



INSTITUTI I KOSOVËS PËR DREJTËSI  
KOSOVO LAW INSTITUTE  
KOSOVSKI INSTITUT PRAVDE

POLICY ANALYSIS 09/2019

# THE JUSTICE SYSTEM "AMNESTIES" FAKE VETERANS, IT DAMAGES THE BUDGET OF THE REPUBLIC OF KOSOVO

ANALYSIS OF THE INDICTMENTS, JUDICIAL PROCESSES  
AND COURT JUDGEMENTS IN CASES OF "FAKE VETERANS"



PRISTINA, SEPTEMBER 2019



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#### ABOUT KLI

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

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September 2019

Pristina, Republic of Kosovo

## Table of contents

|  |           |
|--|-----------|
| <b>1. Executive summary .....</b>  | <b>4</b>  |
| <b>2. The role of the State Prosecutor in protecting the public interest .....</b>                   | <b>5</b>  |
| <b>3. Legal basis.....</b>   | <b>6</b>  |
| <b>3.1. The Constitution of the Republic of Kosovo.....</b>  | <b>6</b>  |
| <b>3.2. Law on State Prosecutor .....</b>  | <b>6</b>  |
| <b>3.3. Criminal Procedure Code .....</b>  | <b>7</b>  |
| <b>3.4. Criminal Code of the Republic of Kosovo .....</b>  | <b>8</b>  |
| <b>4. Failure of the justice system to protect the budget of the Republic of Kosovo .....</b>        | <b>9</b>  |
| <b>4.1. Case “Veterans” .....</b>  | <b>10</b> |
| <b>4.2. Analysis of the indictments of Prosecution Office of Peja against “fake veterans”<br/>10</b> |           |
| <b>5. Recommendations .....</b>  | <b>16</b> |

## 1. Executive summary

In the constitutional and legal system of the Republic of Kosovo, the protection of public interests when committing criminal offenses is an almost exclusive task of the State Prosecutor. In this regard, the legal system of the Republic of Kosovo has not assigned the State Prosecutor merely as the representative of a case in court. The reality is that this system has determined that it is the State Prosecutor who represents **the public interest** before the courts of the Republic of Kosovo.

Such a role of the institution of the State Prosecutor is in the very nature of this institution, especially in systems which are largely inclined towards an accusatory criminal justice system. The Venice Commission in the case of Russia had clearly stated that the authority and responsibility of the prosecution is the safeguard role of the public interest within the criminal justice system.

The Law on State Prosecutor stipulates that *“the duties and competencies of the prosecutors shall include: to protect the legal rights of victims, witnesses, suspects, accused and convicted persons”*, while the Criminal Procedure Code (CPCRK) stipulates that *“the state prosecutors are empowered to represent the public interest before the Courts of the Republic of Kosovo and to request the Courts to order measures in accordance with the present Code of Criminal Procedure”*.

To protect the interest of the injured party, which in certain cases may be the state itself, therefore the public interest, the legislation of the Republic of Kosovo has provided numerous possibilities. This is because according to the CPCRK, in addition to the State Prosecutor and the defendants who are integral part of the criminal process, the injured party is also a party to the proceedings, although not equal to the State Prosecutor and the defendant. According to the CPCRK, the State Prosecutor is obliged to identify the injured party and to inform the injured party of his/her rights. In addition to the ability of the injured party to file a legal property claim, the Criminal Code of the Republic of Kosovo (CCRK) has also provided for the additional punishment *“order to pay compensation for loss or damage”*.

In terms of fulfilling the mission of public interest protection, the justice system has not fulfilled its legal obligations in the case known as “veterans”, which based on the financial damage caused to the budget of the Republic of Kosovo, is considered to be one of the most serious cases for the justice system since after the war. More specifically, the Basic Prosecution of Peja and the Basic Court of Peja acted that way regarding the indictments against “fake veterans” who obtained unlawful assets in the name of the pension for war veterans. Based on these findings, KLI considers that this approach is a failure of the justice system in protecting the public interest.

## 2. The role of the State Prosecutor in protecting the public interest

In the constitutional and legal system of the Republic of Kosovo, the protection of public interests when committing criminal offenses is an almost exclusive task of the State Prosecutor. In this regard, the legal system of the Republic of Kosovo has not assigned the State Prosecutor merely as the representative of a case in court. The reality is that this system has determined that it is the State Prosecutor who represents **the public interest** before the courts of the Republic of Kosovo.

In addition to prosecuting for the purpose of finding a suspect guilty on the suspicion of committing a criminal offence, the State Prosecutor is also obligated to protect the interests of the injured parties, whether the injured party in a case is a natural person, a legal person or the state itself.

The criminal justice system in the Republic of Kosovo has given a decisive role to the State Prosecutor in prosecuting and not prosecuting certain individuals suspected of committing a criminal offence. In this way, regarding the initiation or development of a criminal procedure, the State Prosecutor in the legal system of the Republic of Kosovo is almost a key figure, whose decision initiates but also conducts a criminal procedure. Thus, even the responsibilities of the State Prosecutor are also great, where he not only compiles and represents the indictment in criminal proceedings, but he also protects the interest of citizens and the public interest.

In order to protect the public interest, the legislation of the Republic of Kosovo has established sufficient procedures and tools. In this regard, for the protection of the interests of citizens and state interests, only the will of the stakeholders of the justice system, namely judges and especially State Prosecutors, is needed. This is needed in order for a criminal proceeding to not resemble to a simulated criminal proceeding, but a meritorious process in which the very purpose of the existence of criminal justice is achieved.

Furthermore, such a role of the institution of the State Prosecutor is in the very nature of this institution, especially in systems which are largely inclined towards an accusatory criminal justice system.

The Venice Commission in the case of Russia had clearly stated that the authority and responsibility of the prosecution is the safeguard role of the public interest within the criminal justice system.

### 3. Legal basis

KLI has further elaborated the entire legal basis in the Republic of Kosovo regarding the role of the Prosecutor and the Judge in the criminal procedure as well as their obligations to ensure a criminal procedure, starting from the Constitution of the Republic of Kosovo, Law on State Prosecutor, Criminal Code and Criminal Code of Procedure of the Republic of Kosovo.

#### 3.1. The Constitution of the Republic of Kosovo

Article 109 of the Constitution of the Republic of Kosovo defines the basic principles of the organization of the State Prosecutor. According to this article *“The State Prosecutor is an independent institution with authority and responsibility for the prosecution of persons charged with committing criminal acts and other acts specified by law”*<sup>1</sup>. Also, the same article stipulates that *“The State Prosecutor is an impartial institution and acts in accordance with the Constitution and the law”*<sup>2</sup>.

#### 3.2. Law on State Prosecutor

Since the Constitution of Kosovo in article 109 has defined only the basic principles of the institution of State Prosecutor and has delegated almost completely to the law the aspect of regulation and functioning of this institution, the Law on State Prosecutor defines in more detail the organization, structure and responsibilities of the State Prosecutor, while applying the constitutional principles underlying the legality of the actions of the State Prosecutor.

Article 7 of the Law no.03/L – 225 on the State Prosecutor defines the duties and competencies of the State Prosecutors. Among the 11 duties and competencies of prosecutors, this article also stipulates that:

##### 1. Duties and competencies of state prosecutors shall include

1.5. “to protect the legal rights of victims, witnesses, suspects, accused and convicted persons”.

This law does not define the term “victim”. This is not even defined by the Law nr.05/L – 036 on Crime Victim Compensation, since this law stipulates in the definitions that by crime victim “means the victim as defined by the Criminal Procedure Code”<sup>3</sup>.

Whereas, the Criminal Procedure Code no.04/L – 123 of the Republic of Kosovo (CPCRK) combines the term “victim” and “injured party” and gives them the same meaning. In this regard, Article 19.1.7 of the CPCRK provides the following definition:

<sup>1</sup> Constitution of the Republic of Kosovo, article 109.1

<sup>2</sup> Ibid, article 109.2

<sup>3</sup> Law No. 05/L -036 on Crime Victim Compensation, article 3.1.1

1.7. Injured party or victim – a person whose personal or property rights are violated or endangered by a criminal offence.

This means that the Law on State Prosecutor stipulates that every State Prosecutor has other duties too besides prosecuting certain individuals for committing criminal offences.

Thus the statutory obligation under article 7.1.5. of State Prosecutor also includes the responsibility of the state prosecutor to protect the legal rights of the victims or injured parties in criminal proceedings. Specifically, based on the article 19.1.7 of CPCRK, the State Prosecutor must protect all personal and property rights that have been violated or endangered by a criminal offence to any injured party or victim.

Injured party in criminal proceedings may be a natural person, as well as a legal person, whose personal or property rights have been violated as a result of criminal offences.

### 3.3. Criminal Procedure Code

The role of the State Prosecutor as a party to the criminal proceedings in a more detailed way is regulated through the normative regulation of CPCRK.

The provisions of the CPCRK give exclusive and final authority to the state prosecutor to initiate criminal procedure against suspects of committing criminal offences. CPCRK expressly stipulates that “*Criminal proceedings shall only be initiated upon the decision of a state prosecutor that reasonable suspicion exists that a criminal offence has been committed*”<sup>4</sup>.

Despite this, the CPCRK has assigned the State Prosecutor as the responsible institution to represent public interest in front of the Courts of the Republic of Kosovo. This is expressly set out in article 49 of CPCRK, which stipulates “*the state prosecutors are empowered to represent the public interest before the Courts of the Republic of Kosovo and to request the Courts to order measures in accordance with the present Code of Criminal Procedure*”.

Besides the State Prosecutor and the defendants who are integral part of the criminal process, the injured party is also a party to the proceedings, although not equal to the State Prosecutor and the defendant.

CPCRK in article 62 defines the rights of the injured party. Paragraph 1.2 of this article obligates the Police, Prosecutor or other body to inform the individual in cases when he/she is an injured party in a case. This paragraph of this article of the CPCRK expressly stipulates

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<sup>4</sup> Criminal Procedure Code no. 04/l-123, article 6.2.

that “if an injured party of a crime can be identified, the police and state prosecutor or other body conducting the criminal proceedings shall contact the injured party in a reasonable manner and inform him or her that he or she is an injured party”.

Likewise, the CPCRK stipulates that “the injured party has the right to a reasonable, court-ordered restitution from a defendant or defendants who have admitted to or been adjudged to be guilty for the financial, physical and emotional harm caused by the commission of a criminal offence for which the defendant or defendants have been adjudged guilty”.

Article 459 of CPCRK specifies also the authorized persons to submit a motion to realize the property claim, which stipulates that “the motion to realize a property claim in criminal proceedings may be filed by the person authorized to pursue that claim in civil litigation” and “if a criminal offence has caused damage to publicly – owned, state-owned or socially owned property, the body or competent authority empowered by law to ensure the protection of that property may participate in criminal proceedings in accordance with the powers which it has on the basis of that law”<sup>5</sup>.

A property claim may be filed by the end of the main trial, whereas “If the authorized person has not filed the motion to realize his or her property claim in criminal proceedings before the indictment is brought, he or she shall be informed that he or she may file that motion up to the end of the main trial. If a criminal offence has caused damage to publicly – owned, state – owned or socially – owned property and no motion has been filed, the court shall so inform the body or competent authority under Article 459 paragraph 2 of the present Code”<sup>6</sup>.

Regarding the property claim decides the court conducting the criminal procedure or the same court directs the injured party in civil litigation.<sup>7</sup>

### 3.4. Criminal Code of the Republic of Kosovo

Among four main purposes that are intended to be achieved by imposing a sentence, the Criminal Code of the Republic of Kosovo (CPRK) has provided as a specific purpose of the sentence the fact that it shall “provide compensation to victims or the community for losses or damages caused by the criminal conduct”<sup>8</sup>.

In this way, while the final purpose of a criminal proceeding is to also compensate victims or the community for losses or damages caused by a criminal offence, it automatically creates an obligation for the State Prosecutor and the Courts to fully engage in cases where a defendant is adjudicated for a criminal offence, the injured party to have an adequate compensation for the losses or damages caused by the criminal offence in the criminal proceeding.

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<sup>5</sup> Ibid, Article 459

<sup>6</sup> Ibid, Article 460.4

<sup>7</sup> Ibid, Article 463

<sup>8</sup> Criminal Code of the Republic of Kosovo, no. 06/1-074, Article 38.1.3



Also, pursuant to Article 59 of the CCRK, accessory penalties are also provided, which fall within the criminal sanctions provided for by the CCRK, imposed by the Courts in addition to the main sentence.

In this article, the CCRK has provided eight (8) types of accessory punishments, including the “*order to pay compensation for loss or damage*”<sup>9</sup>. Regarding this accessory punishment, Article 61 of the CCRK provides:

#### **Article 61**

##### **Order of restitution or compensation**

1. The court, when sentencing a person who has been convicted of any offense involving the theft, loss, damage or destruction of property, shall order that the perpetrator make restitution to the victim of the offense.
2. Restitution includes the costs equal to the value of any property stolen, lost, damaged or destroyed. Restitution shall also be ordered for any loss of income the victim experiences as a result of the offense and the related investigative and court proceedings.

The CPCRK has empowered the State Prosecutor, during the drafting of the indictment or until the end of the main trial, to propose accessory punishment for the purpose of administering and realizing criminal justice against the party to the proceedings. In addition, the court may impose the accessory punishment also in absence of the proposal of the State Prosecutor to impose such punishment.

#### **4. Failure of the justice system to protect the budget of the Republic of Kosovo**

KLI has further elaborated the entire legal basis in the Republic of Kosovo on the role of the Prosecutor and the Judge in the criminal procedure and their obligations to ensure the development of a criminal procedure, starting with the Constitution of the Republic of Kosovo, the Law on State Prosecutor, Criminal Code and Criminal Procedure Code of the Republic of Kosovo. Based on the KLI analysis, it results that both Prosecutors and Judges, in certain cases, have failed to protect the public interest, consequently the damage caused to the budget of the Republic of Kosovo by “fake veterans”. Below can be found cases that were analyzed, where as a result of failure to comply with legal obligations by prosecutors and judges, cases were identified where “fake veterans” were proved by the court to have illegally obtained the amount of 1530 euros, and punished to a fine of 1300 euros. Based on this, it is understood that the punishment imposed against the “fake veteran” is in essence not a punishment, but a reduction of the unlawful gain, since even after this punishment, the

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<sup>9</sup> Ibid, Article 59.2.2

unlawful gain that maintains to the “fake veteran” is 230 euros. In such cases, it turns out that the only one left damaged by this is the budget of the Republic of Kosovo.

#### **4.1. Case “Veterans”**

On December 7, 2018, the Special Prosecution Office of the Republic of Kosovo (SPRK) filed an indictment against 12 individuals in a case publicly known as “Veterans”. The list of accused persons is led by Agim Ceku, followed by Nuredin Lushtaku, Sadik Halitjaha, Shkumbin Demaliaj, Qelë Gashi, Shukri Buja, Ahmet Daku, Rrustem Berisha, Faik Fazliu, Smajl Elezaj, Fadil Shurdhaj dhe Xhavit Jashari.

According to the indictment prepared by former Special Prosecutor Elez Blakaj<sup>10</sup>, individuals involved are accused that from 2011 to 2017, acting as members of the Governmental Commission for the Recognition and Verification of the Status of Martyrs of the Nation, Invalids, Veterans, Members and Internees of the Kosovo Liberation Army War, have used official duty and authority, deliberately exceeding their powers and failing to fulfill official duties, in order to illegally benefit other persons, continuously, thus damaging the budget of the Republic of Kosovo.

In this case, after the former SPRK Prosecutor, Elez Blakaj, had completed the investigations, the indictment had been filed against the 12 abovementioned individuals, whilst regarding the unlawful beneficiaries of the veterans status, the SPRK had delegated these cases to the relevant departments of the Basic Prosecution Offices.

Because of this, in addition to criminal proceedings for members of the Governmental Commission for the Recognition and Verification of the Status of Martyrs of the Nation, Invalids, Veterans, Members and Internees of the Kosovo Liberation Army War, other procedures regarding the veteran process have been conducted, where the unlawful beneficiaries of this status have been adjudicated by the Basic Prosecution Offices.

#### **4.2. Analysis of the indictments of Prosecution Office of Peja against “fake veterans”**

The Basic Prosecution Office of Peja on May 24, 2019 has filed 20 indictments against a total of 21 individuals for the criminal offenses of “legalization of false content” and “falsifying documents”, which cases were related to the file of “fake veterans”.

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<sup>10</sup> Note: Case “Veterans” was prosecuted and was compiled by now former Prosecutor Elez Blakaj, who after a huge pressure was forced to flee Kosovo and move to USA. The indictment was formally submitted by special prosecutor Afrim Shefkiu, whereas now this indictment is being represented in court by two special prosecutors, Valdet Gashi and Enver Krasniqi.

The Basic Prosecution Office of Peja received 17,000 files of veterans delegated by the SPRK, of which 800, after being analyzed by the Basic Prosecution Office in Peja, were found to have illegally acquired veteran status by receiving veterans' pensions and consequently damaged the budget of the Republic of Kosovo.

Filing of indictments by the Basic Prosecution Office of Peja was announced through a press conference. During this conference the Chief Prosecutor of the Basic Prosecution Office in Peja, Agim Kurmehaj, stated that had appointed two prosecutors to analyze and investigate the veterans' files, namely Prosecutors Lumturije Vuqetaj and Ardian Hajdaraj. Among other things, during this press conference Prosecutor Vuqetaj stated that the accused individuals have provided falsified documents of certificate and veteran fighter certification and on the basis of these documents have applied to the Ministry of Labor and Social Welfare, receiving pension on behalf of fake veteran.

Prosecutor Vuqetaj said that these documents were provided by several individuals, who acted as mediators and received sums of up to three thousand euros to ensure the falsified veteran's certificate.

Kosovo Law Institute (KLI) has also monitored the first case of “fake veterans” at the Basic Court in Peja, following the filing of these 21 indictments.

The hearing in the first case at the Basic Court in Peja was held on August 22, 2019, with the presiding judge Sejdi Blakaj, in which case four individuals were charged.

Defendant Blerim Ramosaj was charged with the criminal offense of “legalization of false content”, defendant Xhavit Maxharra was charged with “falsifying documents”, while two other defendants, Pal Berisha and Lekë Desku, were charged with “assistance in the commission of falsifying documents”.

According to the indictment of the Prosecution Office in Peja, the defendant Ramosaj had illegally benefited 1530 euros from the budget of the Republic of Kosovo on behalf of the KLA war veteran status since 2018.

The indictment states that defendant Ramosaj ensured the falsified veteran's certificate by the defendants Pal Berisha and Lekë Desku, who were mediators, providing to citizens, while they provided the falsified documents through the defendant Xhavit Maxharra, who did the falsifying of veteran's certificate and other certifications needed to ensure the pension for veteran.

KLI has analyzed the indictment filed by the Basic Prosecution Office of Peja in this case and found that the Prosecution Office of Peja, in its indictment, has not expressed any interest in protecting the budget of the Republic of Kosovo, namely to recover the damage already caused by the commission of the criminal offenses as in the indictment. It is because the prosecutor, in the filed indictment, did not submit any legal proposals within their powers, in order to protect the budget of the Republic of Kosovo from “false veterans”.

KLI has found that the Basic Prosecution Office of Peja, for the amounts of money illegally obtained by “fake veterans”, the amounts which were confirmed in the provision of the indictment, did not require for the defendants to be forced to return those amounts to the budget of the Republic of Kosovo. In this regard, this prosecution has been completely uninterested.

Regarding this, KLI finds that besides the Basic Prosecution Office of Peja, the Basic Court of Peja has also failed to fulfill its obligations, towards the protection of public interest, in the concrete case the protection of taxpayers' money of the Republic of Kosovo. Article 460.4 of the CPCRK defines that *“If a criminal offence has caused damage to publicly-owned, state-owned or socially-owned property and no motion has been filed, **the court** shall so inform the body or competent authority under Article 459 paragraph 2 of the present Code”*. Thus, besides the lack of interest of the Basic Prosecution Office of Peja for the protection of public interest, the Court itself had to fulfill this legal obligation and to notify MLSW regarding the possibility of filing the motion to realize property claims in this criminal proceeding.

On the other hand, the Basic Prosecution Office of Peja did not require from the Basic Court of Peja to also impose the accessory punishment *“the order for compensation of loss or damage”* in addition to the main sentence. Furthermore, besides the fact that the Basic Prosecution Office of Peja did not formally present this proposal in the indictment, at the hearing held at the Basic Court of Peja, the prosecutor of the case, Ardian Hajdaraj, did not request the imposition of this accessory punishment through evidence in the record during the court hearing, so that the funds obtained by the defendant are returned to the budget of the Republic of Kosovo.

Even in this case, the imposition of this accessory punishment by the Basic Court of Peja was not necessarily conditioned by the proposal of the Basic Prosecution Office of Peja, since despite the lack of such a proposal, the court was able to impose this accessory punishment by a judgment. But, like the prosecutor, even the court in this case has shown itself to be completely uninterested in protecting public money.

As a result, at the end of the trial, after the four defendants pleaded guilty to the criminal offenses they were charged with, the judge of the case, Sejdi Blakaj, found them guilty and sentenced each defendant to 6 months imprisonment, which punishment with the consent of the defendants was replaced to a fine of 1300 euros.

As can be seen, the Basic Court of Peja has sentenced the defendant Ramosaj to 1300 euros fine, while according to the verdict of this court, he has unlawfully benefited the veteran's pension in the amount of 1530 euros from the budget of the Republic of Kosovo. It is understood that the sentence imposed to the defendant in essence is not a sentence, but a reduction of the unlawful benefit. This is because even after this punishment, the unlawful gain already left to the defendant is 230 euros. In this case, it turns out that the only one left damaged by this is the budget of the Republic of Kosovo.



Regarding the purpose of punishments, Article 38.1.3 of the CCRK defines that one of the main purposes of the punishments is also “*to provide compensation to victims or the community for losses or damages caused by the criminal conduct*”. Concerning punitive policy, **The Supreme Court of the Republic of Kosovo** on February 15, 2018 adopted **Sentencing Guidelines**, whose drafting **was supported by the American Embassy in the Republic of Kosovo**. Concerning this, this guideline states that this purpose of punishment has 2 implications:

*“First, it is an acknowledgment of the importance of victim rights in the calculus of the punishment. This is not an ancillary consideration for the Court that can be offloaded to societal compensation mechanisms if the offender has the ability to restore the victim to their previous state. It must be a primary consideration in formulating the sentence”.*

“Second the inclusion of the community in the purpose indicates a clear expression that victims can include the community writ large. In crimes where this involves, for example, destruction of property, compensation will take the form of monetary compensation. But the consideration does not stop there. The impact to the community may take the form of damage to the overall psyche of individuals in the community. This may include feelings of safety and/or community reputation. While these may be somewhat intangible or quantifiable in monetary terms, the Court must strive to restore those intangibles to their previous state.”<sup>11</sup>.

These implications of this purpose, in the reasoning of this judgment are not addressed at all, which means that this judgment does not meet the requirements, which must be taken into account under the Sentencing Guidelines.

This operating way of the Basic Prosecution Office of Peja and the Basic Court of Peja, besides the fact that presents failure to protect the budget of the Republic of Kosovo, has also contributed to the inadequate and proper administration of justice, as the damage caused to the Kosovo budget was specified and proven through the financial cards of the Ministry of Labor and Social Welfare and legally there was the possibility, in criminal proceedings, to oblige the defendants to return the money received and not by instructing the injured party, in this case the Ministry of Labor and Social Welfare, to civil litigation, based on the fact that according to judicial practice in Kosovo the civil litigation lasts for years, beyond a reasonable timeframe. Thus, it is the practice of justice system actors itself that has affected the inadequate administration of justice, and no other objective circumstances.

What was also missing in the indictment of the Basic Prosecution Office of Peja is the proposal for confiscation of funds, which served as a mean to commit the offense, such as in this case, the documents and falsified certificates of KLA war veterans.

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<sup>11</sup> Sentencing Guidelines. Supreme Court of the Republic of Kosovo. 15 February 2018. ([file:///C:/Users/StarTech/Pictures/Downloads/Sentencing-Guidelines February-2018.pdf](file:///C:/Users/StarTech/Pictures/Downloads/Sentencing-Guidelines%20February-2018.pdf)). (Last accessed on 5 September 2019).

The defendant Ramosaj had benefited the veteran's pension through falsified documents, while the prosecution office did not propose to confiscate these documents at all, and neither the court decided for the confiscation of these documents.

Also, the indictment of the Basic Prosecution Office of Peja lacks the essential elements, starting from the submission of the proposal for confiscation of the phones of the defendant Xhavit Maxharra and the falsified documents found in his house during the police raid.

KLI, through a request for access to public documents and information submitted to the Basic Court of Peja, provided formal data on the content of the indictments filed by the Basic Prosecution Office of Peja on veterans file.

After analyzing 19 indictments, KLI has found that in none of them, the Basic Prosecution Office of Peja has requested that the defendants, who have illegally benefited amounts of over 3000 thousand Euros, return those to the budget of the Republic of Kosovo, while in one of the indictments, in its provision is not even presented the amount of damage, caused by a defendant, who benefited the veteran pension.

In one of these indictment's provision, one of the defendants had obtained four thousand two hundred and fifty (4,250) euros, but neither in this case, had the prosecution office attempted to use her legal powers foreseen with the Criminal Code of Kosovo, to protect public interest, in the concrete case the budget of the Republic of Kosovo.

KLI noticed that the amount of damage caused to the Kosovo budget has been specified and easily proven through the defendants' financial cards, which prove the exact amount benefited by the defendants from the Kosovo budget. Thus, there is no other decisive circumstance, that puts into question this damage because objectively and precisely the damage was also proven by the financial cards provided from MLSW, which are presented as evidence by the prosecution office, but despite this evidence, which prove the damage to the Kosovo budget, the prosecution office has not requested that the defendants return the funds to the Republic of Kosovo budget.

Moreover, in none of these indictments, the Basic Prosecution Office of Peja did not identify the injured party at all.

Based on these findings, KLI considers that this approach is a failure of the justice system in protecting the public interest. Such practice of the justice system really fulfills only one of the purposes of punishments, *"to express the judgment of society for criminal offenses, increase morality and strengthen the obligation to respect the law"*. And that's because, it is true that by the very fact that "fake veterans" are found guilty, in substance, these punishments do not contribute at all in protecting the public interest. This is best evidenced by the case treated above, where KLI has found that in addition to the sentence imposed, the defendant's balance is plus 230 euros illegally obtained.

The case known as "veterans" is almost the largest case in which the budget of the Republic of Kosovo is allegedly damaged. With the justice system operating this way, this process will

probably be morally cleansed, and even the major damage will be stopped, but the damage already caused will never be recovered.

KLI considers that the justice system, both prosecutorial and judicial, should in the first place, in each case, take into account the public interest. The “blanket” way of handling these cases is almost not even the purpose for which the criminal procedure itself is conducted. For this reason, judges and prosecutors must understand their duties and competences correctly, as well as their mission in the sense of protecting the public interest.

Finally, KLI reminds all prosecutors and judges that in cases of damage to the public interest by committing criminal offenses, they are the main institutional actors for the protection of this interest. Therefore, they should not create practices where the protection of the public interest is transferred to other institutions and procedures. In addition to their duties, competences and mission, judges and prosecutors should give utmost importance to the fulfillment of the criminal procedure principles.

## 5. Recommendations

1. State Prosecutors to understand their mission properly in protecting the public interest.
2. In cases of “fake veterans”, the State Prosecutor should take care of protecting the budget of the Republic of Kosovo, and not let the only tendency be to convict the accused.
3. The State Prosecutor to use all legal possibilities to protect the public interest.
4. In cases of “fake veterans”, Prosecutors in their indictments shall identify MLSW as an injured party and request that in addition to the principal punishments, to impose also the accessory punishment “*order to pay compensation for loss or damage*”.
5. The courts of the Republic of Kosovo should not be pleased with the fact that the State Prosecutor has not submitted any motion, but they, in terms of fulfilling their legal mandate, should play a proactive role in protecting the public interest.
6. The justice system should not build such practices in which the criminal proceedings are conducted in a “template” manner but should be determined to achieve the very purpose of the existence of criminal procedure in a criminal proceeding.
7. The Courts of the Republic of Kosovo, when determining the type and amount of the punishment, shall apply the Supreme Court Sentencing Guidelines.