In this group of cases, two former mayors of municipalities were charged with corruption criminal offenses for the time they had exercised the function of the mayor of municipality, but none of the indictments against these persons treated as a high profile have not been finalized with judgement of conviction.

The former mayor of Klllokot Srecko Spasic was charged in two cases known as "Klokot I" and "Klllokot II". In the case "**Klllokot II**", Spasic was charged with criminal offense "Conflict of Interest" but this indictment was dismissed by the first instance court after the initial hearing. Whereas, in the case "**Klllokot I**", he besides the criminal offense "conflict of interest" was also accused for the criminal offense of "abusing official position or authority", but the court did not confirm the allegations of the prosecution and thus he was acquitted from the indictment.

Former mayor of municipality of Dragash was charged for "abusing official position or authority" and was once sentenced by the Basic Court in Prizren, but after the case was returned in retrial, the State Prosecutor, decided to withdraw from criminal prosecution, with the reasoning that has reached the statutory limitation and consequently the Basic Court in Prizren, had reviewed rejection judgement against former mayor Jenuzi.

Same, the rejection judgements were also given to the cases "Lawyer I" and "Suhareka". In the "**Suhareka**" case, after 10 court hearings, the prosecutor Safer Morina had decided to withdraw from the indictment in the hearing in which it was intended to be given the final word, after assessing that the allegations of the indictment were not evidenced.

In the case "**Lawyer I**", Afrim Radoniqi in the capacity of the public lawyer of Gjakova and Xhevat Rraci in the capacity of Director at the Directorate for Geodesy, Cadastre and Property of the Municipality of Gjakova allegedly caused damage to the Municipality of Gjakova, after one of her property was left in use to a person after the obligation of compensation. However, in this case, although the indictment against Radonic and Rraci, was raised on April 6 2016, the prosecutor Agron Matjani, only after six months had decided to withdraw from the criminal prosecution, with the reasoning that the same did not commit criminal offense.

Case "**PRB 1**" from the raise of indictment took 1540 days until it became final, whereas the case that was finalized most quickly by all targeted cases is the case "**Klllokot II**" - for 152 days .

## 1. CASE “PRB 1”

### Basic Court in Pristina

**Case number:** PKR.no.679/14.

**Presiding judge:** Arben Hoti.

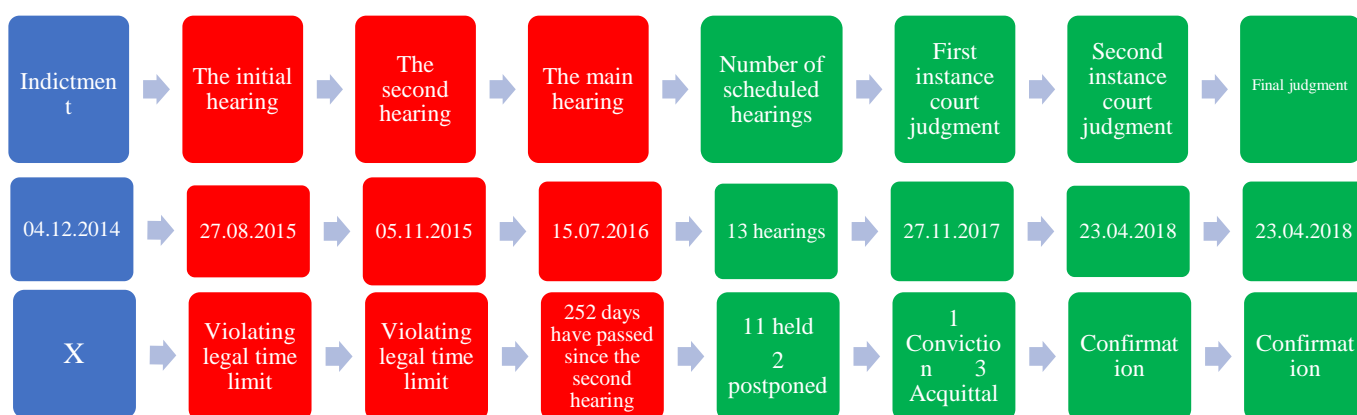
**Prosecutor:** Initially it has been Admir Shala, then Syle Hoxha.

**Defendants:** Hysni Hoxha, Hysni Muhadri, Arsim Robelli, Veton Fetahu.

**Criminal offences:** “Abusing official position or authority”; “Falsification of documents”, “Fraud”; “False statement under oath”.

**Stage of proceedings:** Final judgment.

### (SINCE THE INDICTMENT HAS BEEN RAISED UNTIL THE FINAL JUDGEMENT HAVE PASSED 1540 DAYS)



SPRK on December 4 2014, raised an indictment that charged Hysni Hoxha and Hysni Muhadri for committing the criminal offense "abusing official position or authority" in co-perpetration. In this case, Hoxha allegedly abused his duty in the capacity of the President of the Procurement Review Body (PRB) and at the same time in the capacity of the Chairman of the Procurement Review Panel, whereas Muhadri had done this by exercising the function of the review expert of the PRB.

According to the indictment, this offense had been committed by the defendants on June 2013, exceeding their powers, as it is claimed that the construction company "Conex Group" owned by Veton Fetahu, had brought material benefits in the amount from 1,799,759.54 euros. Regarding this tender, economic operator "NN Beni Construction & Jaha Company SHPK" in Vitia, had submitted a complaint regarding the procurement activity "Construction of business premises in Pejton town", whereas Hoxha as chairman of the PRB although notified by the Kosovo Tax Administration (KTA) regarding some unfavorable data for "Conex Group", the same had been hidden in front of two other penalists, which had been crucial data.

On this occasion, the panel rejected the appeal and ordered the contracting authority to sign a contract with "Conex Group". In this regard, it was claimed that Muhadri, as an expert of the issue, did not verify the claims presented in the complaint regarding the number of employees

presented at the KTA by "Conex Group" during 2010, 2011 and 2012. Even, according to prosecution claims, he has compiled the report in such a way that the complaint be rejected, hiding some information before the panel. On the other side, the indictment also charged the owner of "Conex Group" Veton Fetahu and the external accountant of this company, Arsim Robelli.

They were accused that in co-perpetration have falsified documents, compiling and using falsified documents regarding contributions of employees and their number presented at the KTA, which resulted with the announcement of "Conex Group" as the winner of the tender in question. Likewise, Veton Fetahu was charged with the criminal offense "fraud", as it was claimed that the same had hidden data, not submitting them before the panel in order to win the tender.

### **KLI's findings regarding the handling of the case**

The Kosovo Police had submitted criminal report for this case on December 5 2013. The SPRK issued a ruling on the beginning of the investigation after one year, on April 15 2015, and finally raised an indictment on December 4 2014. On August 27, 2015, almost eight months after the indictment was raised, the hearing was held in this case, by not respecting the legal deadline foreseen with the CPCRK , which stipulates that the initial hearing should be held within 30 days after the indictment has been raised. Similarly was acted also with the holding of second review, since the same was held on October 5, 2015, and according to the CPCRK, the second review should be held no later than 40 days after from the initial hearing.

This indictment was compiled and represented by a prosecutor for a time, Admir Shala, and then the same was represented by Prosecutor Syle Hoxha. For the prosecutor Admir Shala, the accused Arsim Robelli at the hearing held on November 17, 2017 stated that he had offered a plea agreement, saying that although he is innocent, he should be sentenced.<sup>26</sup> This accused had said that prosecutor had told him that he could be convicted with punishment of a fine of 500 euros, which the prosecutor, according to him, had told him that the owner of the company "Conex", Veton Fetahu could pay it.

The accused Veton Fetahu had made a plea agreement regarding criminal offenses for which he was charged and was sentenced with punishment of a fine from 2600 euros. Whereas, on November 27, 2017, the Basic Court in Pristina had announced the judgement by which Hysni Hoxha was acquitted from charges of abuse of official duty. Along with Hoxha, the PRB review expert, Hysni Muhadri, was acquitted from the charges, while also the third accused in this case was acquitted from the charges for falsification of documents, external accountant of the Conex company, Arsim Robelli. According to the court, it was not proven

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<sup>26</sup> "Arsim Robelli: Prosecutor told me that although you are innocent I must announce that you are guilty". Oath for Justice. November 17 2017 ( See the link <https://betimiperdrejtesi.com/arsim-robelli-prokurori-me-tha-se-edhe-pse-je-i-pafajshem-duhet-me-te-shpall-fajtor/>)

that the same have committed criminal offense by which were charged.<sup>27</sup> On April 2018, the Appeal Court had notified that this court rejected as ungrounded the appeal of the SPRK against the judgment of the first instance court, as according to this court, no alleged violations were found by the SPRK.<sup>28</sup>

**Alleged damage:** 1,799,759.54 euros.

**Confiscation and sequestration:** There was no request in the indictment.

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<sup>27</sup> “Former head of the PRB, Hysni Hoxha is acquitted from charges of abusing position (Video)”. Oath for Justice. November 27 2017, (See the link <https://betimiperdrejtesi.com/lirohet-nga-akuza-per-keqperdorim-detyre-ish-kreu-i-oshp-se-hysni-hoxha/>)

<sup>28</sup> “The appeal confirms the innocence of the former head of PRB Hysni Hoxha and two others”. Oath for Justice. April 23 2018, (See the link <https://betimiperdrejtesi.com/apeli-verteton-pafajesine-e-ish-kreut-te-oshp-se-hysni-hoxha-dhe-dy-te-tjereve/>)

## 2. CASE “LAWYER II”

### Basic Court in Gjakova

**Case number:** The case has been attached PKR.no.179/15

**Presiding judge:** Artan Sejrani.

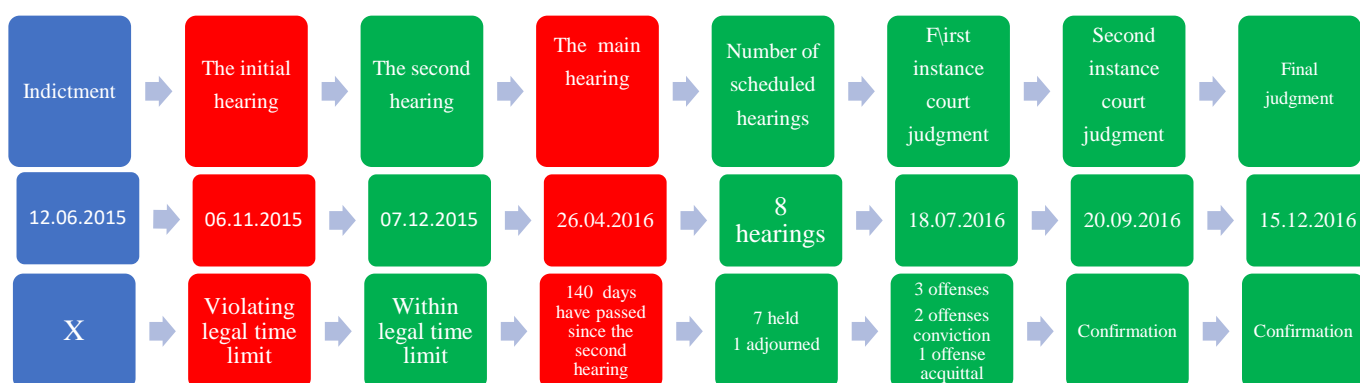
**Prosecutor:** Agron Matjani.

**Defendant:** Afrim Radoniqi.

**Criminal offences:** “Falsification of official document”; “Abusing official position or authority”; “Conflict of interest”.

**Stage of proceedings:** Final judgment.

### (SINCE THE INDICTMENT HAS BEEN RAISED UNTIL THE FINAL JUDGMENT HAVE PASSED 466 DAYS)



The indictment against Afrim Radoniqi, was raised on June 12, 2015 by the Basic Prosecution in Gjakova. He was accused that on April 17, 2009, as an official person - public lawyer of the Municipal Assembly of Gjakova for the purpose of property benefit, has caused damage to the Municipality of Gjakova by signing the compensation agreement by which he gave to the Kastrati family the parcel of Municipality of Gjakova with a surface from 0.16.74 hectare, in the name of compensation of expropriated property by the Municipal Assembly of Gjakova.

According to indictment, the Kastrati family was compensated in 1984 with three properties in Gjakova, whereas the accused Radoniqi, being a public lawyer in Gjakova, unlawfully exercised the duty of a private lawyer by stamping the contract of sale of the abovementioned immovable property, thus committing criminal offense "abusing official position or authority".

The other point of the indictment, Afrim Radoniqi, was charged with the criminal offense "conflict of interest", since during the period of 2012-2013, as an official person-lawyer of MA Gjakova, participated in his representations in Kosovo courts for financial interests even though he had suspended his work as a lawyer before the Kosovo Bar Association, which according to the indictment falls in conflict with his duty as public lawyer in MA Gjakova.

The third point of the indictment charged the accused Radoniqi with criminal offense "falsification of the official document", as on January 9, 2014, as a public lawyer in the municipality of Gjakova, as an official person, in the official documents records false data with his signature, in that way that he issued a certificate with which certifies that Milojko Sataric was the general director of the company "Vodoprivedno Preduzece Metohija" resident in Prizren from October 22, 1982 until November 30, 1997 although according to the death certificate on September 4 2014, the same died on May 17 1995 in Belgrade.

#### **KLI's findings regarding the handling of the case**

The indictment against Radonic was compiled by the prosecutor Agron Matjani on June 12 2015 and the same had represented him. The initial hearing in this case by not respecting the defined legal deadline was held on November 6 2015, or four months after the indictment was raised at the Basic Court in Gjakova. Whereas, the second review was held on December 7 of the same year.

On July 18, 2016, was announced the judgment in this case. Due to lack of evidence, the court acquitted Radonic from the charges for criminal offense of "abusing official position" and "falsification of official document", while for the criminal offense "conflict of interest" Radoniqi was announced guilty and to him was imposed punishment of a fine in value of 3,000 euros. This judgment on September 20 2016 was also confirmed by the Appeal Court, but the second instance decided to reduce the punishment of a fine to 2,000 euros which has become final because the decision of the Appeal Court of September 20 2016, was also confirmed by the Supreme Court, which on December 15 2016, has rejected as ungrounded the request for the defense of the legality of Afrim Radoniqi.

**Alleged damage:** Property with surface area of 0.16.74 hectares.

**Confiscation and sequestration:** There was no request in the indictment.

### 3. CASE “PROSECUTOR”

#### Basic Court in Pristina

**Case number:** PKR.no.652/15.

**Presiding judge:** Kreshnik Radoniqi.

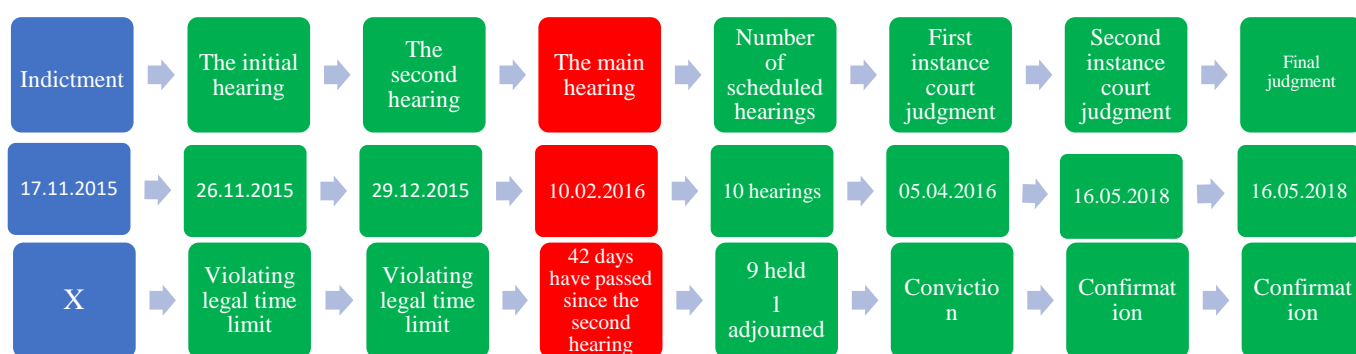
**Prosecutor:** Admir Shala.

**Defendants:** Vahide Badivuku, Idriz Kelmendi, Isak Smakolli.

**Criminal offences:** “Accepting bribes”, “Giving bribes”.

**Stage of proceedings:** Final judgment.

#### (SINCE THE INDICTMENT HAS BEEN RAISED UNTIL THE FINAL JUDGMENT HAVE PASSED 912 DAYS)



The Special Prosecution of Kosovo raised indictment against three of the defendants on November 17 2015. According to indictment raised by special prosecutor Admir Shala, Vahide Badivuku, was accused that has committed criminal offense “accepting bribes” and “abusing official position or authority”, as it was claimed that indirectly has asked and received a gift for himself in order to act in contradiction with the official duty. According to the prosecution, in cooperation with the accused Idriz Kelmendi, acting as a prosecutor of the criminal case PPI.no.298 / 2014, against the defendants Esan, Hasan, Arton and Dritan Hasani, in exchange of the acquittal from detention on remand of the defendants Esan and Dritan Hasani, asked and received from the Hasani family the sum of 10,000 euros, through the accused Idriz Kelmendi. Likewise, the accused Badivuku in contradiction with the Criminal Procedure Code is said to have compiled a request for the return of seized items in the amount of 22,000 euros, while the other two accused Idriz Kelmendi and Isak Smakolli are charged that have committed criminal offense "exercise of influence ".

#### **KLI’s findings regarding the handling of the case**

Based on the information of the Kosovo Police and the Department for Investigation of Economic Crimes and Corruption, SPRK conducted criminal investigations on August 7 2015 against the abovementioned defendants. The prosecution in this case had also conducted covert or technical measures of surveillance and investigation which had influenced that this prosecution on November 17 of 2015 to raise indictment against three defendants Badivuku, Kelmendi and Smakolli.

The Basic Court in Pristina, respecting the legal time limit, held its initial hearing nine days after the indictment had reached to the court, specifically on November 26 2015, whereas the deadline was respected also for the second hearing, which was held on December 29 of the same year.

After the indictment was confirmed, on February 9 2016 was scheduled the first court hearing, but was not held, while the first court hearing was held on February 10 2016<sup>29</sup> and continued also on February 11 2016. Also in the month of March, four other court hearings were held, namely 1,7,8 and then on March 31,<sup>30</sup> when the final word of the parties was given.

After seven court hearings, on April 5, 2016, the presiding judge, judge Kreshnik Radoniqi, made the announcement of judgment according to which former prosecutor Vahide Badivuku was sentenced with three (3) years effective imprisonment and a fine of 5,000 euros, and was also was prohibited from exercising public administration or public service functions for three years after the completion of the imprisonment sentence for the criminal offense taking bribe due to the perpetration of the criminal offense of taking bribe.<sup>31</sup>

Of the co-accused of Badivuku, Idriz Kelmendi was sentenced with one year and six months imprisonment for the criminal offense of Exercising Influence, whereas Isak Smakolli was convicted with punishment of a fine of three thousand euros.

By this decision of judge Radoniqi, also three defendants Vahide Badivuku, Isak Smakolli and Idriz Kelmendi, were obliged to return 17,000 lost euros, as these money were intended to be used for simulating the criminal offense by the prosecution side. Vahide Badivuku and Idriz Kelmendi have been obliged to return 13 thousand euros, whereas another 4,000 euros Isak Smakolli.

Charge against Vahide Badivuku was re-qualified, eliminating the criminal offense of "abusing official position" and accusing her for the criminal offense of "accepting bribes". Time spent in detention on remand will be counted for Badivuku.

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<sup>29</sup> "Badivuku case: Witnesses criticize prosecutor Shala for interfering in the statements of the accused", Oath for Justice, February 10 2016 (see the link:<https://betimiperdrejtesi.com/rasti-i-badivukut-deshmitaret-kritikojne-prokurorin-shala-per-nderhyrje-ne-deklarimet-e-te-akuzareve/>)

<sup>30</sup> Report from monitoring the case against Vahide Badivuku and others. (See the links <https://betimiperdrejtesi.com/vazhdon-gjykimi-i-ish-prokurores-vahide-badivuku/>), <https://betimiperdrejtesi.com/vahide-badivuku-mohon-vepren-i-bashkeakuzuari-isak-smakolli-e-pranon-vepren/>), <https://betimiperdrejtesi.com/me-5-prill-shpallet-aktgjykimi-per-ish-prokuroren-vahide-badivuku/>)

<sup>31</sup> "Vahide Badivuku sentenced with three years imprisonment and three years prohibition of exercising the profession", Oath for Justice, April 5 2016 ( See the link <https://betimiperdrejtesi.com/vahide-badivuku-denohet-me-tre-vjet-burg-dhe-tre-vjet-ndalim-i-ushtirimit-te-profesionit/>)



The sentence against the defendants was also confirmed by the Appeal Court, but against this decision, the defense of Badivuku had exercised a request for protection of legality in the Supreme Court, which had approved that request for protection of legality and had returned the case in the reinstatement in the second instance.

The Appeal Court also for the second time, on June 14 2017, through a press release, had informed that has rejected as ungrounded the complaints of the Special Prosecution and defense lawyer, by confirming to the accused Vahide Badivuku, the sentence imposed by the Basic Court of Pristina on April 5 2016.<sup>32</sup>

Badivuku, through a request for protection of legality, had once again addressed to the Supreme Court, which again approved it by returning the case once again in reinstatement at the Appeal Court, which court on May 16 2018, for the third time had confirmed the judgment of the first instance court, by which former prosecutor Vahide Badivuku was announced guilty for taking bribe and was sentenced with three years imprisonment. The Judicial College of the Appeal Court has also re-qualified the actions of the two other accused of this case Idriz Kelmendi and Isak Smakolli from "influence in exercise" to "giving bribe". The first one was sentenced with one year imprisonment, while to the second was confirmed punishment of a fine of three thousand euros. Thus, the Appeal rejected the complaint of the Special Prosecution Office of the Republic of Kosovo (SPRK), which had demanded tougher sentences for the accused, as well as the appeals of defenders of the accused who had requested the acquittal from charges or the return of the case in retrial.

The first was sentenced with one year imprisonment, whereas to the second was confirmed sentence with punishment of a fine of three thousand euros. Thus, the Appeal rejected the complaint of the Special Prosecution Office of the Republic of Kosovo (SPRK), which had requested tougher sentences for the accused, as well as the appeals of the defenders of accused who had requested the acquittal from charge or return of the case in retrial.<sup>33</sup>

**Alleged damage:** 17 thousand euros lost, as these money were intended to be used for simulation of the criminal offense.

**Confiscation and sequestration:** There is no request for confiscation.

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<sup>32</sup> "Appeal again confirms the sentence against former prosecutor, Vahide Badivuku" Oath for Justice June 14 2017 ( See the link <https://betimiperdrejtesi.com/apeli-serish-verteton-denimin-ndaj-ish-prokurores-vahide-badivuku/>)

<sup>33</sup> "Appeal again confirms the sentence against former prosecutor charged for corruption, Vahide Badivuku" Oath for Justice May 16 2018 ( See the link <https://betimiperdrejtesi.com/apeli-serish-verteton-denimin-ndaj-ish-prokurores-se-akuzuar-per-korrupsion-vahide-badivuku/>)

#### 4. CASE “KLLOKOTI 1”

##### Basic Court in Gjilan

**Case number:** PKR.no.193/15.

**Presiding judge:** Aziz Shaqiri.

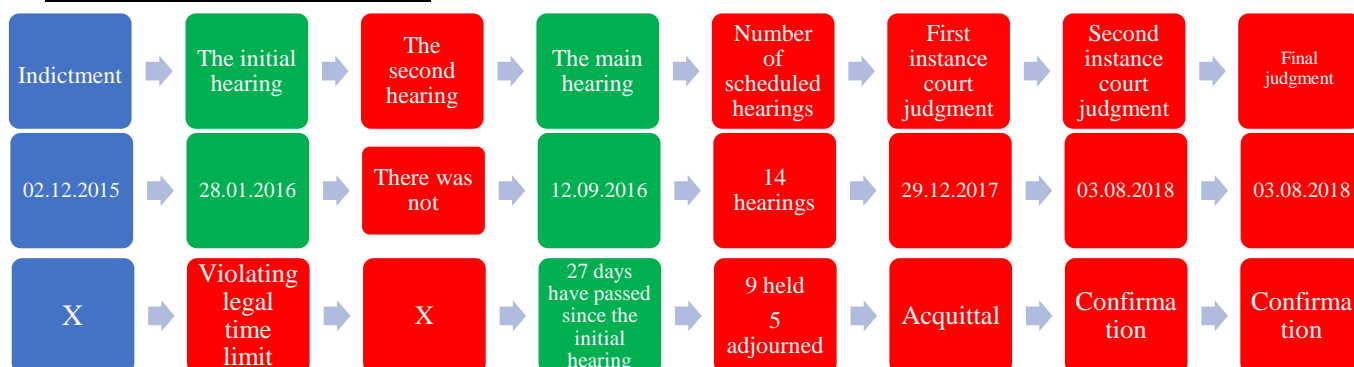
**Prosecutor:** Agron Uka.

**Defendant:** Srečko Spasić.

**Criminal offences:** “Abusing official position or authority”; “Conflict of interest”.

**Stage of proceedings:** Final judgment.

#### (SINCE THE INDICTMENT HAS BEEN RAISED UNTIL THE FINAL JUDGMENT HAVE PASSED 975 DAYS)



According to the indictment compiled on December 2 2015, Srečko Spasić, acting as Mayor of Klllokot, on January 6 2014, had abused his official position and authority, in such a way that did not comply the procedures defined by the Law on Local Self-Governance, appointing Hasan Rushiti as deputy mayor, who had received salary for four months for this function, thus causing damage to the municipal budget in the amount from 3200 euros.

Also, he was charged that on February 10 2014 by abusing position has terminated the work relationship of the education workers at the primary school "Marko Rajkovic" in the secondary technical school in the village of Verbovc, as well as two assistant workers at the primary school "Sveti Sava", in Klllokot, whereby it has created surplus for the budget of municipality in amount of 36,000.00 euros and at the same time has caused damage to some persons.

The indictment also included the criminal offense of "conflict of interest" from Article 424 of the CCRK, where the accused was allegedly abusing the official position in that way that after the warning by the Anti-Corruption Agency (AKA) as an authorized person at PTU "Aqua Sana" has not taken action to avoid conflict of interest.

Srečko Spasić, was also charged for the abuse of 31,000.00 Euros in the detriment of municipal budget of Klllokot, when purchasing of the truck for snow clearance, which was purchased for 29,000 euros, while for the purchase of the truck by the municipal budget was

participated with 20,000.00 euros and 40,000 from IOM resulting that means in amount of 31.000 euros have been abused.<sup>34</sup>

### **KLI's findings regarding the handling of the case**

The criminal report in this case was submitted by the injured party on May 6 2015, and the ruling for the beginning of the investigation was issued on May 25 of the same year. The compilation of the indictment by prosecutor Agron Uka was made on December 2, 2015, and the same was raised in the court on December 7 of that year.

Judge Aziz Shaqiri had scheduled the initial hearing on January 28, 2016, or 52 days after the deadline foreseen by the Criminal Procedure Code. After 12 scheduled hearings, five of which were postponed, on December 19, 2017, the Basic Court in Gjilan, on December 29 2017, had acquitted Spasic from charges. Presiding Judge Aziz Shaqiri stated that from the evidence presented and the testimonies of the witnesses was not proven the criminal liability for the accused Spasic, on all points of the indictment.<sup>35</sup> The Appeal Court, on August 3 2018, confirmed this judgement rejecting the appeal of the prosecutor as ungrounded.

**Alleged damage:** 90,200.00 euros, even though in the indictment and in the judgment the damage was incorrectly calculated, being considered to be only 70,200 euros.

**Confiscation and sequestration:** No information.

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<sup>34</sup> Note: Calculation in indictment according to KLI's analysis was done incorrectly. The total amount should be 51.000 and not 31.000.

<sup>35</sup> "Former mayor of Kllokot is acquitted from charges for abusing position and conflict of interest", Oath for Justice, December 29 2017 ( See the link <https://betimiperdrejtesi.com/lirohet-nga-akuzat-per-keqperdorim-detyre-dhe-konflikt-te-interesit-ish-kryetari-i-kllokotit/>)

## 5. CASE “CONTRACT”

### Basic Court in Pristina

**Case number:** PKR.no.220/17.

**Presiding judge:** Vehbi Kashtanjeva.

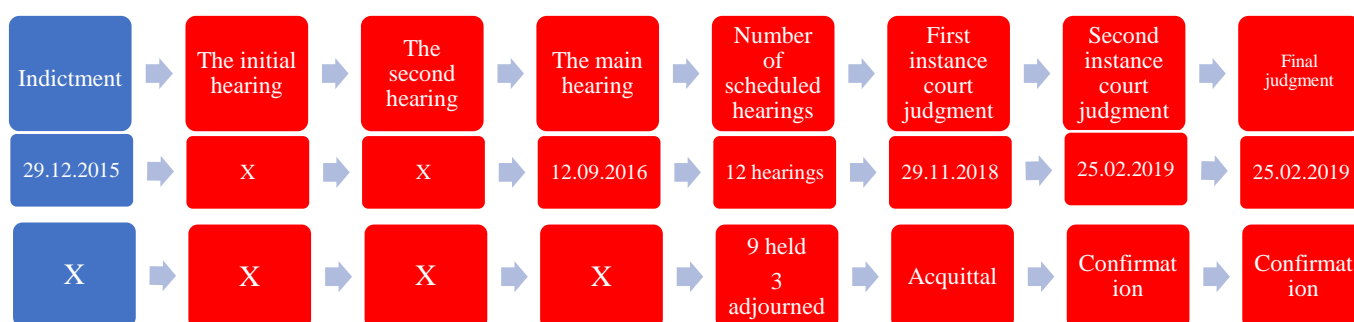
**Prosecutor:** Faik Halili.

**Defendants:** Xhavit Dakaj, Milot Vokshi, Xhemajl Buzuku, Fehmi Zylfiu and Bukurije Borovci

**Criminal offences:** “Abusing official position”; “Violation of equality in the exercise of economic activity”.

**Stage of proceedings:** Final judgment.<sup>36</sup>

**(SINCE THE INDICTMENT HAS BEEN RAISED UNTIL THE FINAL JUDGMENT, HAVE PASSED 1154 DAYS)**



On December 29, 2015, SPRK raised an indictment against Xhevat Dakaj, secretary general of the Ministry of Education, Science and Technology (MEST) for committing the criminal offense "Abusing official position or authority" in co-perpetration with Milot Vokshin, secretary general of the Constitutional Court of the Republic of Kosovo, thus overcoming their powers, where on December 12 2014, in order to obtain the material benefit, for themselves or other persons unlawfully sign agreements of understanding between the institution where they work, respectively between MEST, and the Constitutional Court for the purpose of using the public framework contract by MEST.

This contract was previously signed by the Constitutional Court and the company "Grafo-Loni" for the printing of books and other printing materials, enabling this entity benefits in the amount of 31,612.60 euros, for which the state budget of Kosovo was also damaged. The same were accused for "violation of equality in the exercise of economic activity", because according to the prosecution, limiting the turnover of services, they narrowed competition and put other business entities "XHAD", "KGT", "Printing press" NORD ", " Blendi "and" Prograf "in unequal positions to favor" Grafo-Lonin ".

SPRK had included three other officials for "abusing official position or authority", Xhemajl Buzukun, procurement official, Fehmi Zylfiu, financial official at the MEST and Bukurije

<sup>36</sup>In the table are evidenced data of the main review, number of hearings and date of judgment only in the process of retrial.

Borovci, certification official, where in contradiction with the Law on Public Procurement (LPP ) and the Law on Public Financial Management, were accused that they had allowed be carried out payments on behalf of the "Grafo-Lonin" company. These payments according to the PSRK were linked to supply with books and brochures for the MEST, based on the unlawful agreement of understanding between MEST and the Constitutional Court and thus enabling this company an unlawful benefit.

### **KLI's findings regarding the handling of the case**

On December 30 2016, Dakaj and Vokshi were announced guilty by the Basic Court in Pristina for the offenses that were charged, with that judgment Dakaj was sentenced with ten months effective imprisonment, whereas Vokshi with six months.

Meanwhile, against the procurement official Xhemajl Buzuku, the court had announced judgment of acquittal due to lack of evidence.

In this court process, have been accused the financial officer in the MEST, Fehmi Zylfiu, and the certification official Bukurije Borovci, against whom the court had announced rejection judgment after the prosecutor withdrawn from the criminal prosecution during the final word. Against this decision, the defense submitted complaint and the Appeal Court on June 19 2017 returned this case in resettlement for the accused Dakaj and Vokshi.

After the case was returned in retrial, the trial panel presided by judge Vehbi Kashtanjeva had scheduled 12 court hearings, two of which were postponed.

The trial panel on November 29 2018, the defendant was acquitted from the charge. According to the court, such a decision was taken after it was not proven that the accused had committed the criminal offenses with which they were charged. Judge Kashtanjeva said that "The case was returned in retrial and based on the judgment of the Appeal were given instructions to review whether the budget of Kosovo was damaged. In this case, we during the court review we could not conclude that there was any damage in the concrete case. It is known that any economic operator when doing any service has the profit. We could not conclude that the two accused had benefited unlawfully".<sup>37</sup>

After this case was treated in the Appeal Court, the same on February 25 of year 2019, has made a decision by which has confirmed the first instance decision, thus making this final decision.<sup>38</sup>

**Alleged damage:** 31,612.60 euros.

**Confiscation and sequestration:** No information.

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<sup>37</sup> "After the retrial, the former secretary of the Constitutional Court and former secretary of the MEST were announced innocent (Video)", Oath for Justice, November 29 2018, ( See the link <https://betimiperdrejtesi.com/pas-rigjykimit-shpallen-te-pafajshem-ish-sekretari-i-gjykates-kushtetuese-dhe-ish-sekretari-i-masht-it/>)

<sup>38</sup> From electronic response of spokesperson of the Appeal Court Arber Jashari , for the KLI, dated 15.10.2019.

## 6. CASE “SUHAREKA”

### Basic Court in Prizren

**Case number:** P.no. 27/16.

**Presiding judge:** Raima Elezi.

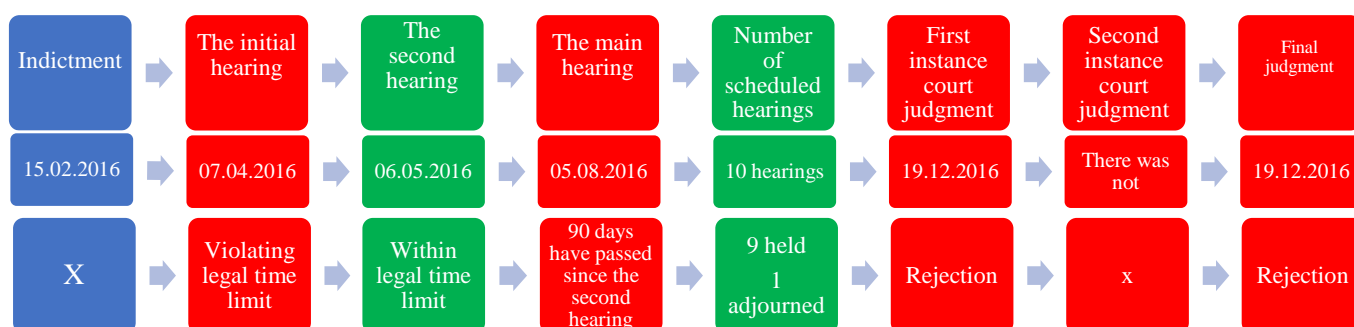
**Prosecutor:** Sefer Morina.

**Defendants:** Muharrem Elshani, Hafir Maliqaj, Kurtesh Fondaj, Berat Kabashi, Rraif Fetiu.

**Criminal offence:** “Abusing official position or authority”.

**Stage of proceedings:** Final judgment.

**(SINCE THE INDICTMENT HAS BEEN RAISED UNTIL THE FINAL JUDGMENT, HAVE PASSED 308 DAYS)**



The Basic Prosecution in Prizren, by an indictment raised on February 15 2016, charged Muharrem Elshani that being director of the football club “Ballkani” in Suhareka, has appropriated a part of the stadium from 16-acre for the needs of his residential business premises "Gradina", whereas Kurtesh Fondaj accused him that being director of urbanism in the Municipality of Suhareka, approved the construction conditions by changing the urban consent of 2009, enabling him the construction of the parking for the residential business premises "Gradina" .

The accused Hafir Maliqaj, Berat Kabashi and Raif Fetiu, were charged that being inspectors of construction, did not act according to the authorizations and duties that arise from the workplace, to return the part from 16-acre, that was taken from the football club "Balkan".

### **KLI’s findings regarding the handling of the case**

Initial review in this case was scheduled to be held on March 25 2016, but since the parties were not provided with evidence on which the indictment was based, this hearing had failed

to be held.<sup>39</sup> Subsequently, on April 7 2016, in the initial review hearing that was held, the accused were declared innocent.<sup>40</sup> The second review in this case was held on May 6 2016.

During the court review, 10 court hearings were held, but at the end of the court hearing, on December 19 2016, in the hearing in which the final word was foreseen to be given, the prosecutor, Sefer Morina, had removed from the indictment with reason that during the administration of the evidence , the hearing of witnesses and accused, have not been proven the allegations of the indictment, and according to him, it was proved that all municipal officials acted according to their duties and authorizations.<sup>41</sup>

**Alleged damage:** No information.

**Confiscation and sequestration:** No information.

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<sup>39</sup> “The initial review of the officials of the Municipality of Suhareka is postponed, for abusing official position”. Oath for Justice. March 25 2016. ( See the link <https://betimiperdrejtesi.com/shtyhet-shqyrtimi-fillestar-ndaj-zyrtareve-te-komunes-se-suharekes-per-keqperdorim-te-detyres-zyrtare/>)

<sup>40</sup> “Officials of the Municipality of Suhareka do not accept the guilty plea, for abusing official position”. Oath for Justice. April 7 2016. (See the link <https://betimiperdrejtesi.com/nuk-e-pranojne-fajesine-zyrtaret-e-komunes-se-suharekes-per-keqperdorim-te-detyres-zyrtare/>)

<sup>41</sup> “Prosecutor withdrawn from charges against officials of the Municipality of Suhareka”. Oath for Justice. December 19 2016. (See the link <https://betimiperdrejtesi.com/prokurori-heq-dore-nga-akuza-ndaj-zyrtareve-te-komunes-se-suharekes/>)

## 7. CASE “MATRIX-M”

### Basic Court in Prizren

**Case number:** PKR.no.83/16.

**Presiding judge:** Ajser Skenderi.

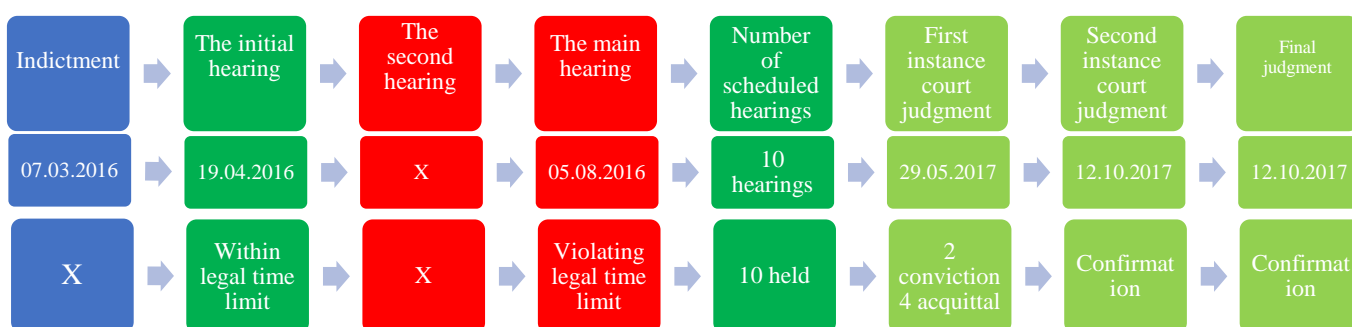
**Prosecutor:** Abdurrahim Islami.

**Defendants:** Selim Kastrati, Milena Krstiq, Bajram Morina, Hamëz Limaj, Gëzim Mallaku and Artur Rexha.

**Criminal offences:** “Organized crime”, “trafficking in persons” and “enabling or obligation in prostitution”.

**Stage of proceedings:** Final judgment.

**(SINCE THE INDICTMENT HAS BEEN RAISED UNTIL THE FINAL JUDGMENT, HAVE PASSED 584 DAYS)**



This case was conducted on the basis of the indictment of SPRK, which charged the accused Selim Kastrati, Milena Krstic, Bajram Morina, Hamez Limaj, Gezim Mallaku and Artur Rexha with the criminal offenses "organized crime", "trafficking in persons" and the criminal offense of "enabling or forcing into prostitution".

According to the indictment, Selim Kastrati was charged that he led the criminal group consisting of other accused, controlling payments, women, and their meetings with clients, taking the percentage of sexual services and controlling the activity of the premises.

This indictment charged the accused Bajram Morina, that he took care for the premises and marked the working hours of the workers, together with Artur Rexha, has brought women from Albania to work in the premises.

Milena Krstic was charged that has recruited workers from Serbia by misleading that they will only work in the premises as a servant, and later accompanied them to various motels to have sexual relation with clients.



While, the accused Hamez Limaj, was charged that according to the agreement with the accused Selim Kastrat, has acted to cover the criminal activity by dealing with issues of registration of the premises and signing contracts for employees allegedly working as a waitress.

The indictment also included the bartender of "Matrix-M" premises, Gezim Mallakun, who was charged that has been a mediator between women and clients, by taking them percentages of services and informing Selim Kastrati about the number of clients and payments made by them.

In this criminal group, according to the indictment, was also part Artur Rexha from Tirana, who was accused that in agreement with Selim Kastrati and Bajram Morina, brought women from Albania to work in the premises. It was further said that this accused has misled the women by saying that they will work as dancers in the premises, whereas later the same are forced to commit sexual intercourse with the customers of premises.

#### **KLI's findings regarding the handling of the case**

Raise of indictment in this case was done on March 7 2016, whereas initial review was held on April 19 2016. After the confirmation of the indictment in this case were held 10 court hearings, whereas on May 29 2017, Basic Court in Prizren had announced the judgment by which six of the accused, for criminal offense of trafficking in person, were found guilty only Selim Kastrati and Milena Krstiq.

Kastrati was sentenced with five years effective imprisonment and a fine of five thousand euros, whereas the accused, Krstic was sentenced with three years and six months effective imprisonment and a fine of 2000 euros.

Other accused, Bajram Morina, Hamez Limaj, Gezim Mallak and Artur Rexha were acquitted from all the accusations they were charged with. Likewise, Kastrati and Krstic were acquitted from the charges of organized crime and enabling prostitution. The presiding judge, Ajser Skenderi, said that the accused were acquitted from the criminal offense of the organized criminal group, as the prosecution body has failed to prove such a thing. She added that the structure and hierarchy of such a group was not proven.

Whereas, regarding the criminal offense of enabling or forcing into prostitution, judge Skenderi had said that this offense was consumed by the criminal offense of trafficking in persons. From July 15 2015 until May 29 2017, all the accused were in detention on remand, but on that day, the accused that were acquitted from charges, were acquitted also from the detention on remand measure.<sup>42</sup>

Two of the convicted dissatisfied with this decision were addressed to the second instance court, which on October 12 2017 changed the judgment of the Basic Court in Prizren only

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<sup>42</sup> *"Two of six accused were convicted for trafficking in persons"*. Oath for Justice. May 29 2017. (<https://betimiperdrejtesi.com/denohen-dy-nga-gjashte-te-akuzuarit-per-trafikim-me-njerez/>)

with respect with for conviction so that the Appeal Court, had reduced sentences for two of the accused. The accused Selim Kastrati, was convicted with imprisonment sentence for a period of four years and punishment of a fine in amount of 3000 euros, whereas, the accused Milena Krstic was adjudicated with punishment of a fine of 500 euros and with imprisonment sentence in a period of two years and six months, in which sentence will also be counted the time spent in detention on remand from July 15 2015.

**Alleged damage:** It is not determined in the indictment.

**Sequestration and Confiscation:** There was no request in the indictment.

## 8. CASE “LAWYER 1”

### Basic Court in Gjakova

**Case number** PKR.no.47/16.

**Presiding judge:** Shaqir Zika.

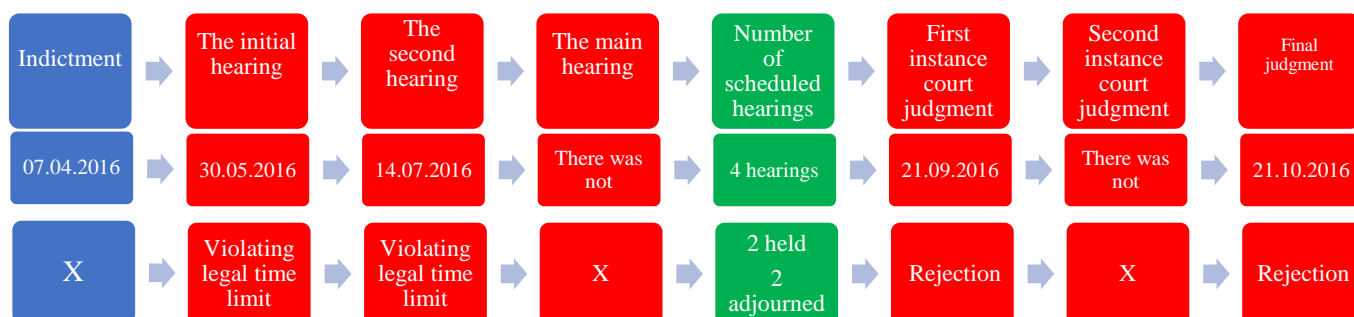
**Prosecutor:** Agron Majtani.

**Defendants:** Afrim Radoniqi and Xhevat Rraci.

**Criminal offences:** “Abusing official position or authority”.

**Stage of proceedings:** Final judgment.

**(SINCE THE INDICTMENT HAS BEEN RAISED UNTIL THE FINAL JUDGMENT, HAVE PASSED 197 DAYS)**



Based on the indictment raised on April 7 2016, it was suspected that on September 17, 2012, Afrim Radoniqi in the capacity of the public lawyer of Gjakova and Xhevat Rraci in the capacity of director at the Directorate for Geodesy, Cadastre and Property of the Municipality of Gjakova had caused damage to this municipality. The Basic Prosecution in Gjakova claimed that they did so in a way that they had reached a agreement for compensation with the former owner of a property Pren Ibishaj from the village Brekoc, Municipality of Gjakova, whose right is recognized in the permanent use of the cadastral parcel with number 4452, with a surface of 345 square meters, without obligation of compensation on behalf of exploitation and regulation of construction land.

According to the indictment, the user, namely the Municipality of Gjakova, was obliged to recognize this right to the previous owner, so the Municipality of Gjakova is obliged to make adequate changes in the cadastral books in the name of Prenk Ibishaj as a permanent user of the immovable property, causing material damage to the Municipality of Gjakova. Based on these actions, the indictment charged the defendants with the criminal offense "abusing official position or authority".

### **KLI’s findings regarding the handling of the case**

After the indictment was raised, the initial hearing was held on May 30 2016 or 23 days from the time stipulated with the TCCK, at that hearing the accused Afrim Radoniqi and Xhevat

Raci were announced innocent, adding that they can not have criminal responsibility, as the same did not pass their official powers.

However, immediately after the second hearing, prosecutor Agron Majtani by a submission delivered in the court on October 6 2016 had withdrawn the indictment.

In his reasoning, case judge Shaqir Zika, had noted that the state prosecutor on October 6, 2016 informed for his withdrawal from the indictment in question. According to him, this was done with the justification that after analyzing and assessing of case files, it was concluded that the defendants Radoniqi and Raci did not benefit unlawfully for themselves or for other persons, and even the same have not caused any damage to the Municipality of Gjakova.

**Alleged damage:** Property with a surface of 345 square meters.

**Sequestration and Confiscation:** There was no request in the indictment.

## 9. CASE “APPEAL”

### Basic Court in Pristina

**Case number:** PKR.no.338/16.

**Presiding judge:** Shashivar Hoti.

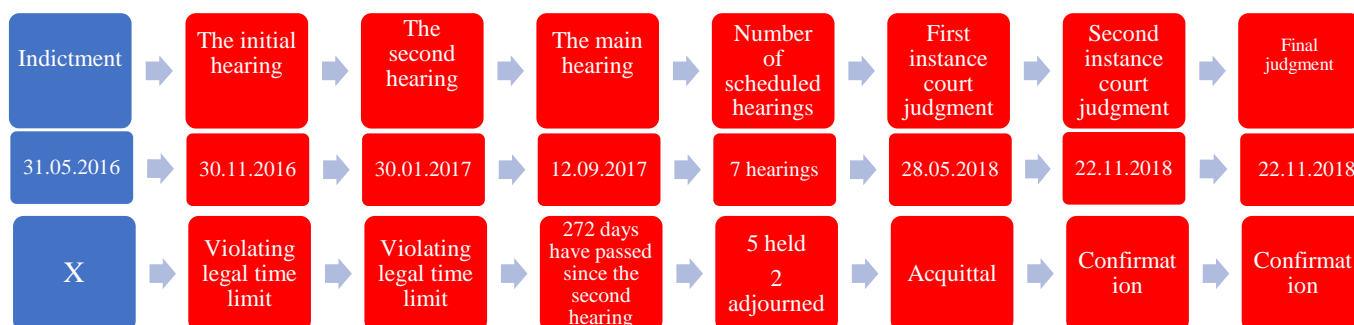
**Prosecutor:** Drita Hajdari.

**Defendants:** Salih Mekaj; Vlora Gorani; Mentor Seferaj; Ali Seferaj.

**Criminal offences:** “Exercise of influence”; “Incitement in committing criminal offense exercise of influence” and “Giving bribes”.

**Stage of proceedings:** Final judgment.

**(SINCE THE INDICTMENT HAS BEEN RAISED UNTIL THE FINAL JUDGMENT, HAVE PASSED 905 DAYS)**



On May 31, 2016, the SPRK raised an indictment at the BC in Pristina, against the former President of the Appeal Court and member of the KJC, Salih Mekaj, for the criminal offense of "abusing official position or authority".

By the indictment, Salih Mekaj, in the capacity of official person (at that time president of the Appeal Court of Kosovo), used his official position and authority in order to gain the benefit for himself and for other persons. Mekaj has promised defendant Vlora Gorani that he will be engaged for scheduling court review in two cases, as well as the legal re-qualification of the criminal offenses, from the most serious criminal offenses to the easier ones, so that two defendants in those cases be acquitted from detention on remand. The defendant Mekaj, with this purpose, requested from the judge of one case in question to schedule the court review in that case, in contradiction with the Ruling of the Appeal Court of Kosovo.

On the other side, the defendant Vlora Gorani is accused that purposely has prompted the defendant Salih Mekaj to commit the criminal offense, in order that through him to hasten the scheduling of the court review and then the legal re-qualification of the criminal offenses for the defendant Mentor Seferaj and another defendant in another criminal case, thereby to achieve the acquittal of these two persons from detention on remand.

In this case, for the criminal offense of "prompt for committing the criminal offense abusing official position or authority", Vlora Godanci was accused, whereas for "giving bribe", except Godanci, were accused also Mentor Seferaj and Ali Seferaj.

**KLI's findings regarding the handling of the case**

In the case against Salih Mekaj, the initial hearing is scheduled five months after the raise of the indictment, or about four months after the deadline foreseen by the TCCRK, respectively on October 20 2016. The hearing of October 20 2016 was postponed due to the absence of the accused Mentor Seferaj, who is in detention on remand. The judge of the case, Shashivar Hoti, has informed the parties that they have sent the invitation to the accused Mentor Seferaj but have not received any response. The defense lawyer of the accused Vlora Gorani, lawyer Besnik Berisha, at this hearing, has requested from the court the exclusion of the public in this case, as well as the non-publication of photographs. The representative of the accused Salih Mekaj, lawyer Rame Gashi, joined his request. Also prosecutor of this case Drita Hajdari has agreed to exclude the public. On this occasion, the court based on Article 294 of the TCCRK has taken the decision that the court review for the case in question be closed for the public.<sup>43</sup>

The initial hearing in this case continued at the court hearing held on November 30 2016.<sup>44</sup> The second hearing scheduled for January 10 2017 was postponed due to the absence of the accused Vlora Gorani,<sup>45</sup> whereas it was held on January 30 2017.<sup>46</sup>

After judge Hoti, has confirmed the indictment, the Appeal Court, on May 17 2017, had approved the defense appeals and returned in reinstatement the decision for rejection of requests for dismissal of the indictment and objections of the evidence. Even at the second time, first instance had taken the same decision, by rejecting defense requirements for the dismissal of the indictment.

When the case had gone again to the second court instance, the Appeal had decided to dismiss the indictment for the point at which Mekaj was suspected that on March 2015 he met with the defendant Zef Gruda and his son, Pal Gruda, for the return of a debt of 200,000 euros for one of his relative.<sup>47</sup> Against this decision of the Appeal Court, the State Prosecutor

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<sup>43</sup> "Trial postponed against former President of the Appeal Court, Salih Mekaj and three other accused, the public is excluded". Oath for Justice. October 20 2016. (See the link <http://betimiperdrejtesi.com/shtyhet-gjykimi-ndaj-ish-kryetarit-te-gjykates-se-apelit-salih-mekaj-dhe-tre-te-akuzuarve-tjere-perjashtohet-publiku/>)

<sup>44</sup> "Declared innocent former President of the Appeal Court, Salih Mekaj and three other accused". Oath for Justice. November 30 2016. (See the link <http://betimiperdrejtesi.com/deklarohen-te-pafajshem-ish-kryetari-i-gjykates-se-apelit-salih-mekaj-dhe-tre-te-akuzuarit-e-tjere/>)

<sup>45</sup> "The secondary review postponed against former president of the Appeal Court, Salih Mekaj and three other accused". Oath for Justice. January 10 2017. (See the link <http://betimiperdrejtesi.com/shtyhet-shqyrtimi-dytesor-ndaj-ish-kryetarit-te-gjykates-se-apelit-salih-mekaj-dhe-tre-te-akuzuarve-tjere/>)

<sup>46</sup> "Required dismissal of indictment against former president of the Appeal Court and three other accused". Oath for Justice. January 30 2017. (See the link <http://betimiperdrejtesi.com/kerkohet-hudhja-e-aktakuzes-ndaj-ish-kryetarit-te-gjykates-se-apelit-dhe-tre-te-akuzuarve-tjere/>)

<sup>47</sup> "The Appeal acquitted Salih Mekaj from abusing position for the usury case". Oath for Justice. November 8 2017. (See the link <https://betimiperdrejtesi.com/apeli-e-liron-salih-mekajn-nga-keqperdorimi-i-detyres-per-rastin-e-fajdeve/>)

addressed to the Supreme Court with a request for protection of legality, but that request was rejected.<sup>48</sup>

This court process was held away from public eye due to the court's decision to close it for the media and for the public.

While, during the stage of court review, prosecutor Drita Hajdari had requalified the criminal offense against Mekaj, from "abusing official position" to "exercise of influence". The Court, on May 28 2018, announced the judgment by which acquitted the accused from all charges. With this verdict, the accused Vlora Gorani was acquitted for the criminal offense of "incitement in committing the criminal offense of exercise of influence", whereas for the criminal offense "giving bribe" were acquitted the accused Mentor Seferaj and Ali Seferaj. The first instance judgment was also confirmed by the Appeal Court, which on November 22 2018 had finally acquitted from the charges Mecca and others.<sup>49</sup> Dissatisfied with the decisions of first and second instance, the prosecution with claims that the judiciary did not act right when has acquitted Mekaj and others, with extraordinary means for protection of legality addressed also to the Supreme Court, but this court has also assessed as fair the decisions of the lower court instances.<sup>50</sup>

**Alleged damage:** There is no request determined in the indictment.

**Sequestration and Confiscation:** 15,000 euros (with the decision of the first instance, these means have been returned to the accused Vlora Gorani).

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<sup>48</sup> "The Supreme Court rejects request of the State Prosecutor for protection of legality in the case of Salih Mekaj". Oath for Justice. April 10 2018. (See the link <https://betimiperdrejtesi.com/gjykata-supreme-refuzon-kerkesen-e-prokurorise-se-shtetit-per-mbrojtje-te-ligjshmerise-ne-rastin-e-salih-mekajt/>)

<sup>49</sup> "The Appeal Court confirms innocence of its former President, Salih Mekaj and three others". Oath for Justice. November 23 2018. (See the link <https://betimiperdrejtesi.com/gjykata-e-apelit-verteton-pafajesine-e-ish-kryetarit-te-saj-salih-mekaj-dhe-tre-te-tjereve/>)

<sup>50</sup> "Also Supreme confirms innocence of Mekaj". Koha.net. January 22 2019. (See the link <https://www.koha.net/arberi/140997/edhe-supremja-konfirmon-pafajesine-e-mekajt/>)

## 10. CASE “RENT”

### Basic Court in Mitrovica

**Case number:** P.no.77/16.

**Presiding judge:** Beqir Halili.

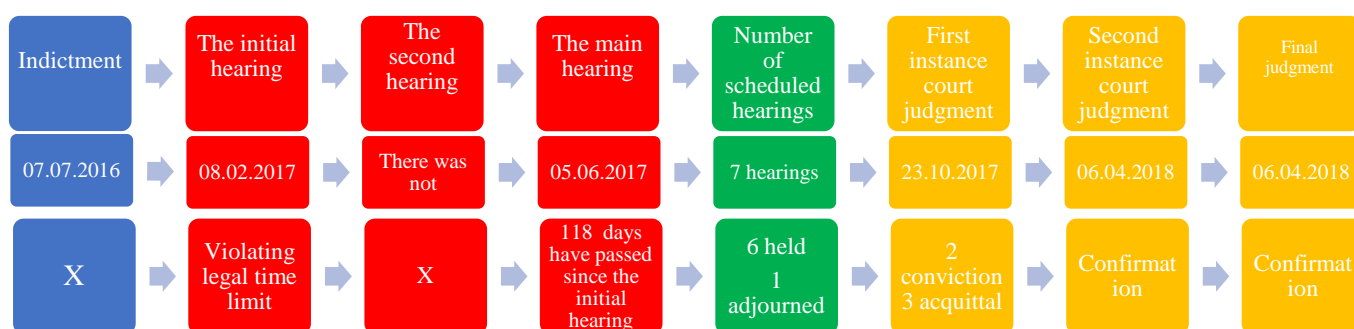
**Prosecutor:** Njazi Rexha.

**HE/SHE defendants:** Halim Gecaj, Lulzim Kadriu, Hetem Sejdiya, Valentina Jashari and Nuradin Hasani. Feriz Zeqiri was also involved in the indictment, but against him the criminal procedure was ceased, because the same had died.

**Criminal offence:** “Abusing official position or authority”.

**Stage of proceedings:** Final judgment.

**(SINCE THE INDICTMENT HAS BEEN RAISED UNTIL THE FINAL JUDGMENT, HAVE PASSED 638 DAYS)**



The Basic Prosecution of Mitrovica on July 7 2016 raised indictment against Halim Gecaj, Lulzim Kadriu, Hetem Sejdiyat, Valentina Jashari, Nuradin Hasani and Feriz Zeqiri, charging them with the criminal offense of "abusing official position or authority". According to the indictment, from November 17 2010 until July 08 2013, defendant Halim Gecaj was charged that in the capacity of Director of the Geodesy, Cadastre and Property in the Municipality of Skenderaj has exceeded his powers in order to bring wealth benefit to the other. This was done in that way that in violation with the laws he had given to the persons the properties of the Municipality, without the approval of the Municipal Assembly. The defendant thus had given for use total 37 properties.

Whereas, Lulzim Kadriu, in the capacity of Director of the Geodesy, Cadastre and Property in the Municipality of Skenderaj, was accused that from March 31 2014 until February 15, had given for rent 4 premises without approval of the Municipal Assembly. In this case, for connection of contract on tenancy, was also accused Feriz Zeqiri, but criminal procedure against him have been ceased since the latter has died.

This indictment also charged Hetem Sejdiyaj, Valentina Jashari and Nuradin Hasani, all three members of the commission for opening and assessing bids for granting land for use and construction for the management of the green market in Skenderaj. According to the



indictment, the members of the commission had qualified for the selection procedure NTSH "Doni Commerce", company even though the latter did not meet the required legal criteria.

### **KLI's findings regarding the handling of the case**

The Kosovo Police for this case had filed criminal charges on September 10 2015, while the Basic Prosecution in Mitrovica initiated investigations on October 27 of that year. The compilation and raise of the indictment by prosecutor Njazi Rexha in the Basic Court in Mitrovica was done on July 7 2016. The initial hearing in this case was held on February 8 2017, or seven months after the legal deadline from 30 days. During the initial hearing, the accused had denied the guilty plea for the criminal offense charged by the prosecution office, declaring innocent. The case judge Beqir Halili informed the parties that they have the right to submit their objections within 30 days, and that the second review on this issue will not be held.<sup>51</sup>

After the completion of the main review in this case on October 23 2017, the Basic Court in Mitrovica, two officials of the Municipality of Skenderaj, Halim Gecaj and Lulzim Kadriu, had announced guilty for abusing official position and against them imposed imprisonment sentence with six months, while three other defendants were acquitted from the charges, Hetem Sejdiya, Valentina Jashari and Nuradin Hasani. In the announcement of the judgment, judge Beqir Halili informed the convicts, Gecaj and Kadri that the imprisonment sentence may be replaced with a fine in the specified value of 1,800 euros. In this regard, the accused Halim Gecaj agreed that the imprisonment sentence be replaced with a fine, which should be paid within three months. While, the accused Lulzim Kadriu did not accept that the imprisonment sentence be replaced with a fine, after he said that he do not have the money to pay the imposed sentence. According to judge Beqir Halili, the accused Hetem Sejdiya, Valentina Jashari and Nuradin Hasani were announced innocent, because according to him, it was not ascertained that he had intention while performing the duties in the commission for the opening of bids, in relation with the granting of municipal property for use.<sup>52</sup>

Dissatisfied with the announced judgment by the first instance court in Mitrovica, Halim Gecaj and Lulzim Kadriu, as well as the Basic Prosecution in Mitrovica, submitted a complaint at the Appeal Court. However, this court on April 6 2018, rejected as ungrounded the complaints of defenders of the accused Gecaj and Kadri and that of the prosecution, whereas had confirmed the judgment of the first instance court.<sup>53</sup>

**Alleged damage:** It is not determined by indictment.

**Sequestration and Confiscation:** There was no request in the indictment.

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<sup>51</sup> "Five officials of the Municipality of Skenderaj charged for corruption deny guilt". Oath for Justice. February 8 2017 (See the link <https://betimiperdrejtesi.com/mohojne-fajesine-gjashte-zyrtaret-e-komunes-se-skenderajit-te-akuzuar-per-korrupsion/>)

<sup>52</sup> "Two officials of the Municipality of Skenderaj sentenced with imprisonment, three others are acquitted from charges (Video)", Oath for Justice, October 23 2017 ( See the link <https://betimiperdrejtesi.com/dy-zyrtare-te-komunes-se-skenderajit-denohen-me-burg-tre-te-tjere-lirohen-nga-akuza/> )

<sup>53</sup> Judgement of the Appeal Court of 06.04.2018

## 11. CASE “CONSTRUCTION”

### Basic Court in Prizren

**Case number:** PKR.no.10/18

**Presiding judge:** Ajser Skenderi.

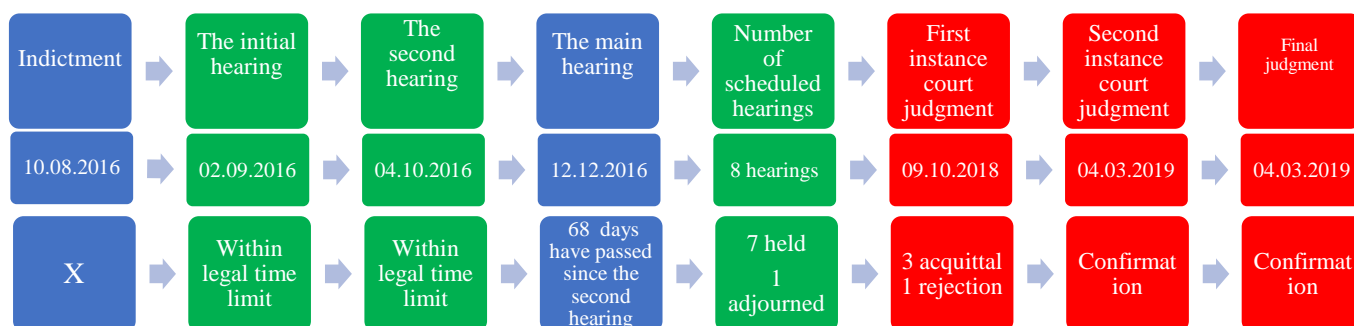
**Prosecutor:** Genc Nixha.

**Criminal offences:** “Abusing official position or authority”; “Usurpation of immovable property”.

**Defendants:** Salim Jenuzi; Nexhat Selaj; Bean Haxhihasani and Vetim Hasani.

**Stage of proceedings:** Final judgment.<sup>54</sup>

**(SINCE THE INDICTMENT HAS BEEN RAISED UNTIL THE FINAL JUDGMENT, HAVE PASSED 947 DAYS)**



Kosovo Police on April 25, 2016 submitted criminal report against the Mayor of Municipality of Dragash Salim Jenuzi, against the municipal director of urbanism Bean Haxhihasani, against the inspector of this municipality Vetim Hasani and against businessman Nexhat Selaj. The Basic Prosecution in Prizren, on June 1, 2016, issued a ruling to initiate investigations in this case, whereas on August 10 2016, raised indictment against them for the criminal offense of "Abusing Official Position or Authority" and "Usurpation of Immovable Property".

Salim Jenuzi, was accused that as Mayor of Dragash, in the period 2009-2016, enabled Nexhat Selaj, the embezzlement of municipal property, which he had occupied previously. Bean Haxhihasani, was accused that as a director of urbanism in the Municipality of Dragash has issued a decision which allowed Nexhat Selaj, to build a business facility on municipal property, whereas Vetim Hasani, was accused that as inspector of construction in the Municipality of Dragash, did not act to stop the construction of the business facility of Nexhat Selaj, with permanent material.

Nexhat Selaj was accused that during the period 2009-2016, has occupied unlawfully municipal property of the Municipality of Dragash, in which he has built a business facility of permanent character, although he had a temporary use permit.

<sup>54</sup> In the table are evidenced data of the main hearing, number of hearings and date of judgment only in the process of retrial.

### **KLI's findings regarding the handling of the case**

The Basic Prosecution in Prizren, on August 10 2016, raised indictment against four the accused, whereas the Basic Court in Prizren in that case scheduled the initial hearing on September 2 2016 and the second hearing on October 4 2016 in accordance with the legal deadlines set by the TCCK.<sup>55</sup> The main hearing in this case was held on December 12 2016.<sup>56</sup> From that time, until the announcement of the judgment for this case, six other court hearings were held, whereas the other two were postponed for various reasons.

The Basic Court in Prizren, on November 21 2017, announced the judgment in this case, where Salim Jenuzi, was sentenced with one year suspended imprisonment, after was announced guilty for abusing official position, but that imprisonment sentence will not be executed, if Jenuzi within the period from two years, does not commit a new criminal offense. Whereas, also Nexhat Selaj, was sentenced with six months imprisonment, for usurpation of immovable property, which sentence will not be executed if he within two years does not commit a new criminal offense.

While, the accused Bean Haxhihasani and Vetim Hasani were acquitted from charges for abusing official position, on the grounds that the factual situation was not confirmed under the indictment.<sup>57</sup>

Following the parties' appeals, the Appeal Court, on February 2018, returned the case in retrial only regarding the defendants Jenuzi and Selaj, whereas for the accused Bean Haxhihasani and Vetim Hasani had confirmed the first instance judgment.<sup>58</sup>

After the case was returned in retrial, also regarding this case were held five court hearings, whereas the other two were postponed due to the strike of the employees of court administration that was at that time.

At the hearing held on October 5 2018, the prosecutor Genc Nixha had decided to withdraw from the criminal prosecution against the accused Jenuzi, on the grounds that has reached the absolute prescription of the criminal prosecution,<sup>59</sup> which finally affected, that on October 9 2018, the Basic Court in Prizren, to announce rejection judgment against the former mayor of

<sup>55</sup> "Municipality of Dragash, as injured party, does not join the criminal prosecution against Mayor of Municipality, Salim Jenuzi and other officials". Oath for Justice. February 15 2017. (See the link <http://betimiperdrejtesi.com/komuna-e-dragashit-si-pale-e-demtuar-nuk-i-bashkengjitet-ndjekjes-penale-ndaj-kryetarit-te-komunes-salim-jenuzi-dhe-zyrtareve-te-tjere/>)

<sup>56</sup> "Mayor of Dragash opposes the charge for abusing official position". Oath for Justice. October 4 2016. (See the link <http://betimiperdrejtesi.com/kryetari-i-dragashit-kundershton-akuzen-per-keqperdorim-te-detyres-zyrtare/>)

<sup>57</sup> "Suspended sentence mayor of the Municipality of Dragash, Salim Jenuzi (Video)". Oath for Justice. 21 November 21 2017. (See the link <https://betimiperdrejtesi.com/denohet-me-kusht-kryetari-i-komunes-se-dragashit-salim-jenuzi/>)

<sup>58</sup> "The Appeal returns in retrial the case against former mayor of the Municipality of Dragash, Salim Jenuzi". Oath for Justice. March 1, 2018 (See the link <https://betimiperdrejtesi.com/kthehet-ne-rigjykim-rasti-kunder-ish-kryetarit-te-komunes-se-dragashit-salim-jenuzi/>)

<sup>59</sup> "Absolute prescription is reached, the prosecution withdrawn from criminal prosecution against former mayor of Dragash" Oath for Justice. October 5 2018. (See the link <https://betimiperdrejtesi.com/arrihet-parashkrimi-absolut-prokuroria-heq-dore-nga-ndjekja-penale-ndaj-ish-kryetarit-te-dragashit/>)

Dragash, Salim Jenuzi, who was accused for "abusing official position", whereas due to lack of evidence had acquitted from the charge for "usurpation of immovable property" the accused Nexhat Selaj.<sup>60</sup>

Following this decision of the Basic Court in Prizren, the Basic Prosecution in Prizren submitted a complaint at the Appeal Court, requesting that the second instance court to impose judgment of conviction against him or to return the case once again in retrial.<sup>61</sup> However, on March 4, 2019, the second instance court approved the decision of the Basic Court in Prizren.<sup>62</sup>

**Alleged damage:** There is no request determined in the indictment.

**Confiscation and sequestration:** There was no request in the indictment.

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<sup>60</sup> "Rejection judgment against former mayor of Dragash, announced guilty the accused for property usurpation". Oath for Justice. October 9 2018. (See the link <https://betimiperdrejtesi.com/aktgjykim-refuzues-ndaj-ish-kryetarit-te-dragashit-shpallet-i-pafajshem-i-akuzuari-per-uzurpim-prone/>)

<sup>61</sup> "The prosecution requires conviction or retrial for the co-accused of the former mayor of Dragash, that was acquitted from the first instance" Oath for Justice. October 5 2018. (See the link <https://betimiperdrejtesi.com/prokuroria-kerkon-denim-ose-rigjykim-per-te-bashkakuzuarin-e-ish-kryetarit-te-dragashit-qe-ishte-liruar-nga-shkalla-e-pare/>)

<sup>62</sup> Electronic response of the spokesperson of the Appeal Court, Mr.Arber Jashari, for the KLI, date 15.10.2019

## 12. CASE “KLLOKOTI 2”

### Basic Court in Gjilan

**Case number:** PKR.no.174/2015

**Presiding judge:** Afrim Shala.

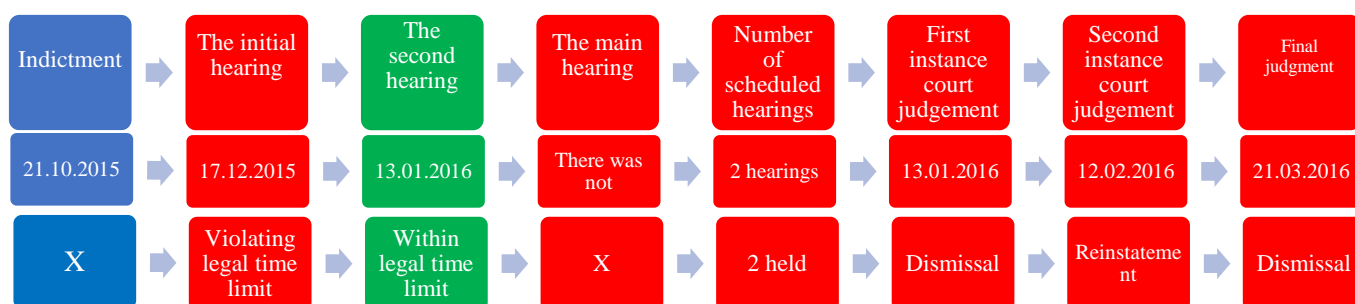
**Prosecutor:** Afrim Shefkiu.

**Defendant:** Sreqko Spasiq.

**Criminal offence:** “Conflict of interest”.

**Stage of proceedings:** Final judgement.

**(SINCE THE INDICTMENT HAS BEEN RAISED UNTIL THE FINAL JUDGMENT, HAVE PASSED 152 DAYS)**



According to the indictment raised on October 21 2015 by the Basic Prosecution in Gjilan was alleged that Srecko Spasic, in the capacity of Mayor of the Municipality of Klllokot, had committed the criminal offense of "conflict of interest".

It was said that he did it by using official authority and overcoming his official powers in the way that he had issued a decision by which he named his nephew Aleksander Spasic, Acting Director of the primary school "Sveti Sava" in Klllokot , although the appointment of school directors is under the competence of the Municipal Directorate of Education of the Municipality.

On this occasion, it was said that he violated the rights of other persons pretenders for acting duty of this school, although in this case the defendant should have been excluded from this decision-making procedure because this procedure had to do with issues in which was appointed acting director his grandson. Consequently, according to the prosecution, he violated Article 59, paragraphs 2 and 3 of the Law on Local Self-Government and also acted in violation with Article 4 of the Administrative Instruction on the procedures and criteria of election of the Director in educational institutions.

### **KLI’s findings regarding the handling of the case**

On May 22, 2015, the Anti-Corruption Agency had submitted criminal report against Srecko Spasic, for the criminal offense "abusing official position or authority". The Basic Prosecution in Gjilan had issued a ruling for the initiation of the investigations on June 4

2015. The indictment then was raised on October 21 of the same year, whereas the initial hearing was held on December 17 2015, or two months after the raise of the indictment.

The second hearing was held on January 13, 2016, where was requested the dismissal of indictment was dismissed and was done the contradiction of evidence by defense, whereas from the prosecution it was requested the rejection of such a request. After the second hearing was held, on the same date, on January 13, 2016, judge Afrim Shala, with the reasoning that there was insufficient evidence to support a well-grounded suspicion that the defendant committed the criminal offense for which he was accused, had dismissed the indictment and ceased criminal procedure against Spasic.<sup>63</sup>

But, on January 27, 2016, the Appeal Court approved the appeal of prosecution against the ruling for dismissal of indictment and returned the case in reinstatement. However, the first instance again on February 12 2016, had dismissed the indictment of prosecution and this decision became effective on March 21, 2013.<sup>64</sup>

**Alleged damage:** There is no request determined in the indictment.

**Confiscation and sequestration:** There was no request in the indictment.

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<sup>63</sup> From the electronic response of the spokesperson of the Basic Court in Gjilan, Mr.Sabit Shkodra, for the KLI, of date 06.02.2019.

<sup>64</sup> From the electronic response of the spokesperson of the Basic Court in Gjilan, Mr..Sabit Shkodra, for the KLI, of date 17.05.2019.

### 13. CASE “AUTHORITY”

#### Basic Court in Pristina

**Case number:** PKR.no.656/16.

**Presiding judge:** Initially it has been Valon Kurtaj, then Arben Hoti.

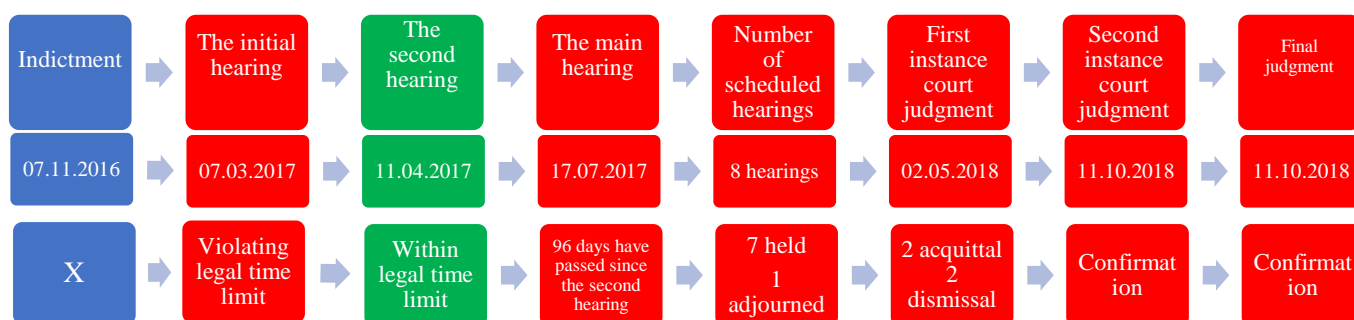
**Prosecutor:** Initially it has been Ali Rexha, then Fikrije Fejzullahu.

**Defendants:** Rame Buja, Xhavit Dakaj, Xhemajl Buzuku, Afrim Demiri.

**Criminal offences:** “Abusing official position or authority”, “Fraud”.

**Stage of proceedings:** Final judgment.

**(SINCE THE INDICTMENT HAS BEEN RAISED UNTIL THE FINAL JUDGMENT, HAVE PASSED 704 DAYS)**



On November 7 2016, the SPRK raised indictment with which accused the Minister Rame Buja that in the capacity of the Minister of Education, Science and Technology (MEST) and Xhavit Dakaj as Secretary General in MEST were alleged that have bind unlawful agreement with the economic operator "Alb - Architect", whose owner is the accused, Afrim Demiri.

Whereas Xhemajl Buzuku was accused that in the capacity of the director of procurement in MEST, for the purpose of gaining for himself or for others, on May 15 2009, he had bind a contract for 24 months with possibility of extension for 12 months, with the economic operator "Alb -Architect "for the project" Professional Surveillance of Capital Premises Built by MEST ".

Likewise, according to the indictment, on May 16 2011, Buzuku continued the contract with the same operator also for 12 months and on May 11 2012, he had bind the final contract, in violation with the Public Procurement Law.

Meanwhile, Afrim Demiri was accused that in 2009 in Pristina, as the director of the company "Alb-Architect", in the bid submitted by MEST for the abovementioned tender, for the purpose of gaining unlawful benefit from public funds , has compiled false contracts for 31 people, allegedly that these experts or graduate engineers had signed a working contract with the defendant's company.

According to the indictment, Demiri used these contracts as original documents in his offer, reaching to mislead the commission for tender assessment.

**KLI's findings regarding the handling of the case**

In this case, the criminal report was submitted by the Anti-Corruption Agency on November 21 2014. The ruling to initiate the investigation was taken on December 1 of the same year, while the indictment was raised in court on November 7 2016. The indictment in this case was compiled by the special prosecutor, Ali Rexha, and this case later in court was represented by the prosecutor of the same prosecution, Fikrije Fejzullahu. Otherwise, the initial hearing of this case was held by judge Valon Kurtaj on March 7 2017<sup>65</sup>, or four months after the deadline set by the TCCK, whereas the second hearing was held in accordance with the legal provisions of April 11 2017.<sup>66</sup>

After the second hearing was held, the court on April 28 2017, dismissed the indictment against former minister Rame Buja and former secretary, Xhavit Dakaj, with the justification that the SPRK could not, with any single evidence, to point out the fact of overcoming official powers or abusing the position from the accused Buja and Dakaj, whereas the indictment was confirmed for the other two accused Xhemajl Buzuku and Afrim Demiri. This decision was subsequently confirmed by the Appeal Court.<sup>67</sup>

After the indictment was confirmed in this case for Buzuku and Demiri, the court hearing started on July 17 2017, while it continued on September 8 of that year but had to start again after judge Valon Kurtaj was elected Director of the Academy of Justice and this case had passed to judge Arben Hoti. Judge Hoti had scheduled the first hearing of the court hearing on March 28 2018, but that hearing was postponed due to the absence of the accused Afrim Demiri, and after the hearing of April 27 2018, on May 2, 2018, the Basic Court in Pristina, had acquitted from charges the accused Buzuku and Demiri. According to the presiding judge, Arben Hoti, this court had taken judgment of acquittal, due to the lack of evidence, it was not proven that the two accused had committed the criminal offenses with which they were charged.<sup>68</sup> Otherwise, this first instance decision, on October 11 2018, was also confirmed by the Appeal Court.<sup>69</sup>

**Alleged damage:** There is no request determined in the indictment.

**Confiscation and sequestration:** There was no request in the indictment.

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<sup>65</sup> "Declared innocent former Minister of Education, Rame Buja, and three other accused" Oath for Justice, March 7 2017 (see the link <https://betimiperdrejtesi.com/deklarohen-te-pafajshem-ish-ministri-i-arsimit-rame-buja-dhe-tre-te-akuzuarit-e-tjere/>)

<sup>66</sup> "Required dismissal of indictment in the case of former minister of Education, Rame Buja" Oath for Justice, April 11 2017 (see the link <https://betimiperdrejtesi.com/ish-ministri-i-arsimit-rame-buja-dhe-tre-te-akuzuarit-e-tjere-kerkojne-hudhjen-e-aktakuzes-ndaj-tyre/>)

<sup>67</sup> "The Appeal confirms the decision for dismissal of indictment against former minister Buja", Oath for Justice, June 5 2017 (see the link: <https://betimiperdrejtesi.com/apeli-verteton-vendimin-per-hedhjen-e-aktakuzes-ndaj-ish-ministrit-buja/>)

<sup>68</sup> "Former director of Procurement in the MEST was acquitted from (Video)", Oath for Justice. May 2 2018 (See the link <https://betimiperdrejtesi.com/lirohet-nga-akuza-per-korrupsion-ish-drejtori-i-prokurimit-ne-masht/>)

<sup>69</sup> Response for the KLI, of the spokesperson of the Appeal Court, Mr. Arbër Jashari. 01.02.2019.



## 14. CASE “INSPECTOR”

### Basic Court in Pristina

**Case number:** PKR.no.24/17.

**Presiding judge:** Initially it has been Valon Kurtaj then Shpresa Hasaj-Hyseni.

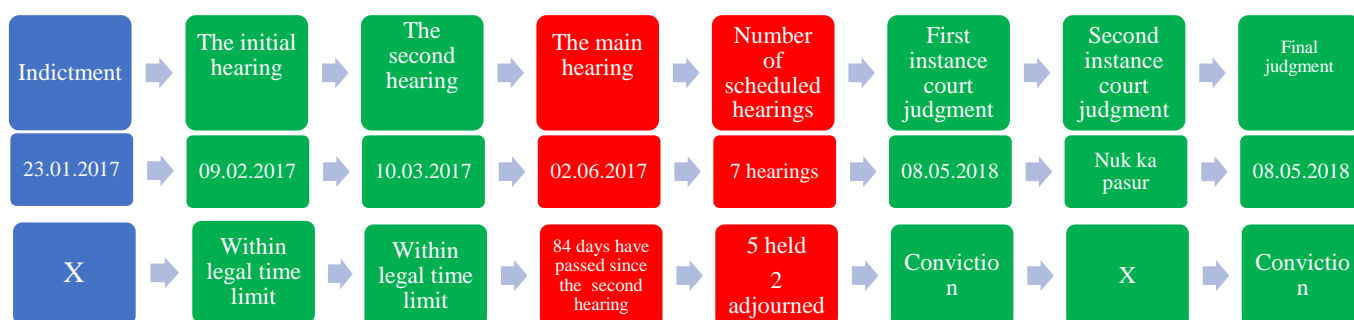
**Prosecutor:** Merita Bina-Rugova.

**Defendant:** Muhamet Binaku.

**Criminal offence:** “Accepting bribes”.

**Stage of proceedings:** Final judgment.

**(SINCE THE INDICTMENT HAS BEEN RAISED UNTIL THE FINAL JUDGMENT, HAVE PASSED 471 DAYS)**



The indictment of the Special Prosecution Office of the Republic of Kosovo raised on January 23 2017 alleged that Muhamet Binaku, in the position of the Chief Inspector of the Pristina Region, before Labor Inspectorate in the Ministry of Labor and Social Welfare, requested 10,000 euros from the witness Liridon Zogiani, an accountant at "All Zone" company.

This amount, he was accused that he asked in order that the company in question not to be punished, for the fact that, as stated in the indictment, to four foreign workers had expired the deadline of work contracts. According to him, for the expiry of their contracts allegedly it would have to be punished with a fine of 90,000 euros, for each of them.

According to the prosecution, Binaku had not concluded this violation of the law, but accountant Zogiani had submitted the case to the police and on September 23 2016, with the implementation of the secretive measures, Binaku was caught in flagrancy by the police, taking the money from Zogiani in the coffee bar "Sach" in Pristina.

### **KLI’s findings regarding the handling of the case**

The criminal report in this case was raised on September 23 2016 by the Kosovo Police. The Special Prosecution of Kosovo the ruling for the initiation of investigations had taken on the same day. Whereas, the indictment was raised on January 23 2017. The Basic Court in Pristina had scheduled the initial hearing in this case 17 days after raise of indictment in the court on February 9, 2017, respecting the foreseen legal deadline. At this hearing, the

defendant Binaku was declared innocent denying the criminal offense that he was charged with by the SPRK.<sup>70</sup> Whereas at the second hearing held on March 10, 2017, Binaku's lawyer, Besnik Berisha, had requested in the courtroom dismissal of the indictment.<sup>71</sup>

After the confirmation of the indictment, the hearing foreseen to be held on June 2 2017, had failed to be held because Binaku's defense had informed the court that they would not appear at the hearing. This was because they had submitted a request for protection of legality against the decision of the Appeal Court, which confirmed the decision of the Basic Court for dismissal of the indictment submitted by the defense and the hearing was postponed for indefinite time until the Supreme Court to decide regarding the request in question.<sup>72</sup>

Then after the Judge Valon Kurtaj was elected Director of the Academy of Justice, this case had past to Judge Shpresa Hasaj-Hyseni. The hearing foreseen to be held on April 12 2018, was postponed due to the absence of the accused and his lawyer.<sup>73</sup> Whereas on May 8, 2018, the accused Binaku had decided to plead guilty for the criminal offense that he was charged with and was sentenced with six months imprisonment, as well as two thousand euros fine.

The same with the announcement of the judgment is said that the time spent in detention on remand in the period of 17 days will also be counted. However, imprisonment sentence with the consent of the accused and his defense counsel is said that will be converted into a fine.<sup>74</sup>

**Alleged damage:** No information.

**Confiscation and sequestration:** No information.

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<sup>70</sup> “Declared innocent Chief inspector of Labor Inspectorate and Social Welfare accused that had requested 10 thousand euros bribes”, Oath for Justice, February 9 2017, (See the link <https://betimiperdrejtesi.com/deklarohet-i-pafajshem-kryeinspektori-i-inspektoratit-te-punes-dhe-mireqenies-sociale-i-akuzuar-se-kishte-kerkuar-10-mije-euro-ryshfet/>)

<sup>71</sup> “Defense requests dismissal of indictment against inspector accused that had requested 10 thousand euros bribes”, Oath for Justice, March 10 2017, ( See the link <https://betimiperdrejtesi.com/mbrojtja-kerkon-hudhjen-e-aktakuzes-ndaj-inspektorit-qe-akuzohet-se-kishte-kerkuar-10-mije-euro-ryshfet/>)

<sup>72</sup> “The hearing was postponed against the labor inspector accused for bribes”, Oath for Justice, June 2 2017, (See the link <https://betimiperdrejtesi.com/shtyhet-seanca-ndaj-inspektorit-te-punes-qe-akuzohet-per-ryshfet/>)

<sup>73</sup> “Witness asks not to mention the name, the judge without issuing a ruling tells to the media to implement such a request”, Oath for Justice, April 12 2018, (See the link <https://betimiperdrejtesi.com/deshmitari-kerkon-te-mos-i-permendet-emri-gjykatesja-pa-nxjerr-aktvendim-u-thote-mediave-ta-zbatojne-nje-kerkese-te-tille/>)

<sup>74</sup> “After pleaded guilty, Chief inspector in the MLSW sentenced he was accused that requested 10 thousand euros bribes (Video)” Oath for Justice, May 8 2018, (See the link <https://betimiperdrejtesi.com/pas-pranimite-fajesise-denohet-kryeinspektori-ne-mpms-qe-akuzohet-se-kerkoi-10-mije-euro-ryshfet/>)

## 15. CASE “SHIFT”

### Basic Court in Mitrovica

**Case number:** P.no.42/2018.

**Presiding judge:** Radosllav Markoviq.

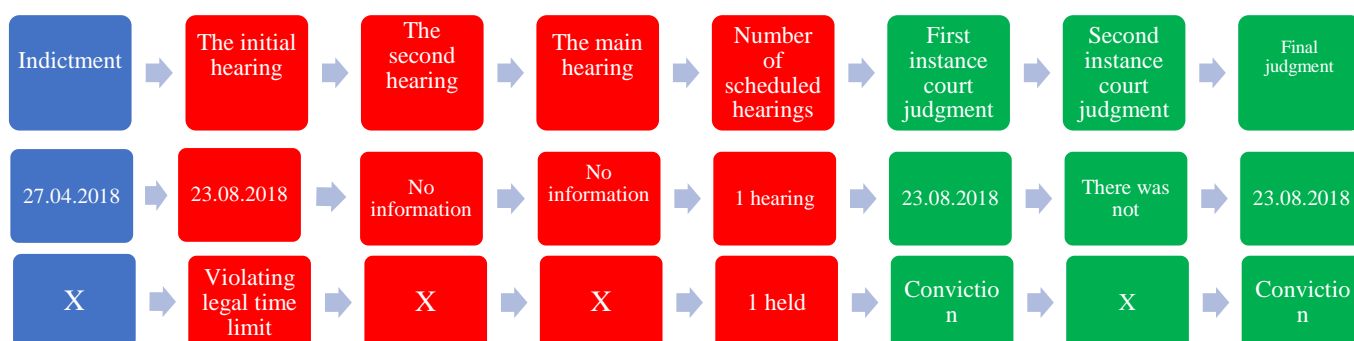
**Prosecutor:** Florije Shamolli.

**Defendants:** Milan Aliksijeviç, Mladen Mijatoviç, Makfir Spahiu and Stanisha Radishiç.

**Criminal offences:** “Buying, possession, distribution and unauthorized sale of the narcotics, psychotropic and analogous substances”, “participation or organization of the organized criminal group”.

**Stage of proceedings:** Final judgment.<sup>75</sup>

**(SINCE THE INDICTMENT HAS BEEN RAISED UNTIL THE FINAL JUDGMENT, HAVE PASSED 119 DAYS)**



According to indictment of the SPRK, raised on April 27 2018, the accused Milan Aljicevic, Mladen Mijatovic, Makfir Spahiu and Stanisha Radisic initially were charged for committing criminal offenses "buying, possession, distribution and unauthorized sale of the narcotics, psychotropic and analogous substances" and "participation or organization of the organized criminal group", but after reaching an agreement between them and the Special Prosecution of the Republic of Kosovo, it was decided to plead guilty from the accused and to change the indictment in order that, the accused in question be charged only with the criminal offense "buying, possession, distribution and unauthorized sale of the narcotics, psychotropic and analogous substances".

Otherwise, Milan Aliksijevic, Mladen Mijatovic, Makfir Spahiu and Stanisha Radisic by the Special Prosecution Office of the Republic of Kosovo (SPRK) were accused that on October 6, 2017, intentionally and knowingly, have participated in the criminal activity of an organized group, where included was also the defendant Lulzim Zenullahu, who, according to the indictment, he is in flight.

<sup>75</sup> This case on the coordinator’s list of the KJC sent to the KLI on May 6 2019, does not appear on the list of final cases, but from the electronic response of the spokesperson of the Appeal Court Arber Jashari to KLI, dated 26.04.2019, it was stated that this case was not treated by the Appeal Court.

Based on the indictment, the abovementioned accused, acted in such a way that in the territory of Kosovo they have agreed to form a group of persons, in order to bring material benefit to themselves, so that in co-perpetration they have made purchases, sales and unauthorized transport of narcotics to the countries of Europe.

Following the indictment, it was stated that on June 2017, Milan Alicejevic has transported the quantity of narcotics of marijuana type to Genoa, Italy, which was transported with the vehicle "Peugeot 307", and then also in Frankfurt of Germany, where for both cases, the amount of narcotics was provided by the accused Stanisha Radisic, whom the latter received from the accused Makfir Spahiu.

To carry out transportation to Italy, in the indictment was stated that the accused Aliksijevic received 1,000 euros, whereas for the transport carried out in Germany has received 2,000 euros from the accused Stanisha Radisic. In addition, according to the indictment, the accused Milan Alicejevic, Mladen Mijatovic, Makfir Spahiu and Stanisha Radisic, in co-perpetration, on October 2017, agreed that the amount of narcotics in weight of 11,422,885 grams received in the garage of the defendant Lulzim Zejnullahu packed in 24 bags, through the Republic of Serbia and that of Bulgaria, to send it to Istanbul of Turkey.

### **KLI's findings regarding the handling of the case**

On October 6 2017, the Kosovo Police had submitted criminal report in this case. On April 27 2018, Special Prosecutor Florije Shamolli had raised an indictment in the Basic Court in Mitrovica. The initial hearing in this case was held on August 23, 2018, or approximately four months after the deadline foreseen by the TCCK. At that hearing the accused had reached agreement for plead guilty, agreement that was accepted by Judge Radoslav Markovic. That day was the announcement of the judgment, according to which, the accused were sentenced with two years and four months effective imprisonment and 1,000 euro fine, for committing criminal offense "buying, possession, distribution and unauthorized sale of the narcotics, psychotropic and analogous substances".

According to the announced judgment by the case judge, Radoslav Markovic, who had accepted the agreement reached for plead guilty by the parties in this procedure, already to the convicted Milan Aljicevic, Mladen Mijatovic, Makfir Spahiu and Stanisha Radisic, in the imprisonment sentence will also be counted the time spent in detention on remand, since the beginning of October 2017. Also, in the announced judgment, it was said that the amount of narcotics found in weight of 11 kg and 422,855 grams will be confiscated and the vehicle type "Peugeot 307", the property of the accused Milan Alikejevic.<sup>76</sup>

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<sup>76</sup> "Sentenced with imprisonment and with punishment of a fine the accused for distribution of narcotic substances in European countries", Oath for Justice, August 23 2018, (See the link <https://betimiperdrejtesi.com/denohen-me-burgim-dhe-me-gjobe-te-akuzuarit-per-shperndarje-te-substancave-narkotike-ne-shtetet-e-evropes/>)

**Alleged damage:** There is no damage determined with the indictment.

**Confiscation and sequestration:** Narcotic weight of 11 kg and 422.855 grams and vehicle type “Peugeot 307”.

### **XIII. ANNEX II: Detailed analysis of targeted cases returned in retrial**

Apart from cases that are still being treated for the first time by the first instance court, within the targeted cases there are four cases which are being treated for the second time by the Basic Courts, because the Appeal Court, as a second court instance, has found violation of the law and / or the court procedures, and subsequently returned in retrial.

Four cases returned in retrial are: 1) "KEDS"; 2) "Crystal"; 3) "Judge"; and 4) "Migrant".

In the case known as "KEDS", the indictment charged three persons and was raised on October 6, 2015, but after the 20 hearings of first trial, this case should be treated once again by the Basic Court in Pristina. The second time, the retrial will only be conducted against one person, because for two persons the trial has ended, as the State Prosecutor had withdrawn the indictment against one person, whereas the other person was acquitted from charges.

The case "Crystal", although after nearly two years of court process, on February 12, 2018 judgment of conviction was imposed against 10 persons, this decision was dismissed by the Appeal Court on September 6, 2018 after had found violation by the first instance court.

The reason of the legal violations by the basic courts has made that in the process of retrial to be also the cases "Judge" and "Migrant", but none of these cases have not yet begun the process of retrial yet.

Like the cases that are treated for the first time, cases "KEDS" and "Crystal" have been followed with violations of legal deadlines for a trial in a reasonable time. It took two years to these cases to receive a first instance decision, but the same cases will be treated again by this court instance.

Whereas, cases "Judge" and "Migrant" have taken much faster the epilogue by the instance, within less than a year, but the same cases after returning in retrial have not yet begun the process of retrial.

## 1. CASE “KEDS”

### Basic Court in Pristina

**Case number:** PKR.nr.577/16.

**Presiding judge:** Shashivar Hoti.

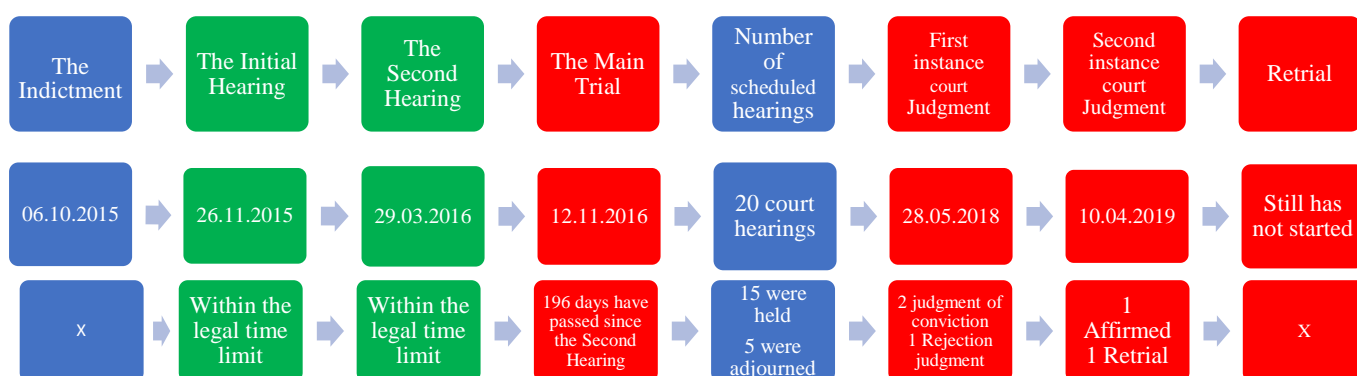
**Prosecutor:** Hivzi Bajraktari.

**Defendants:** Avni Alidemaj, Vjollca Ajvazi Drita Hamiti and Blerim Sokoli.

**Criminal offence:** “Abusing official position or authority”, “Defrauding purchasers”.

**Stage of proceedings:** First – instance court judgment.

**(SINCE THE INDICTMENT HAS BEEN FILED UNTIL MAY 20, 2019 HAVE PASSED 1323 DAYS)**



On October 6, 2015, Basic Prosecution in Pristina filed an indictment against officials of the Metrology Agency, Vjollca Ajvazi and Drita Hamiti, as well as against the Executive Director of the KEDS network, Avni Alidemaj.

In this indictment, the prosecution alleges that during March 2013 until December 5, 2014, the defendants have abused their official duty, enabling companies “Kohler” and “KEDS” to benefit and at the same time cause harm to Kosovar consumers. According to the indictment, two officials Ajvazi and Hamiti have reviewed the documentation regarding the approval and permission of the digital electric meter of “Kohler” manufacturer, of the digital type “AEL.TF.04-1”.

In this case, part of the indictment was also Blerim Sokoli, against whom the criminal proceedings have been terminated, because of his death. Sokoli was accused that as the director of the Kosovo Metrology Agency at the Ministry of Trade and Industry, had agreed to license illegally the electric meter “Kohler”, manufactured in Turkey.

### **CLI’s findings regarding the handling of the case**

The criminal report in this case was filed by the Kosovo Police on May 15, 2015, whereas the decision to initiate investigative stage was issued by the Basic Prosecution in Pristina on April 29, 2015. The indictment was filed in court on October 6, of the same year. The Serious Crimes Department of the Basic Court in Pristina had scheduled its initial hearing on

November 26, 2015 or 51 days after the indictment was filed in court, while the second hearing was scheduled to be held on March 9, 2016, or two months after the time required by the provisions of the CPCRK. This court hearing had failed to be held because the accused Blerim Sokoli had died. On that day, prosecutor Hivzi Bajraktari had asked the court to provide the death certificate from the civil service in Prizren, in order to formalize the death of the deceased and to enable further proceedings of the judicial process.<sup>77</sup>

The second hearing was held on March 29, 2016, where the defense attorneys of Ajvazi and Hamiti had filed their objections, while Alidemaj's defense stated that they did not file a request for dismissal of the indictment, since they considered that the judicial practice was created in such way that defense claims are only formal acts.<sup>78</sup> The main trial in this case began on October 12, 2016, or almost 1 year after the indictment was filed in this court.<sup>79</sup>

On May 22, 2018, during closing statement, prosecutor Hivzi Bajraktari withdrew from prosecution regarding the accused Drita Hamiti, stating that the reason was the lack of evidence.<sup>80</sup>

Approximately three years after the start of this procedure, on May 28, 2018, the Basic Court in Pristina announced the judgement regarding this case. The defendants Vjollca Ajvazi and Avni Alidemaj were found guilty and were sentenced to 6 months of suspended imprisonment, a sentence which would not be executed if within two years the accused will not commit another offence. Whereas, in absence of evidence, they were acquitted regarding the second count of the indictment, charged with the criminal offence of fraud. On the other hand, for the accused Drita Hamiti, after withdrawal from prosecution by the prosecutor, this court rendered a rejection judgement.<sup>81</sup>

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<sup>77</sup> "The second hearing regarding the case of electric meters is adjourned, one of the defendants is dead", Oath for Justice, March 9, 2016 (Follow link: <https://betimiperdrejtesi.com/shtyhet-shqyrtimi-dytesor-ne-rastin-dallavereve-me-oret-elektrike-vdes-nje-i-akuzuari/>)

<sup>78</sup> "The second hearing continues regarding the case of electric meters", Oath for Justice, March 29, 2016, (Follow link: <https://betimiperdrejtesi.com/vazhdon-shqyrtimi-dytesor-ne-rastin-e-dallavereve-me-oret-elektrike>)

<sup>79</sup> "Case of electric meters "Kohler": Attorney Berisha qualifies the prosecution by the prosecution office as selective justice", Oath for Justice, October 12, 2016 (Follow link: <https://betimiperdrejtesi.com/rasti-i-njehsoreve-elektrik-kohler-avokati-berisha-e-cileson-ndjekjen-penale-nga-ana-e-prokurorise-si-drejtesi-selektive/>)

<sup>80</sup> "The prosecution office withdraws from prosecution regarding one of the accused in the case "Kohler", demands the conviction of two others, whereas the defense demands their acquittal", Oath for Justice, May 22, 2018 (Follow link: <https://betimiperdrejtesi.com/prokuroria-heq-dore-nga-ndjekja-penale-per-nje-te-akuzuar-ne-rastin-kohler-kerkon-denimin-e-dy-te-tjereve-derisa-mbrojtja-kerkon-lirimin-e-tyre/>)

<sup>81</sup> "Two of the accused regarding the case "Kohler" are convicted to a punishment of suspended imprisonment" (Video), Oath for Justice, May 28, 2018, (Follow link: <https://betimiperdrejtesi.com/denohen-me-burgim-me-kusht-dy-te-akuzuarit-per-korrupsion-ne-rastin-e-njehsoreve-kohler/>)



Following the appeal of the parties to the Court of Appeals, this court on April 10, 2019 rendered a decision based on which, Avni Alidemaj, sentenced from the first instance, was acquitted, while regarding the other accused Vjollca Ajvazi, the Court of Appeals returned the case for retrial and reconsideration.

According to the second – instance court, regarding Avni Alidemaj, it is stated that based on the case files, this court has assessed that none of the evidence that was administered at the main trial did not prove that the accused committed the criminal offence for which he was charged and found guilty by the court of first instance. Whereas, regarding the accused Vjollca Ajvazi, in the Court of Appeals' ruling is stated that the first – instance judgement is legally unstable and as such should be annulled and the case be returned to the first – instance court for retrial.<sup>82</sup>

Based on all this, this case during the retrial process will be adjudicated only for the accused Vjollca Ajvazi.

**Alleged Damage:** No Information.

**Confiscation and sequestration:** No information.

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<sup>82</sup> “Case “Kohler”, the Court of Appeals acquits one of the accused, whereas for the other accused the case is returned to retrial”, Oath for Justice, April 25, 2019, (Follow link:<https://betimiperdrejtesi.com/rasti-kohler-apeli-e-liron-njerin-te-akuzuar-kurse-per-te-akuzuaren-tjeter-e-kthen-rastin-ne-Retrial/>)

## 2. CASE “CRYSTAL”

### Basic Court in Prizren

**Case number:** P.nr.76/18.

**Presiding judge:** Xheladin Osmani.

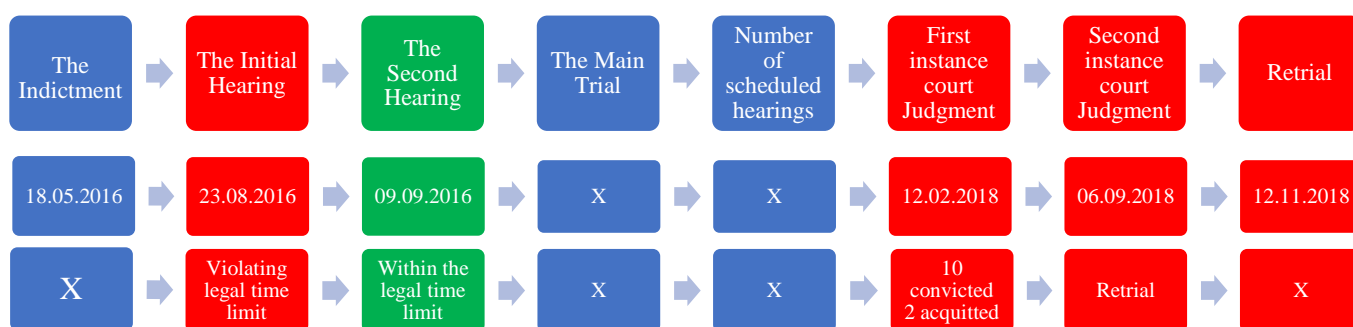
**Prosecutor:** Merita Bina- Rugova.

**Defendants:** Tunë Kqira, Gjon Kqira, Ekrem Leci, Hill Kaqinari, Kastriot Kqira, Gjekson Kqira, Gëzim Kqira, Benson Buza, Besfort Omaj, Zyrafete Hukolli, Ragip Fazlija and Sejdë Kaqorraj.

**Criminal offence:** “Organized crime”, “Money laundering”, “Organizing pyramid schemes and unlawful gambling”, “Usury”, “Unauthorized ownership, control or possession of weapons”, “Extortion”.

**Stage of proceedings:** Ongoing in retrial.

**(SINCE THE INDICTMENT HAS BEEN FILED UNTIL MAY 20, 2019 HAVE PASSED 1098 DAYS)**



On May 18, 2016, the SPRK filed an indictment charging the accused Tunë Kqira, Gjon Kqira, Ekrem Leci, Hill Kaqinari, Kastriot Kqira, Gjekson Kqira, Gëzim Kqira, Benson Buza, Besfort Omaj and Zyrafete Hukolli, Ragip Fazlija and Sejdë Kaqorraj regarding the criminal offences “organized crime”, “usury”, “extortion”, “money laundering”, “organizing pyramid schemes and unlawful gambling” and “unauthorized ownership, control or possession of weapons”.

According to the indictment, these individuals acting as a group have misused the financial condition of the injured party, giving them large sums of money and asking from them the repayment of debts at a disproportionate interest.

The indictment describes how Pal Gruda from Prizren was forced to pay daily interest up to five hundred (500) euros and monthly interest up to (3,000) three thousand euros. Against Gruda, a debt of 20 thousand euros had been converted through disproportionate interest rates of up to 1 million euros. Pressured by this group to pay “the debt”, Gruda family reported the case to the police.

Tunë Kqira, according to the indictment, was the head of the group, leading the unlawful actions committed by them.

In this criminal case several properties of Kqira family were sequestered, regarding which, the prosecution alleges that were acquired illegally. This sequestered property is estimated to reach the value of millions of euros.

### **CLI's findings regarding the handling of the case**

The criminal report in this case by the Kosovo Police was filed on January 12, 2015, and after 4 months, on May 29, 2015 the SPRK issued the decision to initiate the investigative stage. These investigations were concluded on May 18, 2016, with the indictment filed by the SPRK.

The Basic Court in Prizren three months after filing the indictment held the initial hearing in this case, violating the legal time limit of 30 days. The initial hearing on this case was held on August 23, 2016. The second hearing was held on September 9, of the same year.

The Basic Court in Prizren, on February 12, 2018, regarding criminal offences organizing pyramid schemes and unlawful gambling, found guilty the accused Tunë Kqira, Gjon Kqira, Ekrem Leci and Hill Kaqinari. Also the defendants Kastriot Kqira, Gjekson Kqira, Gëzim Kqira, Benson Buza, Besfort Omaj and Zyrafete Hukolli, were found guilty for the criminal offence of usury and extortion. Whereas, the accused Ragip Fazlija and Sejdë Kaqorraj were acquitted of the charges, as well as all the defendants were acquitted of the charge of organized crime and money laundering.<sup>83</sup>

Tunë Kqira was sentenced to two years and three months of imprisonment, but since he spent this time in detention on remand and house detention, it meant that he would not spend any more time in prison. While, the accused Gjon Kqira, Benson Buza and Besfort Omaj were sentenced to two years and five months of imprisonment, within which time would be calculated the time spent in detention on remand and house detention from May 2015 until October 2017. The accused Zyrafete Hukolli, Ekrem Leci and Hill Kaqinari, were sentenced to six months of imprisonment, but this punishment upon defense's request was substituted to a punishment of a fine in the amount of 2,500 euros. Regarding the criminal offence of usury, Gjekson Kqira was sentenced to eight months of imprisonment. On the other hand, Gëzim Kqira was sentenced to five months of imprisonment, but for him the punishment of imprisonment was substituted to a punishment of a fine in the amount of 2,000 euros. Marjan Kqira and the others accused regarding illegal weapon possession have been sentenced to a punishment of a fine in the amount of 1,500 euros each.

Although the SPRK had demanded the sequestration of money, property, cars, residential and business premises in a total value of over 1 million euros, the first instance court had annulled all orders for sequestration of real property issued by the court in this criminal case. Such decision was rendered, reasoning that the prosecution failed to prove that the sequestered property was acquired through a criminal offence.

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<sup>83</sup> "The accused of usury and extortion are convicted, their million euro property is freed from sequestration", Oath for Justice, February 12, 2018, (Follow link: <https://betimiperdrejtesi.com/denohen-te-akuzuarit-per-fajdedhe-detyrim-lirohet-nga-sekuestrimi-pasuria-milioneshe-e-tyre/>)

Dissatisfied with the Basic Court judgment, SPRK appealed to the Court of Appeals with a motion to return the case for retrial. Then the Court of Appeals returned the case for retrial.<sup>84</sup> Currently this case is being handled again by the Basic Court in Prizren. The last court hearing was held on February 21, 2019.

**Alleged damage:** Not determined in the indictment.

**Confiscation and sequestration:** Money, property, residential and business premises, cars, in a total value of over 1 million euros.

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<sup>84</sup>“*The Court of Appeals returns to retrial the case against Tunë Kqira and others accused of usury*”, Oath for Justice, October 12, 2018, (Follow link: <https://betimiperdrejtesi.com/apeli-e-kthen-ne-Retrial-rastin-ndaj-tune-kqires-dhe-te-tjereve-qe-akuzohen-per-fajde> )

### 3. CASE “THE JUDGE”

#### Basic Court in Ferizaj

**Case number:** PKR.nr.154/17.

**Presiding judge:** Initially was Agim Maliqi, afterwards Ibrahim Idrizi.

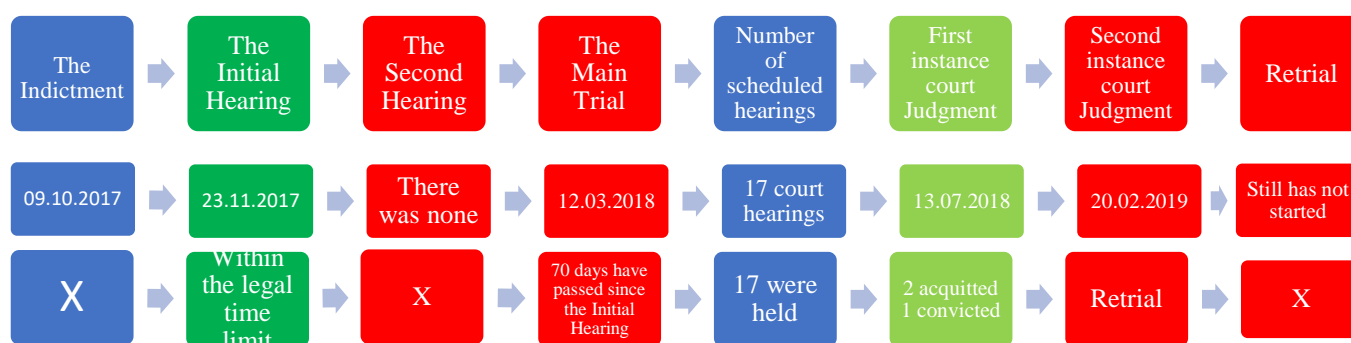
**Prosecutor:** Initially was Valbona Disha-Haxhosaj, afterwards Rasim Maloku.

**Defendants:** Safete Tolaj, Fisnik Tolaj, Granit Shehaj.

**Criminal offence:** “Abusing official position or authority”; “Destroying or concealing archive materials”; “Falsifying official document”; “Trading in influence” “Fraud”; “Special cases of falsifying documents”; “Unauthorized ownership, control or possession of weapons”.

**Stage of proceedings:** Ongoing in retrial.

**(SINCE THE INDICTMENT HAS BEEN FILED UNTIL MAY 20, 2019 HAVE PASSED 589 DAYS)**



According to the indictment filed by the Basic Prosecution of Peja on October 9, 2017, Safete Tolaj was accused that while serving in the Basic Court in Peja, branch in Deçan, for the purpose of obtaining a material benefit for herself or another person, respectively for her son Fisnik Tolaj, has abused her official authority.

According to the indictment, the defendant Safete Tolaj, on January 2, 2017 ordered detention on remand for a defendant, then Fisnik Tolaj and Granit Shehaj met and Granit using official duty, exceeded his powers and gave the amount of 1,900 euros to the defendant Fisnik, to influence the defendant Safete, who later on January 10, 2017, substituted the detention on remand measure to bail.

Further, in the indictment it was stated that defendant Safete Tolaj, until January 13, 2017, hid the archive materials of the Basic Court in Peja, the branch in Deçan, and later in her house were found original files of this court, which should have been placed in the court’s archive.

Based on the indictment, the defendant Safete Tolaj until January 13, 2017, in the aforementioned court enabled the defendant Fisnik Tolaj to draft official documents and files, using Safete Tolaj’s position and with her being informed of such acts, used the stamp and official documents where he added fake content.

This indictment was later amended and supplemented by prosecutor Rasim Maloku. According to the amended indictment, Fisnik Tolaj regarding the first enacting clause, relating to the case of Agron Kelmendi and Agron Ahmetgjakaj, in the civil law case C.nr.74/12, for the purpose of obtaining direct material benefit for himself, requested from Agron and Berat Kelmendi the sum of 20,000 euros in order to influence the decision of the judge Safete Tolaj and then agreed to exchange a property of 3.70 m<sup>2</sup> on behalf of Agron Ahmetgjakaj as well as the amount of 2,000 euros. Thus he was accused of committing the criminal offence “trading in influence” from Article 431 par.1 of the CCRK, unlike the first indictment in which for these actions he was charged of having committed the criminal offence of “fraud” under Article 355 par. 2 in conjunction with paragraph 1 of the CCRK.

Whereas, the count according to which he was charged with the criminal offence “unauthorized ownership, control or possession of weapons” was withdrawn. However, the counts of the indictment regarding the criminal offence of “falsifying official document”, from Article 398 par. 2 regarding paragraph 1 of the CCRK had remained unchanged.

Regarding the counts of indictment against former Judge Safete Tolaj, where she was charged with three offences, such as “abusing official position or authority” from Article 422 paragraph 1 of the CCRK, “destroying or concealing archive materials”, from Article 416 of the CCRK, Tolaj was also accused of the criminal offence “Falsifying official document” from Article 434 paragraph 1 of the CCRK, described in the third count of the enacting clause of the original indictment of October 9, 2017, but regarding this offence the prosecution withdrew from prosecution because according to the Basic Prosecution in Ferizaj, during the main trial it has not been proven that the defendant has committed this criminal offence.

Whereas, for the third defendant, the officer Granit Shehaj, the criminal offence was reclassified, and he was no longer charged of abusing official position or authority, but for committing the offence “assisting in trading in influence”.

### **KLI’s findings regarding the handling of the case**

The Basic Prosecution in Peja filed an indictment against Safete Tolaj, Fisnik Tolaj and Granit Shehaj on October 9, 2017. This indictment was filed by Prosecutor Valbona Disha – Haxhosaj. After the allegations of corruption, the accused judge had resigned from this position and her resignation was approved by the Kosovo Judicial Council (KJC) at a meeting held on November 16, 2017<sup>85</sup>. The KJC had suspended Tolaj, from the position of the Supervisory Judge of the Basic Court in Peja, the branch in Deçan, on January 23, 2017.

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<sup>85</sup> “Judge Safete Tolaj accused of corruption, resigns”, Oath for Justice. November 16, 2017( Follow link: <https://betimiperdrejtesi.com/jep-doreheqje-gjykatesja-e-akuzuar-per-korrupsion-safete-tolaj/>)

On November 23, 2017, the initial hearing was held regarding this case where the defendants had not pleaded guilty to the criminal offences, they were charged with<sup>86</sup>. On January 26, 2018, the Basic Court in Ferizaj, respectively Judge Agim Maliqi, rejected as unfounded the defense's motion to dismiss the indictment, to object the evidence and the motion for severance of proceedings for former Judge Safete Tolaj<sup>87</sup>. Whereas, on March 12, 2018, the second – instance court affirmed the indictment.

This court, while rejecting the motion to dismiss the indictment filed by the defense attorney of Safete Tolaj, Kujtim Kërveshi, decided to affirm the ruling issued by the Basic Court in Ferizaj regarding the affirmation of the indictment. The main trial in this case began on April 25, 2018, where Judge Ibrahim Idrizi was elected to adjudicate this case, since Judge Agim Maliqi was appointed Judge at the Supreme Court.<sup>88</sup>

Prosecutor Rasim Maloku, on the hearing held on July 11, 2018 had amended and supplemented the indictment. Prosecutor Maloku, in this hearing stated that he has assessed that there is change in the factual situation and thus he has amended and extended the indictment. In the amended indictment by the prosecutor Maloku, it was said that he withdrew from prosecution against the defendant Fisnik Tolaj only regarding the criminal offence “unauthorized ownership, control or possession of weapons”, described in the fifth count of the indictment, because according to him during the main trial it was not proven that the defendant has committed that criminal offence.

Furthermore, based on the amended indictment against former Judge Safete Tolaj the third count of the enactment clause was withdrawn, according to which she was accused of “falsifying official document”. This withdrawal was conducted, because, as prosecutor Maloku stated, during main trial it was not proven that the defendant has committed that criminal offence. But in the same time, prosecutor Maloku, demanded a permanent confiscation of the apartment of Blerina Vishaj – spouse of Fisnik Tolaj. This apartment has a surface area of 57.42 m<sup>2</sup> and can be found in the business – living complex “Urban Living”, in “Mat 1” neighborhood, in Pristina, which according to him was a material benefit acquired

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<sup>86</sup> “Former judge of Deçan Safete Tolaj, and two others plead not guilty”, Oath for Justice. November 23, 2017 (Follow link: <https://betimiperdrejtesi.com/deklarohen-te-pafajshem-ish-gjykatesja-e-decanit-safete-tolaj-dhe-dy-te-tjeret/>)

<sup>87</sup> “The indictment against former judge Safete Tolaj and two others is affirmed”. Oath for Justice. January 23, 2018 (Follow link: <https://betimiperdrejtesi.com/konfirmohet-The-Indictment-ndaj-ish-gjykateses-safete-tolaj-dhe-dy-te-tjereve/>)

<sup>88</sup> “Court of Appeals affirms the indictment against former judge Safete Tolaj”. Oath for Justice. March 12, 2018 (Follow link: <https://betimiperdrejtesi.com/gjykata-e-apelit-konfirmon-aktakuzen-ndaj-ish-gjykateses-safete-tolaj/>)

from the criminal offences of the defendant Fisnik Tolaj. While for the third accused, Granit Shehaj, the offence was reclassified to the offence “assisting in trading in influence”.<sup>89</sup>

In this case, judge Ibrahim Idrizi has mainly respected the request of the KJC that targeted cases should not be adjourned more than ten days, and after 15 hearings held during the first part of 2018, one in April, six in May, six in June and two in July, on July 13, 2018, the former Judge of the Basic Court in Peja, branch in Deçan, Safete Tolaj, was acquitted of charges of abusing official duty.<sup>90</sup>

She was found not guilty regarding all counts of the indictment. Whereas, her son, Fisnik Tolaj was sentenced to an aggregate punishment of four years and six months of imprisonment, after being found guilty regarding two criminal offences “trading in influence” and “falsifying documents”. Regarding the criminal offence of trading in influence, he was sentenced to three years of imprisonment, whereas regarding the criminal offence of falsifying documents he was sentenced to two years of imprisonment, but afterwards against him was imposed an aggregate punishment of four and a half years of imprisonment. For Fisnik Tolaj, based on the judgment, will be calculated the time spent in detention on remand from January 13, 2017 until July 07, 2017. On the other hand, police officer Granit Shehaj, who was charged of assisting in trading in influence, was found not guilty.

After the case was sent to the Court of Appeals, this court on January 31, 2019 held the session of the panel<sup>91</sup>, and in less than a month, this court returned the case to retrial, on the grounds of substantial violation of the provisions of criminal procedure.<sup>92</sup>

**Alleged Damage:** No information.

**Confiscation and sequestration:** Apartment with a surface area of 57.42 m<sup>2</sup>, in the business – living complex “Urban Living”, in “Mat 1” neighborhood, in Pristina, but this request was refused by the first – instance trial panel.

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<sup>89</sup> “The Prosecutor amends and supplements the indictment in the case of former judge Safete Tolaj, closing statement is adjourned”. Oath for Justice. July 11, 2018 (Follow link: <https://betimiperdrejtesi.com/prokurori-ndryshon-dhe-ploteson-aktakuzen-ne-rastin-e-ish-gjykateses-safete-tolaj-shtyhet-fjala-perfundimtare/>)

<sup>90</sup> “Former judge Safete Tolaj is acquitted of all charges, her son is convicted to four and a half years of imprisonment (Video)”. Oath for Justice. July 13, 2018 (Follow link: <https://betimiperdrejtesi.com/ish-gjykatesja-safete-tolaj-lirohet-nga-te-gjitha-pikat-e-aktakuzes-djali-i-saj-denohet-me-kater-vjet-e-gjysme-burgim/>)

<sup>91</sup> “The prosecution requires retrial against former judge Safete Tolaj and increase of punishment regarding her son, the defense opposes it”. Oath for Justice. January 31, 2019 (Follow link: <https://betimiperdrejtesi.com/prokuroria-kerkon-Retrial-per-ish-gjykatesen-safete-tolaj-dhe-rritje-te-denimit-per-djalin-e-saj-mbrojtja-kundershton/>)

<sup>92</sup> “The Court of Appeals returns to retrial the case against former judge Safete Tolaj, her son and the police officer”. Oath for Justice. February 20, 2019. (Follow link: <https://betimiperdrejtesi.com/apeli-e-kthen-ne-Retrial-rastin-e-ish-gjyqtares-safete-tolaj-djalit-te-saj-dhe-zyrtarit-poligor/>)



#### 4. CASE “MIGRANT”

##### Basic Court in Pristina

**Case number:** PKR.nr.30/18.

**Presiding judge:** Suzana Çerkini.

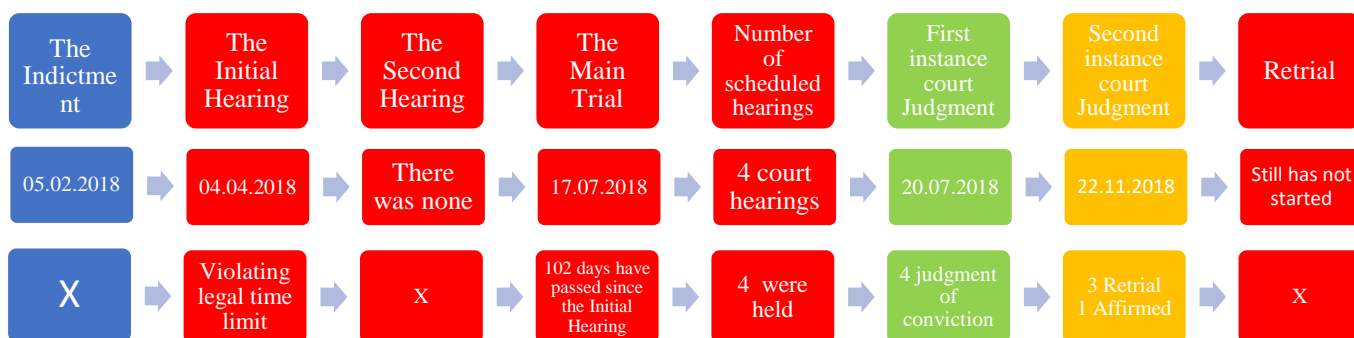
**Prosecutor:** Merita Bina – Rugova.

**Defendants:** Miftar Dobraj, Artan Kelmendi, Daniel Prenrecaj, Dren Mulla.

**Criminal offence:** “Participation in or organization of an organized criminal group”, “Unauthorized import, export, supply, transport, production, exchange, brokering or sale of weapons or explosive materials”, “Unauthorized ownership, control or possession of weapons”.

**Stage of proceedings:** Ongoing in retrial.

**(SINCE THE INDICTMENT HAS BEEN FILED UNTIL MAY 20, 2019 HAVE PASSED 468 DAYS)**



According to the SPRK indictment filed on February 5, 2018, the defendants Artan Kelmendi, Miftar Dobraj and Daniell Prenrecaj, acting as an organized criminal group, headed by Albert Veliu, against whom the criminal proceedings are taking place in the US, had committed serious criminal offences of weapon – trafficking.

According to the prosecution, in April/May 2017, on US territory, the US Drug Enforcement Administration (DEA) police agent, under cover, had signed an agreement with Veliu for the purchase of 15 automatic weapons, allegedly for narcotic bands in Mexico, with a price of 900 USD each and paid them 13,500 USD in total.

The Accused Kelmendi and Veliu, on June 18, 2017, following a preliminary agreement with the Kosovo Police officer, who was implementing the covert measure of stimulated purchase in coordination with the US police, met in the restaurant “Nora” in Klina, and handed over to the police officer 6 long weapons “AK 47” and an empty gun magazine for long weapons.

Whereas on June 27, 2017, it is alleged that Kelmendi and Prenrecaj, in the same place, handed over to the undercover officer 8 automatic “AK 47” automatic weapons with a gun magazine, a 64-mm anti-missile counterpart, as well as and 3 empty gun magazines. While the accused Dobraj was supervising from the restaurant and a few moments later all were arrested.

The Prosecution charges the three accused that in co-perpetrators with Albert Veliu, have committed the criminal offence “participation in or organization of an organized criminal group” provided by Article 285 paragraph 1 of the CCRK relating to the offence “import, export, supply, transport, exchange, or unauthorized sale of weapons”.

Meanwhile, defendant Kelmendi, along with accused Dren Dulla, is also charged with the criminal offence of “unauthorized ownership, control or possession of weapons”.

### **KLI’s findings regarding the handling of the case**

On May 15, 2017, the Kosovo Police filed the criminal report, then on May 22 of the same year, the Special Prosecution of the Republic of Kosovo initiated investigations that resulted in the indictment being filed on February 6, 2018.

The initial hearing in this case was held on April 4, 2018, or 57 days after filing the indictment, thus violating the legal time limit of 30 days.

During this hearing, the defendants Miftar Dobraj and Artan Kelmendi requested a plea agreement, demanding the reclassification of the criminal offence because they considered that there were no elements of “organized crime”. Whereas, Dren Mulla, charged by the prosecution only regarding unauthorized possession of weapons, had pleaded guilty, and such a plea was admitted by his defense attorney Kosovare Kelmendi, as well as Prosecutor Merita Binaj-Rugova, and then approved by Judge Suzana Çerkini.<sup>93</sup> Meanwhile, at the hearing held on April 20, it was announced that guilty plea agreements between the SPRK and the other accused had failed. And then Judge Çerkini had informed the parties that within 30 days they have the right to file motions to dismiss the indictment and to object the evidence.<sup>94</sup>

This trial ended on July 20, or three months after the beginning of the court proceedings, where the accused were found guilty. The trial panel presided by Judge Suzana Çerkini rendered a decision by which the three defendants Dobraj, Kelmendi and Prendrecaj had been found guilty of the criminal offence “unauthorized import, export, supply, transport, production, exchange, brokering or sale of weapons or explosive materials”, classifying it as a criminal offence committed in co-perpetration, rather than organized crime.

Miftar Dobraj was sentenced to five years of imprisonment and seven thousand Euros in fine, Artan Kelmendi with an aggregate sentence of five years and two months of imprisonment, since he was sentenced to four years and six months imprisonment for the above-mentioned offence, he was also sentenced to 1 year imprisonment for unauthorized possession of weapons.

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<sup>93</sup> “Two of three defendants charged of organized crime in USA, require to enter a plea agreement”, Oath for Justice, April 4, 2018 (Follow link: <https://betimiperdrejtesi.com/dy-nga-tre-te-akuzuarit-per-krim-te-organizuar-me-arme-ne-shba-kerkojne-te-hyjne-ne-marveshje-per-pranimin-e-fajesise/>)

<sup>94</sup> “The accused of organized crime in USA are unable to reach a plea agreement, remain in detention on remand”. Oath for Justice, April 20, 2018 ( Follow link: <https://betimiperdrejtesi.com/te-akuzuarit-per-krim-te-organizuar-me-arme-ne-shba-sarrijne-marveshje-per-pranimin-e-fajesise-mbesin-ne-paraburgim/>)

Meanwhile, Daniel Prenecaj was sentenced to two years imprisonment and three thousand euros fine. The accused was also found guilty of unauthorized possession of weapons. Dren Mulla, who was sentenced to four thousand euros fine was also found guilty of the same criminal offence. Likewise, the court also imposed accessory punishments to the accused, confiscating the means by which they allegedly committed the criminal offence, thus weapons were confiscated from Kelmendi and Mulla, 1,653 euros have been confiscated from Dobraj, while “Audi A3” was confiscated from Prenecaj.<sup>95</sup>

Dissatisfied parties appealed to the Court of Appeals, which on November 22, 2018 held a panel session,<sup>96</sup> after which it was decided that this case must be returned for retrial. Meanwhile, the second instance court rejected the appeal of the defense counsel regarding the criminal offence “unauthorized possession of weapons”, thus affirming the punishment imposed against Dren Mulla.<sup>97</sup> The first instance court has still not scheduled the date for the retrial.

**Alleged damage:** Not determined in the indictment.

**Confiscation and sequestration:** Weapons, 1,653 euros and “Audi A3” car.

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<sup>95</sup> “Four accused in the case targeted for visa liberalization are found guilty”, Oath for Justice, July 20, 2018 (Follow link: <https://betimiperdrejtesi.com/shpallen-fajto-re-kater-te-akuzuarit-ne-rastin-e-shenjestrUAR-per-liberalizimin-e-vizave/>)

<sup>96</sup> “The Court of Appeals reviews the appeals of the parties, in the case of the accused of gun trafficking in USA”, Oath for Justice, November 22, 2018 (Follow link: <https://betimiperdrejtesi.com/gjykata-e-apelit-shqyrton-ankesat-e-paleve-ne-rastin-e-te-akuzuarve-per-trafikim-armesh-ne-shba/>)

<sup>97</sup> “The targeted case for visa liberalization against the accused of gun trafficking in USA is returned to retrial”, Oath for Justice, March 8, 2018 (Follow link: <https://betimiperdrejtesi.com/kthehet-ne-Retrial-rasti-i-shenjestrUAR-per-viza-ndaj-te-akuzuarve-per-trafikim-armesh-ne-shba/>)

#### **XIV. ANEX III: Detailed analysis of targeted cases completed in the first instance, that are currently in the appellate procedure**

Within these targeted cases there are eight other cases that have been adjudicated only from the first instance and are currently either ongoing at the Court of Appeals or the drafting of the judgments has not yet been completed.

In these cases can be found: 1)“Security”, 2)“MoH 2”, 3)“UP”, 4)“Ferronikeli”, 5)“FAN”, 6)“HIB”, 7)“Extortion”, 8)“Stent 1” and 9)“Gold”.

Out of these eight targeted cases that have so far been completed in the first instance, some are still in the process of drafting the judgment, while others are awaiting the decision of the Court of Appeals. Even in these cases there have been long-lasting judicial proceedings and violations of legal time limits.

In this group of cases can be found the case known as “UP”, in which the former Rector of the University of Pristina Enver Hasani was convicted from the first instance, but then the Court of Appeals acquitted him from the charge. Although this case was completed by the first instance on October 18, 2017, this case was handled twice by the Court of Appeals. This happened because this court affirmed the first – instance court’s judgment, but then the Supreme Court returned the case for reconsideration only regarding two co – accused of Hasani, regarding whom the Court of Appeals has not yet decided since its second review.

Another case that is part of this group is the case “Security”, where the Basic Court in Pristina, after 34 court hearings, on May 20, 2019, announced the judgment based on which, in absence of evidence, the mayor of Skenderaj Sami Lushtaku and six other persons were acquitted.

Although, on January 16, 2015, after suspicions of abusing with a bid regarding the physical security of KEK facilities, in an amount of over six million euros, an indictment against seven individuals was filed, whereas the first-instance judgment was announced only after 1,586 days. This case was initially handled by a EULEX mission judge, but the first instance judgment, based on which all the accused were acquitted was announced after more than four years of trial.

Less than a month before the case “Security” was completed, the case “Stent 1” was also completed, where after more than two years of court proceedings, on April 24, 2019, a two and a half years imprisonment sentence had been imposed to former Minister of Health Ferid Agani.

The longstanding trial before the court has also faced a case known as “HIB”, whose indictment was filed at the end of 2015. This case was adjudicated twice from the first instance, since once it was returned to retrial from the Court of Appeals.

This case was adjudicated in the General Department of the Basic Court and has twice produced two completely different judgments. While Judge Rrustem Begolli on May 18, 2018 convicted Kujtim Bucaliu as responsible person of the company “HIB Petrol”, to four

years of imprisonment, and also sentenced the company “HIB Petrol”, on the second time the judgment was completely different. After the retrial, on May 10, 2019, Judge Begolli, in absence of evidence acquitted of all charges the accused Bucaliu and the company “HIB Petrol”.

Whereas, at the end of 2018, the Basic Court in Pristina adjudicated the case “Ferronikeli”, where the former mayor of Lipjan, Shukri Buja was found guilty and was convicted to three years of imprisonment. At the same time, judgments of conviction were rendered for five other accused, while four others were acquitted. This case now is being handled by the Court of Appeals.

## 1. CASE “SECURITY”

### Basic Court in Pristina

**Case number:** PKR.nr.18/15.

**Presiding judge:** Initially this case has been adjudicated by the EULEX Judge Vladimir Mikula, but then it was transferred to the local Judge Beqir Kalludra.

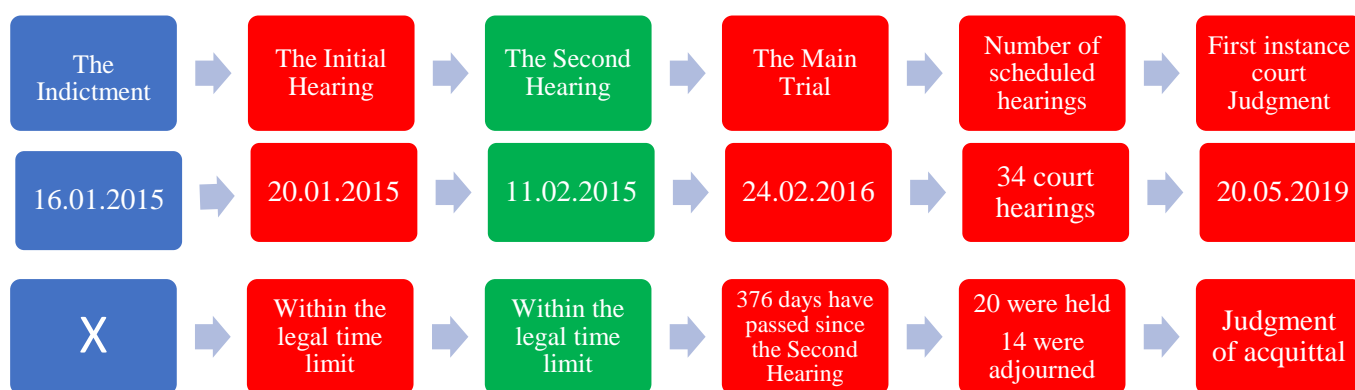
**Prosecutor:** Initially this case was prosecuted by the EULEX Prosecutor Paul Flynn, but then it was continued by prosecutor Florie Salihu-Shamolli.

**Defendants:** Sami Lushtaku, Esat Tahiri, Milazim Lushtaku, Driton Pruthi, Arben Gjukaj, Hysni Hoxha and Azem Duraku.

**Criminal offence:** “Abusing official position or authority”; “Falsifying documents in co-perpetration”; “Incitement to abusing official position or authority”; “Fraud”; “Entering into harmful contracts”.

**Stage of proceedings:** First instance court judgment.

**(SINCE THE INDICTMENT HAS BEEN FILED UNTIL MAY 20, 2019 HAVE PASSED 1586 DAYS)**



On September 2, 2012, a criminal report was filed against Sami Lushtaku, Mayor of Skenderaj. On October 5, 2012, the EULEX prosecutor issued a decision to initiate investigative stage, and on January 16, 2015, he filed an indictment in BC in Pristina against Sami Lushtaku, Esat Tahiri, Milazim Lushtaku, Driton Pruthi, Arben Gjukaj, Hysni Hoxha and Azem Duraku, for the criminal offences “abusing official position or authority”, “falsifying documents in co-perpetration”, “incitement to abusing official position or authority”, “fraud”, “entering into harmful contracts”.

They are accused of a bid of millions of euros, on physical security of KEK facilities. Sami Lushtaku is charged with the criminal offence of “incitement to abusing official position or authority”, Arben Gjukaj and Hysni Hoxha for the criminal offence of “abusing official position or authority”, Esat Tahiri and Milazim Lushtaku for criminal offences “fraud” and “falsifying documents in co-perpetration”. Driton Pruthi for the criminal offences of “abusing official position or authority” and “entering into harmful contracts”, while Azem Duraku for the criminal offence of “incitement to abusing official position or authority”.

### **KLI's findings regarding the handling of the case**

The indictment regarding the case against Sami Lushtaku and others was filed on January 16, 2015. The initial hearing regarding this case has been scheduled and held in record time, only after four days of filing the indictment, respectively on January 20, 2015 and the second hearing on February 11, 2015. While the first and second hearing have been scheduled and held within the legal time limits set by the CPCRK, while the main trial in this case has been adjourned for more than a year and was held only on February 24, 2016.

This case was transferred from the EULEX Judge Vladimir Mikula to local Judge Beqir Kalludra, and also, from the EULEX prosecutor Paul Flynn, to prosecutor Florie Salihu-Shamolli.

Since February 24, 2016, when the first hearing of the main trial was held, so far, 20 court hearings have been scheduled, six of which have failed to be held. On November 2, 2018, this trial had failed to be held because the presiding judge Beqir Kalludra had to attend an ethics training.<sup>98</sup> Meanwhile, the hearing scheduled for December 14, 2018 had failed to be held due to the absence of the accused Sami Lushtaku, against whom Judge Kalludra said that would issue a mandatory conduct order.<sup>99</sup>

Meanwhile, due to the lack of defense attorneys of the accused had failed to be held the hearing scheduled for January 9. This happened because the Kosovo Bar Association entered into a general boycott until the withdrawal of the order and recommendation of the Kosovo Judicial Council related to the restriction of lawyers and other parties to court facilities without an invitation or without the permission of the president of the relevant court.<sup>100</sup> The hearing scheduled for April 23, 2019, when was expected to be given the closing statements failed to be held because the prosecutor of the case, Florije Shamolli, was not ready to give the closing statement, since according to her, in SPRK, prosecutors were busy handling the case of some returnees from Syria to Kosovo.<sup>101</sup>

The final hearing held in this case took place on May 3, 2019, where the prosecution had requested the conviction of the accused, while the defense attorneys had requested their acquittal. Also, the defense attorney of the accused Esat Tahiri stated that one of the criminal

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<sup>98</sup> *"The judge is in training, trial regarding the famous case "KEK II" is adjourned"*. Oath for Justice, November 2, 2018 (Follow link: <https://betimiperdrejtesi.com/gjykatesi-ne-trajnim-shtyhet-gjykimi-ne-rastin-e-njohur-kek-ii/>)

<sup>99</sup> *"Case "KEK 2", Sami Lushtaku is absent, the judge says that against him will be issued a mandatory conduct order"*. Oath for Justice, December 14, 2018 (Follow link: <https://betimiperdrejtesi.com/rasti-kek-2-mungon-sami-lushtaku-gjykatesi-thote-se-ndaj-tij-do-te-leshohet-urdherese-per-sjellje/>)

<sup>100</sup> *"Attorneys boycott the court, the trial against Sami Lushtaku and others fails"*. Oath for Justice. January 9, 2019. (Follow link: <https://betimiperdrejtesi.com/avokatet-bojkotojne-punen-ne-gjykate-deshton-gjykimi-ndaj-sami-lushtakut-dhe-te-tjereve/>)

<sup>101</sup> *"The closing statement is adjourned, in the trial against Sami Lushtaku and others regarding the million euro bid in KEK"*. Oath for Justice, April 23, 2019 (Follow link: - <https://betimiperdrejtesi.com/shtyhet-dhenia-e-fjales-perfundimtare-ne-gjykimin-ndaj-sami-lushtakut-dhe-te-tjereve-per-tenderin-milionesh-ne-kek/> )

offences of which his defendant charged with – “falsifying document”, has reached the statutory limitation period, and thus he proposed to the court to render a rejection judgment regarding that offence.<sup>102</sup>

After 34 hearings, of which 20 were held and 14 were adjourned, it was decided that the announcement of the judgment would be held on May 20, 2019, thus violating the legal time limit, according to which the announcement of the judgment should be presented three days after the completion of the main trial.

On May 20, Judge Beqir Kalludra, decided that the former mayor of Skenderaj, Sami Lushtaku and all other defendants be acquitted of their charges. According to the judgment announced by Judge Kalludra, it has not been proven that the accused have committed the criminal offences they were charged with. Whereas, against Esat Tahiri and Milazim Lushtaku, a rejection judgment was announced regarding the criminal offence of falsifying documents, on the grounds that absolute statutory limitation period was reached. They were also acquitted regarding the criminal offence of fraud, while Tahiri was acquitted also regarding the criminal offence incitement to abusing official duty.<sup>103</sup>

Judge Kalludra, while announcing the judgment, also discussed regarding the alleged damage in this case, which according to him was also discussed in the media. He stated that an indictment could not stand if it does not accurately determine the value of the damage caused to the state budget. “In the media it was discussed regarding the damage, but if you have the indictment in front of you, on page 5 paragraph 5, you’ll see the sum of 6 million and 182 thousand, while in the same page, paragraph 3, you’ll see the amount of 100 thousand. Then at the next point is 50,000 thousand. Therefore I’m kindly asking, this should not ever happen. Six million is the value of the bid, whereas the damage should have been the difference between the companies. Such an indictment is not valid, you find somewhere the amount of 100,000, and somewhere else 6,000,000”, the judge stated while giving his reasoning after the judgment was announced.

**Alleged damage:** 6,182,609.76 euro.

**Confiscation and sequestration:** There was no request in the indictment.

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<sup>102</sup> “The trial regarding the million euro bid in KEK ends, the prosecution requires the punishment of Sami Lushtaku and others, the defense calls it “a mean indictment””. Oath for Justice, May 3, 2019 (Follow link: - <https://betimiperdrejtesi.com/perfundon-gjykimi-per-tenderin-milionesh-ne-kek-prokuroria-kerkon-denimin-e-sami-lushtakut-dhe-te-tjereve-mbrojtja-e-quan-aktakuze-te-poshter/>)

<sup>103</sup> “Sami Lushtaku and others are acquitted of charges in the famous case KEK 2”. Oath for Justice, May 20, 2019 (Follow link: <https://betimiperdrejtesi.com/sami-lushtaku-dhe-te-tjeret-lirohen-nga-akuzat-ne-rastin-e-njohur-kek-2/>)



## 2. CASE “HIB”

### Basic Court in Pristina

**Case number:** PKR.nr.385/15.

**Presiding judge:** Rrustem Begolli.

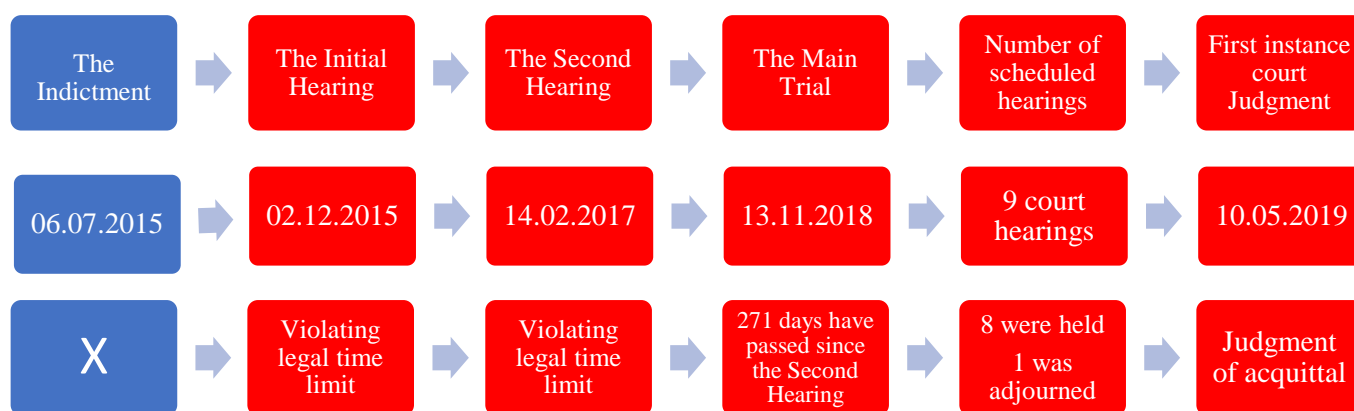
**Prosecutor:** Initially it has been Atdhe Dema, then Bashkim Zeqa.

**Defendant:** Kujtim Bucaliu, “HIB Petrol”.

**Criminal offence:** “Fraud”; “Deceiving consumers”.

**Stage of proceedings:** First instance court judgment.<sup>104</sup>

### (SINCE THE INDICTMENT HAS BEEN FILED UNTIL MAY 20, 2019 HAVE PASSED 1414 DAYS)



According to the indictment filed on July 6, 2015, the Basic Prosecution in Pristina, charged Kujtim Bucaliu and “HIB Petrol LLC” with criminal offences of “fraud” and “deceiving consumers”.

According to the prosecution, during the period of time from February 8, 2012 to January 30, 2014, “HIB Petrol LLC” and the injured party – Municipality of Pristina signed a contract for the supply of 44 educational institutions within the territory of the Municipality of Pristina for heating and electric generator. The responsible person of the legal entity “HIB Petrol LLC”, Kujtim Bucaliu, knowingly had deceived the Municipality of Pristina for the purpose of obtaining unlawful public funds for himself. The accused had provided heating gas oils from unidentified sources, through false disclosure of facts through payment sheets regarding the content and quality of the oil.

This indictment charges also the legal entity “HIB Petrol LLC”, that acting under the contract with the Municipality of Pristina had deceived it by acting to the detriment of its property, offering the oil that did not meet the criteria and qualities of liquid petroleum fuels as provided by Article 7 of the Administrative Instruction, and also surpassing the presence of 10.0mg/kg of sulfide in diesel, even exceeding the permissible value up to 80 times more, to cause large-scale injuries to the injured party, the Municipality of Pristina.

<sup>104</sup>In the table are posted the data of the main trial, number of court hearings and the date of the judgment only regarding the retrial process.

### **KLI's findings regarding the handling of the case**

On May 27, 2014, the Municipality of Pristina filed a criminal charge against “HIB Petrol LLC” and the responsible person of the legal person regarding the criminal offences “Fraud” and “Deceiving consumers”, “Legalization of False Content” and “Unlawful handling hazardous substances and waste”. Subsequently, on October 3, 2014, the Basic Prosecution in Pristina issued a ruling to initiate investigative stage against Kujtim Bucaliu as the responsible person of the legal entity “HIB Petrol LLC” regarding the criminal offence of “deceiving consumers”.

After the assessment of all the evidence, information and case files provided during the investigation, the prosecution extended the investigation on June 2, 2015 also regarding the criminal offence “fraud” against Kujtim Bucaliu as the responsible person of the legal entity “HIB Petrol LLC”.

The indictment against Bucaliu and “HIB Petrol LLC” was filed on July 6, 2015, while the initial hearing by the Serious Crimes Department in this case was held on December 2, 2015. Then, six days after the initial hearing, then Judge Florent Latifaj, this case delegated to the General Department on the grounds that this case falls within the competence of this department.<sup>105</sup>

This case was subsequently handled by Judge Rrustem Begolli, who held the second hearing on February 14, 2017, or a year and a half after the initial hearing.

In the first instance this trial had been completed on May 18, 2018, when the judgment was announced. Kujtim Bucaliu was sentenced to an aggregate sentence of four years in prison after being found guilty of criminal offences “fraud” and “deceiving consumers”. He was also sentenced to a punishment of a fine in the amount of 15,000 euros for the criminal offence of fraud. While for deceiving buyers he was sentenced to one year and four months of imprisonment. Subsequently, the Basic Court in Pristina had imposed an aggregate sentence of four years of imprisonment and a fine of 15,000 euros.

Whereas the legal entity “HIB Petrol” regarding the criminal offence of fraud was sentenced to an aggregate punishment of a fine in the amount of 30,000 euros. “HIB Petrol”, with the representative Shkelzen Hetaj, for “fraud” was sentenced to 25,000 euros fine, whereas for the criminal offence of deceiving consumers was sentenced to 8,000 euros fine. Thereafter, the court imposed an aggregate punishment of 30,000 euros. From HIB Petrol was also confiscated the tank auto-bot, which allegedly is obtained as a result of the criminal offence. Meanwhile, the Municipality of Pristina was instructed in civil litigation.<sup>106</sup>

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<sup>105</sup>The document of the judge Florent Latifaj, dated December 8, 2015, provided by KLI.

<sup>106</sup>“*HIB Petrol*” and the owner Kujtim Bucaliu are convicted to imprisonment and a punishment of a fine regarding the poor quality oil supply in Pristina”, Oath for Justice, May 18, 2018, (Follow link: <https://betimiperdrejtesi.com/denohen-me-burgim-dhe-me-gjobe-hib-petrol-dhe-pronari-kujtim-bucaliu-per-furnizimin-me-nafte-jocilesore-ne-prishtine/>)

Following the appeals of the defense, the Court of Appeals had returned this case to retrial. Upon return for retrial, Judge Begolli, in the hearing held on November 13, 2018, requested from the prosecution to supplement the indictment.<sup>107</sup> Meanwhile, in this retrial process, in addition to the hearing of February 5, 2019, which was adjourned due to the absence of the defense attorney of the accused Bucaliu<sup>108</sup>, judge Rrustem Begolli has managed to hold four more court hearings, namely on February 15, and March 4, 18 and 28, 2019.

On May 8, 2019 the retrial was completed, and two days later, on May 10, the Basic Court in Pristina, namely Judge Rrustem Begolli, had changed his previous decision, ruling that, the general director of “HIB Petrol”, Kujtim Bucaliu and his company are acquitted of the charges of “fraud” and “deceiving consumers”.<sup>109</sup> According to Judge Begolli, after analyzing the evidence individually and in their entirety, the court concluded that the well-grounded suspicion was not exceeded that the accused and his company had committed the criminal offences regarding which they were charged. Judge Begolli has obliged the Agency for the Administration of Sequestered Products to return the sequestered tank to the company “HIB Petrol” after the validity of this judgment. Meanwhile, the Municipality of Pristina, as an injured party has been instructed in civil litigation.

**Alleged Damage:** Not determined in the indictment.

**Seizure and Confiscation:** Auto-bot (the tank) of the company “HIB Petrol”.

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<sup>107</sup> “The Court requires the supplement of the indictment in the retrial of the case “HIB Petrol”, the prosecution and defense object it”, Oath for Justice, November 13, 2018, (Follow link: <https://betimiperdrejtesi.com/gjykata-kerkon-plotesimin-e-aktakuzes-ne-Retrialin-e-rastit-hib-petrol-prokuroria-e-mbrojtja-e-kundershtojne/>)

<sup>108</sup> “The retrial hearing against “HIB Petrol” regarding the oil supply of the schools in Pristina, is adjourned”. Oath for Justice, February 5, 2019, (Follow link: <https://betimiperdrejtesi.com/shtyhet-court-hearings-e-Retrialit-ndaj-hib-petrol-rreth-furnizimit-me-nafte-per-shkollat-e-prishtines/>)

<sup>109</sup> “Upon retrial, the owner of “HIB Petrol” is acquitted of charges regarding poor quality oil supply of schools in Pristina”, Oath for Justice, May 10, 2019, (Follow link: <https://betimiperdrejtesi.com/pas-Retrialit-drejtori-i-hib-petrol-lirohet-nga-akuzat-per-furnizim-me-nafte-jocilesore-ne-shkollat-e-prishtines/>)

### 3. CASE “EXTORTION”

#### Basic Court in Pristina

**Case number:** PKR.nr.458/16.

**Presiding judge:** Arben Hoti.

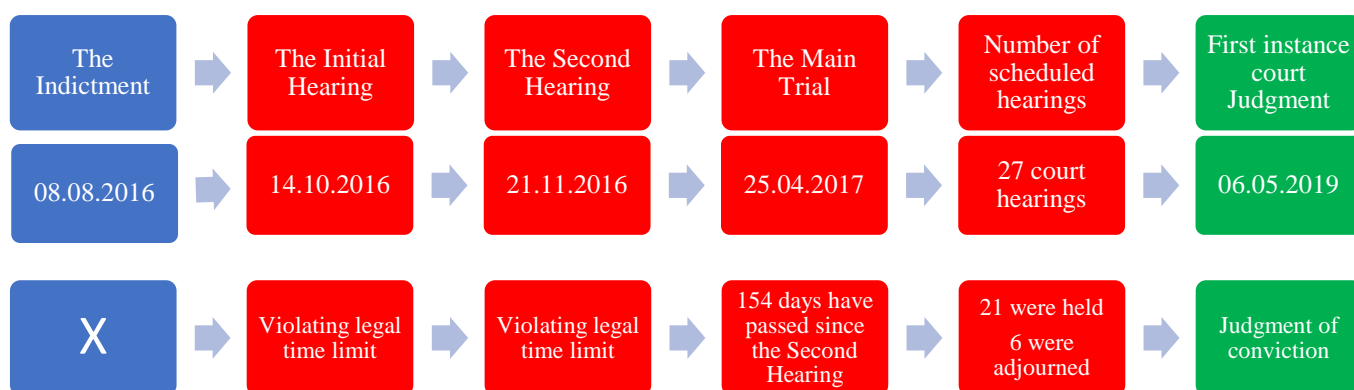
**Prosecutor:** Merita Bina-Rugova.

**Defendants:** Arben Bashota, Osman Bajrami, Sylejman Bajrami.

**Criminal offence:** “Participation in or organization of an organized criminal group”; “Extortion”.

**Stage of proceedings:** First instance court judgment.

**(SINCE THE INDICTMENT HAS BEEN FILED UNTIL MAY 20, 2019 HAVE PASSED 1015 DAYS)**



The Special Prosecution of the Republic of Kosovo (SPRK) on August 8, 2016 filed an indictment against Arben Bashota, as well as Osman and Sylejman Bajrami, regarding the criminal offence of organized crime related to the criminal offence “extortion”.

According to the SPRK’s indictment, the three accused, together with the deceased Ruzhdi Shaqiri, and several other unidentified individuals, acting as a criminal group, led by the accused Bashota, during the long time period of time had committed serious crimes for the purpose of financial gain. The indictment alleges that this group since 2004 had constantly pressured injured parties Murat Tërnavë, Hysen Shahini and Ismet Osmani, to release the disputed property in a surface of over 10 hectares, located in Fushë Kosovë, on the road to Pristina, which property had been used by the injured party Tërnavë for 10 years, authorized by Socially Owned Enterprise “Bujqësia”. In this property, the injured parties had built objects worth more than 5 million euros.

The accused Bashota is alleged to have provided falsified judgment of the Municipal Court in Pristina, dated February 21, 1997, according to which this property was returned to the ownership of Marko Mitroviq. Also, Bashota is said to have provided another falsified

judgment, based on which, Mitorviq allegedly has authorized him to undertake legal actions on his behalf.

After that, Bashota with these falsified documents requested the registration of such property changes in the register, thus misleading the Director of Cadaster and Geodesy, who on March 10, 2004, rendered a decision to pass this property on behalf of the person Marko Mitroviq.

The indictment states that the defendants who attempted to obtain this property, provided 6 falsified contracts, according to which Marko Mitroviq had sold the property to: Xhavit and Shemsije Bashota, Smajl Mehmeti, Xhyle Maraj, Violeta Ahmeti and Myzafer Maliqi. Using these documents, the defendants pushed the injured party to release the property, stating that the land was theirs and since 2007 they began to use also serious threats to force the injured party to harm their wealth.

Also, in this case was accused Ruzhdi Shaqiri, but he was killed in August 2014, in Skenderaj, for which case Gani Geci, on June 3 of last year, was convicted by the Basic Court of Mitrovica with four (4) years and six (6) months of imprisonment, but since October of last year this case was returned to retrial.

### **KLI's findings regarding the handling of the case**

Because of a criminal report of the Kosovo Police of January 15, 2015, SPRK issued a ruling to start the investigative stage against Arben Bashota and others. SPRK Prosecutor Merita Binaj-Rugova, after nearly two years of investigations, on August 8, 2016, regarding criminal offences: "Participation or Organization of the Organized Crime Group" and "Detention", filed an indictment against Arben Bashota, Ruzhdi Shaqiri and the brothers Osman and Sylejman Bajrami.

Upon the arrival of the indictment in court, the initial hearing was scheduled after two months, namely on October 14, 2016, or one month after the legal time limit, while the second hearing was held on November 21, 2016, within the legal time limit provided by the Code of the Criminal Procedure. After the indictment had been affirmed, the first hearing of the main trial was held on April 25, 2017, or five months after the second hearing was held. In this case, in 2017, seven further hearings were held, namely on June 6, July 20, September 28<sup>110</sup>, October 18, November 9 and November 21, which means that during 12 months of the year 2017, only eight court hearings have been held.

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<sup>110</sup>"The injured party says that regarding the release of the property were threatened and blackmailed by the accused of organized crime", Oath for Justice, September 28, 2017 ( Follow link: <https://betimiperdrejtesi.com/i-demtuari-thote-se-per-lirimin-e-prones-u-kercenuan-e-shantazhuan-nga-te-akuzuarit-per-krim-te-organizuar-i-kercenuan-e-shantazhuan-qe-ta-lirojne-pronen/>)

Judge Hoti, the first hearing for 2018, adjudicated on February 8, 2018<sup>111</sup>, then on March 7, May 18 and June 14.

When in early July, the judicial and prosecutorial administration employees were striking, demanding higher salaries, representatives of the strikers of the Basic Court in Pristina on July 5, reached an agreement with the court's president Afërdita Bytyqi, to be present in targeted cases adjudications. That day was scheduled the court hearing against Bashota and others, but after the agreement between the representatives of the strikers and the court's president, the parties left the court and this way that court hearing failed.<sup>112</sup>

After failing to be held the 5<sup>th</sup> of July court hearing, during that month, Judge Hoti scheduled another two court hearings in July, something that had not happened earlier. One hearing was held on July 13, while the 18<sup>th</sup> of July court hearing had failed because there were absent three witnesses called out by the court.<sup>113</sup>

First, the official visit outside of the country of Prosecutor Merita Binaj-Rugova<sup>114</sup> and then the official visit outside of the country of Presiding Judge Arben Hoti<sup>115</sup>, caused the last two court hearings of 2018 to fail to be held – the ones scheduled on the 10<sup>th</sup> of September and the 10<sup>th</sup> of October 2018.

After several court hearings failed to be held during 2018, the year 2019 started likewise. This time the hearing was adjourned because of Arben Bashota, since his defense attorney appointed ex – officio was changed. Attorney Luljeta Jashari requested for the hearing to be

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<sup>111</sup> “Witnesses say that after the threat signed new contracts regarding rent in Fushë Kosova”, Oath for Justice, February 8, 2018 ( Follow link: <https://betimiperdrejtesi.com/deshmitaret-thone-se-pas-kercenimit-nenshkruan-kontrata-te-reja-per-qiramarrjen-ne-fushe-kosove/>)

<sup>112</sup> “The strike continues, but targeted cases for visa liberalization are enabled to be held (Video)”, Oath for Justice, July 5, 2018 ( Follow link: <https://betimiperdrejtesi.com/greva-vazhdon-por-mundesohet-mbajtja-e-court-hearingsve-ne-rastet-e-shenjestrulara-per-liberalizimin-e-vizave/>)

<sup>113</sup> “Witnesses are absent, targeted case for visa liberalization regarding organized crime is adjourned”, Oath for Justice, July 18, 2018 ( Follow link: <https://betimiperdrejtesi.com/mungojne-deshmitaret-shtyhet-gjykimi-per-krim-te-organizuar-i-shenjestrular-per-liberalizim-te-vizave/>)

<sup>114</sup> “The prosecutor is in an official visit outside of the country, the trial for organized crime, extortion and falsifying documents is adjourned”, Oath for Justice, September 10, 2018 (Follow link: <https://betimiperdrejtesi.com/prokurorja-ne-udhetim-jashte-vendit-shtyhet-gjykimi-per-krim-te-organizuar-detyrim-dhe-falsifikim-te-dokumenteve/>)

<sup>115</sup> “Th judge is in an official visit outside of the country, the trial for organized crime, extortion and falsifying documents is adjourned”. Oath for Justice, October 10, 2018 (Follow link: <https://betimiperdrejtesi.com/prokurorja-ne-udhetim-jashte-vendit-shtyhet-gjykimi-per-krim-te-organizuar-detyrim-dhe-falsifikim-te-dokumenteve/>)

adjourned, reasoning that she needed more time to be prepared. Thus, the next court hearing was scheduled for February 20, 2019.<sup>116</sup>

In the court hearing held on March 20, 2019, all accused decided to remain silent<sup>117</sup>, whereas on April 30, the closing statements were given.

On May 6, 2019 the Presiding Judge Arben Hoti announced the judgment based on which all the accused were found guilty.<sup>118</sup>

Thus, for the criminal offence of extortion, related to the criminal offence of criminal association, the accused Arben Berisha was convicted to six years of imprisonment and he was sent on detention on remand.

Osman Bajrami was convicted to four years and six months of imprisonment, whereas Sylejman Bajrami was convicted to three years of imprisonment, but for them will be calculated the time spent in detention on remand.

Upon the announcement of judgment, it was pointed out that cars “Chevrolet” and “BMW” have been confiscated from the accused Bashota. The “Audi A4” car has been confiscated from Osman Bajrami, whereas from Sylejman Bajrami has been confiscated the amount of 10,000 euros.

According to Judge Arben Hoti, the court has assessed and proved that all these have been obtained through criminal offences. He also stated that the trial panel has reclassified the criminal offence of organized crime, charging the accused only with the criminal offence “extortion”, in relation to the criminal offence “criminal association”.<sup>119</sup>

**Alleged damage:** Not determined in the indictment.

**Sequestration and confiscation:** Cars “Chevrolet”, “BMW”, “Audi A4” and 10,000 euros.

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<sup>116</sup>“Attorney is not prepared to represent the case, the trial in the case targeted for visa liberalization is adjourned”, Oath for Justice, January 22, 2019 (Follow link: <https://betimiperdrejtesi.com/avokatja-e-papergatitur-per-seance-shtyhet-gjykimi-ne-rastin-e-shenjestrUAR-per-liberalizim-te-vizave/>)

<sup>117</sup>“The trial regarding organized crime, Arben Bashota and others remain silent”. Oath for Justice, March 20, 2019 (Follow link: <https://betimiperdrejtesi.com/gjykimi-per-krim-te-organizuar-arben-bashota-dhe-te-tjeret-mbrohen-ne-heshtje/>)

<sup>118</sup>“Arben Bashota and two others are convicted to more than 13 years of imprisonment regarding fraud with the property in Fushë Kosovë”. Oath for Justice, May 6, 2019 (Follow link: <https://betimiperdrejtesi.com/arben-bashota-dhe-te-tjeret-denohen-me-mbi-13-vjet-burg-per-dallaveret-me-pronen-ne-fushe-kosove/>)

<sup>119</sup> Ibid

#### 4. CASE “MoH 2”

##### Basic Court in Pristina

**Case number:** PKR.nr.382/15.

**Presiding judge:** Valbona Musliu – Selimaj.

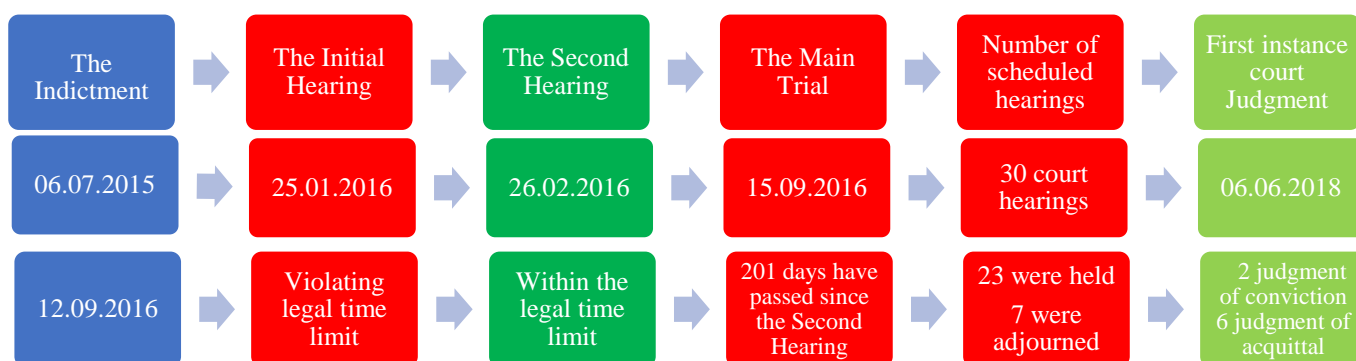
**Prosecutor:** Initially it has been Admir Shala, then the case has been transferred to Florije Salihu-Shamolli.

**Defendants:** Ilir Tolaj, Bekim Fusha, Zenel Kuqi, Valentina Haxhija-Pacolli, Remzije Thaçi, Florije Tahiri. In this indictment have been involved also Arion Lleshi and Shpend Agani, but they have entered a plea agreement.

**Criminal offences:** “Abusing official position or authority”, “Fraud”, “Unauthorized use of company, mark, or model of another person”, “Tax evasion in co – perpetration”.

**Stage of proceedings:** First instance court judgment.

**(SINCE THE INDICTMENT HAS BEEN FILED UNTIL MAY 20, 2019 HAVE PASSED 1414 DAYS)**



SPRK on April 23, 2013, issued a decision to initiate investigative stage against Ilir Tolaj, former General Secretary of the Ministry of Health, and others. On July 6, 2013, the SPRK filed the indictment to the Basic Court in Pristina, against Ilir Tolaj, Bekim Fusha, Zenel Kuqi, Valentina Haxhijaj, Remzije Thaçi and Florije Tahiri regarding the criminal offence “abusing official position or authority”.

According to PSRK, Ilir Tolaj as General Secretary of the Ministry of Health, Bekim Fusha as Acting Director of Pharmaceutical Department at Ministry of Health and Zenel Kuqi as Procurement Manager at Ministry of Health, during the period May 23, 2011 until December 31, 2011, in co-perpetration, have obtained benefits for the company “KMI LLC” Drenas, and its owners Arian Lleshi and Shpend Agani, in the amount of 400,000 Euro. Valentina Haxhijaj, Remzije Thaçi and Florije Tahiri are accused that acting as members of the Contract Execution Review Committee, allegedly have enabled the company “KMI” to manipulate the quantity of medicaments. Thus, they are accused of committing the criminal offence “abusing official position” in continuity.



Zenel Kuqi is accused that acting as the Procurement Manager during the period between May 23, 2011 and December 31, 2011 has surpassed his competencies in order to obtain material benefit from the company “ACG” and company “Standard, regarding the procurement activity “General Renovation of the Annex of the existing Emergency at UCKK”, from the company “Alb Architect” regarding the procurement activity “General Renovation and adaptation of the ground floor in the General Clinic, in the new department of Dialysis at UCKK” and from the company “Life Farm” regarding the procurement activity “Supply with intravenous therapy (IV)”, thus damaging the budget of Kosovo in the total amount of 277,307.97 Euros.

In this indictment have been included also the two businessmen Arion Lleshi and Shpend Agani, but both had entered a plea agreement with the Prosecutor. Consequently, the court found the two businessmen guilty, punishing them with two-year of imprisonment and a punishment of a fine in the amount of 1,000 Euro each. Based on the Judgment of the BC in Pristina, they have been forced to repay the damage caused to the state, in the amount of 400,000 Euro.

According to the prosecution, Lleshi and Agani were accused of making false statements or hiding facts, which has resulted in damage of the budget of the Ministry of Health and also, they have avoided paying taxes and other contributions to their employees, as provided by the law.

### **KLI’s findings regarding the handling of the case**

The initial hearing regarding this case against Ilir Tolaj and others has been scheduled by the BC in Pristina with a delay of four months, respectively it has been scheduled on December 8, 2015. This hearing has been adjourned and it has been held only on January 20, 2016. The second hearing regarding this case has been held on February 26, 2016.<sup>120</sup> The main trial

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<sup>120</sup> Reports from the monitoring process of the case against Ilir Tolaj and others:

“*Former officials of Ministry of Health oppose charges against them*”. Oath for Justice. February 26, 2016. (Follow link <http://betimiperdrejtesi.com/ish-zyrtaret-e-ministrise-se-shendetesise-kundershtojne-akuzat-ndaj-tyre/>)

“*The trial against Tolaj and others for the criminal offence of abusing official position is adjourned*”. Oath for Justice. September 9, 2016. (Follow link <http://betimiperdrejtesi.com/shtyhet-shqyrtimi-gjyqesor-ndaj-ilir-tolaj-dhe-te-tjereve-per-keqperdorim-te-detyres/>)

“*Case Tolaj and others – Attorney Berisha: Within a normal system, my client would have been treated as the injured party*”. Oath for Justice. September 15, 2016. (Follow link <http://betimiperdrejtesi.com/rasti-tolaj-dhe-te-tjeret-avokati-berisha-ne-nje-sistem-normal-klienti-im-do-duhej-te-ishte-ne-cilesine-e-te-demtuarit/>)

“*Former Minister Ferid Agani testifies in the trial against former Secretary of Ministry of Health, Ilir Tolaj*”. Oath for Justice. October 14, 2016. (Follow link <http://betimiperdrejtesi.com/ish-ministri-ferid-agani-deshmon-ne-gjykimin-ndaj-ish-sekretarit-te-msh-se-ilir-tolaj/>)

“*The trial against former Secretary of MoH, Ilir Tolaj and others is adjourned*”. Oath for Justice. January 26, 2017. (Follow link <http://betimiperdrejtesi.com/shtyhet-shqyrtimi-gjyqesor-ndaj-ish-sekretarit-te-msh-se-ilir-tolaj-dhe-te-tjereve/>)

regarding this case has also been scheduled with delays, respectively over six months after the second hearing. The first hearing of the main trial has been scheduled on September 9, 2016, but it has been adjourned to September 15, 2016. Until the end of the main trial, regarding this case, 25 court hearings have been scheduled, five of which had failed.

BC in Pristina, on June 6, 2018, announced the judgement, based on which Tolaj and the other five have been acquitted, as according to the Presiding Judge Valbona Musliu-Selimaj, it has not been proven that the accused committed criminal offences of which they had been charged.<sup>121</sup>

After the other two accused Arion Lleshi and Shpend Agani had entered a plea agreement with the Prosecutor, the court found them guilty, and punished with a punishment of two-year of imprisonment and a punishment of a fine in the amount of 1,000 Euro each. Based on the Judgment of the BC in Pristina, they are obliged to repay the damage caused to the state, in the amount of 400,000 Euro.

The case is currently ongoing in the Court of Appeals.

**Alleged damage:** 476,307.97 euro.

**Confiscation and sequestration:** There was no request in the indictment.

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*“In the trial against Ilir Tolaj, the Director of Budget and Finances in the Ministry of Health says that the whole procurement activity regarding the disposal of medicaments has been conducted according to the law”.* Oath for Justice. February 21, 2017. (Follow link <http://betimiperdrejtesi.com/ne-gjykimin-ndaj-ilir-tolaj-drejtori-per-buxhet-dhe-financa-ne-ministrine-e-shendetesise-thote-se-i-gjithe-aktiviteti-i-prokurimit-per-asgjesimin-e-barnave-ishte-zhvilluar-sipas-ligjit/>)

<sup>121</sup> *“Ilir Tolaj and others are found not guilty on corruption charges regarding the case of the disposal of medicaments (Video)”.* Oath for Justice. June 6, 2018. (Follow link <https://betimiperdrejtesi.com/ilir-tolaj-dhe-te-tjeret-shpallen-te-pafajshem-per-korrupsion-ne-rastin-e-asgjesimit-te-barnave-pa-afat/>)

## 5. CASE “UP”

### Basic Court in Pristina

**Case number:** PKR.nr.432/15.

**Presiding judge:** Initially it was Afërdita Bytyqi, then Arben Hoti.

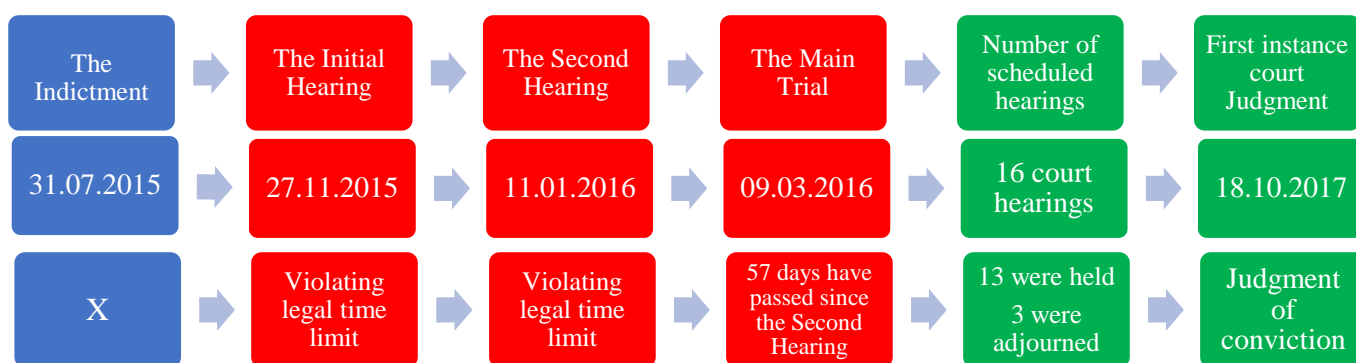
**Prosecutor:** Drita Hajdari.

**Defendants:** Enver Hasani; Hakif Veliu; Albert Rakipi.

**Criminal offence:** “Misappropriation in office”.

**Stage of proceedings:** First instance court judgment (Enver Hasani is acquitted by a final judgment).

**(SINCE THE INDICTMENT HAS BEEN FILED UNTIL MAY 20, 2019 HAVE PASSED 1389 DAYS)**



On July 31, 2015 PSRK’s prosecutor Drita Hajdari compiled and filed an indictment to the Basic Court in Pristina. According to the indictment, Enver Hasani was accused that acting as Rector of UP, Haki Veliu as Head of Procurement in UP and Albert Rakipi as the Director of the Institute for International Studies (ISN), with the purpose of gaining unlawful property for this Institute, forged the original contract regarding the translation of several books from English into Albanian.

According to the indictment, they drafted a new contract using the same protocol number from the original contract.

According to the original contract, its value was 500,000 euro, namely the price for 1000 words was 12.65 euros stipulated in article 17, while in the new contract according to prosecution, this part was changed to 1000 characters for 12.56 euros.

### **KLI’s findings regarding the handling of the case**

On July 25, 2012, Kosovo Police filed criminal charges against Enver Hasani, Albert Rakipi and Hakif Veliu, regarding suspicions of misappropriation at the University of Pristina. On January 9, 2014, Basic Prosecution in Pristina rendered a ruling to initiate the investigative stage. This case was investigated by a team of EULEX prosecutors and Basic Prosecutors Office in Pristina. EULEX, on August 12, 2014 transferred this case to the Basic Prosecution

in Pristina. Whereas, this prosecution office on November 21, 2014 transferred this case to SPRK. Then, Drita Hajdari, prosecutor at this prosecution office, on April 14, 2015, rendered a decision to extend the investigations, including Enver Hasani as former Rector of UP.

During that time, a competition was held for the Chief State Prosecutor, where the Constitutional Court headed by Enver Hasani had overturned the process of electing the Chief State Prosecutor in which Aleksandër Lumezi was elected. At that time, some KPC members had started a “public war” with the Constitutional Court regarding the process of electing the Chief Prosecutor. Once Constitutional Court enabled the decree of Chief Prosecutor Lumezi, on that same day on April 14, 2015, the SPRK issued two decisions to initiate investigative stage against Enver Hasani. One case concerns him when he was President of the Constitutional Court and the other about his time as Rector of UP.

In the latter, the indictment against Enver Hasani was filed on July 31, 2015 for the criminal offence of corruption. The initial hearing in this case was held 118 days after the indictment was filed, on 27 November 2015. Whereas, the second hearing regarding this case was held on January 11, 2016.

The initial hearing was held on March 9, 2016<sup>122</sup>, whereas on April 8 of that same year, the defense team of Hasani stated that he will remain silent.<sup>123</sup> This case in the first instance was completed on October 18, 2017, when the trial panel decided to render a judgment of conviction. Enver Hasani was found guilty and sentenced to 1 year of imprisonment, a sentence that will not be executed if in the period of two years he does not commit any other criminal offence. Hakif Veliu and Albert Rakipi were sentenced to six months of imprisonment. However, their punishment of imprisonment can be replaced with a fine of 10,000 euros.<sup>124</sup> In this same judgment, the court obliged them to compensate to the UP the amount of 70,131.27 Euros.

On May 2, 2018, the Court of Appeals reviewed the appeals regarding this case. The Court of Appeals held a closed hearing, because as it was said there was no effective punishment of imprisonment imposed, thus the parties to the proceedings do not need to be called to be present in such case.<sup>125</sup>

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<sup>122</sup> “The main trial starts in the case regarding charges of abusing in UP by Enver Hasani”, Oath for Justice, March 9, 2016, (Follow link: <https://betimiperdrejtesi.com/hapet-shqyrtimi-kryesor-per-keqperdorimet-e-pretenduar-ne-up/>)

<sup>123</sup> “Enver Hasani will remain silent”, Oath for Justice, April 8, 2016, (Follow link: <https://betimiperdrejtesi.com/enver-hasani-do-te-mbrohet-ne-heshtje/>)

<sup>124</sup> “Enver Hasani is given a suspended punishment of imprisonment and is obliged to return to UP over 70 thousand euros (Video)”. Oath for Justice. October 18, 2017. (Follow link <https://betimiperdrejtesi.com/enver-hasani-denohet-me-burgim-me-kusht-dhe-obligohet-tia-ktheje-up-se-mbi-70-mije-euro/>)<https://betimiperdrejtesi.com/enver-hasani-denohet-me-burgim-me-kusht-dhe-obligohet-tia-ktheje-up-se-mbi-70-mije-euro/>

<sup>125</sup> “The Court of Appeals reviews the appeals of the parties in the case of former Rector of UP, Enver Hasani”. Oath for Justice, May 2, 2018, (Follow link: <https://betimiperdrejtesi.com/apeli-shqyrton-ankesat-e-paleve-ne-rastin-e-ish-rektorit-te-up-se-enver-hasani/>)

The Court of Appeals, then acquitted Enver Hasani of charges of misappropriation in office. According to the decision of the second instance, SPRK did not prove that he committed the criminal offence that he was charged with, meanwhile the decision was also changed for the others that were charged, since the Basic Court sentenced them to 6 month of effective imprisonment, whilst the Court of Appeal taking into account Prosecution's appeal, sentenced them to 1 year of effective imprisonment each.<sup>126</sup>

The final judgement on Hasani's innocence regarding this case was affirmed by the Supreme Court. This Court refused the request for protection of legality filed by the State Prosecutor, even though the judgement against Hakif Veliu and Albert Rakipi, the Supreme Court returned for reconsideration, thus annulling the judgment of the Court of Appeals.<sup>127</sup>

The Supreme Court found that the second instance court violated the rights to a fair trial for Hakif Veliu and Albert Rakipi, because they were not invited to the Court of Appeals' hearing held on May 2, 2018, thus not being able to present their arguments regarding this criminal case. After this, on April 16, 2019, the trial panel of the Court of Appeals reviewed once again the appeals of these two accused.<sup>128</sup>

**Alleged damage:** 70,131.27 euro.

**Confiscation and sequestration:** There was no information on the indictment.

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<sup>126</sup> "Court of Appeals acquits of charges of corruption the former rector of UP, Enver Hasani". Oath for Justice. May 15, 2018. (Follow link <https://betimiperdrejtesi.com/apeli-e-liron-nga-akuzat-per-korrupsion-ish-rektorin-e-up-se-enver-hasani/>)

<sup>127</sup> "The Supreme Court affirms Hasani's innocence, he says that the Prosecutor prosecuted him unlawfully". Koha.net. November 2, 2018. (Follow link <https://www.koha.net/arberi/126585/supremja-verteton-pafajesine-e-hasanit-sa-ishte-rektor-ky-thote-se-prokurori-e-ndoqi-pa-te-drejte/>)

<sup>128</sup> "Upon the return to reconsideration by the Supreme Court, the Court of Appeals again reviews the appeals of the accused regarding the contract with UP". Oath for Justice. April 16, 2019, (Follow link: <https://betimiperdrejtesi.com/pas-kthimit-ne-rivendosje-nga-supremja-apeli-serish-shqyrton-ankesat-e-te-akuzuarve-lidhur-me-kontraten-me-up-ne/>)

## 6. CASE “STENT 1”

### Basic Court in Pristina

**Case number:** PKR.nr.369/16.

**Presiding judge:** Shadije Gërguri.

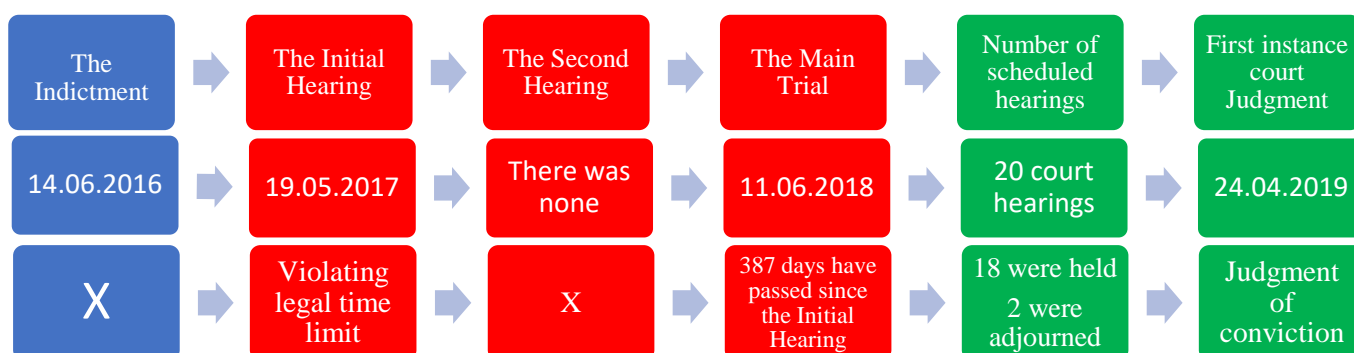
**Prosecutor:** Florije Salihu-Shamolli.

**Criminal offence:** “Abusing official position or authority”.

**Defendants:** Ferid Agani and Gani Shabani

**Stage of proceedings:** First instance court judgment.

**(SINCE THE INDICTMENT HAS BEEN FILED UNTIL MAY 20, 2019 HAVE PASSED 1069 DAYS)**



On June 15, 2016, the Office of the Chief State Prosecutor filed an indictment against the former Minister of Health, Ferid Agani, the General Secretary of MoH, Gani Shabani and 62 other individuals, for the criminal offences of “Abusing official position or authority”, “Accepting bribes”, “Giving Bribes”, “Irresponsible medical treatment”, “Unlawful exercise of medical or pharmaceutical activity” and “Tax evasion”.

In this criminal case, investigations were initially conducted against 116 natural individuals and 4 legal individuals. After the investigation, for 56 natural individuals, the legal conditions were not met to be included in this indictment, therefore the investigations were terminated for them. Distinctive of this case is that the indictment has been filed by the Prosecutor of the Office of the Chief State Prosecutor, in violation of the law and judicial precedent in Kosovo, a finding that KLI has established in previous reports.<sup>129</sup>

So far, four prosecutors have been replaced while working on “Stent” case. Another distinctive of the case is that the Prosecutor who filed the indictment does not represent it. The indictment was filed in June 2016, but the reading of charges in indictment had not taken place for a period of time, since the prosecution had failed to provide evidence to all defendants in the language they understand. This resulted in 5 adjourned court hearings.

<sup>129</sup> “War, persecution or amnesty in the name of the fight against corruption?”. Kosovo Law Institute. December 2017. (Follow link <http://kli-ks.org/lufte-persekutim-apo-amnisti-ne-emer-te-luftes-kunder-korrupsionit/>)

The initial hearing was held on May 19, 2017, as well as on May 25, 2017 for one of the defendants who was absent in the hearing of May 19. The claims of defendants' attorneys for the dismissal of the indictment and the objections to evidence have been rejected by the first instance court on July 31, 2017, while, after the appeals that defendants' attorneys have filed to the Court of Appeals in October 2017, this court, had returned the case for reconsideration.<sup>130</sup>

Upon returning the case for reconsideration, on February 26, 2018, the presiding judge, Shadije Gërguri, for the purpose of efficiency of the case, ordered the severance of proceedings in three parts. Since then, Ferid Agani and Gani Shabani are separately adjudicated as a case (STENT 1), Gani Bajraktari and other accused, mainly doctors, who are part of enactment clause three and four of the indictment, are being adjudicated separately (STENT 2), while Ali Hocaoglu and other accused included in provisions four to ten of the indictment will be adjudicated separately (STENT 3).<sup>131</sup>

None of the defendants pleaded guilty in the initial hearing held on February 26, 2018, whereas their requests for dismissal of the indictment and objections to evidence have been rejected by the first instance court. In the case of Ferid Agani and Gani Shabani, as well as in the other case Gani Bajraktari and others, the indictment has also been affirmed by the Court of Appeals and these cases are already at the phase of main trial, whereas in the case of Ali Hocaoglu and others, the case has been returned for reconsideration by the Court of Appeals upon the appeals of the defendants' attorneys. In the meantime, because he is deceased, criminal proceedings have been terminated against one of the defendants in this case, Bedri Zaiti.

### **KLI's findings regarding the handling of the case**

The criminal report in "Stent" case was filed on May 26, 2014, whereas the decision to initiate investigative stage on June 16, 2014. The indictment was filed on June 14, 2016. The initial hearing regarding the "Stent" case has been scheduled on October 21, 2016, respectively with three months of delay or violating the legal time limit provided by CPCK. Also distinctive of this case is the adjourned hearing on February 28, 2017. At this initial hearing the presiding judge, Shadije Gërguri, explained that the prosecution by a letter informed the court that Afrim Bekteshi had been involved in the investigations regarding this case, but no elements of the criminal offence were found against him and thus he is not part of the indictment anymore.<sup>132</sup>

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<sup>130</sup> "The Court of Appeals returns the case "Stent" to reinstatement". Oath for Justice. November 2, 2017. (Follow link <https://betimiperdrejtesi.com/apeli-e-kthen-ne-rivendosje-rastin-stenta/>)

<sup>131</sup> "After the severance of proceedings, former Minister Agani and former Secretary Shabani, again plead not guilty". Oath for Justice. February 26, 2018. (Follow link <https://betimiperdrejtesi.com/pas-vecimit-te-procedures-ndaj-tyre-serish-deklarohen-te-pafajshem-ish-ministri-agani-dhe-ish-sekretari-shabani/>)

<sup>132</sup> "Afrim Bekteshi is mistakenly involved in the indictment regarding "Stent" case, thus is acquitted of prosecution". Oath for Justice. February 28, 2017. (Follow link <http://betimiperdrejtesi.com/perfshihet-gabimisht-ne-aktakuzen-e-rastit-stenta-lirohet-nga-ndjekja-penale-afrim-bekteshi/>)

The manner of the indictment filing and the withdrawal from prosecution against Afrim Bekteshi proves the non-seriousness of the prosecution handling corruption cases. Also, the reasoning of the prosecution that there is a technical error in filing this indictment, contradicts the legal obligation of the State Prosecutor under Article 48 of the CPCK, which stipulates that it is the obligation of the prosecutor to analyze the evidence as well as inculpatory and exculpatory facts and to ensure that the investigation is conducted, while fully respecting the rights of the defendant.

On April 18, 2019, the closing statements were delivered, and prosecutor Florije Salihu – Shamolli required the conviction of the accused, whereas the defense attorneys required their acquittal<sup>133</sup>, while on April 24 the first instance court found the accused guilty of abusing official position.

Agani was convicted with two years and six months of effective imprisonment, while the other accused, Gani Shabani was convicted with two years of effective imprisonment. They were also obliged to cover the costs of criminal proceedings as well as the scheduled judicial amount, all in the value of 400 euros.<sup>134</sup>

In this targeted case for visa liberalization, since the indictment has been filed, until the announcement of the judgment by the first instance, 1165 days have passed.

**Alleged damage:** 4,555,553.00 euro.

**Sequestration and confiscation:** There was no request in the indictment.

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<sup>133</sup>“Stent 1”, former minister Agani and former secretary Shabani require to be acquitted of charges, prosecution requires their punishment”. Oath for Justice. April 18, 2019. (Follow link:<https://betimiperdrejtesi.com/stenta-1-ish-ministri-agani-dhe-ish-sekretari-shabani-kerkojne-te-lirohen-nga-akuzat-prokuroria-kerkon-denimin-e-tyre/>)

<sup>134</sup>“Case “Stent 1”, former minister Ferid Agani and former secretary Gani Shabani are punished to over 4 years of effective imprisonment (Video)”. Oath for Justice. April 24, 2019. (Follow link: <https://betimiperdrejtesi.com/rasti-stenta-1-ish-ministri-ferid-agani-dhe-ish-sekretari-gani-shabani-denohen-me-mbi-4-vjet-burg-efektiv/>)



## 7. CASE “FERONIKELI”

### Basic Court in Pristina

**Case number:** PKR.nr.53/17.

**Presiding judge:** Beqir Kalludra.

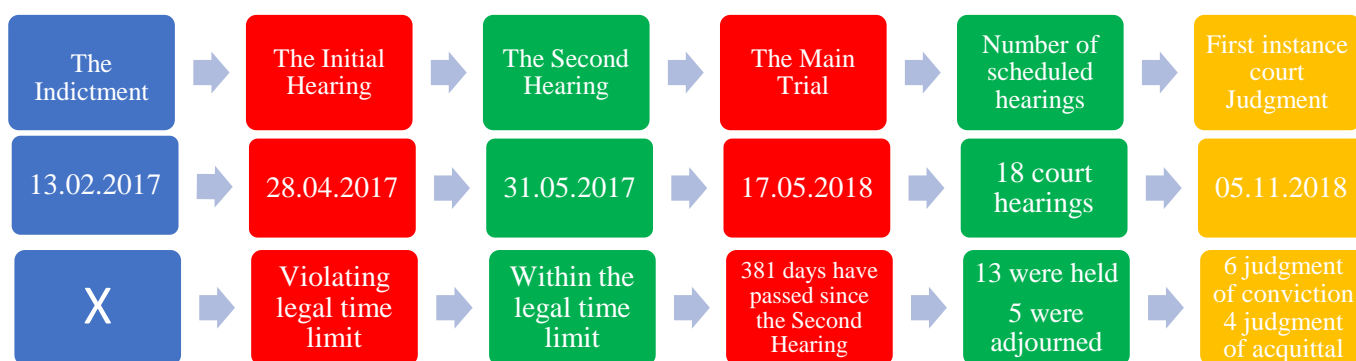
**Prosecutor:** Agron Bajrami.

**Defendants:** Shukri Buja, Nebih Zeqiri, Halit Gashi, Edmond Rexhepi, Hasim Vishesella, Fahri Retkoceri, Magbule Sadiku, Burim Kodra, Driton Avdiu and Bajram Rizani.

**Criminal offences:** “Abusing official position or authority”; “Accepting bribes”; “Unlawful construction work”; “Giving bribe”; “Trading in influence”.

**Stage of proceedings:** First instance court judgment.

**(SINCE THE INDICTMENT HAS BEEN FILED UNTIL MAY 20, 2019 HAVE PASSED 826 DAYS)**



Kosovo Police on September 18, 2014 filed criminal report against Shukri Buja and others, while the decision to initiate investigative stage was issued by the prosecution on October 21, 2015. The Special Prosecution of the Republic of Kosovo (SPRK) on February 13, 2017 filed an indictment that charged the former Mayor of Lipjan, Shukri Buja, Nebih Zeqiri - property officer in the Office of the Mayor of Lipjan, Halit Gashi – acting as director of the Directorate for Geodesy and Cadastre in Lipjan and Mgbule Sadiku - officer in Directorate of Geodesy and Cadastre in Lipjan, that in violation of legal provisions acted to expropriate and then have alienated social and municipal properties, in favor of “New Co Ferronikeli Complex L.L.C.”.

Fahri Retkoceri was charged with criminal offences of “unlawful construction work” and “giving bribe”. The defendant Retkoceri is accused of commencing the construction of a collective-residential building without being granted a construction permit. Defendant Hasim Vishesella – as the Director of Planning, Urbanism and Environment Protection in Lipjan Municipality, and the defendant Edmond Rexhepi – Director of Planning and Urbanism in Lipjan Municipality were charged with the criminal offences of “abusing official position or authority” and “accepting bribes”, because they issued construction permits for the defendant, Fahri Retkoceri.

The defendants, Driton Avdiu and Burim Kodra, were charged with the criminal offence “abusing official position or authority”. The Prosecution alleges that the two defendants as municipal inspectors, when inspecting the construction of the apartment building constructed by the defendant, Fahri Retkoceri, have not taken measures to suspend the construction work. While, the defendant Bajram Rizani – as the Director of the Directorate of Inspection in Lipjan Municipality, has not fulfilled his official duties, knowing that the defendant Fahri Retkoceri, was building an object without a construction permit and did not require from his subordinates to suspend the construction of the object, thus is accused of the criminal offence “abusing official position or authority”.

### **KLI’s findings regarding the handling of the case**

The initial hearing regarding this case has been held on April 28, 2017, or about one and a half month after the 30 day legal time limit set by the CPOK to conduct the initial hearing after the indictment filing.<sup>135</sup> Whereas, the second court hearing has been held on May 31, 2017, within the legal time limits provided by the CPOK.<sup>136</sup>

From that time until the announcement of the judgment regarding this case, seven court hearings have been held, whereas for various reasons, five more have been adjourned. Its final judgment, the court rendered on November 5, 2018, where Shukri Buja has been punished to three years of effective imprisonment after being found guilty of the criminal offence of abusing official position in continuity and co-perpetration. For the criminal offence of abusing official position, also the other accused in this case have been found guilty, Nebih Zeqiri, has been punished to two years and six months of imprisonment, Halit Gashi, Edmond Rexhepi and Bajram Rizani have been punished to six months of imprisonment each, while Hasim Vishesella has been found guilty of accepting bribes and has been punished to five months of imprisonment.

The accused Gashi, Rexhepi, Rizani and Vishesella may substitute their punishments of imprisonment to punishments of a fine. On the other hand, Magbule Sadiku, Burim Kodra and Driton Avdiu, have been acquitted of charges, while against the businessman Fahri Retkoceri, a judgment of acquittal has been rendered, regarding the criminal offence of “unlawful construction work”, while a rejection judgement has been rendered regarding the criminal offence of giving bribe.<sup>137</sup>

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<sup>135</sup> “Former Mayor of Lipjan and other officials of this Municipality plead not guilty”. Oath for Justice. April 28, 2017. (Follow link <https://betimiperdrejtesi.com/deklarohet-i-pafajshem-ish-kryetari-i-lipjanit-dhe-zyrtaret-tjere-te-kesaj-komune/> )

<sup>136</sup> “Shukri Buja requires the dismissal of the indictment against him”. Oath for Justice. April 28, 2017. (Follow link: <https://betimiperdrejtesi.com/shukri-buja-kerkon-te-hedhet-poshte-The-Indictment-ndaj-tij/>)

<sup>137</sup> “Former Mayor of Lipjan, Shukri Buja is punished to three years of imprisonment regarding corruption criminal offences”. Oath for Justice. November 5, 2018. (Follow link <https://betimiperdrejtesi.com/ish-kryetari-i-lipjanit-shukri-buja-denohet-me-tre-vjet-burgim-per-korrupsion/> )

What is worth mentioning regarding this case is the fact that the negligence handling it, has caused the statutory limitation on some criminal offences of which Shukri Buja and Fahri Retkoceri have been charged. This case upon appeal is ongoing on the Court of Appeals.

**Alleged damage:** More than 6 million Euros.

**Sequestration and confiscation:** There has not been any request in the indictment.

## 8. CASE “FAN”

### Basic Court in Pristina

**Case number:** PKR.nr.734/15.

**Presiding judge:** Shashivar Hoti.

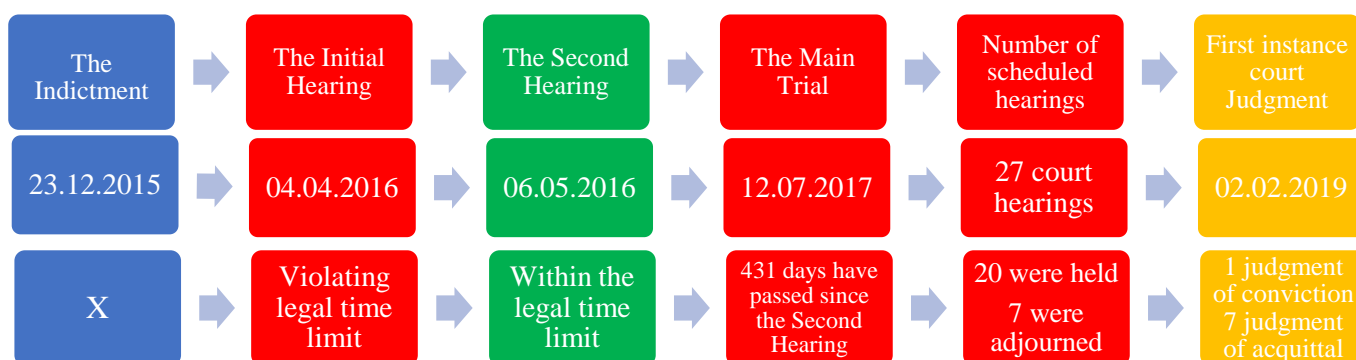
**Prosecutor:** Fikrije Fejzullahu.

**Defendants:** Naser Osmani, Bahri Shabani, Shkelzen Lluka, Naim Avdiu, Melita Ymeraga, Agron Kamberi, Adrian Kelmendi, Agim Deshishku.

**Criminal offences:** “Abusing official position or authority”, “Fraud”, “Tax evasion”, “Legalization of false content”.

**Stage of proceedings:** First instance court judgment.

**(SINCE THE INDICTMENT HAS BEEN FILED UNTIL MAY 20, 2019 HAVE PASSED 1244 DAYS)**



The case against Naser Osmani began based on the criminal report filed by the Kosovo Police on April 28, 2014. The SPRK on April 30, 2014 issued a decision to initiate investigative stage, whereas this Prosecution on February 16, 2016 filed an indictment to the BC in Pristina, against Member of the Parliament Naser Osmani, deputy Chairman of PAK Board of Directors, Bahri Shabani, against Shkëlzen Lluka, Naim Avdiu, Melita Ymeraga, Agron Kamberi, Adrian Kelmendi, all officials at the PAK, and Agim Deshishku, businessman.

Based on the indictment filed by the SPRK, the accused Naser Osmani, as deputy chairman of the PAK Board of Directors, Bahri Shabani as the Director of the PAK Board of Directors, Shkelzen Lluka as PAK Manager, Naim Avdiu as Deputy Managing Director of PAK and Melita Ymeraga, Ardian Kelmendi, Agron Kamberi as the head of the PAK Monitoring Unit, in cooperation with other officials as international PAK members: Lisa Brodey, Mohammed Omran and Hubert Warsmann, have exceeded official competencies for the purpose of obtaining unlawful benefits for themselves or for another person, in the amount of 5,400,000.00 Euro.

They are accused of violating the rights of workers of this enterprise, and at the same time have caused damage to the Social Enterprise “FAN” represented by the PAK and to the state budget, regarding the NewCo “FAN-Podujeva”. The latter was privatized in the 7th wave of

sales by the KTA, when it was purchased for a price of 2,310,000 Euro from the buyer, and then the accused, Agim Deshishku, under the signed contract had commitments to make investments in the amount of 2,800,000 Euro and employ 236 employees over the two year period.

### **KLI's findings regarding the handling of the case**

The initial hearing regarding this case has been scheduled on March 17, 2016. This court hearing has been adjourned and scheduled for April 4, 2016. At the hearing of April 4, 2016, while Special Prosecutor Admir Shala read the charges in indictment, Naser Osmani and Bahri Shabani, members of the Board of Directors of the PAK, did not plead regarding guiltiness, on the grounds that all members of the board should be present.<sup>138</sup> The main trial regarding this case was scheduled on April 10, 2017, after more than a year, but the same was adjourned twice in a row, while it was held on July 12, 2017.

On January 29, 2019 was expected to be announced the judgment regarding this case, but judge Shashivar Hoti noted that during the time the trial panel had, wasn't able to review all case files, thus the announcement of the judgment will be adjourned for February 8, 2019.<sup>139</sup>

After 27 court hearings, 7 of which had failed to be held, and almost 3 years after the indictment was filed, on February 8, 2019, the Member of the Parliament Naser Osmani and other accused Melita Ymeraga, Adrian Kelmendi, Bahri Shabani, Shkelzen Lluka and Naim Avdiu were found not guilty of abusing official position.

Not guilty regarding the criminal offence legalization of false content was found the other accused Agim Deshishku. But, Deshishku was found guilty by the Basic Court in Pristina regarding the criminal offence of consistent fraud, thus convicted of 1 year of imprisonment. Whereas, regarding the criminal offence of tax evasion, Deshishku was convicted with 1 year of imprisonment and 10,000 euros of a punishment of a fine. Against him was imposed an aggregate punishment of 1 year and 8 months of imprisonment, where will be calculated the time spent in detention on remand and house detention. Also, based on the judgment announced by the judge Shashivar Hoti, the accused Agim Deshishku is obliged to repay the damage of 53,807.46 euros to the Tax Administration of Kosovo, as well as to pay the scheduled court amount in the value of 300 euros. Whereas, the Kosovo Trust Agency was

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<sup>138</sup> "The trial starts, Naser Osmani and others regarding the PAK case plead not guilty". Oath for Justice. April 4, 2016. (Follow link <http://betimiperdrejtesi.com/fillon-gjykimi-naser-osmani-dhe-te-tjeret-ne-rastin-e-akp-se-deklarohen-te-pafajshem/>)

<sup>139</sup> "The announcement of the judgment against MP Naser Osmani and others regarding the privatization of the fabric "FAN" is adjourned". Oath for Justice. January 29, 2019 (Follow link: <https://betimiperdrejtesi.com/shtyhet-shpallja-e-aktgjykimit-ndaj-deputetit-naser-osmani-dhe-te-tjereve-per-privatizimin-e-fabrikes-fan/>)

referred to civil litigation. Based on the indictment, the prosecution's request to confiscate the company "FAN" was rejected.<sup>140</sup>

Otherwise, against Agron Kamberi, the procedure has been terminated, because the prosecution has withdrawn from prosecution.

**Alleged damage:** More than 5 million Euros.

**Sequestration and Confiscation:** The prosecution's request to confiscate company "FAN" has been rejected.

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<sup>140</sup> "MP Naser Osmani and others are found not guilty of abusing official position, Agim Deshishku is found guilty", Oath for Justice, February 2, 2019 (Follow link: <https://betimiperdrejtesi.com/deputeti-naser-osmani-dhe-te-tjeret-shpallen-te-pafajshem-per-keqperdorim-pozite-denohet-agim-deshishku/>)

## 9. CASE “GOLD”

### Basic Court in Ferizaj

**Case number:** P.nr137/18.

**Presiding judge:** Shabi Idrizi.

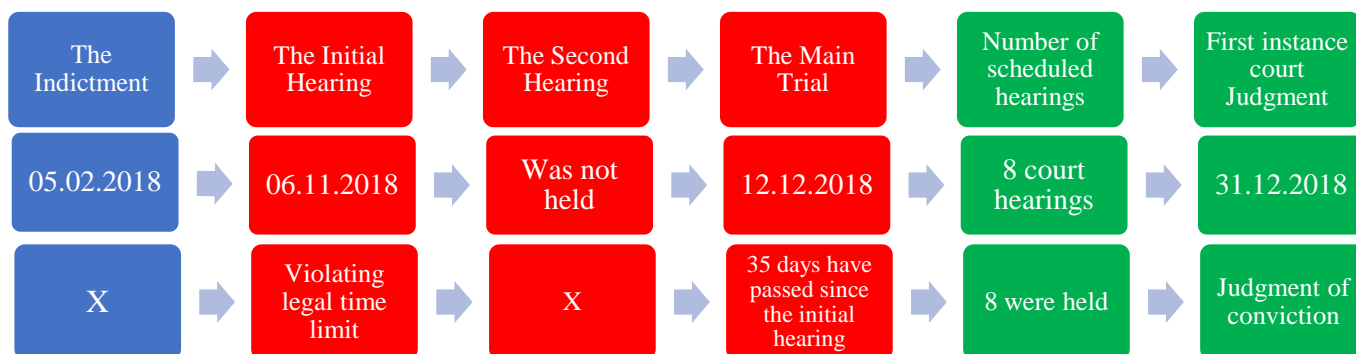
**Prosecutor:** Valdet Aliu.

**Defendants:** Visar Ibraj, Gani Ibraj, Bujar Ibraj, Shefqet Lajqi, Naser Balkan, Ibrahim Balkan, Taulant Lajqi, Haki Ibraj, Izet Balkan, Shenoll Ballkan, Recep Balkan, Ardit Ibraj, Sabedin Sharku, Marsel Seba, Kristina Seba, Agron Osmani, Xhemajl Bajrami, Behar Pruthi, Enver Tertini, Ilaz Ilazi, Ridvan Halimi, Arian Hasani, Edmond Zhaveli, Fuad Llausha, Abduraman Bakiq, Hilmi Jupolli, Hizir Cini, Ozan Shporta, Qemal Foki, Naser Kamberi, Taulant Tamiku, Durim Sulejmani, Bastri Ismajli and Orhan Kasemi.

**Criminal offences:** “Smuggling of goods”; “Prohibited trade”; “Tax evasion”; “Purchase, receipt or concealment of goods obtained through the commission of a criminal offence”.

**Stage of proceedings:** First instance court judgment.

**(SINCE THE INDICTMENT HAS BEEN FILED UNTIL MAY 20, 2019 HAVE PASSED 469 DAYS)**



The Basic Prosecution in Ferizaj on February 5, 2018 filed an indictment against 34 individuals, of whom, Visar Ibraj, Gani Ibraj, Bujar Ibraj, Shefqet Lajqi, Naser Balkan, Ibrahim Balkan, Taulant Lajqi, Haki Ibraj, Izet Balkan, Shenoll Ballkan, Recep Balkan, Ardit Ibraj, are accused that from the beginning of January until September 8, 2016, in co – perpetration, while crossing the border, have avoided customs control at the border Hani i Elezit, where they secretly transported from Turkey to Kosovo, goods such as gold and silver using buses of “Alper” company, thus avoiding in total an amount of 243,275.39 euro in taxes.

The indictment states that the defendants in order to hide or completely avoid the payment of taxes, fees or other contributions required by law, did not include the data relating to their income, property and without any authorization have committed prohibited trade.

Also, according to the indictment, acting in co – perpetration, they organized the sales network, selling and distributing gold and silver, secretly brought from Turkey to Kosovo.

By this, they are charged of committing criminal offences such as “smuggling of goods”, from Article 317, “prohibited trade”, from Article 305, and “tax evasion” from Article 313 par. 3 relating to par. 1 and Article 31 of the Criminal Code of the Republic of Kosovo.

While the accused Sabedin Sharku, Marsel Seba, Kristina Seba, Agron Osmani, Xhemajl Bajrami, Behar Pruthi, Enver Tertini, Ilaz Ilazi, Ridvan Halimi, Arian Hasani, Edmond Zhaveli, Fuad Llausha, Abduraman Bakiq, Hilmi Jupolli, Hizir Cini, Ozan Shporta, Qemal Foki, Naser Kamberi, Taulant Tamiku, Durim Sulejmani, Bastri Ismajli and Orhan Kasemi are charged of having committed the criminal offence “Purchase, receipt or concealment of goods obtained through the commission of a criminal offence” from Article 345 par. 1 regarding par. 3 of the CCRK.

### **KLI’s findings regarding the handling of the case**

At the Special Prosecution Office of the Republic of Kosovo, the Directorate of Organized Crime Investigations, the Division against Organized Crime in the Kosovo Police, filed a criminal charge on February 5, 2016. The decision to initiate the investigative stage was rendered on February 22, 2016, then the investigations were extended on February 22, September 6, 2016 and May 3, 2017, while the indictment was filed in court on February 5, 2018.

Initially, this case was filed by the Special Prosecution because the accused were alleged to have acted as a criminal group, but then doubts existed only regarding the criminal offences “smuggling of goods”, “prohibited trade”, “tax evasion”, and “purchase, receipt or concealment of goods obtained through the commission of a criminal offence”. The initial hearing in this case was held nine months after filing the indictment, violating the legal time limit of 30 days.

Since the accused had not pleaded guilty and the indictment was affirmed, eight sessions were held during the main trial, while the closing statements were given on December 27, 2018, when defense attorneys requested the supplement of the financial expertise of the expert Vehbi Imeri, who was assigned as the expert in this case upon the request of the attorneys of 34 accused, but the request to supplement the abovementioned expertise was rejected.

After 10 months of trial, on December 31, 2018, by a judgment announced by the Presiding Judge Shabi Idrizi, defendants Visar Ibraj, Gani Ibraj, Bujar Ibraj, Shefqet Lajqi, Naser Balkan, Ibrahim Balkan, Taulant Lajqi, Haki Ibraj, Izet Balkan, Shenoll Ballkan, Recep Balkan, Ardit Ibraj, were found guilty regarding the criminal offence “smuggling of goods” committed in co-perpetration.

The accused Sadedin Sharku, Marsel Seba, Kristjan Seba, Agron Osmani, Xhemajl Bajrami Behar Pruthi, Enver Tertini, Ilaz Ilazi, Ridvan Halimi, Arian Hasani, Edmond Zhaveli, Fuad Llausha, Abdurahman Bakiq, Hilmi Jupolli, Hizir Cini, Ozan Shporta, Qemal Foki, Naser Kamberi, Taulant Tamniku, Durim Sylejmani, Bastri Ismajli and Orhan Kasemi were found



guilty regarding the criminal offence “purchase, receipt or concealment of goods obtained through the commission of a criminal offence”.

Visar Ibraj was sentenced to 180 days of imprisonment, which was substituted with a punishment of a fine in the amount of 3,000 euros. Gani Ibraj was sentenced to 150 days of imprisonment, which was substituted with a punishment of a fine in the amount of 2,500 euros. Bujar Ibraj was sentenced to 180 days of imprisonment, which was substituted with a punishment of a fine in the amount of 2,800 euros. Shefqet Lajqi was sentenced to 150 days of imprisonment, which was substituted with a punishment of a fine in the amount of 2,000 euros.

Then, Naser Ballkan, was sentenced to 180 days of imprisonment, which was substituted with a punishment of a fine in the amount of 2,800 euros. Whereas, Ibrahim Ballkani, was sentenced to 180 days of imprisonment, which was substituted with a punishment of a fine in the amount of 3,000 euros.

Taulant Lajqi was sentenced to 120 days of imprisonment, which was substituted with a punishment of a fine in the amount of 1,800 euros. Haki Ibraj was sentenced to 90 days of imprisonment, which was substituted with a punishment of a fine in the amount of 1,200 euros. Izet Ballkan was sentenced to 120 days of imprisonment, which was substituted with a punishment of a fine in the amount of 2,000 euros. Shenoll Ballkan was sentenced to 180 days of imprisonment, which was substituted with a punishment of a fine in the amount of 3,000 euros.

Recep Ballkan was sentenced to 120 days of imprisonment, which was substituted with a punishment of a fine in the amount of 2,000 euros. Ardit Ibraj was sentenced to 90 days of imprisonment, which will not be executed if within one year since the judgment becomes final, he does not commit any other criminal offence. Also, they are all obliged to compensate the damage to the injured party in the amount of 243,275.39 euros.

Sadedin Sharku was sentenced to 1 year of imprisonment, which will not be executed if within two years since the judgment becomes final, he does not commit any other criminal offence. Marsel Seba was sentenced to 90 days of imprisonment, which will not be executed if within one year since the judgment becomes final, he does not commit any other criminal offence. Kristina Seba was sentenced to 120 days of imprisonment, which will not be executed if within one year since the judgment becomes final, she does not commit any other criminal offence.

Agron Osmani was sentenced to 1 year of imprisonment, which will not be executed if within two years since the judgment becomes final, he does not commit any other criminal offence. Xhemajl Bajrami was sentenced to 120 days of imprisonment, which will not be executed if within one year since the judgment becomes final, he does not commit any other criminal offence. Behar Pruthi was sentenced to 120 days of imprisonment, which will not be executed if within one year since the judgment becomes final, he does not commit any other criminal offence. Enver Tertenj was sentenced to 1 year of imprisonment, which will not be executed

if within two years since the judgment becomes final, he does not commit any other criminal offence.

Ilaz Ilazi was sentenced to 90 days of imprisonment, which will not be executed if within one year since the judgment becomes final, he does not commit any other criminal offence. Ridvan Halimi was sentenced to 90 days of imprisonment, which will not be executed if within one year since the judgment becomes final, he does not commit any other criminal offence. Arian Hasani was sentenced to 1 year of imprisonment, which will not be executed if within two years since the judgment becomes final, he does not commit any other criminal offence.

Edmond Zhavelli was sentenced to 90 days of imprisonment, which will not be executed if within one year since the judgment becomes final, he does not commit any other criminal offence. Fuad Llausha was sentenced to 1 year of imprisonment, which will not be executed if within two years since the judgment becomes final, he does not commit any other criminal offence. Abdurrahman Bakiqi was sentenced to 1 year of imprisonment, which will not be executed if within two years since the judgment becomes final, he does not commit any other criminal offence. Hilmi Jupolli was sentenced to 1 year of imprisonment, which will not be executed if within two years since the judgment becomes final, he does not commit any other criminal offence.

Hizir Cini was sentenced to 1 year of imprisonment, which will not be executed if within two years since the judgment becomes final, he does not commit any other criminal offence. Ozan Shporta was sentenced to 1 year of imprisonment, which will not be executed if within two years since the judgment becomes final, he does not commit any other criminal offence. Qemal Foki was sentenced to 1 year of imprisonment, which will not be executed if within two years since the judgment becomes final, he does not commit any other criminal offence. Naser Kamberi was sentenced to 1 year of imprisonment, which will not be executed if within one year since the judgment becomes final, he does not commit any other criminal offence.

Taulant Tamniku was sentenced to 90 days of imprisonment, which will not be executed if within one year since the judgment becomes final, he does not commit any other criminal offence. Durim Sulejmani was sentenced to 1 year of imprisonment, which will not be executed if within two years since the judgment becomes final, he does not commit any other criminal offence. Bastri Ismajli was sentenced to 1 year of imprisonment, which will not be executed if within two years since the judgment becomes final, he does not commit any other criminal offence. Orhan Kasemi was sentenced to 1 year of imprisonment, which will not be executed if within two years since the judgment becomes final, he does not commit any other criminal offence.

The defendants Visar Ibraj, Gani Ibraj, Bujar Ibraj, Shefqet Lajqi, Naser Balkan, Ibrahim Balkan, Taulant Lajqi, Haki Ibraj, Izet Balkan, Shenoll Ballkan, Recep Balkan and Ardit Ibraj have been acquitted from charge regarding the criminal offences “tax evasion” and “prohibited trade”.

Based on the first instance court judgment, the sequestered amount of gold of 28,439.97 grams resulting in total customs evasion in the amount of 228,404,923 euros and the amount of silver of 47,526.91 grams or in value of 14,871.16 euros, as well as the bus of “Alper” company will remain confiscated by the state.

This case is not yet being handled by the Court of Appeals.<sup>141</sup>

**Alleged damage:** 541,603.58 euro.

**Confiscation and sequestration:** 28,439.97 grams of gold, 47,526.91 grams of silver and the bus of “Alper” company.

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<sup>141</sup> Taken from the electronic response of the spokesperson of the Court of Appeals, Mr. Arbër Jashari, given to KLI, on April 25, 2019.

## **XV. ANEX IV: Detailed analysis of targeted cases that are facing judicial proceedings for the first time**

KLI as the only organization in the Republic of Kosovo, which systematically monitors targeted cases, has presented the findings and assessments for each case separately. In this part of the report are presented the targeted cases, which are facing judicial proceedings for the first time. Part of these cases are 10 filed indictments, including cases such as: 1)“Damage”, 2)“Transporter”, 3)“Attorney III” , 4)“County”, 5)“February”, 6)“Realtor”, 7)“Post”, 8)“School”, 9)“Visas” and 10)“Veterans”.

The handling of cases that are being handled by the first instance courts is the clearest reflection of the steps taken by the justice institutions to end these cases in quick steps.

This is based on the fact that in these cases, including the case in which the indictment was filed during 2015 (“Damage”), an indictment of 2016 (“Transporter”), two indictments of 2017 (“Attorney III” and “County”), while six indictments were filed in 2018 (“February”, “Realtor”, “Post”, “School”, “Visas” and “Veterans”).

Although there were many court hearings held regarding the case “Damage”, it has not yet reached the final epilogue. In this case, since the filing of the indictment so far, two prosecutors have been changed, whereas the case was handed over to four different judges.

In the case “Damage”, since November 20, 2015, when the indictment was filed until April 25, 2018, the accused were charged with the offence of “organized crime” related to “tax evasion”, but that day, the prosecutor of the SPRK decided to amend the indictment, removing “organized crime” as a criminal offence in this case, which then affected this case to be transferred to the General Department of the Basic Court in Pristina, which department has not yet started the trial of this process, that will have to start from the zero point, due to the change of the trial panel. While, since the filing of the indictment until May 20, 2019, have passed 1278 days.

Another case that has been handled unprofessionally, this time by the SPRK, is the case “Veterans”. The indictment of this case was initially compiled by prosecutor Elez Blakaj, but in August 2018 he resigned due to impacts, pressures and threats. In his letter of resignation, he said that on July 11, 2018 he had signed the indictment, according to which 19,060 individuals illegally enjoy the status of the veteran and handed this indictment to SPRK Chief Prosecutor Reshat Millaku. But the indictment did not go to court. While Millaku, at a press conference on August 20, 2018, said that one of the reasons of not filing that indictment was that in the enactment clause of the indictment filed by Blakaj, were not written the names and surnames of 19,060 veterans who are considered to be false, even though he admitted that all evidence was included in the footnotes. Likewise, he also said that no motion was proposed regarding these “fake veterans” to cease payment of the pensions they receive.

The SPRK filed the “Veterans” indictment, through prosecutor Afrim Shefkiu on September 14, 2018, when he increased the number of unlawful veterans from 19,060 to 20,238 individuals, but this indictment was sent backwards for improvements and clarifications by

the presiding judge Nushe Kuka-Mekaj, as according to her, the indictment was not compiled in accordance with the provisions of the CPCRK. Eventually, this SPRK indictment was filed in court on December 7, 2018, but it was filed with the names of “fake veterans” in the same manner as the prosecutor Blakaj had compiled it at first – through the annex to the indictment.

In addition to these cases, most of the other cases at this stage of proceedings have been followed with court hearings held in violation of the legal time limits, delays and several adjournments of court hearings.

## 1. CASE “DAMAGE”

### Basic Court in Pristina

**Case number:** P.nr.5548/18.

**Presiding judge:** Initially it was Elmaz Zenuni, then Vehbi Kashtanjeva, then Hamdi Ibrahim, whereas now is Rrustem Begolli.

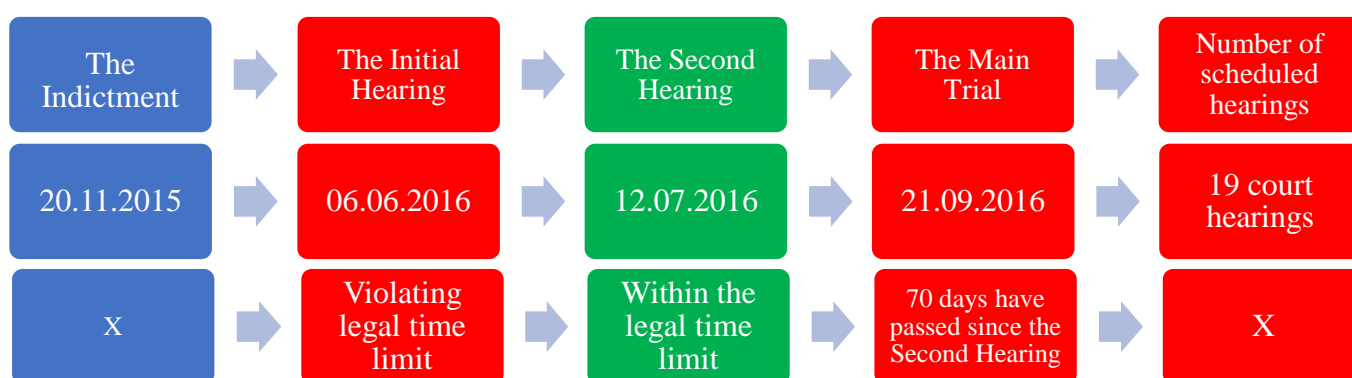
**Prosecutor:** Initially it was Faik Halili, then Atdhe Dema.

**Criminal offences:** “Organized crime”, “Tax evasion” and “False tax related documents”.

**Defendants:** Blerim Sinani, Skender Sinanaj, Fatmir Sinani, Isa Dërguti, Samir Sinanaj, Sabit Sogojeva, Enver Hasani, Mentor Emini and Ramadan Sogojeva.

**Stage of proceedings:** Ongoing.

**(SINCE THE INDICTMENT HAS BEEN FILED UNTIL MAY 20, 2019 HAVE PASSED 1278 DAYS)**



This trial was ongoing initially based on the indictment filed on November 20, 2015, which charged the defendants Blerim Sinani, Skender Sinanaj, Fatmir Sinani, Isa Dërguti, Samir Sinanaj, Sabit Sogojeva, Enver Hasani and Mentor Emini regarding criminal offences “organized crime” and “tax evasion”. According to the prosecution, they allegedly issued fictitious invoices (false tax related documents) through their businesses in order to enable themselves and other businesses to evade paying taxes by causing large damages to the Kosovo budget.

Meanwhile, on April 25, 2018, the prosecutor Faik Halili had changed the indictment, where Ramadan Sogojeva was added as one of the defendants in this trial.

According to the SPRK, the accused Sogojeva, during the period 2013-2014, through his businesses, “Toni Group” and “Orli”, has issued false documents, where the presentation of the valid document is legally required, but he has issued false invoices to the company “Banana”, whose owner was Enver Hasani, as well as company “OM” whose owner was Mentor Emini. These false invoices reach the amount of 227,047.40 euros. According to the indictment, he has enabled the abovementioned businesses to partially or totally evade payment of taxes, fees or other contributions stipulated by law. According to the indictment,

he has repeatedly committed the criminal offence “False tax documents” under Article 314, second paragraph of the Criminal Code of the Republic of Kosovo.

The second enactment clause of the indictment states that the accused Sogojeva, during 2013 – 2014, in order to evade partial or total payment of the tax, fees or other contributions required by law, has provided false data, has included data relating to the proceeds of its businesses “Toni Group” and “Orli”, including property, economic status or other facts relevant to the assessment of such obligations whereby he allegedly declared revenue less than real and it is said to have evaded tax in the amount of 805,60 euros. For this action, the SPRK charges him of the criminal offence “tax evasion”.

At the hearing held on April 25, 2018, the prosecutor Faik Halili had decided to amend the indictment, thus the defendants were no longer prosecuted regarding the criminal offence of “organized crime”, but only regarding the criminal offences “false tax related documents” and “tax evasion”.

The abovementioned accused are also charged that in different periods during 2010-2013, for the purpose of evading the payment of taxes, fees and contributions, they had provided inaccurate information regarding the revenues of their businesses “Adi”, “Lesa”, “Blera”, “Konto Web”, “Skenda”, “Vali2”, “Eni-Deni” and many other businesses, where they declared smaller real revenues to evade the payment of taxes.

Fatmir Sinani was also one of the defendants in this trial, but for him was ordered the severance of proceedings.

### **KLI’s findings regarding the handling of the case**

The case known as “the Damage” is the most representative case that shows the fact that even though this case was targeted, its handling in court was not serious and also faced various procedural obstacles, above all because in this case three prosecutors and three judges have been changed.

The Kosovo Tax Administration initiated this case by a criminal report filed on April 30, 2014. The decision to initiate the investigative stage was rendered on May 28, 2014, while the indictment was subsequently filed by the prosecutor Faik Halili on November 20, 2015.

This indictment was initially represented by Prosecutor Faik Halili, while in two court hearings this indictment was represented by Prosecutor Bukurije Gjonbalaj, and currently is represented by the SPRK Prosecutor Atdhe Dema, since the prosecutor Halili has retired.

In the Basic Court in Pristina, this case was assigned to Judge Elmaz Zenuni, who had been transferred from the Basic Court in Ferizaj to the Basic Court in Pristina, intending to handle some cases of organized crime and corruption with the purpose of their completion in a fast manner. Zenuni had scheduled the initial hearing eight months after the indictment was filed, respectively on July 12, 2016, thus violating the legal time limit, according to which this hearing should be held within 30 days since the filing of the indictment.

Under the management of Zenuni were held 12 sessions, but before this case was completed, he had filed a motion to the KJC to be transferred to the Basic Court in Ferizaj, and that motion was approved by the KJC in the meeting held on April 27, 2017.<sup>142</sup>

After judge Zenuni left, some of the defendants came to the hearing of May 18, 2017, but on that day they understood that this case would no longer be judged by judge Zenuni<sup>143</sup>, whereas the case, upon the change of the trial panel, although it was in the final stage, returned to the point zero.

The case was assigned to Judge Vehbi Kashtanjeva, but based on the request of defense attorneys, Kashtanjeva was ruled out of this case, without holding any court hearings, as two hearings had failed. Then, this case was assigned to Judge Hamdi Ibrahim.

In the hearing held on April 25, 2018, or after two years and five months, the SPRK prosecutor Faik Halili, who had filed this indictment, had decided to withdraw regarding the criminal offence of “Organized Crime”, while eight accused, Blerim Sinani, Skender Sinanaj, Fatmir Sinani, Isa Dërguti, Samir Sinanaj, Sabit Sogojeva, Enver Hasani and Mentor Emini, were going to be charged only with the criminal offence of Tax Evasion. the prosecutor Halili stated that he managed such reclassification of the criminal offence considering that the actions of the accused fulfill the elements of the criminal offence of tax evasion, and not of organized crime.<sup>144</sup>

After Judge Ibrahim had appointed seven court hearings, three of which were adjourned, at the hearing of December 19, 2018, he had decided to approve the proposal of the defense attorneys Behar Ejupi, Tahir Rrecaj and others to transfer this case to the General Department. Earlier, regarding this proposal, prosecutor Atdhe Dema had said that the SPRK will continue to represent this case no matter in which department is going to be adjudicated. Even though he did not oppose the defense’s proposal he stated that the SPRK will not give up representing this case. Following this statement, Judge Hamdi Ibrahim rendered a ruling by which the Serious Crimes Department was found incompetent to adjudicate this case.

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<sup>142</sup>“The president of the Court Afërdita Bytyçi complains that former President of the Basic Court in Pristina, Hamdi Ibrahim does not take cases to judge”. Oath for Justice, April 27, 2017, (Follow link: <https://betimiperdrejtesi.com/kryetarja-aferdita-bytyci-ankohet-se-ish-kryetari-i-gjykates-themelore-ne-prishtine-hamdi-ibrahimi-nuk-pranon-lende-ne-pune/>)

<sup>143</sup> “Judge is returned to the Basic Court in Ferizaj, the accused are returned home”, Oath for Justice, May 18, 2017 (Follow link: <https://betimiperdrejtesi.com/gjyqtari-kthehet-ne-gjykatens-themelore-ne-ferizaj-te-akuzuarit-kthehen-ne-shtepi/>)

<sup>144</sup>“The prosecution withdraws from the criminal offence “organized crime”, seven of the accused are now charged of “tax evasion”. Oath for Justice, April 24, 2018 (Follow link: <https://betimiperdrejtesi.com/prokuroria-heq-dore-nga-vepra-penale-krim-i-organizuar-shtate-te-akuzuarit-tani-i-ngarkon-per-shmangie-nga-tatimi/>)



Whereas, regarding the accused Fatmir Sinanaj, for whom the severance of proceedings was ordered, judge Ibrahim stated that the ruling will be rendered later.<sup>145</sup>

This case has already been assigned to Judge Rustem Begolli<sup>146</sup>, in the General Department of the Basic Court in Pristina, and he has not yet scheduled the first trial.

**Alleged damage:** Almost 800,000.00 euros.

**Confiscation and sequestration:** No information.

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<sup>145</sup>“Case targeted for visa liberalization against accused of tax evasion is transferred to General Department”, Oath for Justice, December 19, 2018 (Follow link: <https://betimiperdrejtesi.com/rasti-i-shenjstruar-per-viza-ndaj-te-akuzuarve-per-shmangie-nga-tatimi-kalon-ne-departamentin-e-pergjithshem/>)

<sup>146</sup> *Note:* List with targeted case for visa liberalization that are adjudicated in the Basic Court in Pristina, sent by the spokesperson Mirlinda Gashi, on May 10, 2019.

## 2. CASE “TRANSPORTER”

### Basic Court in Mitrovica

**Case number:** P.nr.147/16.

**Presiding judge:** Beqir Halili.

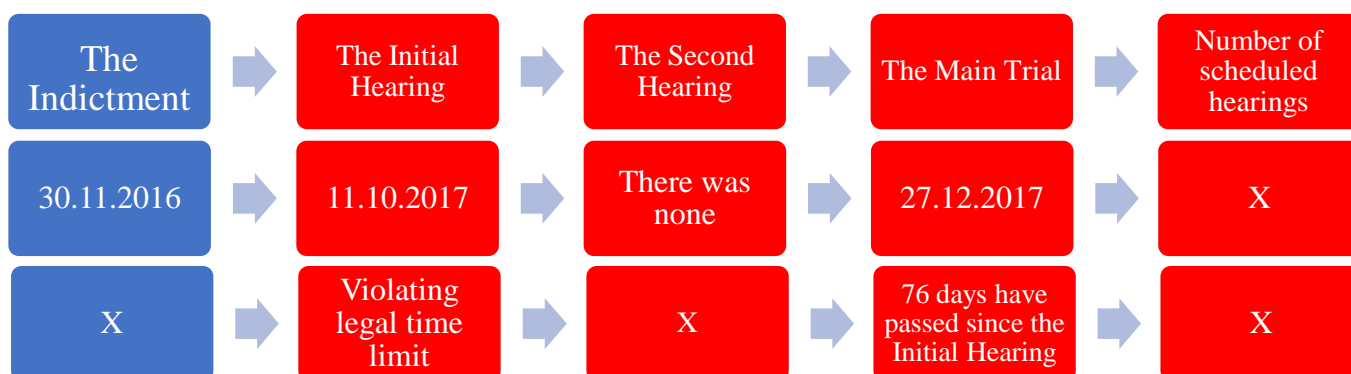
**Prosecutor:** Initially it was Abdurrahim Islami, then Atdhe Dema.

**Defendants:** Besim Zeqiri, Ismet Zeqiri, Agron Zymeri, Gentrit Zymeri, Canabeg Hyseni, Ali Muzliukaj, Liridon Hyseni, Ridvan Avdiu, Dugagjin Latifi, Besnik Istrefi, Azem Islami, Xhevat Spahija, Shkëlqim Jusaj, Selami Morina, Nexhat Mazrek, Demë Lokaj, Alban Nikqi, Fadil Qollaku, Albion Lokaj, Sabri Hasani and Burim Hasani.

**Criminal offences:** “Participation in or organization of an organized criminal group”; “Smuggling of goods”; “Prohibited trade”; “Avoiding payment of mandatory customs fees”; “Unauthorized ownership, control or possession of weapons”.

**Stage of proceedings:** Ongoing.

**(SINCE THE INDICTMENT HAS BEEN FILED UNTIL MAY 20, 2019 HAVE PASSED 902 DAYS)**



According to the indictment filed on November 30, 2016 by the Special Prosecution of the Republic of Kosovo (SPRK), Besim Zeqiri, Ismet Zeqiri, Agron Zymeri, Gentrit Zymeri, Sabri Hasani, Burim Hasani, Canabeg Hyseni, Ali Muzliukaj, Liridon Hyseni, Ridvan Avdiu, Dugagjin Latifi, Besnik Istrefi and Azem Islami are charged of committing the criminal offences such as “participation in or organization of an organized criminal group”, “smuggling of goods”, “prohibited trade” and “avoiding payment of mandatory customs fees”.

Likewise, this indictment also charges the defendants Xhevat Spahija, Shkëlqim Jusaj, Selami Morina, Nexhat Mazrek, Demë Lokaj, Alban Nikqi, Fadil Qollaku and Albion Lokaj, regarding the criminal offences “participation in or organization of an organized criminal group” based on Article 283, “smuggling of goods” from Article 317, and “avoiding payment of mandatory customs fees” from Article 318 of the Criminal Code of the Republic of Kosovo. Within the indictment, Agron and Gentrit Zymeri, Ismet Zeqiri, Canabeg Hyseni, Azem Islami, Fadil Qollaku, Demë Lokaj and Alban Nikqi, each individually are charged

with the criminal offence “unauthorized ownership, control or possession of weapons” under Article 374 of the CCRK.

According to the indictment, the abovementioned defendants, at the beginning of 2012, have established a criminal group for the purpose of obtaining a material benefit, in such a way that through sideways with trucks, tanks and other means, from Serbia and North Mitrovica have illegally and continuously shipped smuggled goods such as: oil derivatives, motor oils, etc.

Based on the indictment, defendants Besim and Ismet Zeqiri, in cooperation with all members of the group, from June 11, 2014 to December 10, 2014, from Serbia to Kosovo have smuggled 52 cargoes of oil derivatives (by 12,000 liters), 2 hydrocarbon oil loads (10,000 liters) and 3 nitro-solvent loads (7,000 liters), that this criminal group later distributed to different cities of Kosovo, in different stores and warehouses, all in order to enable themselves and the other person to evade payment of the tax, customs or other tariffs or customs duties that are payable when importing or exporting the goods, evading the payment of the mandatory customs tariff duties, exceeding the amount of 30,000 euros.

In this case, Besim Zeqiri and Ridvan Avdiu were also accused, but on February 22, 2017, was ordered the severance of proceedings for them, because they were located outside Kosovo.

### **KLI’s findings regarding the handling of the case**

The decision to initiate the investigative stage in this case was initiated on June 4, 2014, the indictment was filed after nearly two and a half years, on November 30, 2016. This indictment was filed by the Special Prosecutor, Abdurrahim Islami. The initial hearing was scheduled on April 5, 2017, but it failed to be held due to the absence of the accused Agron Zymeri.<sup>147</sup> This hearing was held only after about a year, specifically on October 11, 2017, which is another example that shows the seriousness of the justice system in handling these cases.

The Basic Court in Mitrovica, on February 23, 2018, issued an arrest warrant against the accused Agron and Gentrit Zymeri because of their absence at this hearing. While, Judge Halili announced that the scheduled hearings for October 31 and November 1, would not be held.<sup>148</sup> Otherwise, the scheduled hearings were held on April 4, April 13, June 6, 2018 and October 30, 2018, failed to be held due to the absence of the accused. The hearing scheduled

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<sup>147</sup>“*The initial hearing against 21 accused of organized crime is adjourned*”. Oath for Justice. October 5, 2017. (Follow link: <https://betimiperdrejtesi.com/shtyhet-shqyrtimi-fillestar-ndaj-21-te-akuzuarve-per-krim-te-organizuar/>)

<sup>148</sup>“*For the second time in a row the trial against 19 accused of organized crime fails*”. Oath for Justice. October 30, 2018. (Follow link: <https://betimiperdrejtesi.com/per-te-dyten-here-radhazi-deshton-gjykimi-ndaj-19-te-akuzuarve-per-krim-te-organizuar/>)

to take place on September 27, 2018 failed to be held, because Prosecutor Abdurrahim Islami had retired and was unable to represent this indictment.<sup>149</sup>

The adjournments of the hearings in this case continued also during 2019, as at the hearing of March 8, 2019, the defendants Ali Muzliukaj and Dugagjin Latifi did not appear in court, which influenced this case once again to fail, while the presiding judge requested from the Police Station in Mitrovica to provide the addresses of these two defendants.<sup>150</sup>

At the hearing held on May 7, 2019, a new financial expertise was ordered, while for the accused Dugagjin Latifi was ordered the severance of proceedings, thus for him another procedure will start, and the case will receive a new number. He was not present at this hearing and in the report of the Police, dated May 6, 2019, it was stated that the accused Latifi is not in Kosovo and according to the statements of his family, he has about three months that is living in Germany.<sup>151</sup>

**Alleged damage:** No information.

**Confiscation and sequestration:** Petroleum, gasoline, oils of various types, sulfuric acid, vehicles, tankers, cigarettes, various additives, spray dispensers, antifreeze, water for windows, distilled water, deionized water, oil packaging and various auto parts.

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<sup>149</sup> “Special prosecutor retires, the trial against the accused of organized crime fails”. Oath for Justice. September 27, 2018. ( Follow link: <https://betimiperdrejtesi.com/prokurori-special-del-ne-pension-deshton-gjykimi-ndaj-te-akuzuarve-per-krim-te-organizuar/>)

<sup>150</sup> “Two accused are absent, the trial regarding organized crime in the case targeted for visa liberalization fails”. Oath for Justice, March 8, 2019. (Follow link: <https://betimiperdrejtesi.com/mungojne-dy-te-akuzuar-deshton-gjykimi-per-krim-te-organizuar-ne-rastin-e-shenjestrUAR-per-viza/>)

<sup>151</sup> “New financial expertise is ordered in the trial against 19 accused of organized crime, regarding one of them is ordered the severance of proceedings”. Oath for Justice. May 7, 2019. (Follow link: <https://betimiperdrejtesi.com/caktohet-ekspertize-e-re-financiare-ne-gjykimin-ndaj-19-te-akuzuarve-per-krim-te-organizuar-per-njerin-vecohet-procedura/>)

### 3. CASE “ATTORNEY III”

#### Basic Court in Pristina

**Case number:** PKR.125/17.

**Presiding judge:** Valbona Musliu-Selimaj.

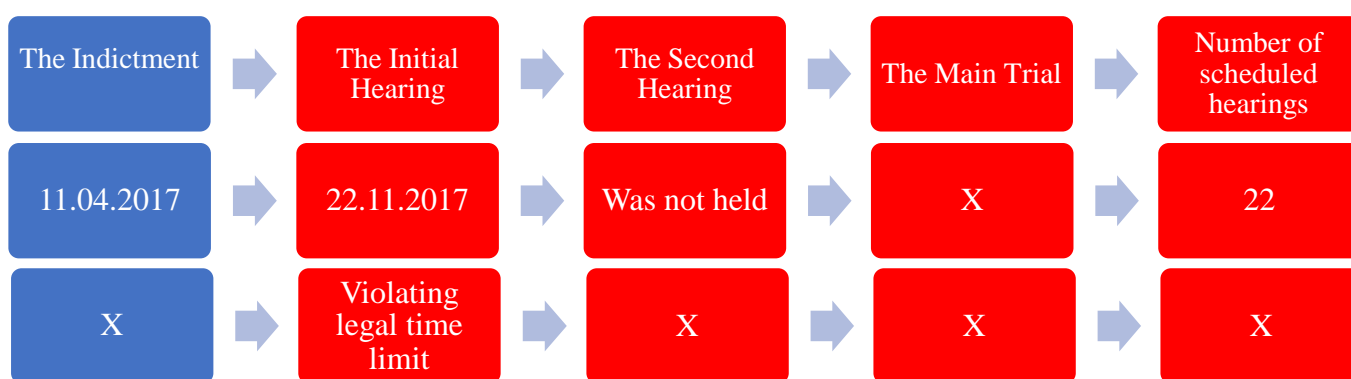
**Prosecutor:** Sylë Hoxha.

**Defendant:** Haxhi Çekaj.

**Criminal offence:** “Fraud”.

**Stage of proceedings:** Ongoing.

**(SINCE THE INDICTMENT HAS BEEN FILED UNTIL MAY 20, 2019 HAVE PASSED 770 DAYS)**



The Special Prosecution of the Republic of Kosovo (SPRK) filed an indictment on April 11, 2017, based on which Haxhi Çekaj was accused as the defendant’s Nimon Berisha attorney, in order to obtain material benefit for himself or another person, deceived the injured party Mirjeta Imeri in continuity, starting from January 6, 2015 until the date of his arrest on February 15, 2017.

The Prosecution alleges that Çekaj had received money from the injured party Mirjeta Imeri, to defend Nimon Berisha, her father, in the name of his defense and in the name of expertise – obtaining an expertise from Turkey, in a total amount of 43,000.00 euros, and the other amount that Çekaj allegedly received from the injured party on behalf of the Basic Court in Peja in the amount of 40,000.00 euros. This amount was confiscated by officials when the defendant was arrested, while the damage caused to the injured party exceeds 50,000.00 euros.

#### **KLI’s findings regarding the handling of the case**

The decision to initiate investigative stage by the SPRK was rendered on March 6, 2017, while the indictment was filed on April 11, of that same year, by Special Prosecutor Sylë Hoxha. This indictment in the Basic Court in Pristina was filed the following day, on April 12th. In this case, there was an attempt to enter a plea agreement. According to prosecutor Hoxha, after some attempts, they failed to agree on a mutually acceptable agreement, adding

that after several meetings with defendant Çekaj and his attorney Besnik Berisha, they failed to agree to a guilty plea. In this case, 11 court hearings were held, while seven others had failed to be held. This case is still ongoing in the first instance court. The court hearing scheduled for March 25, 2019 failed due to the absence of the presiding judge Valbona Musliu-Selimaj.<sup>152</sup>

In the hearing held on April 25, 2019, the defense team of the defendant withdrew from the proposal of hearing of the witness Nimon Berisha, who was proposed by the defense itself. Since the witness was not heard, the SPRK prosecutor Sylë Hoxha had proposed that the testimonies of Judge Kreshnik Radoniqi, Judge Lumnije Muhaxheri, and the testimony of Nimon Berisha be read and not be summoned to testify. This proposal was approved by the trial panel composed of Judges Valbona Musliu-Selimaj, Vesel Ismajli and Naime Krasniqi-Jashanica. Defense team of the accused had proposed to hear other witnesses, but the trial panel only approved the request to hear the attorney Jashar Lokaj.<sup>153</sup>

The next hearings on this case were scheduled on June 5 and 7, 2019.

**Alleged damage:** Over 50,000.00 euros.

**Confiscation and sequestration:** Over 50,000.00 euros.

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<sup>152</sup>“*The judge in medical leave, the trial against the attorney accused of fraud is adjourned*”. Oath for Justice. March 25, 2018. (Follow link: <https://betimiperdrejtesi.com/gjykatesja-ne-pushim-mjekesor-shtyhet-gjykimi-ndaj-avokatit-qe-akuzohet-per-mashtrim/>)

<sup>153</sup>“*The defense of the attorney accused of fraud withdraws from listening the witness proposed by them*”. Oath for Justice. April 25, 2018. (Follow link: <https://betimiperdrejtesi.com/mbrojtitja-e-avokatit-te-akuzuar-per-mashtrim-heq-dore-nga-degjimi-i-deshmitarit-qe-e-kishte-propozuar-vete/>)

#### 4. CASE “CIRCUIT”

##### Basic Court in Mitrovica

**Case number:** P.nr.129/2017.

**Presiding judge:** Burim Ademi.

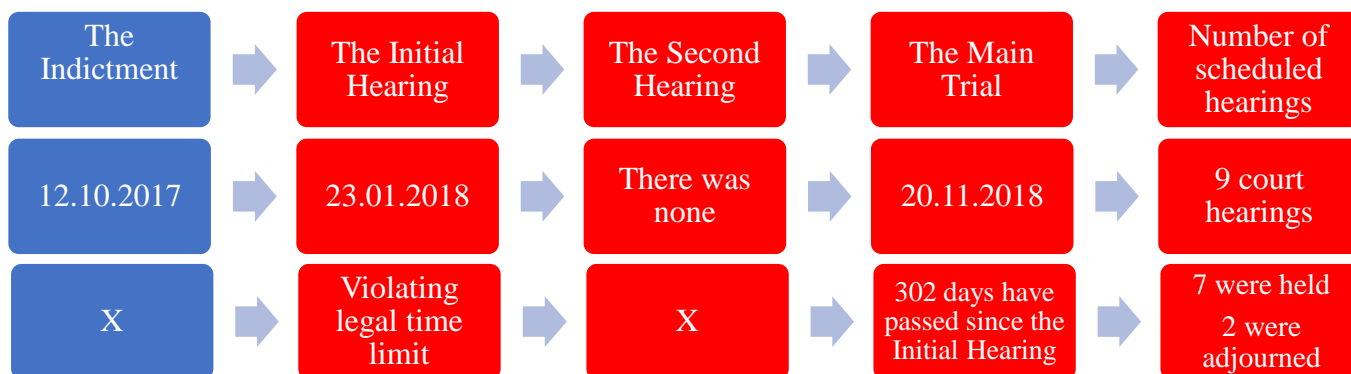
**Prosecutor:** Agron Bajrami.

**Defendants:** Vladislav Trajković, Mensur Bektashi, Ramadan Bajra, Argëtim Ismaili, Armend Smajli, Arben Smajli, Shkumbin Ismaili, Afrim Rrustolli, Rinor Rrustolli, Arben Rrustolli, Liridon Borovci, Bahri Rexhepi, Nexhmendin Bajrami, Afrim Xhaqkaj, Lulzim Kastrati, Nezir Zogaj, Blerim Avdylaj, Kujtim Avdylaj, Afrim Hoti, Dukagjin Kollçaku, Ruzhdi Kolica, Ardian Raci, Gazi Tarashaj, Ramush Salihu, Sali Salihu, Zekri Salihu, Shkelzen Salihu, Haki Isufi, Ismet Zeqiri, Alban Islami, Artan Kurpulaj, Florim Krasniqi, Ahmet Sylja, Radisav Mutavxhiq, Milan Stojanović, Besim Biberović, Reshat Kamberaj, Endrit Kllokoqi, Ramadan Mehmeti, Hasan Rexhbeqaj, Zenel Isufi, Xhemail Islami, Imri Bajrami, Nimon Zogaj, Mirko Iliq and Mursel Calaković.

**Criminal offences:** “Abusing official position or authority”, “Tax evasion”, “Participation in or organization of an organized criminal group”, “Prohibited trade”, “Avoiding payment of mandatory customs fees”, “Smuggling of goods”, “Falsifying documents”, “Counterfeit money” and “Unauthorized ownership, control or possession of weapons”.

**Stage of proceedings:** Ongoing.

**(SINCE THE INDICTMENT HAS BEEN FILED UNTIL MAY 20, 2019 HAVE PASSED 586 DAYS)**



The indictment regarding this case was filed by the SPRK on October 12, 2017, based on which it is alleged that Argëtim Ismaili, Armend Smajli, Arben Smajli, Shkumbin Ismaili, Afrim Rrustolli, Rinor Rrustolli, Arben Rrustolli, Liridon Borovci, Bahri Rexhepi, Nexhmendin Bajrami, Afrim Xhaqkaj, Lulzim Kastrati, Nezir Zogaj, Blerim Avdylaj, Kujtim Avdylaj, Afrim Hoti, Dukagjin Kollçaku, Ruzhdi Kolica, Ardian Raci, Gazi Tarashaj, Ramush Salihu, Sali Salihu, Zekri Salihu, Shkelzen Salihu, Haki Isufi, Ismet Zeqiri, Alban Islami, Artan Kurpulaj, Florim Krasniqi, Ahmet Sylja, Radisav Mutavxhiq, Milan Stojanović, Besim Biberović, Vladislav Trajković, Mensur Bektashi, Ramadan Bajra, Reshat Kamberaj, Endrit Kllokoqi, Ramadan Mehmeti, Hasan Rexhbeqaj, Zenel Isufi, Xhemail Islami, Imri

Bajrami, Nimon Zogaj, Mirko Iliq and Mursel Calakoviq, have committed criminal offences of “Abusing official position or authority”, “Participation in or organization of an organized criminal group”, “Prohibited trade”, “Avoiding payment of mandatory customs fees”, “Falsifying documents”, “Counterfeit money” and “Unauthorized ownership, control or possession of weapons”.

According to the SPRK indictment, the 42 defendants, intentionally and knowingly, during the period of time between January 2015 and March 2016 actively participated in the criminal activity of the group acting as a structured union in order to obtain any material benefit directly or indirectly, so that they have managed in a very sophisticated manner to organize three schemes of work, namely, unlawful import by not declaring or declaring incorrect goods of the type “cigarettes”, smuggling pharmaceutical products and sexual stimuli of the type “kamagra” and “viagra”, as well as evading national taxes. Thus, they have generated considerable income.

Regarding the accused Imri Bajrami, Nimon Zogaj, Mirko Iliq and Mursel Calakoviq, judge Burim Ademi has ordered the severance of proceedings after finding that they are not in Kosovo, while for the other accused, Xhemajl Islami, the severance of proceedings was ordered because he had pleaded guilty to unlawful possession of weapons. Based on the indictment, the defendants acted unlawfully in the abovementioned period of time, thus avoiding the payment of mandatory customs fees or other customs fees that shall be payed when importing or exporting goods.

In the indictment it is stated that their actions resulted in tax evasion in the amount of 1,666,824.07 euros, while evading taxes for the abovementioned goods and false declaring the financial statements, resulting in the amount of 763,778.09 euros, thus evading taxes and other customs fees in the total amount of 2,430,620.16 euros.

### **KLI’s findings regarding the handling of the case**

The submitter of the criminal report in this case was the Kosovo Customs, who filed the report on September 25, 2015. The decision to initiate the investigative stage was rendered on October 13, of the same year, while on October 121, 2017, Special Prosecutor Agron Bajrami filed an indictment regarding this case. The first hearing was held on January 23, 2018, and upon reading of charges in indictment by Prosecutor Agron Bajrami, 42 defendants pleaded not guilty regarding the prosecutions’ allegations that their actions have led to general customs and tax evasion, in the amount of over two million euros.<sup>154</sup>

Since the defendants had not pleaded guilty, Judge Burim Ademi affirmed the proposal of defense attorney of the accused Shkumbin Ismajli, attorney Tahir Rrecaj, who requested from the court to not hold the second hearing, but to be given a deadline of 30 days in order to

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<sup>154</sup>“42 accused of abusing official position and organized crime plead not guilty, regarding four others is ordered the severance of proceedings”. Oath for Justice. October 23, 2018. (Follow link: <https://betimiperdrejtesi.com/deklarohen-te-pafajshem-42-te-akuzuarit-per-keqperdorim-detyre-dhe-krim-te-organizuar-per-kater-te-tjere-vecohet-procedura/>)



object the indictment and evidence. The other four accused in this case Imri Bajrami, Nimon Zogaj, Mirko Iliq and Mursel Calakoviq, were absent, thus judge Burim Ademi ordered the severance of proceedings, upon the motion of attorney Rrecaj on behalf of all defense attorneys.

At the beginning of October, five court hearings were scheduled regarding this case, but they were all adjourned<sup>155</sup>. On November 20, 2018, was held the main trial, where only the opening statements were presented<sup>156</sup>, while the failure to hold the hearings continued also during 2019, when the absence of one of the members of the trial panel was the reason of the failure of the hearing of January 14, 2019<sup>157</sup>. After this hearing, all other hearings, on January 15<sup>158</sup>, 1 and 4<sup>159</sup><sup>160</sup>, March, and April 30, 2019, were held.

**Alleged damage:** 2,430,620.16 euros.

**Confiscation and sequestration:** Falsified money, weapons.

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<sup>155</sup> “5 scheduled hearings for this week against 42 accused of abusing official position and organized crime are annulled”. Oath for Justice. October 1, 2018. (Follow link: <https://betimiperdrejtesi.com/anulohen-pese-court-hearings-te-parapara-per-kete-jave-ndaj-42-te-akuzuarve-per-keqperdorim-detyre-dhe-krim-te-organizuar/>)

<sup>156</sup> “41 accused of abusing official position and organized crime plead not guilty, the attorney is punished with 250 euros for being late in hearing”. Oath for Justice. November 20, 2018. (Follow link: <https://betimiperdrejtesi.com/deklarohen-te-pafajshem-41-te-akuzuarit-per-keqperdorim-detyre-dhe-krim-te-organizuar-avokati-denoht-250-euro-per-vonese-ne-seance/>)

<sup>157</sup> “The trial against 41 accused of abusing official position and organized crime fails”. Oath for Justice. January 14, 2019. (Follow link: <https://betimiperdrejtesi.com/desh-ton-gjykimi-ndaj-41-te-akuzuarve-per-keqperdorim-detyre-dhe-krim-te-organizuar/>)

<sup>158</sup> “The witness says that his object where were found cigarettes without banderoles, was rented by one of the accused”. Oath for Justice. January 15, 2019. (Follow link: <https://betimiperdrejtesi.com/deshmitari-thote-se-ne-lokalin-e-tij-ku-u-gjeten-cigare-pa-banderola-ishte-i-marre-me-qira-nga-njeri-i-akuzuar/>)

<sup>159</sup> “The witness says that with the truck required by one accused, have been transported cigarettes with Macedonia’s banderole”. Oath for Justice. March 1, 2019. (Follow link: <https://betimiperdrejtesi.com/deshmitari-thote-se-me-furgonin-qe-ia-kishte-kerkuar-njeri-i-akuzuar-jane-transportuar-cigare-me-banderola-te-maqedonise/>)

<sup>160</sup> “The witness says that medications found in his property belonged to on accused and he didn’t know they were expired”. Oath for Justice. March 4, 2019. (Follow link: <https://betimiperdrejtesi.com/deshmitari-thote-se-barnat-e-gjetura-ne-pronen-e-tij-kane-qene-te-njerit-nga-te-akuzuarit-dhe-se-ka-ditur-se-kane-qene-pa-afat/>)

## 5. CASE “FEBRUARY”

### Basic Court in Gjilan

**Case number:** PKR.nr.99/18.

**Presiding judge:** Zyhdi Haziri.

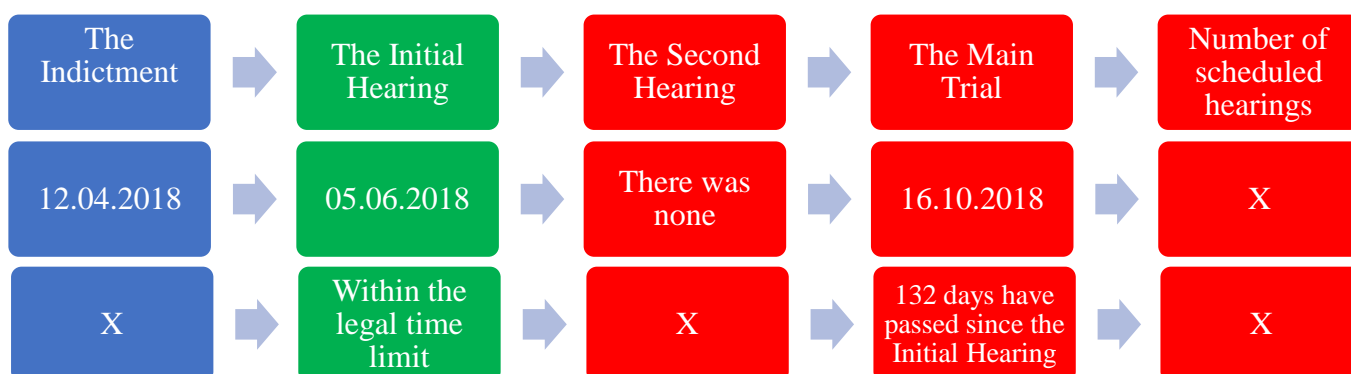
**Prosecutor:** Haki Gecaj.

**Defendants:** Afrim Luma, Ramadan Hyseni, Fehmi Gashi, Fatos Ahmeti, Gëzim Abazi, Fatmir Statovci, Zeqir Berisha and Lutfi Nebiu.

**Criminal offences:** “Participation in or organization of an organized criminal group”; “Unauthorized purchase, possession, distribution and sale of narcotic drugs, psychotropic substances and analogues”, “Providing assistance to perpetrators after the commission of criminal offences”.

**Stage of proceedings:** Ongoing.

**(SINCE THE INDICTMENT HAS BEEN FILED UNTIL MAY 20, 2019 HAVE PASSED 404 DAYS)**



According to the SPRK’s indictment, filed on April 12, 2018, it is alleged that the defendants Afrim Luma, Ramadan Hyseni, Fehmi Gashi and Fatos Ahmeti, since the beginning of February 2017 until April 30, 2017, intentionally have been part of the criminal activity of an organized group, part of which was also the defendant Amir Sherifi who is in flight, and also the Albanian citizen named Artur, who in order to obtain material benefit for themselves have purchased, sold and distributed unauthorized narcotics of type marijuana.

Based on the indictment, the narcotics purchased by Albanian citizens who brought it to Kosovo near Landovica, members of the group Afrim Luma, Amir Sherifi, Ramadan Hyseni, Fehmi Gashi and Fatos Ahmeti originally scattered in Bibaj village, Krushë e Madhe, and also in the village Sojevë and Cërnillë. According to the indictment, this amount of narcotics that was divided in sacks, the defendants had packed and hid it in prepared desks and boards in order to then ship it to Western European countries and to Turkey via Macedonia.

The Kosovo Police after the application of covert and technical investigative measures, traced the places where the narcotics were hidden and while searching the houses and other

surrounding objects, in the house of the defendant Fehmi Gashi in the village Krusha e Madhe, on April 25, 2017, they found 184.39 kg of narcotics – marijuana, hidden in 10 large tables and 4 small ones. It is also said that while searching the house of the defendant Ramadan Hyseni in the village Bibaj, Ferizaj, on April 26, 2017, 128 kg of marijuana-type narcotics were found, hidden in 64 wood packets. Then, on April 25, 2017 in the village of Cernilla, in the house of the defendant's Fatmir Statovci brother, were found 12 kg and 667.9 grams of marijuana narcotics hidden in two tables, which were sent by the defendant Fatos Ahmeti. Whereas, on April 30, 2017, while searching the defendant's Lutfi Nebihu cousins' house in the village Sojeva, Ferizaj, 500 kg of narcotics were found in 20 tables, thus sequestering more than 824 kg and 706 grams of marijuana in all searched places.

In the second enacting clause of the indictment, it is stated that Gëzim Abazi intentionally assisted members of the organized criminal group in the period from February 7, 2017 to April 30, 2017, in Ferizaj, by enabling tools to commit criminal offences, thus upon the request of Afrim Luma and Amir Sherifi, Abazi sent the "cupcake covering device" to Faton Krasniqi, to fix it.

According to the second enacting clause of this indictment, it is said that since he was unable to fix the device, sent it to Agim Berisha, asking him to fix it. Then, upon the request of the members of the group, he had gone twice in a row in the village Begracë, at the factory of the owner Arsim Luzha where bags are produced and had ordered bags of special dimensions 60x17 cm, "which should hold 2-3 kg" using the car owned by Amir Sherifi, which the accused Gëzim Abazi had registered in his behalf. This car is said to have served him to meet Afrim Luma and Amir Sherifi, as well to go to the bag factory and to the mechanic to fix the narcotics packaging machine.

Otherwise, Fatmir Statovci, Zeqir Berisha and Lutfi Nebihu, according to the indictment, intentionally assisted members of the criminal group to hide the tools used to commit the criminal offence, so that at his brother's house, Fatmir Statovci has hidden two tables with 12 kg and 667.9 grams of marijuana in them; then in his brother's uninhabited house, Zeqir Berisha has hidden 10-12 sacks of marijuana, some tables and woodwork, and in his cousin's crib, Lutfi Nebihu has hidden 20 tables in which were hidden about 500 kg of marijuana.

Thus, according to the prosecution, the accused Afrim Luma, Ramadan Hyseni, Fehmi Gashi and Fatos Ahmeti committed the criminal offence "Participation in or organization of an organized criminal group" under Article 283, as well as the criminal offence "Unauthorized purchase, possession, distribution and sale of narcotic drugs, psychotropic substances and analogues" from Article 273 paragraph 2 of the Criminal Code of the Republic of Kosovo. Whereas, the accused Gëzim Abazi committed the criminal offence of assisting in "Participation in or organization of an organized criminal group" of Article 283 and "Unauthorized purchase, possession, distribution and sale of narcotic drugs, psychotropic substances and analogues" from Article 273 paragraph 2 Code Criminal Code of the Republic of Kosovo. While, Fatmir Statovci, Zeqir Berisha and Lutfi Nebihu, are charged of having committed the criminal offence of "Providing assistance to perpetrators after the commission

of criminal offences” from Article 388 paragraph 2 sub paragraph 2.8 in conjunction with paragraph 1 of the Criminal Code of the Republic of Kosovo.

### **KLI’s findings regarding the handling of the case**

The Basic Prosecution in Ferizaj, with the letter PP/I.nr.67/2017 April 27, 2017, in the criminal case against the defendants Afrim Luma, Ramadan Hyseni, Fehmi Ahmeti, Gëzim Abazi, Fatmir Statovci rendered a decision to initiate the investigative stage on April 29, 2017. Then, this prosecution rendered a decision to extend the investigations against Zeqir Berisha, whereas on May 1, 2017, the investigations were extended also against the defendants Amir Sherifi and Lutfi Nebiu.

This prosecution filed the indictment on April 12, 2018, and by it, required the confiscation of the cars of the defendants Afrim Luma, Gëzim Abazi and Fatos Ahmeti included in the order for temporary sequestration of items, issued by the pretrial judge of the Basic Court in Ferizaj.

Also, it was proposed the sequestration of all the tables and wood works used to hide the narcotic substance as well as working tools: packing tools, foam, clamps with bolts, scaffolds, work gloves and digital scales, used to commit the criminal offence by the defendants who were under the supervision of the Investigation Unit of the DITN in Ferizaj.

While, the initial hearing was held on June 5, 2018, or almost two months after the indictment was filed. Currently this case is still being adjudicated by the first instance.

**Alleged damage:** No information.

**Confiscation and sequestration:** It was required to confiscate more than 1300 kilograms of narcotics.

## 6. CASE “REALTOR”

### Basic Court in Pristina

**Case number:** PKR.nr.112/18.

**Presiding judge:** Initially it was Vesel Ismajli, then Adnan Isufi.

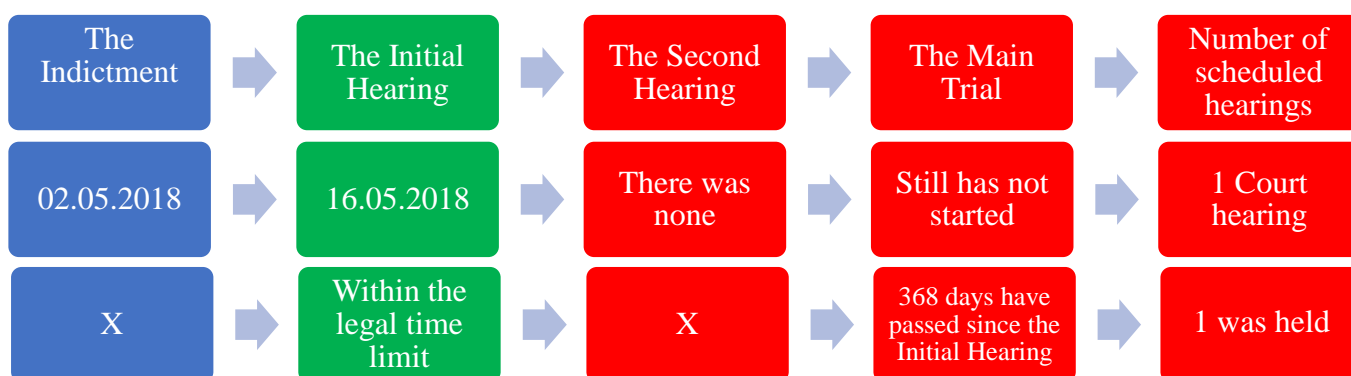
**Prosecutor:** Fikrije Fejzullahu.

**Defendants:** Emin Beqiri and Rrahim Hashimi.

**Criminal offences:** “Abusing official position”, “Failure to report criminal offences or perpetrators”, “Obstruction of evidence”, “Trading in influence”, “Fraud”.

**Stage of proceedings:** Ongoing,<sup>161</sup> the dismissal of the indictment against Emin Beqiri has been affirmed.

**(SINCE THE INDICTMENT HAS BEEN FILED UNTIL MAY 20, 2019 HAVE PASSED 381 DAYS)**



SPRK on May 3, 2018 published a media statement announcing that regarding it filed an indictment against former Director of Economic Crimes in Kosovo Police, Emin Beqiri, and businessman Rrahim Hashimi, known as “realtor”, since they allegedly received 100,000 Euro from the leaders of the Center for Advocacy and Diplomacy (CAD) in order to close their case.<sup>162</sup>

The Prosecution claimed that Emin Beqiri, working as the Director of the Directorate for Economic Crimes in Pristina, in December 2016, in order to unlawfully obtain for himself and the other person, through the director of “City Group”, the accused Rrahim Hashimi, requested 100,000 Euro from the injured party Valmir Hajrullahu and Freskim Buqaj, about whom the Directorate had started an investigation regarding the criminal offence of fraud.

<sup>161</sup>In the list of KJC’s coordinator Agim Maliqi, this case is treated as a case completed with a final judgment, reasoning that the indictment has been dismissed by the Court of Appeals regarding two defendants, May 6, 2019.

<sup>162</sup> “An indictment is filed against the former Director of Economic Crimes at the Kosovo Police, Emin Beqiri and businessman Rrahim Hashimi”. Oath for Justice. May 4, 2018. (Follow link: <https://betimiperdrejtesi.com/ngritet-aktakuze-ndaj-ish-drejtorit-te-krimeve-ekonomike-ne-policine-e-kosoves-emin-beqiri-dhe-biznesmenit-rrahim-hashimi/>)

Based on the indictment, Beqiri, provided Hashimi with information that was considered official secret, and then Hashimi told the injured parties that the search of the premises and their houses would not be carried out based on the court order and he even tried to persuade the injured party to give him the required money so that the proceedings against them would be closed.

However, according to the indictment, the accused Hashimi had failed to receive the money required and against the injured party Hajrullahu and Buqaj the procedure had been initiated, and after that, parents of the injured party, Rexhet Hajrullahu and Qazim Buqaj, had given the accused Hashimi 50,000 Euro so the accused Beqiri, could allow them to open the premises, and then they would give him another 50,000 Euro to close this procedure. Thus, in December 2016, Rexhep Hajrullahu had given the accused Hashimi 16,000 Euro, then another 9,000 Euro,

The Prosecution also charged Beqiri with the criminal offence of “obstruction of evidence”, since he, during January-March 2017, despite the court order for examination of the telephone “iPhone 6” of the injured party Valmir Hajrullahu, did not send it to the lab. While the injured party noticed that the recorded conversations and pictures had been erased from the phone, and Beqiri has also been charged with the criminal offence “failure to report criminal offences or perpetrators”, since he knew that Hashimi had taken money on his behalf but had not reported the criminal offence.

Meanwhile, the second defendant Rrahim Hashimi is accused that during December 2016, from the family members of the injured Hajrullahu and Buqaj had received the sum of 50,000 Euro and had requested another 50,000 Euro in order to fast-track the procedure against them, and then to influence the decision-making of an official, causing the accused Beqiri to act in violation of the law. He is also accused that during the years 2009-2017 had deceived several citizens, by using false facts, with the intent to obtain unlawful material benefit for himself, he had used the friendship with the attaché of the Hungarian Embassy, Tamas Gergely, and had applied for visa on behalf of different individuals, presenting them as “City Group” employees.

### **KLI’s findings regarding the handling of the case**

The SPRK indictment, which contained the criminal offences such as “abusing official position or authority”, “obstruction of evidence”, “failure to report criminal offences or perpetrators”, “trading in influence” and “fraud”, in less than six months was halved, because at the indictment control phase, the proceedings against Beqiri have been terminated regarding all the counts of the indictment, whereas Hashimi has been left to be adjudicated only regarding the count on “fraud”.

The Serious Crimes Department had scheduled the initial hearing on May 16, 2018, in a record time limit, only 14 days after the indictment had been filed on May 2, 2018. At that

hearing, the two accused pleaded not guilty of all the charges.<sup>163</sup> After the first instance confirmed the indictment, the case was sent to the Court of Appeals, which on September 21, dismissed the indictment against Beqiri, and the decision that the first instance had used to rejected his request for dismissal of the indictment, returned to reinstatement.<sup>164</sup> On the same day that the Court of Appeals had notified regarding this decision, the Presiding Judge, Vesel Ismajli, again affirmed the indictment against Hashimi, who was charged of the offences “trading in influence” and “fraud”.

Hashimi’s attorney, again addressed the second instance, demanding that same as to Beqiri, the proceedings against Hashimi be terminated as well. Regarding these claims, the Court of Appeals, on October 18, 2018, had rendered a ruling by which partially approved Hashmi’s appeal. According to this ruling, the proceedings regarding the criminal offence “trading in influence” will be terminated, as there was no well-grounded suspicion that he had committed this criminal offence, while it had confirmed the indictment regarding the criminal offence “fraud”.<sup>165</sup>

After this indictment has been returned for the second time to Judge Ismajli, but in the end containing only one criminal offence, he considered that the General Department was responsible for this kind of criminal offence, rather than the Serious Crimes Department. On October 30, 2018, Ismaili sent this case to the General Department, and has been assigned to Judge Adnan Isufi. According to the memo of Judge Ismaili, such a decision was taken because the criminal offence “fraud”, of which Hashimi is charged, is punished from 3 months to 3 years of imprisonment.

So, according to the current situation, the indictment filed by the SPRK is going to be adjudicated by the General Department of the Basic Court in Pristina, while Judge Isufi has not yet scheduled the main trial, reasoning that this case is being handled by the Supreme Court based on an application for extraordinary legal remedies. On April 1, 2019 the trial panel of the Supreme Court found that in both judgments of Basic Court and Court of Appeals there were violations in favor of former Director of Economic Crimes in Kosovo Police, Emin Beqiri, when deciding to acquit him of the criminal offence abusing official position and other criminal offences. Through a media statement, according to the Supreme Court, after the application for extraordinary legal remedies presented by the State Prosecutor against both judgments, the one of the first instance court and the second’s based on which

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<sup>163</sup> “Former Director of Economic Crimes and businessman plead not guilty on closing a case for 100,000 Euros”. Oath for Justice. April 12, 2018. (Follow link: <https://betimiperdrejtesi.com/ish-drejtori-i-krimeve-ekonomike-dhe-biznesmeni-deklarohen-te-pafajshem-per-mbylljen-e-nje-rasti-per-100-mije-euro/>)

<sup>164</sup> “The Court of Appeals affirms the acquittal of former Director of Economic Crimes, Emin Beqiri”. Oath for Justice. September 21, 2018. (Follow link: <https://betimiperdrejtesi.com/gjykata-e-apelit-konfirmon-liriminnga-akuza-per-ish-drejtorin-e-krimeve-ekonomike-emin-beqiri/>)

<sup>165</sup> “The Court of Appeals “disappears” corruption from the case “realor””. Oath for Justice. October 27, 2018. (Follow link: <https://betimiperdrejtesi.com/apeli-e-zhduke-korrupsionin-nga-rasti-sekseri/>)

the former Director of Economic Crimes in Kosovo Police, Emin Beqiri was acquitted, it was found that there were violations in favor of the defendant.<sup>166</sup>

**Alleged damage:** 100,000 euro.

**Sequestration and Confiscation:** There was no request in the indictment.

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<sup>166</sup>“*The Supreme Court finds violations in the case of acquittal of former Director of Economic Crimes, Emin Beqiri*”. Oath for Justice. April 17, 2019. (Follow link: <https://betimiperdrejtesi.com/supremja-konstaton-shkelje-me-rastin-e-lirimit-te-ish-drejtoret-te-krimeve-ekonomike-emin-beqiri/>)



## 7. CASE “POST”

### Basic Court in Pristina

**Case number:** PKR.nr.202/18.

**Presiding judge:** Lutfi Shala.

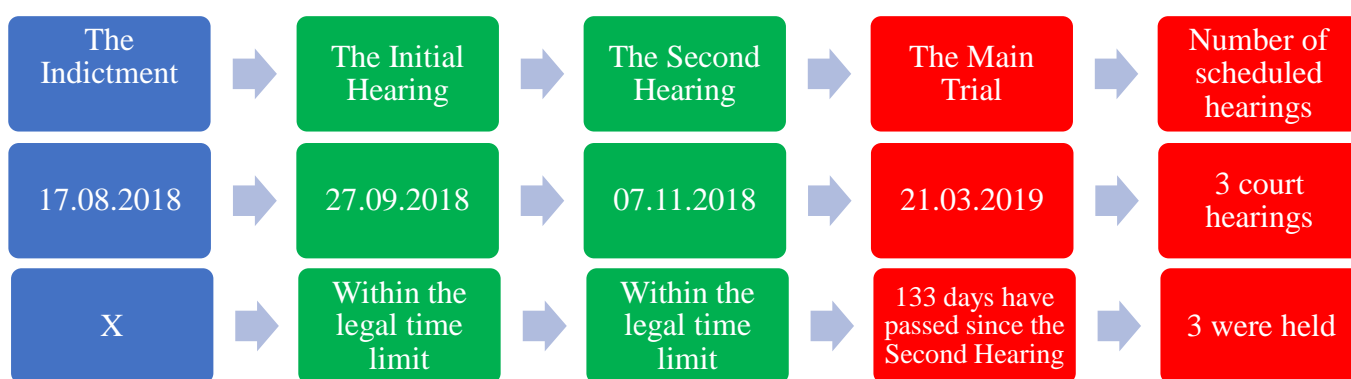
**Prosecutor:** Florije Salihu-Shamolli.

**Defendants:** Agron Mustafa, Ejup Qerimi and Rexhë Gjonbalaj.

**Criminal offence:** “Abusing official position”.

**Stage of proceedings:** Ongoing.

**(SINCE THE INDICTMENT HAS BEEN FILED UNTIL MAY 20, 2019 HAVE PASSED 277 DAYS)**



On December 22, 2016, the Office of the Chief State Prosecutor, after several media publications, submitted the case PPN.nr.236/16, requesting from the Special Prosecution to deal with the dispute between PTK and “Z-mobile”, in the arbitration process, a dispute that PTK had already lost, thus forcing it to meet the obligation in the amount of 32,856,407.28 euro to the benefit of Z-mobile.

After the SPRK had initiated the investigations, on August 17, 2018, filed an indictment against the Director of PTK Agron Mustafa, former Director of PTK Ejup Qerimi and against the Chairman of the Board of Directors of PTK Rexhë Gjonbalaj, charging them of “abusing official position”, a criminal offence provided by Article 422 of the CCRK.

Based on the indictment, from February 19, 2015, when Agron Mustafa was elected as Chief Executive of PTK until May 24, 2017, although he was not competent in the dispute between PTK and now injured party DARDAFON.net (Z-Mobile) had signed the agreement to execute the final arbitration award. This action, according to the prosecution, caused delays in sending SIM cards, then it had not supplied the numbering block and had not provided 3G and 4G services to the injured party. Although regarding this contract, for the criminal offence of “entering into harmful contracts”, with a final judgment in June 2011, five individuals were acquitted, and even though the regulatory authority of electronic and postal communications, now injured part Z-Mobile had allowed the use of non-geographic numbering 045, this decision had not been implemented by the same.

In this way, as the prosecution claims, despite the efforts of the injured party to resolve this agreement and eliminate possible arbitration process, Mustafa had not taken any action in this regard. Based on the indictment, Mustafa, in the arbitration procedure had engaged the company “Studioligji” to represent the company, in which procedure, the International Court of Arbitration decided in favor of the injured party. Based on these actions of Mustafa, the prosecution is claiming that PTK was supposed to pay the injured Z-Mobile the sum of 32,856,407.28 Euro, without counting the other costs of the arbitral procedure, in the amount of over 500,000 Euro and 65,000 English Pounds.

Regarding this dispute among PTK and Z-mobile, in both domestic and arbitral courts, after which PTK has been damaged in the amount of millions of euros, besides Mustafa, regarding the period 2012-2014, the Chief Executive of PTK Ejup Qerimi, is also being accused, as well as the Chief of the Board of Directors, Rexhë Gjonbalaj. According to the prosecution, they have abused their official duties, damaging the injured party Z-mobile, as well as the PTK.

### **KLI’s findings regarding the handling of the case**

The indictment against Mustafa, Qerimi and Gjonbalaj, had arrived at the Basic Court on Pristina the same day in which it has been filed, on August 17, 2018, and it has been assigned to the Judge Lutfi Shala.

Shala had scheduled the initial hearing on September 27, 2018, or 10 days after the legal time limit of 30 days from the moment when the indictment had arrived at court, and in this hearing all the three accused have pleaded not guilty.<sup>167</sup>

At the second hearing that have been scheduled on November 7, 2018, within the legal time limit since the initial hearing, the accused requested this indictment to be dismissed.<sup>168</sup> Whereas on December 7, 2018 judge Lutfi Shala rendered a ruling based on which he dismissed the indictment, because as he stated, it was not proved that the accused have committed the criminal offence of which they are charged. Even though the SPRK alleged that the three accused had damaged the budget of the Republic of Kosovo in the amount of approximately 30,000,000 euros, according to the court, the prosecution has not offered enough evidence to support the well – grounded suspicion that the defendants have committed a criminal offence.<sup>169</sup>

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<sup>167</sup> “Agron Mustafa and others plead not guilty regarding the “Z-Mobile” case”. Oath for Justice. September 27, 2018. (Follow link: <https://betimiperdrejtesi.com/agron-mustafa-dhe-te-tjeret-deklarohen-te-pafajshem-per-rastin-e-z-mobile/>)

<sup>168</sup> “Agron Mustafa and two others request the dismissal of the indictment regarding the “Z-Mobile” case”. Oath for Justice. November 7, 2018. (Follow link: <https://betimiperdrejtesi.com/agron-mustafa-dhe-dy-te-tjeret-kerkojne-hudhjen-e-aktakuzes-per-rastin-z-mobile/>)

<sup>169</sup> “The indictment against Agron Mustafa and others in the case “Z – Mobile” is dismissed”. Oath for Justice. December 18, 2018. (Follow link: <https://betimiperdrejtesi.com/hudhet-poshte-The-Indictment-ndaj-agron-mustafes-dhe-te-tjereve-ne-rastin-e-z-mobile/>)

Upon the appeal of the SPRK against the ruling to dismiss the indictment, the Court of Appeals decided to approve SPRK's appeal and thus had affirmed the indictment against three defendants.<sup>170</sup>

After the indictment was affirmed, judge Shala held only one court hearing of the main trial, which was held on March 21, 2019, when Blerim Devolli testified, since in this trial he is an injured party.<sup>171</sup>

The court hearing scheduled for May 16, 2019 was annulled, since the accused Ejup Qerimi by a submission had informed the court that due to health reasons he is abroad. Also, judge Shala informed parties to the proceeding that special prosecutor Naim Abazi had informed the court that he cannot be present in this court hearing, because he was earlier assigned in the trial of case "Land", where are accused Azem Sylja and 17 other individuals regarding the criminal offence organized crime and other offences. But the indictment in the case "Land", on the court hearing of May 16, was represented by prosecutor Habibe Salihi.<sup>172</sup>

**Alleged damage:** Around 30.000.000 Euro.

**Sequestration and Confiscation:** There was no request in the indictment.

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<sup>170</sup> "The Court of Appeals decides that Agron Mustafa and other former Kosovo Telecom chiefs will be adjudicated regarding the case "Z-Mobile". Oath for Justice. February 4, 2018. (Follow link: <https://betimiperdrejtesi.com/apeli-vendos-ge-agron-mustafa-dhe-ish-drejtuesit-tjere-te-telekomit-te-kosoves-te-gjykohen-per-rastin-z-mobile/>)

<sup>171</sup> "Blerim Devolli says that meetings with Telecom's chiefs were "cold" and only to meet each other". Oath for Justice. March 21, 2019. (Follow link: <https://betimiperdrejtesi.com/blerim-devolli-thote-se-takimet-me-udheqesit-e-telekomit-ishin-te-ftohta-dhe-sa-per-tu-njoftuar/>)

<sup>172</sup> "The hearing against Agron Mustafa and two others in Z-Mobile case is annulled". March 21, 2019. (Follow link: <https://betimiperdrejtesi.com/anulohet-court-hearings-ndaj-agron-mustafes-dhe-dy-te-tjereve-per-rastin-e-z-mobile/>)

## 8. CASE “SCHOOL”

### Basic Court in Prizren

**Case number:** P.nr.66/18.

**Presiding judge:** Xheladin Osmani.

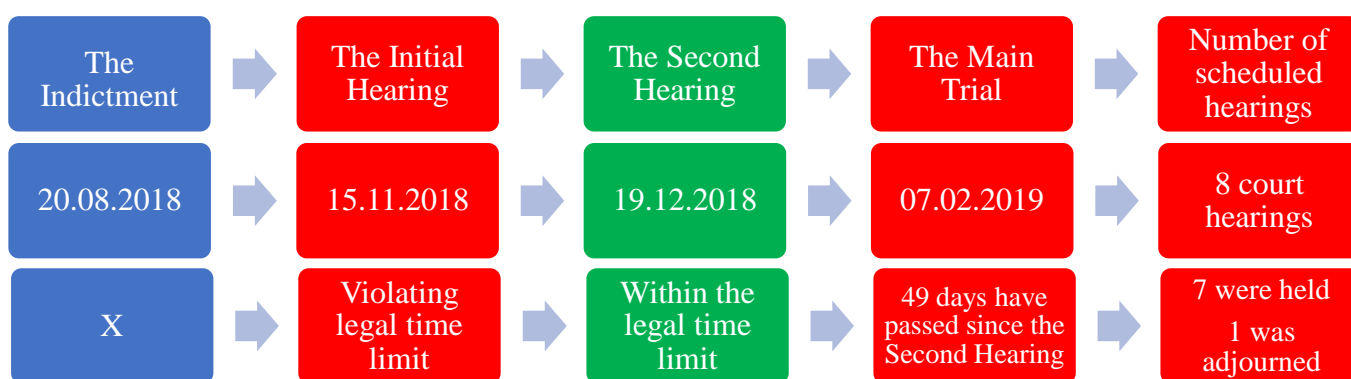
**Prosecutor:** Initially it was Merita Bina-Rugova, then Afrim Shefkiu.

**Defendants:** Flamur Hoxha, Besim Rexhaj, Veprim Rexhepi.

**Criminal offences:** “Money laundering”; “Fraud”; “Falsifying documents”; “Tax evasion”.

**Stage of proceedings:** Ongoing.

**(SINCE THE INDICTMENT HAS BEEN FILED UNTIL MAY 20, 2019 HAVE PASSED 274 DAYS)**



This case has started based on the indictment of the Special Prosecution Office (SPRK) of August 20, 2018. According to the indictment, Flamur Hoxha and Besim Rexhaj, during 2016-2017 despite knowing that the profits come from criminal activities, received money from hundreds of injured individuals, namely 489 individuals, on the grounds that they would hire them in Germany.

According to the indictment, Hoxha and Rexhaj, from the injured parties received 2,500 to 3,000 euros and did not send them to Germany, hiding the funds and then transferring these funds to other persons, thus gaining 1,220,175.00 euros, of which they laundered 1,068,775.00 euros.

With this, in continuity and in co-perpetration, they committed the criminal offence “money laundering”. According to the indictment, they are charged with the criminal offences such as “fraud”, “falsifying documents” and “tax evasion”. Whereas, Veprim Rexhepi is accused that during 2016-2017, through forgery, has signed about 400 Germany employment contracts, without being authorized by any responsible person on whose behalf these contracts have been issued.

### **KLI’s findings regarding the handling of the case**

This case started with the criminal report filed by the Kosovo Police on August 29, 2017. The decision to initiate the investigative stage was rendered on August 20, 2018. Following the

investigations, the indictment was filed by Prosecutor Faik Halili, and sent in court on August 20, 2018. The initial hearing was held on November 15, 2018, or two months after the indictment was filed, while the second hearing was held on December 19, 2018, as a result of which the court had rendered a ruling by which had affirmed the indictment.

The main trial started on February 7, 2019, while it continued on February 25, 2019, at which hearing the parties were interested to enter into plea agreement<sup>173</sup> but that did not happen. The last hearings of this case were held on April 16<sup>174</sup> and 17, 2019, in which the testimonies of some of the witnesses were heard.

**Alleged damage:** 1,220,175.00 euros and money laundering in the amount of 1,068,775.00 euros.

**Confiscation and sequestration:** No information.

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<sup>173</sup>“*The accused of fraud with German employment visas require entering a plea agreement*”. Oath for Justice. February 25, 2019. (Follow link: <https://betimiperdrejtesi.com/te-akuzuarit-per-mashtrim-me-viza-pune-ne-gjermani-kerkojne-te-hyjne-ne-negocim-te-marrevshjes-per-pranim-fajesie/>)

<sup>174</sup>“*The trial regarding fraud with German employment visas, witnesses say that they have paid up to 3000 euros*”. Oath for Justice. April 16, 2019. (Follow link: <https://betimiperdrejtesi.com/gjykimi-per-mashtrim-me-viza-pune-gjermane-deshmitaret-thone-se-klientet-kane-paguar-deri-ne-3000-euro/>)

## 9. CASE “VISAS”

### Basic Court in Pristina

**Case number:** PKR.125/17.

**Presiding judge:** Mustaf Tahiri.

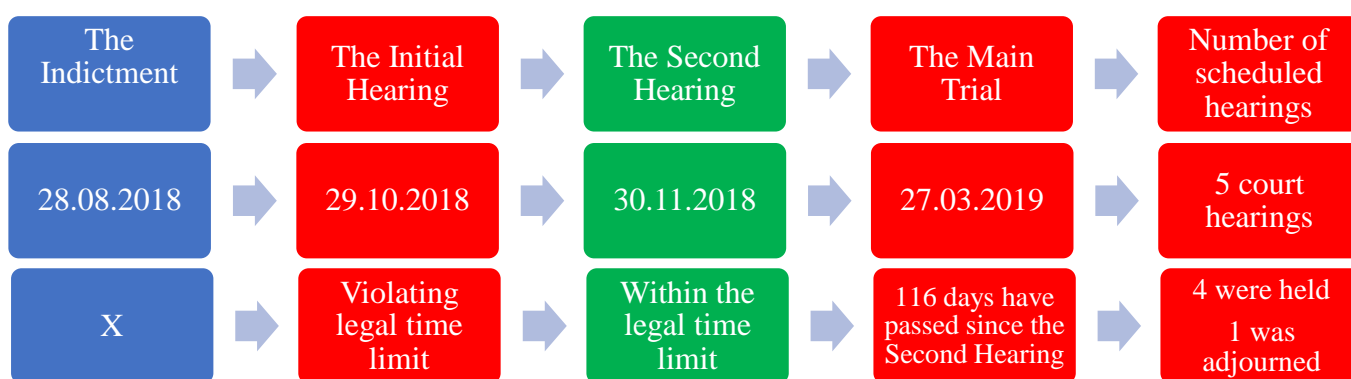
**Prosecutor:** Initially it was Afrim Shefkiu, then Atdhe Dema.

**Defendants:** Milaim Zeka, Ilir Krasniqi and Edmond Kërliu.

**Criminal offences:** “Fraud”; “Tax evasion”; “Money laundering”.

**Stage of proceedings:** Ongoing.

**(SINCE THE INDICTMENT HAS BEEN FILED UNTIL MAY 20, 2019 HAVE PASSED 266 DAYS)**



Special Prosecution has filed an indictment on August 28, 2018, charging Ilir Krasniqi, Milaim Zeka and Edmond Kërliu of committing several criminal offences.

Ilir Krasniqi and Milaim Zeka are accused that since 2016 until March 2017, with the purpose of obtaining unlawful material benefit, on June 2, 2016 had started the business “Ilir Krasniqi & Milaim Zeka OP”, as an employment agency.

Based on the indictment compiled by prosecutor Afrim Shefkiu, the defendants allegedly had presented fake facts through tv show “Pa rrotlla”, thus attracting citizens of Kosovo to apply in their offices in “Pejton”, Pristina, supposedly to employ them in Germany. Further, it is alleged that in this case was also included the wife of the defendant Ilir Krasniqi, Fexhrije Krasniqi, who was involved in the groundwork of Germany employment papers, in her garden maintenance business.

Krasniqi and Zeka are accused of deceiving 900 visa-claim applicants, to whom they intentionally took between 500 and 3,050 euros, dividing then proportionally. Whereas, it is said that after the start of the investigations, 354 individuals have been returned the funds in the amount of 83,850 euros, while 546 others never took their money, on a total amount of 261,850.00 euro. With this, Krasniqi and Zeka are accused of having committed criminal offence “fraud” in co – perpetration.

Whereas, during the period from June 2, 2016 to December 31, 2017, as co-owners of the abovementioned business, they have deliberately avoided the tax obligations towards the Tax Administration of Kosovo, whereby they are accused of having committed the criminal offence “Tax evasion”.

The defendant Ilir Krasniqi is accused of purposely hiding the source of financial resources obtained from fraud with employment visas and tax evasion, when on November 19, 2016 had made some suspicious transactions. Regarding this he is accused of having committed the criminal offence “money laundering”. While the defendants Zeka and Kërliu are also charged of committing criminal offences “money laundering”, “fraud” and “tax evasion”.

Whereas, defendant Zeka is accused that as the owner of the “Kosovo Mosaic” Media Center with the direct intention of evading tax obligation, committed the criminal offence “tax evasion”.

### **KLI’s findings regarding the handling of the case**

SPRK on August 28, 2018 filed charges against Milaim Zeka, Ilir Krasniqi and Edmond Kërliu and two other defendants, whereas on September 26, 2018, Milaim Zeka was arrested because of suspicions that he had threatened the Special Prosecutor, Afrim Shefkiu who had filed the indictment regarding this case.

Zeka, two days prior the arrest, on a TV show had stated that he would prosecute prosecutor Shefkiu through court, Kanun, but also privately. “I’d be more willing to forgive him if he had killed one of my children, than in such a way to destroy people’s dreams. They humiliated me. I will prosecute this prosecutor through court, Kanun and privately. I will never forgive him regarding the humiliation he caused me. Nowadays people are saying for me: look the visa thief”, had stated MP Zeka. Subsequently, regarding this, on September 27, 2018, against Zeka was imposed the detention on remand measure, for 30 days. Then, on October 3, the Court of Appeals substituted that measure with the one of house detention.

Two months after the indictment was filed by the Special Prosecutor, Afrim Shekiu, the initial hearing was held regarding this case on October 29, 2018, where the accused had pleaded not guilty. Earlier, Judge Tahiri announced that on October 26, 2018, he received the ruling of 24<sup>th</sup> October in which Milaim Zeka's attorney, Florent Latifaj, requested the disqualification of prosecutor Afrim Shefkiu from the case. At this hearing was present also the prosecutor Atdhe Dema, who is now representing the indictment of the Special Prosecution of the Republic of Kosovo.<sup>175</sup>

At the hearing held on November 30, the accused objected the indictment. The defense attorneys of the accused stated that they have submitted the motion to dismiss the indictment within the legal time limit, but the prosecutor of the case, Atdhe Dema, stated that he only accepted the motion of the accused Ilir Krasniqi, but not for the other two accused Milaim

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<sup>175</sup> “Milaim Zeka and others plead not guilty of fraud, tax evasion and money laundering”. Oath for Justice. October 29, 2018. (Follow link: <https://betimiperdrejtesi.com/milaim-zeka-dhe-te-tjeret-deklarohen-te-pafajshem-per-mashtrim-shmangie-nga-tatimi-e-pastrim-parash/>)

Zeka and Edmond Kërliu. Then, prosecutor Dema stated that since he accepted motions of the other two accused during this hearing, he will not be able to give an answer in this regard, seeking time for such a thing. Since neither of the defense attorneys did not object such a proposal, the presiding judge Mustaf Tahiri, approved the proposal of the prosecutor Dema and gave him a deadline to one week, to answer the objections of the defendants and their attorneys.<sup>176</sup>

The Basic Court in Pristina subsequently affirmed the indictment, and an appeal to this decision was filed to the Court of Appeals<sup>177</sup>, which then affirmed the first instance's decision and thus the indictment became final.<sup>178</sup> After the indictment was affirmed, Judge Mustaf Tahiri scheduled the main trial hearing, which was held on March 27, 2019.<sup>179</sup>

At the KJC meeting held on April 5, 2019, it was decided that to Judge Mustaf Tahiri will not continue the transfer from Basic Court in Ferizaj to Basic Court in Pristina, meaning that this case now will be adjudicated from point zero.<sup>180</sup> Judge Tahiri, as he had stated, for personal and family reasons, had requested the termination of the transfer even before this case started the main trial, but at that time, the KJC had decided to endure his transfer.

The KJC Head, Skender Çoçaj, said that in this case only one hearing was held and according to him, the transfer can be continued for only one more year, whereas, as he said, this case has about 950 witnesses and may last longer than a year. Çoçaj added that based on the new Law on the KJC, the judge cannot be transferred against his will, and this is also a legal obstacle to continue Tahiri's transfer.

However, three days later, on April 8, 2019, the next hearing, led by Judge Tahiri, was held, in which four witnesses – injured parties were heard. This was because Judge Tahiri had

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<sup>176</sup>“MP Milaim Zeka and others object the indictment that charges them of fraud, tax evasion and money laundering”. Oath for Justice. November 30, 2018. (Follow link: <https://betimiperdrejtesi.com/deputeti-milaim-zeka-dhe-te-tjeret-kundershtojne-aktakuzen-qe-i-ngarkon-per-mashtirim-shmangie-nga-tatimi-e-pastrim-parash/>)

<sup>177</sup> “The indictment in the case where Milaim Zeka and others are accused of fraud, tax evasion and money laundering is affirmed”. Oath for Justice. January 25, 2019 (Follow link: <https://betimiperdrejtesi.com/konfirmohet-The-Indictment-ne-rastin-ku-milaim-zeka-dhe-te-tjeret-akuzohen-per-mashtirim-shmangie-nga-tatimi-dhe-pastrim-parash/>)

<sup>178</sup>“The Court of Appeals affirms the indictment against MP Milaim Zeka and others”. Oath for Justice. February 11, 2019. (Follow link: <https://betimiperdrejtesi.com/gjykata-e-apelit-konfirmon-aktakuzen-ndaj-deputetit-milaim-zeka-dhe-te-tjereve/>)

<sup>179</sup>“The witness: for a German employment visa I paid more than 1000 euros, Milaim Zeka told me to report the case to the police”. Oath for Justice. February 11, 2019. (Follow link: <https://betimiperdrejtesi.com/deshmitari-per-vize-pune-ne-gjermani-pagova-mbi-nje-mije-euro-milaim-zeka-me-tha-ta-paraqes-rastin-ne-polici/>)

<sup>180</sup>“The trial against Milaim Zeka and two others is returned to point zero”. Oath for Justice. April 5, 2019. (Follow link: <https://betimiperdrejtesi.com/gjykimi-ndaj-deputetit-milaim-zeka-dhe-dy-te-tjereve-kthehet-ne-piken-zero/>)



stated that he had not yet accepted the KJC's decision to terminate the transfer.<sup>181</sup> While, the next hearing was adjourned until further notice.

**Alleged damage:** Over 261,850.00 euros.

**Confiscation and sequestration:** No information.

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<sup>181</sup> "The trial against Milaim Zeka and others, four injured parties say that have been deceived by the company "Iilir Krasniqi Op". Oath for Justice. April 8, 2019. (Follow link:<https://betimiperdrejtesi.com/giykimi-ndaj-milaim-zekes-dhe-te-tjereve-kater-te-demtuarit-thone-te-jene-mashtuar-nga-kompania-ilir-krasniqi-op/>)

## 10. CASE “VETERANS”

### Basic Court in Pristina

**Case number:** PKR.nr.230/18.

**Presiding judge:** Nushe Kuka-Mekaj.

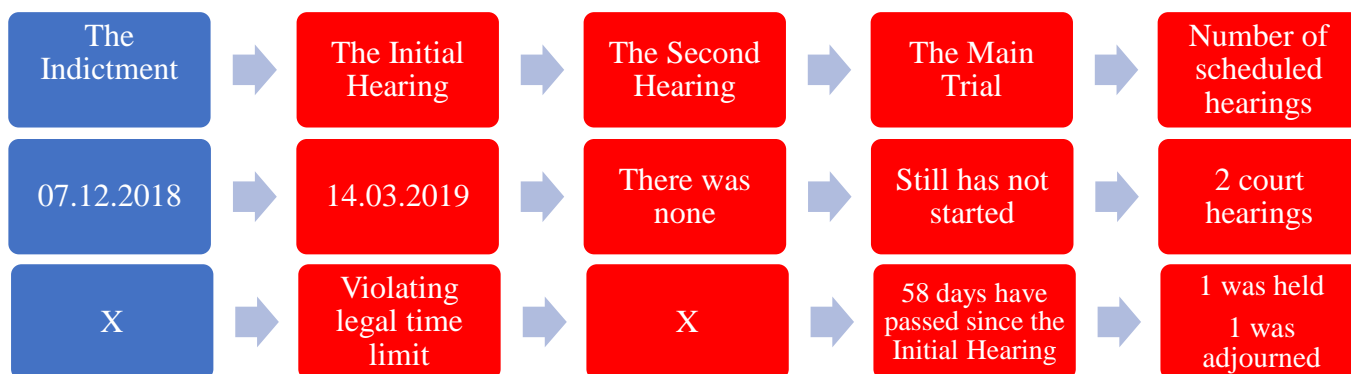
**Criminal offences:** “Abusing official position or authority”.

**Prosecutor:** Initially it was Afrim Shefkiu, then Enver Krasniqi and Valdet Gashi (together in the same time).

**Defendant:** Agim Çeku, Nuredin Lushtaku, Sadik Halitjaha, Shkumbin Demaliaj, Qelë Gashi, Shukri Buja, Ahmet Daku, Rrustem Berisha, Faik Fazliu, Smajl Elezaj, Fadil Shurdhaj and Xhavit Jashari.

**Stage of proceedings:** Ongoing.

**(SINCE THE INDICTMENT HAS BEEN FILED UNTIL MAY 20, 2019 HAVE PASSED 165 DAYS)**



The case known as “Veterans” is considered to be the largest case prosecuted by the local prosecution, because supposedly, former KLA soldiers, Members of the Commission for verification of the status of KLA veterans have abused their official position, adding to the veterans’ list 15,500 individuals, who according to the prosecution should not have had such a status.

Based on this indictment filed on December 7, 2018, the 12 involved individuals are charged because from 2011 to 2017, acting as members of the Governmental Commission for the Recognition and Verification of the Statute of the Nation’s Martyr, Invalid, Veteran, Member and Interned of the Kosovo Liberation Army’s War, have used their official duty and authority, by intentionally surpassing their competencies and by not fulfilling their official duties, in order to unlawfully benefit for another individuals, consistently, thus damaging the budget of the Republic of Kosovo.

According to the SPRK, the provided evidence shows that out of the unlawful payments for the KLA veteran fighters, the budget of the Republic of Kosovo was damaged in the amount of 88,769,217.04 Euro.

### **KLI's findings regarding the handling of the case**

This case, even without starting to be handled at the court, has been involved in a non-serious handling by the SPRK. This indictment was initially compiled by the Special Prosecutor Elez Blakaj, but on August 2018, he resigned.<sup>182</sup>

In his letter of resignation, Blakaj, had stated that on July 11, 2018, he had signed an indictment according to which 19,060 individuals have the veteran status unlawfully and that he has handed over that indictment to the Chief Prosecutor of the Special Prosecution of the Republic of Kosovo, Reshat Millaku, but the indictment still was not presented in court.<sup>183</sup>

Millaku, in a press conference, on August 20, 2018, said that one of the reasons why the indictment has not been filed to the court was that the enacting clause of the indictment filed by the resigned Special Prosecutor, Elez Blakaj, does not have written names and surnames of 19,060 veterans, who are considered to be false, even though he admitted that all the evidence was included, but using footnotes. Also, he stated that there has not been initiated any motion to interrupt the payment of pensions of these false veterans.<sup>184</sup> But SPRK, the indictment regarding veterans, through prosecutor Afrim Shefkiu, filed in court on September 14, 2018, in the same time increasing the number of unlawful veterans from 19,060 to 20,238.<sup>185</sup>

At the time when this indictment was filed in court, the names of 20,238 individuals, along with their personal details, became public in the media, which followed with a great public debate, as many people came up with statements that they have been soldiers throughout the wartime but were included in those lists.

Although the accused were waiting for the initial hearing to be scheduled, Judge Nushe Kuka-Mekaj returned this indictment to the SPRK for improvements and clarifications,

<sup>182</sup>“Elez Blakaj speaks, he says he was threatened by the veterans, he mentions the pressure of the Chief Prosecutor Aleksandër Lumezi regarding KLA veterans and “Pronto” case”. Oath for Justice. August 20, 2018. (Follow link: <https://betimiperdrejtesi.com/flet-elez-blakaj-thote-se-kishte-kercenime-nga-veteranet-permend-presionin-e-kryeprokurori-aleksander-lumezi-per-veteranet-e-uck-se-dhe-rastin-pronto/>)

<sup>183</sup> “The resigned prosecutor in July filed the high-profile indictment against veterans, where the first in the list is Agim Çeku and the last Xhavit Jashari, this indictment ‘sleeps’ in the Special Prosecution”. Oath for Justice. August 15, 2018. (Follow link: <https://betimiperdrejtesi.com/prokurori-i-dorehequr-elez-blakaj-ne-july-e-kan-gritur-aktakuzen-e-profilite-larte-per-veteranet-te-ciles-i-prin-agim-ceku-dhe-perfundon-me-xhavit-jasharin-The-Indictment-flene-ne-pr/>)

<sup>184</sup>“Chief Prosecutor Millaku does not argue why the indictment has not been sent to the Court, says that its enactment clause is not complete, even though he admits that all evidence is included in the indictment, but using footnotes (Video)”. Oath for Justice. August 20, 2018. (Follow link <https://betimiperdrejtesi.com/kryeprokurori-millaku-nuk-e-argumenton-mos-dergimin-e-aktakuzes-ne-gjykate-thote-se-eshte-e-manget-ne-dispozitiv-edhe-pse-pranon-se-te-gjitha-provat-jane-perfshire-ne-aktakuzen-por-permes-fusnotave/>)

<sup>185</sup> “The indictment of the resigned prosecutor Elez Blakaj, regarding the case known as “Veterans”, is submitted to the Court”. Oath for Justice. September 14, 2018. (Follow link: <https://betimiperdrejtesi.com/dorezohet-ne-gjykate-The-Indictment-e-prokurorit-te-dorehequr-elez-blakaj-per-rastin-e-njohur-si-veteranet/>)

because, according to her, the indictment was not compiled in accordance with the provisions of the CPCRK and that the description of the factual situation of the enacting clause was unclear. Judge Kuka-Mekaj had given the SPRK 30 days to make the required improvements.<sup>186</sup>

Although State Prosecutor Aleksandër Lumezi, in his statements to the media, said that the indictment would be filed in court within the time limit set by the court<sup>187</sup>, but this did not happen, as the SPRK requested from BC in Pristina to extend this time limit for 30 more days, in order to make the required improvements. This request has been approved on November 9, 2018 by Judge Kuka-Mekaj.<sup>188</sup>

On December 7, 2018, SPRK, finally handed this indictment to the court.<sup>189</sup>

The initial hearing was scheduled for January 28, 2019 or 21 days after the legal time limit provided by the CPCRK, but even this had failed due to the absence of the Minister of Defense Rrustem Berisha, and two accused Faik Fazliu and Smajl Elezaj. In this hearing, besides special prosecutor Enver Krasniqi, who was assigned to represent this indictment, present in the hearing was also the other prosecutor Valdet Gashi. This hearing was adjourned for March 14, 2019.<sup>190</sup>

In the next hearing, two of twelve of the accused, Xhavit Jashari and Ahmet Daku were absent due to different reasons, thus judge Nushe Kuka – Mekaj asked parties present in the hearing if they propose the severance of proceedings, but neither the prosecutor Krasniqi or the defense attorneys did not agree with such a proposal. Anyway, considering the efficiency of the proceedings, judge Kuka – Mekaj ex – officio ordered the severance of proceedings against Jashari and Daku.

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<sup>186</sup> “The indictment of the case “Veterans” is returned to the Special Prosecution to be improved and clarified”. Oath for Justice. October 10, 2018. (Follow link [https://betimiperdrejtesi.com/The\\_Indictment-e-veteraneve-ikthehet-prokurorise-speciale-per-permiresim-dhe-qartesim/](https://betimiperdrejtesi.com/The_Indictment-e-veteraneve-ikthehet-prokurorise-speciale-per-permiresim-dhe-qartesim/))

<sup>187</sup> “Chief State Prosecutor Lumezi says that within a few days the veteran’s indictment is going to be re-submitted to Court”. Oath for Justice. October 22, 2018. (Follow link: [https://betimiperdrejtesi.com/kryeprokurori-lumezi-thote-se-brenda-pak-ditesh-The\\_Indictment-e-veteraneve-do-te-ridergohet-ne-gjykate/](https://betimiperdrejtesi.com/kryeprokurori-lumezi-thote-se-brenda-pak-ditesh-The_Indictment-e-veteraneve-do-te-ridergohet-ne-gjykate/))

<sup>188</sup> “The Court extends the legal time limit to 30 more days for the Special Prosecution to improve the indictment on the “Veterans” case. Oath for Justice. November 9, 2018. (Follow link: <https://betimiperdrejtesi.com/gjykata-i-jep-edhe-30-dite-afat-prokurorise-speciale-qe-te-plotesoje-aktakuzen-ne-rastin-veteranet/>)

<sup>189</sup> “Special Prosecution submits to the Court the improved indictment regarding “Veterans” case. Oath for Justice. December 7, 2018. (Follow link: <https://betimiperdrejtesi.com/prokuroria-speciale-e-dorezon-ne-gjykate-aktakuzen-e-plotesuar-ne-rastin-e-veteraneve/>)

<sup>190</sup> “Case “Veterans”, the absence of minister Rrustem Berisha and two others adjourns the initial hearing”. Oath for Justice. January 28, 2019. (Follow link: <https://betimiperdrejtesi.com/rasti-veteranet-mungesa-e-ministrit-rrustem-berisha-dhe-dy-te-tjereve-shtyn-seancen-fillestare/>)

Upon the fulfillment of the legal conditions to hold the hearing, all of the accused pleaded not guilty<sup>191</sup>, whereas the defense was given until April 15, 2019 to submit their motions to dismiss the indictment.

During the initial hearing, SPRK submitted the motion to temporarily terminate the pensions of 19,500 veterans, who are considered to be “false veterans”, but such a motion was rejected by judge Kuka – Mekaj on March 26, 2019.<sup>192</sup>

Within the reasoning of this ruling, it is said that the SPRK’s motion was not directed against the accused, but against MLSW, as a third party.

“In this specific case, considering the motion for a secure measure, which is of mandatory character and with a purpose of maintaining an existing situation, namely to not harm the budget of the Republic of Kosovo, was not directed against the defendants but against the Ministry of Labor and Social Welfare, the Department of Martyr’s Families and War Invalids, which is in the capacity of the third party. Thus, the court found that the legal condition to assign such a measure are not fulfilled”, it is said in the ruling rendered by the presiding judge Nushe Kuka Mekaj, on March 26, 2019.

Whereas, regarding the two accused Xhevat Jashari and Ahmet Daku for whom the severance of proceedings was ordered, judge Kuka – Mekaj scheduled and held the initial hearing on April 1, 2019, and both the accused pleaded not guilty regarding the charges they are accused of.<sup>193</sup>

**Alleged damage:** 88,769,217.04 euro.

**Confiscation and sequestration:** There was no request in the indictment.

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<sup>191</sup> “Case “Veterans”, Agim Çeku, Rrustem Berisha, Shkumbin Demalijaj and others plead not guilty (Video)”. Oath for Justice. March 14, 2019. (Follow link: <https://betimiperdrejtesi.com/rasti-veteranet-agim-ceku-rrustem-berisha-shkumbin-demalijaj-dhe-te-tjeret-deklarohen-te-pafajshem/>)

<sup>192</sup> “The court rejects Special Prosecution’s motion to terminate pensions of 19,500 veterans”. Oath for Justice. March 14, 2019. (Follow link: <https://betimiperdrejtesi.com/gjykata-refuzon-kerkesen-e-prokurorise-speciale-per-pezuillimin-e-pensioneve-per-19-500-veterane/>)

<sup>193</sup> “Case “Veterans”, Ahmet Daku and Xhavit Jashari plead not guilty”. Oath for Justice. April 1, 2019. (Follow link: <https://betimiperdrejtesi.com/rasti-veteranet-ahmet-daku-e-xhavit-jashari-deklarohen-te-pafajshem/>)

## XVI. RECOMMENDATIONS

- The State Prosecutor and Targeted Cases Coordinator to strictly comply with the criteria set out in SOPs regarding the identification and targeting of serious crime cases.
- State Prosecutor and Targeted Cases Coordinator, to target cases that meet SOPs criteria, where assets for confiscation of properties are very large, including cases such as “Ukë Rugova and others”, “Land” case, “Qemajl Mustafa and others”, case “Pal Lekaj and others”, etc.
- Targeted cases should be treated as priority by the courts and prosecution offices so that judicial process and court proceedings shall not be delayed at all instances and these proceedings shall be completed within a reasonable time, not violating the legal time limits set out in the Criminal Procedure Code.
- KJC and KPC to harmonize their databases in order for these institutions to have unique data and to inform the public on a monthly basis regarding the progress and challenges in handling these cases.
- Court Presidents to make sure that a judge is not assigned more than two targeted cases, since the purpose of targeting a case is to increase efficiency and effectiveness in handling them.
- The court Presidents to commit themselves to not change the presiding judge and/or the members of the trial panel until the completion of the main trial in targeted cases.
- Chief Prosecutors to commit themselves that targeted cases be represented by prosecutors who have filed respective indictments.
- Court Presidents and Chief Prosecutors to instruct judges and prosecutors to be informed about which cases are targeted.
- Courts to publish their final judgments on their webpages, as well as the date and time when respective court hearings will be held regarding targeted cases.
- Judges to apply legal obligations against prosecutors, lawyers and other parties, who do not justify their absences, thus affecting the adjournment of targeted cases.