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Executive Summary

The fourth European Commission report on the criteria for visa liberalization for Kosovo required the fulfillment of the remaining criteria: a) ratification of the border agreement with Montenegro and b) strengthening the results in the fight against corruption and organized crime¹

In the process of fulfilling the second criterion, the Kosovo Prosecutorial Council has identified several cases of corruption and organized crime targeted as cases for visa liberalization. Chief Prosecutor of the Special Prosecution Office, Reshat Millaku, has been assigned as National Coordinator, tasked with targeting cases for visa liberalization.

The Balkan Investigative Reporting Network (BIRN) and Internews Kosova, for 12 years, have monitored the Kosovo judicial system at all levels in order to assess its performance in respecting legality, work ethics and judicial proceedings. The monitoring also included cases targeted for visa liberalization in all court instances where the judicial procedure takes place.

In order to have a situation analysis on the fulfillment of the second criterion for visa liberalization, BIRN and Internews Kosova drafted a report with detailed data on the status of the targeted cases.

This report was titled “Corrupted Liberalization” because the adjective “corrupted”, as an international term, is used, among others, to also describe a process which prevents a function or leads towards a poor performance thereof, as a result of a defect in one or more of its components.² Thus, being corrupt does not necessarily mean receiving bribes. The process is also corrupted by laziness, procrastination, delays, apathy and bureaucracy by officials responsible for addressing such cases, leading to a morally corrupt process.

A concrete example of this impairment is the fact that the Judicial Council refuses to ensure proper management of such cases, not distributing them to different Kosovo courts to provide Kosovo citizens the highest efficiency in processing, but rather remains comfortable with the idea that the Basic Court of Prishtina handles 90% of targeted cases – moreover, a single judge covers 4 targeted cases.

Thus, the ascertainment of the report is not unjust, classifying such institutions as corrupt because, according to the dictionary, “a corrupt person”³ is a person “who has entered into bad ways for certain purposes”, and the failure to distribute cases throughout Kosovo and delays in the transfer of cases from EULEX to the locals are only a few concrete examples of the impairment of the process.

Thus, this report focuses on targeted cases of corruption and organized crime, which are still open in Kosovo courts, with a particular focus on the Basic Court of Prishtina, which handles the largest number of such cases.

The report also shows the inconsistency in the data on the number of targeted cases and the status of such cases prepared by the justice institutions. Our research indicates that the data of KJC, KPC, and Basic Court in Prishtina on the number pending cases does not match – which indicates an impaired/corrupted system.

1 Fourth report on progress by Kosovo* in fulfilling the requirements of the visa liberalisation roadmap, European Council, 4.5.2016, accessed on: http://mei-ks.net/repository/docs/fourth_progress_report_on_kosovo_visa_liberalisation_roadmap_en.pdf

2 Glossary of Foreign Words, Albanological Institute of Kosovo, 1988, p. 331 defines the word ‘corruptive’ as ‘something that impairs morally and makes one enter into bad ways for certain purposes’. Thus, it is not necessarily the word corruption.

3 Ibid.

The report will highlight how these cases are treated, focusing on the delays and negligence of institutions responsible for handling them. Specifically, the findings of the report will point out the fact that the average time span, from filing indictments until the initial hearing, is 110 days per case. On average, each of the 17 targeted cases⁴ took almost 2 years, more specifically 710 days in court, from the moment the indictment was filed until March 23, 2018, when the data was processed.

Moreover, the findings of this report will demonstrate how the entire chain of responsibility in these cases, in some instances, has failed to address issues raised in specific cases, causing considerable delays in resolving the targeted cases - this is done by showing the chronology of the development of each case.

Findings of the report indicate that in two cases, KJC decisions have led to proceedings being frustrated and returning to their initial state despite years of hard work on their conclusion. This was seen in the cases of Judge Elmaz Zenuni, whose request for transfer to the Basic Court of Ferizaj was approved by KJC at a time when he had just completed 22 hearings in the trial "Tax Evasion" and only the concluding remarks remained to be finalized. As a result of this KJC decision to transfer him, he left and the case was returned to zero, meaning 4 years of hard work on the case were all in vain. After receiving the case next, Judge Hamdi Ibrahimini alerted the KJC to this fact and requested the return of the original judge, only for KJC to ignore the letter. Thus, there is still a clear tendency to damage and corrupt a process, and deliberately push it in the wrong direction.

In another case involving KEK, titled "Security", after hearing 20 witnesses and holding 16 hearings sessions, the KJC approves the EULEX's request for the transfer of the case to the locals. Similarly, the case had to be redone from scratch and all 20 witnesses would have to be heard again by local judges.

Finally, the report provides concrete recommendations for institutions/stakeholders involved in the work of the judiciary in Kosovo in order to accelerate the resolution of such cases that are a burden to the justice system and consequently cause isolation of Kosovo citizens as an impediment to visa liberalization.

BIRN and Internews Kosova recommend that cases be distributed urgently throughout Kosovo courts, or that other court judges are invited to process such cases at the Prishtina Basic Court.⁵ It is also recommended to increase communication between KJC and KPC in order to coordinate and harmonize data, and increase the support for judges and prosecutors addressing targeted cases with additional support staff. Special emphasis is put to the recommendation to reject requests for transfer or promotion of judges and prosecutors who have pending targeted cases.

⁴ We have calculated the expected duration of 17 cases, because 2 new cases saw indictments filed in February 2018, one in Ferizaj and one in Mitrovica, and since the indictments were recently filed we are not able to measure now the time required for processing.

⁵ Skender Çoçaj, KJC representative, stated in the BIRN and INTERNEWS Kosova conference on March 23, 2018, that "we need to see if there is a legal basis to transfer cases to other courts" - and over a month has passed since then, we are in June 2018, when the deadline is to resolve these cases, and KJC's 'looking into' has not resulted in any concrete action - again proving a broken or corrupt system. The argument that judges have no legal basis to engage judges from other courts to resolve the targeted cases in Prishtina is not valid because in the past there have been several judges who have been taken from other courts and brought to Prishtina, such as Valon Kurtaj from the Basic Court of Prizren, Kreshnik Radoniqi from the Basic Court of Peja and Elmaz Zenuni from the Basic Court of Ferizaj.

Reflections prior to the publication of the final report in a roundtable with heads of justice institutions

Prior to publishing this version of the report, BIRN and Internews Kosova organized a conference where the report was discussed with the findings from the monitoring of targeted court cases for visa liberalization. This conference was attended by Alexander Lumezi, Chief State Prosecutor; Enver Peci, President of the Supreme Court; Abelard Tahiri, Minister of Justice; Reshat Millaku, Prosecutor, KPC Coordinator for targeted cases; Hasan Shala, President of the Court of Appeal; Afërdita Bytyqi, President of the Basic Court in Prishtina; Skënder Çoçaj, Kosovo Judicial Council.

Other participants also included judges and prosecutors of specific targeted cases, lawyers and civil society representatives.

Alexander Lumezi, Chief State Prosecutor, stated that he fully agrees with the findings of the BIRN and Internews Kosova report.

“I fully agree that we have no progress and concrete results regarding final decisions. And in this direction we must all engage to have greater results regarding final decisions,” said Lumezi.

Skender Çoçaj, member of the KJC, attending the pre-publication roundtable for the report, said that there are some recommendations that BIRN and IKS provided in the report, which have already started to be implemented and that for some they are looking into the legal basis.

“We need to see whether there is legal basis for the transferring of cases to other courts”, he said.

He stated that the transfer of judges has been used before, including in the Basic Court in Pristina.

Afërdita Bytyqi, President of the Basic Court in Prishtina, said that the biggest challenge lies with the judges of this court in the Department for Serious Crimes.

“There are 14 judges who are in courtrooms every day. The number of judges is small compared to the number of cases,” Bytyqi said.

Initial impacts after the conference

1. The number of judges in the Basic Court in Pristina increases

Given the large number of pending corruption cases in the Prishtina Basic Court and ongoing requests to increase the number of judges in this court, the KJC decided to transfer 5 judges from Kosovo courts to Prishtina.

In the meeting held on May 2 this year, members of the Kosovo Judicial Council decided to transfer 5 judges for 6 months with possibility of continuation to Prishtina, depending on the course of circumstances in addressing such cases.

“The Kosovo Judicial Council (KJC) in its 203rd meeting of May 2 2018, took a decision to transfer five (5) judges from Basic Courts (Ferizaj, Gjakova, Gjilan, Peja and Mitrovica) to the Basic Court in Prishtina, given the workload with cases in this Court,” read the KJC response.

2. More frequent court hearings in targeted cases

BIRN and Internews Kosova monitors reported more frequent hearings in the targeted cases, compared to the previous period prior to the publication of the final report.

On one new targeted case, involving the defendants former Judge Safete Tolaj, Fisnik Tolaj and Granit Shehaj, the Basic Court in Ferizaj appointed five (5) hearings for main trial in May.

Moreover, during the reporting period May 1-17, around 17 hearings were held in the targeted cases, of which only one was postponed. In the case “Attorney 3”, former attorney Haxhi Çekaj and his lawyer, Besnik Berisha, failed to appear in court, where Çekaj is accused of unlawfully benefiting material gain.

That there is an acceleration in the dynamic of assigning targeted cases for visa liberalization has been confirmed by the coordinator of the Kosovo Judicial Council for these cases, Agim Maliqi.

“There is a significant increase in the dynamic of these cases. Judges began to assign more liberalization cases and are also compiling trial plans to process them more quickly”, said Maliqi.

Maliqi said that he expects that within May an additional two or three targeted cases will be completed. However, he said there is no deadline for the completion of such cases.

Methodology

Direct observation, analysis, comparison and statistical methods were applied for the drafting of this report – depending on the topic or chapter in question.

Direct observation of the work of courts is based on the monitoring of court hearings in the targeted cases at all instances in the Kosovo court system, with a particular focus on cases related to corruption.

Analysis of individual cases and the definitions of the Kosovo Criminal Procedure Code regarding the length of court proceedings and other issues presented in the report is also applied, addressing the rather complex problems involved in the cases in question.

Through a comparative method employed, certain parallels were drawn and all the problems that were addressed were clearly reflected in this way. To better and more clearly see the implementation and functioning of procedural and technical rules, the comparative method is more reliable, and BIRN and Internews Kosova have already managed to generate an authentic 11-year database using this method.

For the monitoring of targeted cases, the monitoring team has covered all instances of the Kosovo court system (seven basic courts and their branches, the Court of Appeal and the Supreme Court).

Background information of targeted cases

Fighting organized crime and corruption is often the main headline of Kosovo's political class, heads of state, and in particular the leaders of Kosovo's judicial and prosecutorial systems. However, almost all international and local reports⁶ have identified as very problematic the fighting of this phenomenon and the solution of these cases.

In this regard, the resolution of high-profile cases of corruption and organized crime was imposed as a criterion by the European Union, and the fulfillment of this criterion would pave the way for European integration processes in Kosovo, and more specifically it would fulfill the final criterion for visa liberalization, a process Kosovo has been going through for more than five years.

The process of identifying the most important cases of organized crime and corruption resulted in the targeting of 39 cases, mainly criminal offenses of the corruption chapter in different courts of Kosovo. Until the day of publication of this report, only 8 cases have been given a final decision, while the rest are still pending resolution in different stages of criminal proceedings.

From the data provided by BIRN and Internews Kosova from the Kosovo Prosecutorial Council⁷, it results as follows:



Chart 1. Status of targeted cases according to the data received by the Kosovo Prosecutorial Council.

On the other hand, the data provided by the Kosovo Judicial Council have significant mismatches with those of KPC. The following are the data related to the cases targeted by KJC⁸.

After comparing the data of KPC and KJC, we observe a concerning mismatch in this data. The general number of targeted cases is the same, namely 39. However, all other data is inconsistent. Looking at the number of cases with a final decision, according to KPC there are 8, and according to KJC only 6 have been issued a final decision. A similar mismatch is seen in cases with a decision in the first instance. According to KPC, there are only 4 cases with a decision in the first instance, while there are 5 according to KJC. A minor mismatch is also seen with the number of cases going through main trial procedure. KPC has data for 18 cases, while KJC states there are 19 cases in main trial.

⁶ BIRN and Internews Kosova Courts Monitoring Reports

⁷ Data received by the Kosovo Prosecutorial Council and in coordination with the national coordinator for targeted cases in Prosecution, Reshat Millaku.

⁸ Data received from the Kosovo Judicial Council in coordination with the coordinator at the KJC, Agim Maliqi.



Chart 2: Status of targeted cases according to the data received by the Kosovo Judicial Council.

Analyzed from the perspective of the breakdown of cases by courts, the largest number of cases currently open is observed in the Basic Court in Prishtina.

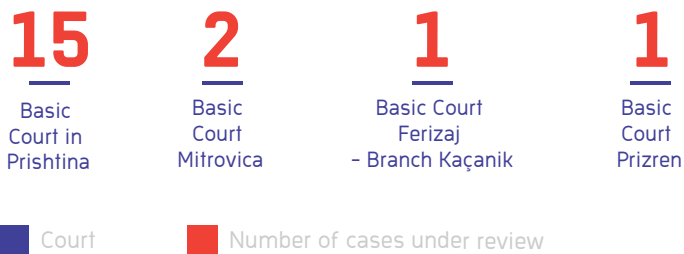


Table 1. Breakdown of cases by courts in the national level, according to the data taken from the Kosovo Judicial Council

Similarly, there is a discrepancy between the data of the KJC and the Basic Court in Prishtina. According to the response to the request for information from this court, it is said that there are 16 cases that have been dealt with or are being dealt with in this court, and according to KJC are 15 cases in process. After a research conducted by BIRN and Internews Kosova monitors comes out that the Basic Court in Prishtina is considering 15 cases (not 16), while for two other cases it has issued a decision. According to our research, it emerges that the subject exists

The “Emigrant” Case which is process, which is not on the list of subjects sent to initiated by the Basic Court in Prishtina. The Appellate Court, on the other hand, has no information regarding the targeted cases which are being dealt with in this court. According to the answers received, this court does not have a database of targeted subjects.

The targeting of these cases is done after a case assessment process and compliance with the defined criteria. National Coordinator for Targeted Cases is Reshat Millaku, chief prosecutor of Kosovo Special Prosecution Office, while the oversight of the progress of the cases and coordination is done by the other coordinator, judge of the Supreme Court of Kosovo, Agim Maliqi.

The following are the criteria used to select cases.

Criteria for serious crimes case selection:

- Suspected of planning or preparing one or more offenses;
- Have committed one or more of the above mentioned offenses;
- Have as an objective obtaining significant gains through crime or other benefits, or causing substantial damage to private or public interests;

- Targeted criminal activity may occur or have a regional level impact within Kosovo, at the national level in Kosovo, or internationally.

Criteria for selection of targeted cases of serious crimes:

- The serious nature of suspected offenses, risk and damage caused by the offenses;
- Level of organization of the criminal group;
- Continuity of criminal activity and previous criminal activity of perpetrators;
- Need for coordination of actions of public institutions in the prevention of suspected offenses;
- The specific need to direct the resources of public institutions for crime prevention;
- Threats resulting from criminal activity, e.g. for public institutions and their employees/officers, witnesses, injured parties;
- Strategic Priorities of Public Institutions and International Commitments of Kosovo;
- Other issues relevant to selection.

Case “Ferronikeli” - Pkr.nr. 65/17, Basic Court in Prishtina

Accused persons in this case are former Mayor of Lipjan, Shukri Buja, eight municipal officials, and one owner of a construction company.

The accused are: Shukri Buja, Nebih Zeqiri, Halit Gashi, Fahri Retkoceri, Hasim Vishesella, Edmond Rexhepi, Driton Avdiu, Burim Kodra, Bajram Rizani dhe Magbule Sadiku. The list of accused persons include one former mayor, eight officials, and one owner of a construction company.

According to the indictment, the accused persons, in order to obtain material gain for themselves or others and thereby cause harm to the injured parties, the municipality and socially-owned enterprises under the management of KPA, acting in co-perpetration with direct intent, issued unlawful decisions on expropriation and subsequently alienated socially owned property and municipal property.

The Presiding Judge in this case is Beqir Kalludra, and prosecutor is Agron Bajrami.



Chart 3. Background of the case “Ferronikeli”

Findings

129 days/4 months and 9 days: The main trial hearing was not scheduled for this case from the time when the Appellate Court issued a decision on the objections on indictment. The Prishtina Basic Court’s reply to BIRN provided no justification for the failure to schedule the main trial hearing.

884 days/2 years, 5 months and 2 days: Have passed since the investigation started on this case, whereas the main trial hearing is yet to start.

Case “STENTA” - Pkr.nr. 369/16, Basic Court in Prishtina

This case involves 59 natural persons and 4 legal persons with charges related to the treatment of patients in private hospitals.

Ferid Agani, the former Minister of Health, is accused in this case, as well as Gani Shabani, related to his position as Secretary General of the Ministry of Health.

This indictment includes a total of 59 natural persons and 4 legal persons. The list of accused people includes 44 doctors, one nurse employed in public health institutions, as

well as 13 persons who work or have worked in private health institutions, where a number of them are heads of or shareholders in such facilities.

The presiding judge in this case is Shadije Gërguri, and a total of 6 prosecutors have been replaced: Besim Kelmendi, Agron Bajrami, Admir Shala, Sylë Hoxha, Florije Salihu-Shamolli.



Chart 4. Background of the case “Ferronikeli”

In this case, investigations for the first part of the accused began on 16 June 2014, and for the second part on 11 January 2016. The Special Prosecution filed an indictment on 14 June 2016,⁹ whereas the initial hearing started on October 21 2016. This hearing was postponed due to the absence of a defendant.¹⁰ Another delay then occurred due to the non-delivery of evidence to the defense attorneys.¹¹ On 5 August 2017, the Basic Court in Prishtina dismissed the objections of defense attorneys¹² to the indictment, and in November 2017 the Court of Appeals returned the issue of the objection of the indictment for review.¹³ On 26 February 2018, the Basic Court separated the procedure in three parts.

Findings:

646 days/1 year 9 months and 9 days: have passed since the filing of the indictment and the main trial hearing has still not been scheduled.

1376 days/3 years 9 months and 7 days: have passed since the investigations began in this case, whereas the main trial hearing is yet to start.

9 hearings were held on this case, while it is yet to move to the main trial

The Court of Appeals has returned the case for review, as it found that the initial hearing, where the accused declared their pleas on the charges, was associated with violations, as Judge Shadije Gërguri held the initial session without the presence of defense attorneys. In fact, when the defendant Afrim Poniku declared to the court that he seeks legal defense as he cannot afford an attorney, Judge Shadije continued with the hearing although she should have adjourned it, to decide on the request of the accused.

⁹ Filing of the indictment: <http://kallxo.com/aktakuze-ndaj-ferid-aganit-dhe-63-personave-te-tjere/>

¹⁰ <http://kallxo.com/gjykimi-per-stentat-ne-sallen-e-konferencave/>

¹¹ <http://kallxo.com/vetem-1-minute-pamje-nga-gjykimi-ne-rastin-stenta/>

¹² <http://kallxo.com/gjykata-nuk-e-hedh-poshte-rastin-stenta/>

¹³ <http://kallxo.com/rasti-stenta-kthehet-ne-rivendosje/>

Case “Security”, PKR.nr.18/15, Basic Court in Prishtina

There are 7 persons accused in this case, involving a tender on the physical security of KEK facilities, including Director of KEK, Arben Gjukaj, former Head of PRB, Hysni Hoxha and former Mayor of Skenderaj, Sami Lushtaku.

The value of the tender in question was around 6 million euros.

Presiding Judge in the case is Beqir Kalludra; however, prior to the transfer of the case from EULEX to the local authorities, this case was tried by Judge Vladimir Micula. Prosecutor of this case is EULEX prosecutor, Danilo Ceccarelli.

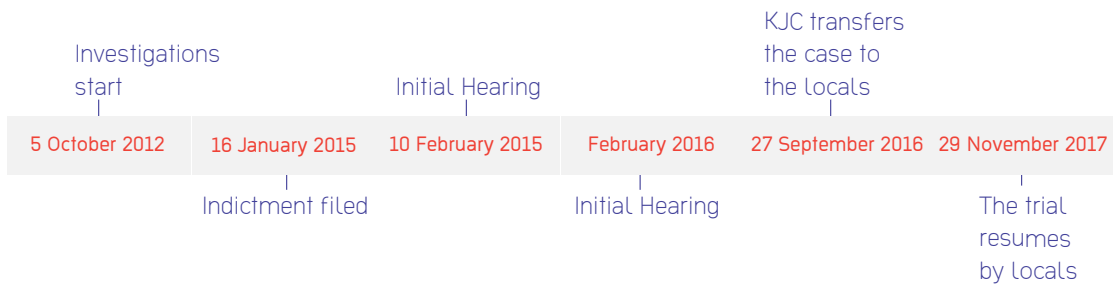


Chart 5. Background of the case “Siguria”

Since the Basic Court of Prishtina dismissed the objections of the defense against the indictment, the Court of Appeals partially upheld the objections, finding that the indictment had been filed after the deadline for the investigation. On 9 September 2015, the prosecutor lodged a complaint to the Supreme Court of Kosovo against the Appeal’s decision and the Supreme Court amended the Appeal’s decision.

After February 2016 (when the initial session restarted) until June 2016, a total of 16 hearings were held on the case by EULEX trial panel.

After 16 hearings, the Kosovo Judicial Council approved the EULEX’s request to transfer the case to the locals.

In November 2016, the Constitutional Court of Kosovo ruled on the claims filed by the defense with respect to the date of the filing of the indictment and rejected such claims.

After the decision of the Constitutional Court, the scheduled hearing was postponed, because the defense attorneys had other engagements. In another case, the hearing was postponed at the request of the EULEX prosecutor, Danilo Ceccarelli.

In November 2017 the trial restarted with a local judge, only to postpone to hearing scheduled for December 19 due to the health status of the accused Sami Lushtaku.¹⁴

The only hearing session in 2018 was postponed due to the logbook¹⁵ because according to the court, the Judge’s logbook for 2017 did not have the date February 19 as a day off, and the Judge understood this fact only after having received the logbook for 2018.

¹⁴ <http://kallxo.com/gjendja-shendetesore-e-lushtakut-shtyn-gjykimin-per-tenderin-e-kek-ut/>

¹⁵ “Logbook” - In this case, the reasoning indicates that this is a calendar notebook given to judges by the KJC.

FINDINGS:

20 witnesses heard in the case by the EULEX trial panel must be heard again after the transfer of the case.

1.162 days/3 years 2 months and 7 days: have passed since the filing of the indictment and the trial is still in its initial stage.

16 hearing sessions with witness statements should be repeated

5 hearing sessions have been postponed for various reasons

1 hearing session has been postponed due to the calendar logbook

Case “Tax evasion” - PKR.nr. 658/15, Basic Court in Prishtina

The defendants in this case are Blerim Sinani, Skender Sinani, Samir Sinanaj, Isa Dërguti, Sabit Sogojeva, Enver Hasani and Mentor Emni. According to the indictment, the damage incurred is around 4 million EUR.

Special Prosecution of the Republic of Kosovo filed an indictment against Blerim, Fatmir and Skender Sinani, Samir Sinanaj, Isa Dërguti, Sabit Sogojeva, Enver Hasani and Mentor Emni. Later, the Basic Court in Prishtina separated the procedure for the accused Fatmir Sinani.

With the allegation that the defendants have acted as an organized criminal group over a number of years in order to obtain direct financial gain, eight of them have been facing the charges of the prosecution since November 2015.

According to the indictment, eight of the defendants initially agreed to register their businesses. According to the prosecution, some of these businesses are fictitious.

The trial panel in this case included Judge Elmaz Zenuni who, after holding 22 hearings, requested to be returned to the Basic Court in Ferizaj. This request was approved by the KJC and the case was then assigned to Judge Hamdi Ibrahim. It is now expected that the entire court process will be restarted, dismissing the 22 hearings already held. Case prosecutor is Faik Halilaj.

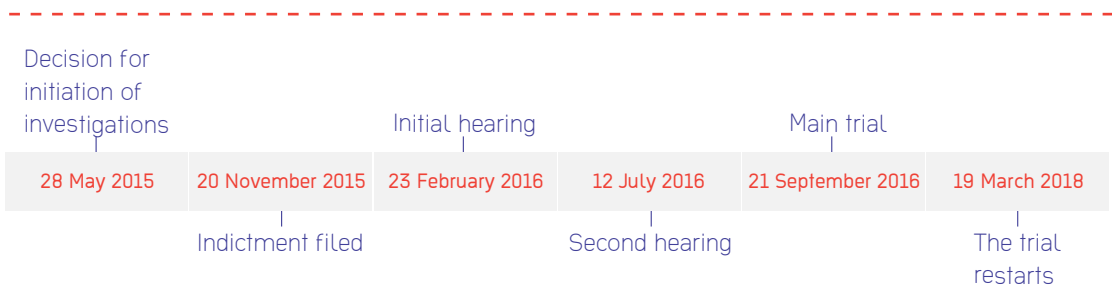


Chart 6. Background of the case “Tax evasion”

FINDINGS:

854 days/2 years, 4 months and 3 days: have passed since the filing of the indictment and the trial is still in its initial stage.

3 months and 20 days after filing the indictment, the initial hearing was held.

22 hearings were held before Judge Elmaz Zenuni sought to return to the Basic Court in

Ferizaj and his request was approved by the KJC. Meanwhile the case was assigned to Judge Hamdi Ibrahim.

2 witnesses were heard in the hearings held.

The hearing was postponed 3 times - On 13 October 2016 due to the absence of the accused Skender Sinani. On 7 November 2016, the hearing was postponed due to the absence of financial expert Selman Berisha. On 19 March 2018, it was postponed in the absence of lawyer Emine Bajrami-Statovci¹⁶.

The process must recommence and witnesses reheard.

Case “Appeal” - PKR.338/16, Basic Court in Prishtina

Defendant in this case are former President of the Court of Appeals, Salih Mekaj, accused on charges of abuse of official position and three other people accused of other offenses.

This trial, from the initial stage, was conducted behind closed doors upon the request of the defense, to which the prosecution also agreed.

Presiding judge in this case is Shashivar Hoti, and the case is prosecuted by Drita Hajdari.



Chart 7. Background of the case “Appeal”

After the indictment was filed, the initial hearing and the second hearing were postponed twice. The initial hearing of October 20, 2016 was postponed because the defendant was not brought from detention.¹⁷ The second hearing, of January 30, 2017, was postponed because one of the defendant was not brought in.

After the request of the defense to dismiss the indictment, the Basic Court rejected the defense’s objections, and the Court of Appeals annulled the decision of the Basic Court and returned the case for review. After the Appeal, the Basic Court, for the second time, rejected the claims and objections of the defense. The Court of Appeals acquitted one of the defendant for abuse of power, Salih Mekaj, and confirmed the other part of the Decision of the Basic Court.

Salih Mekaj’s case went to the Supreme Court, to decide upon the request for protection of legality filed by the prosecution.¹⁸ The last hearing in this case was planned to be held on 19 January 2018, but it was postponed because the Supreme Court has not yet decided

¹⁶ <http://kallxo.com/shtyhet-gjykimi-shenjestrUAR-per-liberalizim-te-vizave/>

¹⁷ <http://kallxo.com/mbylLen-seancat-ndaj-sali-mekajt/>

¹⁸ <http://kallxo.com/rasti-salih-mekajt-shkon-ne-supreme/>

on the request for protection of legality and one of the defendant was not present.

FINDINGS:

975 days/2 years, 8 months and 1 days: have passed since Salih Mekaj was arrested and the main trial hasn't started.

661 days/1 year, 9 months and 23 days: have passed since the filing of the indictment and the main trial hasn't started.

3 hearings – have been postponed so far because of the absence of the defendant.

109 days/3 months and 19 days: have passed since the request for protection of legality was filed with the Supreme Court of Kosovo.

Case “FAN” - PKR.734/15, Basic Court in Prishtina

The defendant in this case is Naser Osmani, charged with abuse of official position. Other accused persons in the case are Bahri Shabani, Shkelzen Lluka, Naim Avdiu, Melita Ymeraga, Adrian Kelmendi and Agim Deshishku.

The case is at the main trial stage with the hearing of witnesses, with two witnesses remaining to be heard.

Presiding Judge is Judge Shashivar Hoti, and the case is represented by Prosecutor Fikrije Fejzullahu.



Chart 8. Background of the case “FAN”

From the filing of the indictment on December 23, 2015 and until April 4, 2016, the initial hearing was not held as it was postponed three times. In January 2016 the initial hearing was postponed because of the death of one of the attorneys,¹⁹ and two other times due to issues related to the prosecutor.²⁰

After the second hearing, throughout the year 2017 four planned hearings were postponed. In one case, the hearing was postponed due to the absence of the defendant Melita Ymeraga,²¹ and in a second case the hearing was postponed in the absence of defendant Naser Osmani and Bahri Shabani, attorney Besnik Berisha and one member of the trial panel Beqir Kalludra.

Hearings of September 11 and October 16, 2017 were postponed upon the request of the defendant Naser Osmani,²² respectively in the absence of the presiding judge, Judge Shashivar Hoti.

19 <http://kallxo.com/seanca-ndaj-deputetit-shtyhet-per-vdekje-te-avokatit/>

20 <http://kallxo.com/naser-osmani-para-gjyqit/>

21 <http://kallxo.com/shtyhet-gjykimi-ndaj-naser-osmanit-dhe-te-tjereve/>

22 <http://kallxo.com/seanca-shtyhet-kerkesen-e-te-akuzuarit-naser-osmani/>

FINDINGS:

7 hearings - have been postponed since the indictment was filed and during the course of the main trial.

824 days/2 years, 3 months and 3 days: have passed since the filing of the indictment, and the case is still in the main trial phase.

Case “KEDS” - Pkr.nr.577/15, Basic Court in Prishtina

Three persons are accused in this court process (initially there were four, but one defendant has died). The defendants in the case are Vjollca Ajvazi, Drita Hamiti and Avni Alidemaj.

Ajvazi and Alidemaj, officials of the Ministry of Trade and Industry (MTI), are accused of abusing their position in an issue related to the electricity meters “Kohler”, while Hamiti is charged with aiding the commission of this offense.

Blerim Sokoli was also part of the indictment in this case, who was accused of, as “Director of the Kosovo Metrology Agency at the Ministry of Trade and Industry, in co-perpetration and using his official duty, deliberately exceeding his powers and enabling KEDS stakeholders and “Kohler” to benefit unlawfully.”

Presiding Judge is Judge Shashivar Hoti, and the indictment is represented by Prosecutor Hivzi Bajraktari.



Chart 9. Background of the case “KEDS”

At this trial, after the initial hearing of November 27, 2015, five hearings have been postponed, in three cases upon the request of defense counsels²³ and in one case due to the absence of an accused person.²⁴

FINDINGS:

899 days/2 years, 5 months and 17 days: have passed since the filing of the indictment

This trial has been postponed 5 times for various reasons:

3 times the hearing was postponed upon the lawyer’s request

20 witnesses were proposed to be heard

14 injured parties and 2 experts are expected to testify

²³ <http://kallxo.com/avokati-mungon-ne-gjykimin-per-njehsoret-kohler/>

²⁴ <http://kallxo.com/shtyhet-seanca-per-njehsoret-kohler/>

Case “Extortion” - Pkr.nr. 458/16, Basic Court in Prishtina

In connection with this case Arben Bashota, Osman Bajrami and Sylejman Bajrami are charged with organized crime regarding the criminal offense of Extortion.

According to the indictment, in 2004, the defendant together with Ruzhdi Shaqiri known as “Baksi” (killed in August 2014) has exerted continuous pressure against a number of the injured parties in order for them to vacate a property with a surface of 10.12.53 hectares found in Fushë Kosovë, on the way to Prishtina.

According to the indictment compiled by Prosecutor Merita Bina-Rugova, the injured party in this case had been using the contested property for 10 years from KBI Socially Owned Enterprise “Bujqesia”.

Presiding judge in this case is Arben Hoti, and the case is prosecuted by Merita Bina-Rugova.

Decision for initiation
of investigations

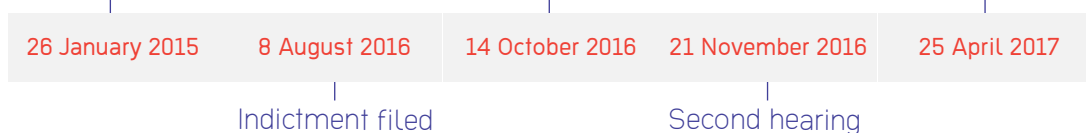


Chart 10. Background of the case “Extortion”

FINDINGS:

592 days/2 years, 3 months and 7 days - have passed since the filing of the indictment in this case

67 days/2 months and 6 days - have passed since the filing of the indictment until the initial hearing

9 hearings have been held on this case thus far

9 witnesses have testified in the hearings held.

No hearing has been postponed in this case

Case “Trial of the General Director of “HIB Petrol”, PKR.385/15; Basic Court in Prishtina

In this case, the accused person is Kujtim Bucaliu and HIB Petrol LLC for the criminal offense of Fraud pursuant to Article 335, par. 5 in conjunction with par. 3 and 1 of the CCRK, and the criminal offense of Fraud against consumers pursuant to Article 299, par.1 of the CCRK.

This case is ongoing, and is currently in the stage of hearing the expert witness-representative of the testing laboratory “Kosova Lab”, and the session will take place in May this year.

Presiding Judge is Judge Rustem Begolli, and the indictment is represented by Prosecutor Atdhe Dema.



Chart 11. Background on the case “Trial of the General Director of “HIB Petrol”

FINDINGS

102 days/3 months and 10 days: have passed since the filing of the indictment until the initial hearing

405 days/1 year, 1 month and 9 days: have passed since the filing of the criminal report until the filing of the indictment

Case of “Former Permanent Secretary of the Ministry of Health” - PKR.382/15 - Basic Court in Prishtina

The defendant in this case is the former Permanent Secretary of the Ministry of Health Ilir Tolaj, charged with abuse of official position. Also accused in the case are Zenel Kuqi, Bekim Fusha, Valentina Haxhija-Pacolli, Florije Tahiri and Remzije Thaci.

This case is in the stage of evidence administration at the main trial phase.

Presiding Judge is Judge Valbona Musliu-Selimaj, and the case is represented by Prosecutor Florie Shamolli.



Chart 12. Background on the case “Former Permanent Secretary of the Ministry of Health”

After filing the indictment on July 6, 2015, the initial hearing was postponed once. At one point, the hearing was postponed because the lawyers stated they were not provided

with all the case files²⁵. At another point, the hearing was postponed because the defendant Ilir Tolaj and others were absent.

On February 6, 2016, the procedure against the two businessmen Arion Lleshi and Shpend Agani was separated, as they signed plea agreements.²⁶ After the second hearing of February ²⁷, 2016, until February 20, 2018 hearings were postponed seven times. In three cases the hearing was postponed because of the prosecutor.²⁷²⁸²⁹ On one case, the hearing was postponed because the defendant Valentina Haxhijaj,³⁰ and in three other cases as a result of the absence of experts,³¹ or the lack of expertise in case files.

FINDINGS

198 days/6 months and 14 days: have passed since the filing of the indictment until the initial hearing

9 hearings – have been postponed since the indictment was filed and during the course of the main trial.

2265 days/6 years, 2 months and 14 days – have passed since Ilir Tolaj was arrested, and the case is still in the main trial.

Case “Inspector” – Pkr.nr. 24/17, Basic Court in Prishtina

In this case Muhamet Binaku is accused that in September 2016, in his capacity as Chief Inspector of the Region of Prishtina, under the Inspectorate of the Ministry of Labor and Social Welfare, he requested a bribe.



Chart 13. Background of the case “Inspector”

FINDINGS

424 days/1 year and 2 months: have passed since the filing of the indictment and the main trial has not started.

1 hearing – was postponed due to the request for protection of legality

25 <http://kallxo.com/ilir-tolaj-edhe-sot-ne-banken-e-te-akuzuarve/>

26 <http://kallxo.com/dy-biznesmene-do-ti-kthejne-buxhetiit-te-shtetiit-402-228-euro/>

27 <http://kallxo.com/mungon-prokurori-shtyhet-gjyqi-ndaj-tolajt/>

28 <http://kallxo.com/mungojne-palet-deshton-seanca-e-gjykimit-per-korrupsion/>

29 <http://kallxo.com/shtyhet-seanca-ne-rastin-e-ilir-tolajt/>

30 <http://kallxo.com/shtyhet-gjykimi-ilir-tolajt/>

31 <http://kallxo.com/eksperiti-vales-nuk-shkon-ne-gjykimin-e-ilir-tolajt/>

Case “UP” - Pkr.nr. 432/15, Basic Court in Prishtina

Defendants in this case are the Former Rector of the University of Prishtina, Enver Hasani, Former Procurement Officer at the University of Prishtina, Hakif Veliu, and the Director of the Institute for International Studies, Albert Rakipi.

The indictment charges for the criminal offense of Fraud in office in relation to the contract for the translation of books from English into Albanian for the needs of the University of Prishtina.

The case is currently going through the Court of Appeal after the Basic Court in Prishtina rendered its decision.

This case was tried by Judge Arben Hoti (previously Aferdita Bytyqi), and the prosecutor is Drita Hajdari.



Chart 14. Background of the case “UP”

FINDINGS

130 days/4 months and 8 days: passed from the filing of the indictment until the statements of the accused in the initial hearing

801 days/2 years, 8 months and 18 days: passed from the filing of the indictment until the rendering of the first instance judgment

92 days/3 months: were needed from the rendering of the judgment until the case arrived at the Court of Appeals

209 days/6 months and 25 days: have passed since the judgment was issued in the Basic Court and there is still no judgment by the Appeal

314 days/10 months and 10 days: the time in which no hearing was held (20 May 2016 - 30 March 2017).

3 hearings of this case have been postponed due to the absence of the defendant, the prosecutor and the witness.

Case “OSHP” - Pkr.nr 679/14, Basic Court in Prishtina

Four people are accused in this case, Hysni Hoxha, Hysni Muhadri, Arsim Robelli and Veton Fetahu.

According to the prosecution, the defendants Hysni Hoxha and Hysni Muhadri, on June 20, 2013, in Prishtina, in their capacity as official persons, using official duty or authority, with direct intent, in order to obtain gain from the “Conex Group” LLC Prishtina, in the procurement activity “Construction of Business Premises in Qyteteza Pejton”, initiated

by the contracting authority - Public Housing Enterprise in Prishtina, have exceeded their competencies and failed to fulfill their official duties.

Presiding Judge in this case is Arben Hoti, although initially it was Judge Florent Latifaj. Sylë Hoxha is the case prosecutor, but formerly it was Admir Shala.

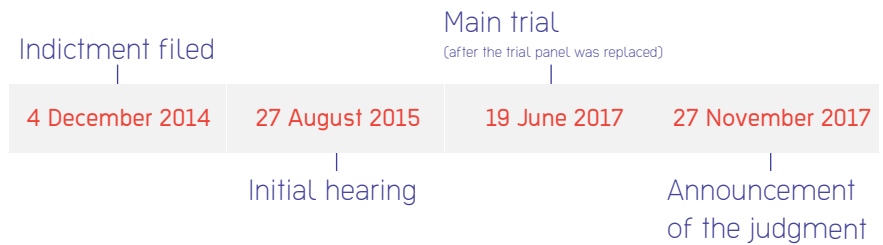


Chart 15. Background of the case "OSHP"

FINDINGS

1089 days/2 years, 11 months and 23 days: passed from the filing of the indictment until the rendering of the first instance judgment

2 prosecutors and 2 presiding judges have been replaced in this case

3 months and 3 days were needed to the Basic Court of Prishtina to send the written judgment to the parties³²

Two hearings were postponed in this case, one due to Prosecutor Sylë Hoxha and the other due to the defendant Hysni Hoxha.

Case "Smuggling of gold and silver" - P.nr. 137/18, Basic Court Ferizaj, Branch Kaçanik

The Basic Prosecution Ferizaj accused 34 natural persons for the offense of smuggling of goods, tax evasion, prohibited trade, as well as the offense purchase, receipt or concealment of goods obtained through a criminal offense.

According to the indictment, 12 of the accused are charged with the criminal offense of smuggling goods and tax evasion, since from Turkey to Kosovo, through the Hani Elezit customs point, they secretly transported goods, including gold and silver, thereby avoiding customs duties in a total value of 243,275.39 EUR.

12 of the accused are charged with the forbidden trade, and others with purchase, receipt or concealment of goods obtained through a criminal offense.

Presiding Judge in the case is Judge Shabi Idrizi, and Prosecutor is Valdet Avdiu.

³² According to the response of prosecutor Sylë Hoxha given to BIRN via telephone.

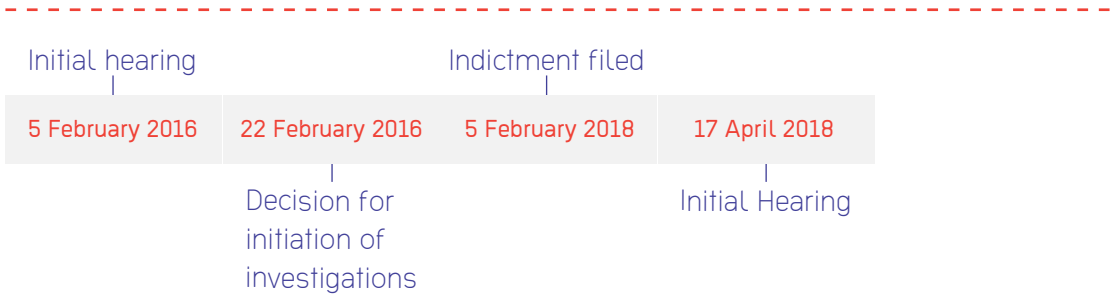


Chart 16. Background of the case “Smuggling of gold and silver”

In this case, after the decision to initiate investigations, the prosecution expanded its investigations four times (February 22, May 3, May 26 and September 6, 2016).

Findings

1 year, 11 months and 17 days: from the issuance of the decision for the commencement of investigations and filing of indictment

65 days: from the time when the indictment was filed until the initial hearing (which was scheduled for 17 April 2018)

No hearing held thus far.

Case “Authority - Project” - PKR.220/17, Basic Court in Prishtina

In this case, currently the accused include former Procurement Director in the Ministry of Education, Science and Technology (MEST), Xhemajl Buzuku, and Afrim Demiri, Director of Alb-Architect.

Also previously defendant in this case on charges of abuse official position or authority was the former Minister of MEST, Rame Buja, and former Secretary General in the same ministry, Xhavit Dakaj, however Judge Valon Kurtaj had approved the request of defense for the dismissal of the indictment.

In this case, the defendant Buzuku is charged with the offense abuse of official position or authority, whereas the defendant Demiri is charged with fraud.

The indictment against Buzuku and Demiri involves the tender “Professional oversight of capital buildings constructed by MEST”, for which in 2009 it had signed a contract with company “Alb-Architect”.

Presiding Judge is Arben Hoti, while it is still unknown who will represent the state in the case.

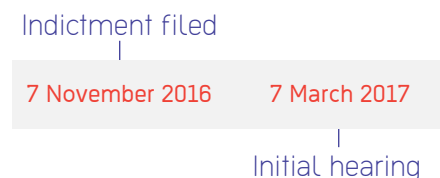


Chart 17. Background of the case “Authority-Project”

KALLXO.com reported that the Information Office of the Kosovo Special Prosecution of Kosovo did not issue a statement for the filing of the indictment.³³

At the second hearing of 11 April 2017, the defense requested that the indictment be dismissed.³⁴

On April 28 of the same year, the Basic Court in Prishtina partially approved the objections and requests of the defense to dismiss the indictment, thus ceasing the criminal proceedings against the former Minister of MEST, Rame Buja, as well as the former secretary of this ministry, Xhavit Dakaj.³⁵

On May 29, the Court of Appeals rejected as unfounded the appeal of prosecutor Ali Rexha, and the defense counsel of the defendant Xhemajl Buzuku and Afrim Demiri, filed against the Decision of the Basic Court in Prishtina. This second instance decision confirmed the rejection of the indictment against Buja and Dakaj, and confirmed the indictment against Buzuku and Demiri.

On January 20, 2018, Special Prosecutor Ali Rexha, who filed this indictment and was representing it in court, was suspended.³⁶ Since then, it is still unclear who will represent the indictment in this case.

FINDINGS

298 days/9 months and 23 days: have passed since the Court of Appeal rendered a decision on the appeals of the parties in procedure filed against the decision of the Basic Court in Prishtina.

501 days/4 months and 16 days: have passed since the filing of the indictment and the main trial is yet to start.

Case “Contract” - Pkr.220/17, Basic Court in Prishtina

In this process, Xhavit Dakaj and Milot Vokshi are accused of exceeding their competencies in December 2014 for the purpose of obtaining material benefit for themselves or other persons unlawfully, and concluded an agreement of understanding between their institution, respectively MEST, and the Constitutional Court, for the purpose of using a public framework contract by MEST to use the economic operator ‘Grafo-Loni’ to supply MEST with goods.

Upon the conclusion of this contract, the Special Prosecution claims that the economic operator in question received benefits in the amount of 31,612.60 EUR, the amount which, according to the prosecutor, the budget of the state of Kosovo has been damaged.

The case of Xhavit Dakaj and Milot Vokshi, at the decision of the Court of Appeal, was returned for retrial.

The defendant Dakaj was found guilty in the first instance of abuse of official position and violation of equality in the exercise of economic activity in co-perpetration, with a single sentence of 10 months of imprisonment.

For the same criminal offenses, the defendant Vokshi was sentenced to a single sentence of 6 months of imprisonment.

Also accused under this indictment were Xhemajl Buzuku, Fehmi Zylfiu and Bukurije

³³ <http://kallxo.com/pse-u-fsheh-aktakuza-ndaj-rame-bujes/>

³⁴ <http://kallxo.com/kundershtohet-aktakuza-ne-rastin-e-ish-ministrir-buja/>

³⁵ <http://kallxo.com/gjykata-prokuroria-nuk-ofroi-prova-ndaj-rame-bujes/>

³⁶ <http://kallxo.com/suspendohet-prokurori-ali-rexha/>

Borovci.

Presiding Judge in this case is Vehbi Kashtanjeva, and the indictment is represented by Special Prosecutor Faik Halili.



Chart 18. Background of the case “Smuggling of gold and silver”

On December 30, 2016, the Basic Court in Prishtina sentenced Xhavit Dakaj with 10 months of imprisonment, and Milot Vokshi with 6 months of imprisonment. However, the court issued an acquittal for official Xhemajl Buzuku, in the absence of evidence. Also accused in this process were Fehmi Zylfiu and Bukurije Borovci, against whom the court issued a refusing judgment, since the prosecutor in his concluding remarks withdrew from further prosecution of the two.

On June 19, 2017, the Court of Appeals rejected as unfounded the appeal of the Special Prosecution Office of the Republic of Kosovo for the acquittal of the defendant Xhemajl Buzuku. The Court of Appeal approved the appeal of the defense of the defendant Xhavit Dakaj and Milot Vokshi, thus quashing the decision of the Basic Court and returned the criminal case for retrial.

In October 2017, Judge Valon Kurtaj was elected director of the Academy of Justice and in the same month the presiding judge was changed. The current presiding Judge Vehbi Kashtanjeva announced that the trial would begin again due to the replacement of the presiding judge.

In January 2018, the main trial was held, in which three financial experts elaborated their financial expertise prepared for this trial. Due to controversial expertise, the Basic Court in Prishtina issued an order to carry out the so-called financial super-expertise from the Financial Experts Group of the Faculty of Economics.³⁷

FINDINGS

171 days/5 months and 20 days: have passed since the judgment was announced, when the Court of Appeals took a decision to return the case to retrial.

815 days/2 years, two months and 23 days: have passed since the indictment was filed, and to this date there is no final judgment issued.

³⁷ <http://kallxo.com/fjalosje-mes-te-akuzuarit-dhe-ekspertit-pas-seances/>

Case “Mayor of Dragash” - Pkr. 10/18 (Pkr. 131/16 before returning for retrial), Basic Court of Prizren

The accused in this case are former Mayor of Dragash Salim Januzi and three other persons.

The Basic Prosecution in Prizren claimed that Salim Januzi, while Mayor of Dragash, in the period 2009–2016, enabled Nexhat Selaj to appropriate municipal property, which was previously usurped.

Two other people were also accused in this case, but they were release by the Basic Court in Prizren, and the Court of Appeal also confirmed their acquittal.

Presiding Judge in the case is Ajser Skenderi, and the indictment is represented by Prosecutor Genc Nixha.

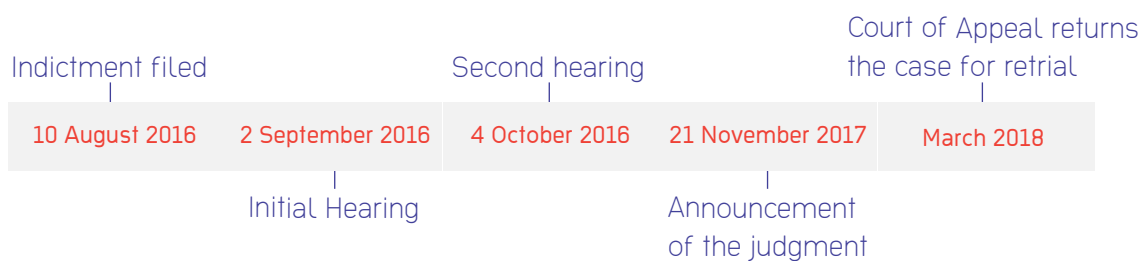


Chart 19. Background of the case “Mayor of Dragash”

On 21 November 2017, the Basic Court in Prizren sentenced the two accused, Salim Jonuzi and Nexhat Selaj, and acquitted Bea Haxhihasan and Vetim Hasani of the charges.

In March 2018, the Court of Appeal returned the sentencing section of the judgment for retrial, and confirmed the acquittals.

FINDINGS

590 days/1 year, 7 months and 13 days: have passed since the filing of the indictment up to this stage

15 hearings: have been held so far in this trial

Case “Attorney 3” - PKR.125/17, Basic Court in Prishtina

Special Prosecution of the Republic of Kosovo (SPRK) filed an indictment on April 11 2017 against Haxhi Çekaj for the criminal offense of Fraud. He is accused of, in the capacity of the lawyer of the defendant Nimon Berisha, against whom the criminal procedure in the Basic Court in Peja is being conducted, in order to obtain material gain to himself or another person, deceived the injured party Mirjeta Imeri, in continuity, starting from 6 January 2015 until the date of his detention and arrest on February 15, 2017.

The prosecution claims that Çekaj, from the injured Mirjeta Imeri, received money for the defense of Nimon Berisha, father of the injured party, in the name of his defense and expertise, obtaining an expertise from Turkey, in a total amount of 43,000.00 EUR, as well

as the other amount which Çekaj received from injured party on behalf of the trial panel of the Basic Court in Peja in the amount of 40,000.00 EUR.

This amount was confiscated by officials when the defendant was arrested, while the damage caused to the injured party, according to the prosecution, exceeds 50,000.00 EUR.

Presiding Judge in this case is Judge Valbona Selimaj, and the indictment is represented by Special Prosecutor Florie Shamolli-Salih.



Chart 20. Background of the case “Attorney 3”

The initial hearing scheduled for September 13, 2017 was postponed, in the absence of the defendant. The absence was justified due to health reasons.

On September 20, 2017, due to the absence of the defendant and non-appearance of his defense counsel, lawyer Besnik Berisha, the initial hearing was postponed for the second time. The justification for the defendant’s absence was the same as for the hearing of September 13 the same year. The hearing was postponed indefinitely.

On November 22, 2017, the initial hearing was held and, according to the information received in March 2018, this case is in review by the Court of Appeal.

Case “Trial on smuggling of oil” - PKR. 147/16, Basic Court in Mitrovica

21 persons in this case were accused of criminal offenses of avoiding payment of mandatory customs fees in the amount of 30,000.00 EUR, participation in or organization of an organized criminal group and smuggling of goods.

Besim Zeqiri, Ismet Zeqiri, Milan Radisavleviq, Aleksandar Rakiçeviq Agron Zymeri, Gentrit Zymeri, Canabeg Hyseni, Ali Muzliukaj, Liridon Hyseni, Ridvan Avdiu, Dukagjin Latifi, Besnik Istrefi and Azem Islami are charged with committing the criminal offenses of participation in or organization of an organized criminal group as per Article 283, smuggling of goods under Article 317, prohibited trade as per Article 305 and avoiding payment of mandatory customs fees as per Article 318 of the Criminal Code of the Republic of Kosovo.

Xhevat Spahija, Shkëlqim Jusaj, Selami Morina, Nexhat Mazrek, Demë Lokaj, Alban Nikqi, Fadil Çollaku and Albion Lokaj are charged with the commission of criminal offenses of participation in or organization of an organized criminal group as per Article 283, smuggling of goods under Article 317 and avoiding payment of mandatory customs fees under Article 318 of the Criminal Code of the Republic of Kosovo.

The case is the main trial phase.
Presiding Judge in the case is Beqir Halili, although it is not known who is the prosecutor representing the indictment.



Chart 21. Background of the case “Trial for smuggling of oil”

Hearings were postponed three times in this case. On January 31, 2017, the initial hearing was postponed, while in April 2017 the hearing was postponed due to the absence of one of the defendants.

In February 2018, it was postponed due to the absence of the two defendants³⁸.

FINDINGS

141 days/4 months and 21 days: have passed from the filing of the indictment until the initial hearing

3 times: the main trial the hearing session was postponed

481 days/1 year, 3 months and 26 days: have passed since the filing of the indictment, and the case is still in the main trial.

Case “46 Accused for Organized Crime” - PKR. 129/17, Basic Court in Mitrovica

In this case there are 46 persons accused, and the procedure has been separated for four of them.

The defendants are charged with the criminal offense of participation in or organization of an organized criminal group as per Article 283, paragraph 1, in relation to criminal offenses of avoiding the payment of mandatory customs fees and prohibited trade, forgery of documents, abuse of official position or authority.

The defendants are: Argëtim Ismaili, Armend Smaili, Arben Ismaili, Shkumbim Ismaili, Afrim Rrustolli, Besim Biberoviq, Mursel Çalakoviq, Bahri Rexhepi, Liridon Borovci, Haki Isufi, Radisav Mutavxhiq, Milan Stojanoviq, Mirko Iliq, Ramush Salihu, Zekri Salihu, Shkëlzen Salihu, Ismet Zeqiri, Blerim Avdytaj, Kujtim Avdytaj, Nexhmedin Bajrami, Dukagjin Kollçaku, Ardian Rraci, Ahmet Syta, Ruzhi Kolica, Afrim Hoti, Imri Bajrami, Alban

³⁸ <http://kalxo.com/gjykimi-per-kontrabande-nafte-nga-serbia/>

Islami, Nimon Zogaj, Nezir Zogaj, Afrim Xhaçkaj, Rinor Rrustolli, Arben Rrustolli, Lulzim Kastrati, Gazi Tarashaj, Artan Kurpalaj, Florim Krasniqi, Reshat Kamberaj, Endrit Kllokoqi, Ramadan Mehmeti, Hasan Rexhepbeqaj, Zenel Isufi dhe Xhemal Islami, Imri Bajrami, Nimon Zogaj, Mirko Iliq and Mursel Çolaković,

The case is in the stage of deciding on the objections.

Presiding Judge in this criminal case is Judge Burim Ademi, and the indictment is represented by Prosecutor Agron Bajrami.



Chart 22. Background of the case “46 accused on organized crime”

On January 24, 2018, the procedure for four defendants was separated: Imri Bajrami, Nimon Zogaj, Mirko Ilić and Mursel Çolaković³⁹

FINDINGS:

104 days/3 months and 12 days: passed from the filing of the indictment until the initial hearing

748 days/2 years and 17 days: have passed since the filing of the criminal report until the filing of the indictment

Case “Mergimtari” - PKR.30/18, Basic Court in Prishtina

Accused in this case are Miftar Dobraj, Artan Kelmendi, Daniell Prenrecaj and Dren Mulla.

Miftar Dobraj, Artan Kelmendi and Daniell Prenrecaj are charged in co-perpetration with Albert Veliu (against whom the criminal proceedings are conducted in the US), committed the criminal offense of participation in or organization of an organized criminal group as per Article 283, paragraph 1 of the Criminal Code, in relation to the criminal offense of import, export, supply, transportation, exchange or unauthorized sale of weapons under Article 372, paragraph 2 of the CCRK.

Artan Kelmendi, together with Dren Mulla, they are individually accused of having committed the criminal offense of Unauthorized Ownership, Control or Possession of Weapons under Article 374, paragraph 1 of the CCRK.

Presiding Judge in this criminal case is Judge Shpresa Hyseni, and the indictment is represented by Prosecutor Merita Bina-Rugova.

³⁹ <http://kallxo.com/ndihen-te-pafajshem-42-te-akuzuarit-per-krim-te-organizuar/>



Chart 23. Background of the case “Migrant”

FINDINGS

262 days/ 8 months and 17 days: passed from the filing of the criminal report until the filing of the indictment

223 days/7 months and 9 days: passed from the arrest until the filing of the indictment

49 days/1 month and 21 days: have passed since the filing of the indictment and the initial hearing is yet to take place

Findings

1. Data of KJC and KPC on the targeted cases mismatch.
2. KJC data also do not match those of the Basic Court of Prishtina.
3. Court of Appeal has no database of targeted cases.
4. The average time from filing an indictment to the initial hearing is 110 days per case.⁴⁰
5. Average time from filing indictments for the 17 pending targeted cases is 710 days.
6. Basic Court in Prishtina has the largest number of targeted cases (15 cases), while other courts have only 4 pending cases.
7. In the Basic Court of Prishtina, Judge Arben Hoti has four (4) targeted cases in review, the same number that all other courts in Kosovo have Judges Shashivar Hoti and Valbona Musliu-Selimaj.
8. Ten (10) cases (“Feronikeli”, “Stenta”, “Appeal”, “Inspector”, “Smuggling of Gold and Silver”, “Authority-Project”, “Attorney 3”, “Smuggling of oil”, “46 accused of organized crime”, and “Migrant”) have not yet gone to the main trial.
9. According to the data secured through direct monitoring, hearing sessions were postponed 44 times.⁴¹
10. The most frequent cause to postpone hearings was the absence of the defendants (20 times).
11. In two cases (“Security” and “Tax evasion”), KJC decisions have led to the cases return to their original state.
12. Two of 21 cases (“Contract” and “Mayor of Dragash”) have been returned for retrial by the Court of Appeal due to violations of the Criminal Procedure Code.
13. Two of 21 cases (“Stenta” and “Appeal”) have been returned for re-decision by the Court of Appeal since the Basic Court ruled on the requests for dismissal of the indictment and objection of evidence because of essential violations of criminal procedure.
14. In the “Stenta” case, six prosecutors have been replaced since the beginning of the investigation, thus far.

⁴⁰ This average includes 20 cases, as for the case “Xhavit Daka and Milot Vokshi” we do not know date of the filing of the indictment, but only the month.

⁴¹ See Table 2.

Case	Trial panel	Prosecutor	Attorneys	Defendants	Experts/ Witnesses
Ferronikeli	0	0	0	0	0
Stenta	0	0	1	1	0
Security	3	0	2	1	0
Tax evasion	0	0	1	1	1
Appeal	0	0	0	3	0
FAN	2	0	2	3	0
KEDS	0	0	3	2	0
Extortion	0	0	0	0	0
HIB PETROL	0	0	0	0	0
MSH I	0	4	0	2	3
Inspector	1	0	0	0	0
UP	0	1	0	1	1
OSHP	0	1	0	1	0
Smuggling A	0	0	0	0	0
Project-Authority	0	0	0	0	0
Contract	0	0	0	0	0
Mayor of Dragash	0	0	0	0	0
Attorney 3	0	0	0	2	0
Smuggling B	0	0	0	2	0
Organised Crime	0	0	0	1	0
Migrant	0	0	0	0	0
Total: 46	6	6	9	20	5

Table 2.
Postponements of
hearings by parties
to the proceedings

Recommendations

1. Increase communication between KPC and KJC through joint meetings, with a view to coordinating and harmonizing data;
2. Every judge with pending targeted cases must be supported with new professional associates, to assist them in handling such cases;
3. Prosecutors who have targeted cases must be supported with new professional legal associates;
4. Prosecutors of the targeted cases should be arranged not to miss hearings by replacing their representation in other cases, and be relieved from other cases;
5. Reject requests for transfer or promotion of judges and prosecutors who have pending targeted cases;
6. If the recommendation is not implementable, irrespective of the fact that they will leave the respective court, the targeted case should remain with the judge who has tried it until that point;
7. Some of the cases in the initial stage currently in the Basic Court in Prishtina, should be transferred to other courts of Kosovo who have fewer cases of serious crimes;
8. Targeted cases currently in pretrial phase in the Basic Court in Prishtina should be transferred to other courts of Kosovo that have a fewer number of cases;
9. Schedule consecutive hearings in cases assigned within the week (schedule two or more consecutive hearings);
10. The Bar Association of Kosovo must discipline lawyers who cause delays and postponement of targeted cases without justification;
11. KJC and KPC must request a separate budget line for the realization of their requests for additional staff and equipment for the resolution of corruption cases;
12. Assembly of Kosovo must allocate additional budget for the resolution of corruption cases.



