

I. INTRODUCTION

For the 13th consecutive year, the Balkan Investigative Reporting Network (BIRN) and Internews Kosova, the first organisations in Kosovo engaged in investigating and monitoring the justice system, continued monitoring all levels of the judiciary and prosecution in Kosovo, to assess their performance regarding compliance with legality, work ethics and judicial procedures.

This report will put special emphasis on corruption cases and other offences of public interest, while special attention will be paid to the “targeted” cases for the visa liberalisation process, cases through which the performance of Kosovo judiciary will be evaluated in fighting corruption and organised crime. The report will also look into other problems observed while monitoring in the field.

This report will demonstrate the performance of Kosovo’s Courts in fighting cases of corruption and abuse of official duty during 2018 through comparison of data obtained from the Kosovo Judicial Council (KJC), Kosovo’s courts, and BIRN and Internews Kosova’s daily monitoring.

Furthermore, the report will shed light into procedural violations and mistakes, including banal ones, that were made by judges, prosecutors and other parties during judicial procedures, that have resulted in endless and severe delays in dealing with these cases.

The report lists procedural violations in dealing with these cases, ranging from failing to hold Court hearings, not scheduling Court hearings, a lack of definition of provisions and deadlines in the Code of Criminal Procedures, unjustified delays in delivering judgments, noncompliance of legal deadlines for holding initial reviews, holding hearings without the presence of the accused, disturbance of the order during trials, and poor preparation of prosecutors for trials. These violations even include the failure to hold trials due to the lack of judicial interpreters, breaching one of the basic principles of justice: holding a judicial procedure in the language known and spoken by the defendant.

Special attention will be paid to targeted cases for visa liberalisation, this being the second part of, and updating, the “Corrupt Liberalisation” report, published in March last year. The portion of the report dedicated in detail to this issue, will elaborate actions of judges and prosecutors in dealing with these cases, and particularly shed light on serious negligence, which may potentially be the subject of disciplinary investigations, and potentially even criminal ones.

A detailed analysis of the results of sequestering and freezing assets, as well as the significant lack of confiscating assets obtained through criminal acts, will also be provided. The work of the Prosecution and courts on this matter will also be analysed in detail.

Another theme of this report will be the manner and results of evaluating the performance of judges and prosecutors in Kosovo, while it also highlights some of the most blatant cases when Kosovo's Supreme Court found violations of criminal provisions that favoured the accused in the Courts of lower instances.

As in previous reports, this year's also features many instances of technical violations during Court hearings, though with a significant improvement on last year. BIRN and Internews Kosova have conducted a comparison of statistics from 2018 with previous years regarding technical violations such as: a lack of proper announcements of Court hearings, the late starting of Court hearings, the usage of phones during hearings, audio recording equipment not being used, the passivity of trial panel members and other technical violations encountered during this year, that will be addressed in the last part of this report.

In the end, for the thirteenth consecutive year, this report by BIRN and Internews Kosova will provide concrete recommendations to institutions/interested parties involved in the work of the judiciary in Kosovo.

II. Metodologjia

In compiling this report, depending on the theme or chapter treated, various methods were used, including direct observation, case studies, and comparative and statistical methods.

Direct observation of the work of the Courts is based on monitoring 520 Court hearings during 2018, with a special focus on monitoring cases related to corruption and other cases where the defendants were high profile public officials.

An analytical method was used in analysing special chapters depicted in this report, as it treated the complex problems these themes entail.

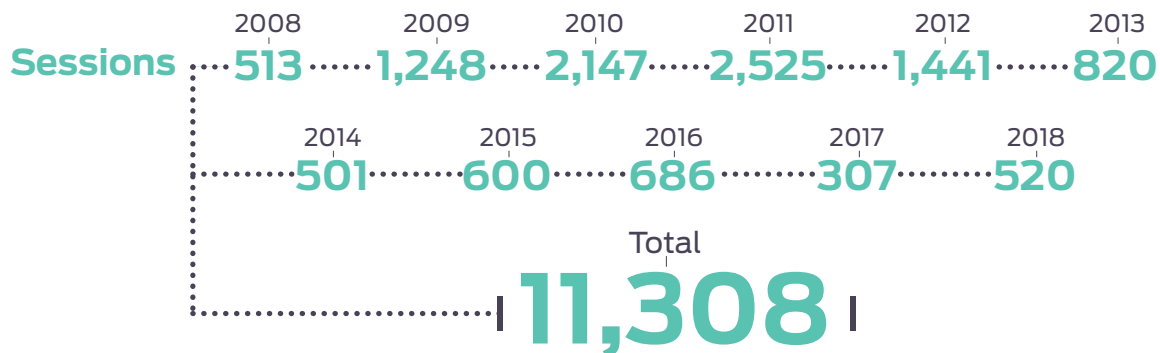
Through the comparative method, various parallels will be drawn, in order for all the problems treated to be depicted as clearly as possible. In order to look into the compliance of procedural and technical rules in a better way, of course the comparative method is the most credible one as through this method, BIRN and Internews Kosova have been able to collect an authentic database that collates data over 12 years.

During 2018, the monitoring team covered all levels of Courts in Kosovo (seven Basic Courts and their branches, the Court of Appeals and the Supreme Court).

These Court levels have been monitored in Courts spread across the municipalities of: Prishtina, Prizren, Peja, Mitrovica, Gjilan, Ferizaj, Vushtrri, Skenderaj, Drenas, Kacanik, Viti, Podujeva, Rahovec, Suhareka, Klina, Istog, Gjakova, Decan, Dragash, Lipjan, Kamenica, Novo Brdo and Malisheva.

Counting the 566 Court hearings monitored during 2018, the total number of Court hearings monitored in the scope of the Court monitoring project has reached 11,308 hearings, thus establishing a strong database that enables comparative analysis and trend measurements as well as the progress achieved.

Figure with the overall number of Court hearings monitored:



III. CAVING IN TO CORRUPTION

A retrospective of BIRN and Internews Kosova's treatment and analysis of criminal acts of corruption;

The fight against corruption and organised crime is a key battle for all of Kosovo's leaders, and has been declared a priority for Kosovo's justice institutions. Nevertheless, for years now this has turned out to be a goal quite difficult to implement in practice. Such a conclusion is reached year after year by European commission Progress Reports, other local and international reports, and particularly BIRN and Internews Kosova's Court Monitoring Reports, which assess Kosovo as having made little progress in the fight against corruption compared to previous years.

Two years ago, BIRN and Internews Kosova published their Court Monitoring Report focusing on corruption cases. From the report, it resulted that the main problem in adjudicating corruption cases was proving whether the accused had a motive and securing the evidence that pushed them to commit an offence, while ignoring whether the criminal offence was committed or not.

The monitoring of the handling of corruption cases in Kosovo's Courts during 2018 revealed that this problem has not been resolved or minimized. In fact, there has been a drastic increase in cases where the allegations of the Prosecution have been refused by the Courts and the accused came out with their reputation rehabilitated after the announcement of the verdict.

Our direct monitoring of Kosovo's Courts has noted how dozens of corruption cases filed by different level of prosecutorial offices across the country have not been able to convince judges that the indicted people are responsible for having committed the offences.

The country's budget suffering material damages, and those accused of having caused these damages remaining unpunished, continues to be an alarming phenomenon, but still we continue to see not even a single judge or prosecutor fired due to poor performance.

Alongside cases where those accused of acts of corruption escape unscathed, in many other instances the verdicts in corruption cases are not accompanied by effective prison sentences, but instead contain fines or conditional sentences, which are quite often ridiculous when compared to the damage the prosecution alleges to have been caused to the state.

This issue has also been highlighted continuously by the Progress Report on Kosovo, which has noted that "the rare investigations on high level corruption, have not resulted in convictions yet."

Unfortunately, 2018 has not seen any progress in this regard either. On the contrary, it has seen a significant increase in the number of acquittals in corruption cases, which have almost doubled, while the number of rejection judgments increased as well.

During 2018, monitoring of corruption cases by BIRN and Internews Kosova identified dozens of failures in fighting corruption.

These failures may be divided into a few categories: severe delays and serious negligence in handling criminal cases, absolute statutory limitation of some criminal cases, violating deadlines and other provisions of the Criminal Procedure Code (CPC), denying transparency of judgments, and many other types of procedural violations that will be depicted in detail, one by one, in the Courts of the Republic of Kosovo.

All of these violations have one result; impunity for the perpetrators of criminal offences related to corruption.

BIRN and Internews Kosova through this report provide concrete and quality recommendations with the purpose of improving and accelerating the fight against corruption and organized crime.

Judgments on criminal offences of corruption in 2018

According to the legislation in force, the purpose of punishment is to prevent the perpetrator from committing criminal offenses in the future, and to rehabilitate the perpetrator as well as to deter other persons from committing criminal offenses.

But the purpose of punishment does not stop only with the perpetrator of the criminal offence and in deterring other persons from committing criminal offences. The purpose of punishment is also to provide compensation to victims, or the community, for losses or damages caused by the criminal conduct, and to express the judgment of society for criminal offenses, increase morality and strengthen the obligation to respect the law.¹

Through the monitoring of criminal offences of corruption during 2018, this report brings statistical data as well as concrete cases, which clearly reflect whether the purpose of punishment as stipulated in the criminal code was achieved or not.

In the 2017 announced judgements of the first instance covering the period between January 1 and December 31, 2018, it results that not only was the fight against corruption not strengthened nor made more concrete, but in fact significant setbacks were noted, resulting in a much higher percentage of rejection judgments, and an almost doubling of acquittals in corruption cases.

According to statistics from the KJc's secretariat, in 2018 there was a decrease in the number of cases being worked on that related to the chapter of the criminal code on Official corruption and criminal Offenses against Official Duty. At the same time, there was also a decrease in the number of cases relating to corruption resolved across the Kosovo Court system.

Data from the KJc's secretariat shows that during 2018, Kosovo's Courts treated 470 cases, involving a total of 1,148 people, on charges relating to the chapter of the criminal code covering offences of corruption. Out of these cases, 207 were resolved while 263 cases remain unresolved in the Courts.

¹ See the criminal code of the Republic of Kosovo No.04/L-082, April 2012, Article

During the same time period, 165 new cases were received, meaning that the Court's resolved 42 cases more than they received.

The following present the means of resolving cases in the Basic Courts per the statistical data of the KJc for the period of 01.01.2018 – 31.12.2018 and comparison with the same time period during 2017:

	Inherited cases	cases received	cases resolved	Jail sentences	Fine sentences	conditional sentences	Acquittals	Rejection judgments	Other means
2017	336	223	254	31 12,2%	58 22,8%	56 22%	40 15%	21 8%	44 17,32%
2018	305	165	207	22 10%	37 17,8%	38 18,3%	60 28%	20 9,6%	29 14%

The above table shows the obvious stumbles the Kosovo justice system has made in strengthening the fight against corruption. The statistics reveal a regression from last year in a number of aspects:

- Number of resolved cases decreased;
- Number of cases received increased;
- Number of effective imprisonment sentences decreased;
- Number of fines decreased;
- Number of conditional sentences decreased;
- Number of acquittals drastically increased;
- Number of rejection judgments increased;

Although dealing with cases of corruption has been the focus of all of the institutions in the country, progress has not been noted, while the objective to fight corruption as a phenomenon that has an impact on and damages all segments of life in Kosovo has not yielded results.

During 2018, the State Prosecution filed 58 less indictments related to corruption than in 2017. Similarly, Kosovo's Basic Courts resolved 47 cases less compared to the same time period.

The manner of resolving the cases is even more worrisome, as it is clear that indictments filed by the Prosecution have serious problems being proven in Court. Judgments with effective imprisonment, but also conditional sentences and those issuing fines, have seen a significant decrease while the number of acquittals and rejection judgments have increased. In fact, they have almost doubled.

This clearly shows the failure of indictments in corruption cases to be proven in Court, while at the same time proves the failure to find those responsible for damaging the budget of the Republic of Kosovo.

When compared to the situation in 2017, all of this results in a worsening of the fight against corruption both in the number of indictments but also in the number of convictions.

The rate of failure of indictments in Court when it comes to those corruption cases (i.e. when prosecutors failed to defend and prove with arguments what they claimed in the indictment) is 29.4 percent. Rejection judgments make up another 9.66%, meaning that in total 81 cases, or 39.1% of all completed cases, have concluded with acquittals or rejection judgments. These statistics give an indication of the serious failure in fighting corruption.

While 152 people accused of offences under the chapter of the criminal code on corruption escaped without conviction due to acquittals and rejection judgments, only 65 people accused in 22 cases, or 10.6 percent of corruption cases, concluded with effective imprisonment convictions.

When we add conditional sentences and fines, making up 17 percent and 18 percent respectively, in addition to acquittals and rejection judgments, then we can conclude that the fight against corruption is weak, results are worrisome and there is an immediate need for changes and improvements.

Despite all these concerning findings that indisputably illustrate the failures in combating corruption and organised crime, Courts and prosecutorial offices across the country, continue to play ping pong with the ball of failures created in dealing with this phenomena.

This report by BIRN and Internews Kosova, that is based on direct monitoring of all levels of Courts and the prosecution in the Republic of Kosovo, while not wanting to influence the independence, impartiality and merit based decision-making of judges in corruption cases, assesses that the bill of the fight against corruption should be proportionally addressed to both these institutions.

It is these two institutions that have the exclusivity in their right to investigations, trial and conviction of perpetrators of this phenomena that is impeding Kosovo's progress towards integration, hindering the conviction of crimes, and damaging the budget of the country while giving the last blows to public trust in the rule of law.

In the following table, data secured by the Kosovo Judicial council are presented for each Court on cases related to criminal offences of corruption for the time period of 01.01.2018–31.12.2018 and compared to results in the same period during the previous year.

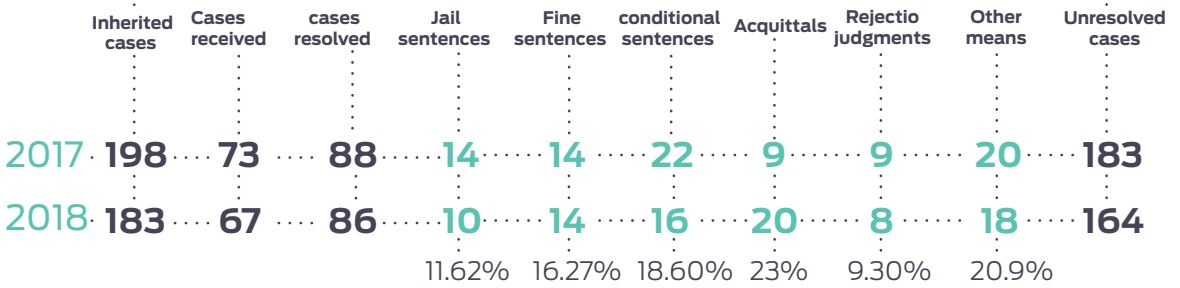
2017

	Inherited cases	Cases received	cases resolved	Jail sentences	Fine sentences	conditional sentences	Acquittals	Rejection judgments	Other means	Unresolved cases
Prishtinë	198	73	88	14	14	22	9	9	20	183
Prizren	23	27	36	7	7	8	10	10	3	14
Pejë	22	30	37	2	11	12	4	4	5	15
Mitrovicë	19	20	12	1	5	1	1	1	2	27
Gjilan	45	37	38	1	10	4	11	11	8	44
Ferizaj	17	19	27	7	6	5	2	2	2	9
Gjakovë	12	17	16	0	5	4	3	3	4	13
Gjithsej	336	223	254	31	58	56	40	40	44	305
				12.4%	22.8%	22%	15.7%	15.7%	17.2%	

2018

	Inherited cases	Cases received	cases resolved	Jail sentences	Fine sentences	conditional sentences	Acquittals	Rejection judgments	Other means	Unresolved cases
Prishtinë	183	67	86	10	14	16	20	8	18	164
Prizren	14	19	24	5	5	6	5	2	1	9
Pejë	15	15	17	1	2	3	5	2	4	13
Mitrovicë	27	23	11	1	4	1	3	2	0	39
Gjilan	44	16	40	3	7	4	21	5	0	20
Ferizaj	9	11	9	1	2	3	2	1	0	11
Gjakovë	13	14	20	1	3	4	5	1	6	7
Gjithsej	305	165	207	22	37	38	61	20	29	263
				10.6%	17.8%	18.3%	29%	9%	14%	

Basic Court of Prishtina



The Basic Court of Prishtina is undoubtedly the court with the highest burden of cases in Kosovo. This Court continues to have a high number of cases overall, but in particular cases of corruption. Out of 305 cases of corruption inherited from 2017, 198 cases, or 64 percent of the overall number, are adjudicated at the Basic Court of Prishtina.

Between January 1 and December 31, 2018, the Basic Court of Prishtina received 67 indictments for corruption cases, while 85 cases, or 18 more cases than received, have been resolved. Thus, in the course of the year, the number of cases inherited decreased by 19, and at the end of the reporting period, the number of unresolved cases stands at 164.

Taking this trend of resolving inherited cases into account, combined with the number of cases received and the number of cases resolved, it means that the Basic Court of Prishtina will be able to resolve all of these cases only within 8 years. Another concern at the Basic Court of Prishtina is the resolution to cases of corruption. Out of 86 resolved cases, only 10, or 11.62 percent of cases, have concluded with effective imprisonment convictions. This data shows a worsening of the situation compared to 2017, when 15 percent of judgments resulted in effective imprisonment.

Even more alarming are the number of cases of indictments for corruption concluding in acquittals at the Basic Court of Prishtina.

Out of 88 cases of corruption resolved in 2017, 10.2 percent of cases, nine in total, concluded in acquittals. This number doubled in 2018. Out of 86 cases resolved, in 23 percent of cases, 20 in total, the accused were acquitted of all charges.

When we add rejection judgements to the number of acquittals, the total is 28 out of 86. Therefore, in 32 percent of the resolved corruption cases, the indictments failed in the Court. Whether the Courts or the prosecution are responsible for this failure in the Court remains to be further researched.

Basic Court of Prizren

	Inherited cases	Cases received	cases resolved	Jail sentences	Fine sentences	conditional sentences	Acquittals	Rejection judgments	Other means	Unresolved cases
2017	23	27	36	7	7	8	10	10	3	14
2018	14	19	24	5	5	6	5	2	1	9
				20%	20%	25%	20%	8%	4,1%	

The Basic Court of Prizren has one of the smallest numbers of unresolved cases remaining at the end of the reporting period. The Court started 2018 with 14 cases inherited from previous years and received 19 new cases, while it resolved 24 cases relating to corruption. Therefore, only nine cases remained unresolved at the end of the reporting period.

However, the means of resolving the cases continues to be worrisome at the Basic Court of Prizren as well. Twenty percent of resolved cases, or 5 of the 24 cases, resulted in acquittals, 2 cases (or 8 percent) resulted in rejection judgments, while in only 5 cases (or 20 percent) were there convictions with effective jail time.

Basic Court of Peja

	Inherited cases	Cases received	cases resolved	Jail sentences	Fine sentences	conditional sentences	Acquittals	Rejection judgments	Other means	Unresolved cases
2017	22	30	37	2	11	12	4	4	5	15
2018	15	15	17	1	2	3	5	2	4	13
				5.8%	11.76%	17.64%	29%	11%	23%	

During the reporting period, the Basic Court of Peja, resolved 17 cases, two cases more than they received. The Court started 2018 with 15 inherited cases, while it received 15 new cases whereas at the end of the reporting period, 13 cases of corruption were moved to 2019.

Out of 17 resolved cases, only 1 case (or 5 percent) was a conviction with effective jail time, while 5 cases (or 29.4 percent) ended in acquittals and the accused were freed.

Apart from acquittals, there were 2 cases (or 11.7 percent) where the indictments were refused. Hence, in 40 percent of the cases of corruption, the indictments failed.

Basic Court of Mitrovica

	Inherited cases	Cases received	cases resolved	Jail sentences	Fine sentences	conditional sentences	Acquittals	Rejectio judgments	Other means	Unresolved cases
2017	19	20	12	1	5	1	1	1	2	27
2018	27	23	11	1	4	1	3	2	0	39
				9%	36%	9%	27%	18%	0%	

The Basic Court of Mitrovica is the only Court that had the number of unresolved cases increase at the end of the reporting period, although there was no significant increase in the number of cases received.

The Basic Court of Mitrovica started 2018 with 27 unresolved cases, while at the end of 2018 there are 39 unresolved cases remaining. Only 23 new cases were received.

The Basic Court of Mitrovica resolved 12 cases less than it received, while out of the resolved cases, only one was concluded with effective jail time, whereas three were acquittals and two indictments were rejected, meaning in 45.45 percent of corruption cases the indictment failed.

Basic Court of Gjilan

	Inherited cases	Cases received	cases resolved	Jail sentences	Fine sentences	conditional sentences	Acquittals	Rejectio judgments	Other means	Unresolved cases
2017	45	37	38	1	10	4	11	11	8	44
2018	44	16	40	3	7	4	21	5	0	20
				7%	17.5%	10%	52%	12.5%	0%	

During the reporting period, the Basic Court of Gjilan more than halved its number of unresolved cases. Out of 44 inherited cases from 2017, the Court started 2019 with only 20 unresolved cases.

During the reporting period, the Basic Court of Gjilan received 16 new cases overall, while it resolved 40 cases, or 24 more than it had received.

Nevertheless, the Court of Gjilan has an alarming percentage of acquittals. Out of 40 corruption cases at this Court, 21 were acquitted, meaning 52.5 percent of corruption cases treated by this Court saw the accused being free. Meanwhile, only 3 out of 40 cases concluded with effective imprisonment convictions, or in only 7 percent of cases.

Apart from acquittals, there are five cases (or 12.5 percent of indictments) that received a rejection judgement. Hence, in 60 percent of cases, the Basic Court of Gjilan concluded in favour of the accused.

Basic Court of Ferizaj

	Inherited cases	Cases received	cases resolved	Jail sentences	Fine sentences	conditional sentences	Acquittals	Rejectio judgments	Other means	Unresolved cases
2017	17	19	27	7	6	5	2	2	2	9
2018	9	11	9	1	2	3	2	1	0	11
				11%	22%	33%	22%	11%	0%	

The Basic Court of Ferizaj is amongst the Courts with the smallest number of resolved cases, and consequently one of the Courts that saw an increase in the number of unresolved cases.

The Basic Court of Ferizaj started 2018 with nine corruption cases remaining from 2017. During 2018, it received 11 new cases, while it resolved only nine cases or 2 cases less than it received, and precisely 18 cases less than in 2017.

Out of the 9 resolved cases, only in one case an imprisonment conviction was concluded, while there were two acquittals and one rejection judgements.

Basic Court of Gjakova

	Inherited cases	Cases received	cases resolved	Jail sentences	Fine sentences	conditional sentences	Acquittals	Rejectio judgments	Other means	Unresolved cases
2017	12	17	16	0	5	4	3	3	4	13
2018	13	14	20	1	3	4	5	1	6	7
				5%	15%	20%	25%	5%	30%	

The Basic Court of Gjakova is the Court with the smallest number of unresolved corruption cases at only 7 unresolved cases.

The Basic Court of Gjakova started 2018 with 13 inherited cases while it received 14 new cases. Out of these 27 cases, only seven now remain unresolved.

From the 20 resolved cases, only one case saw an imprisonment conviction, while five resulted in acquittals and one in a rejection judgement.

Hence, in more than 30 percent of corruption cases, indictments resulted in failure, while the Court issued only one imprisonment conviction.

IV. FAILURES IN THE FIGHT AGAINST CORRUPTION DIVIDED PER COURTS

Throughout 2018, BIRN and Internews Kosova monitored and closely followed cases of corruption, focussing on the work and the decisions of the judiciary towards perpetrators of these criminal offences, especially in cases where the accused are high profile as well as targeted cases of corruption for the visa liberalisation process .

Through the monitoring, many cases of failures of the prosecution in arguing the indictments, and withdrawing from such cases have been noted, as well as the failure of judges to fulfil the purpose of a conviction as defined in the criminal code of Kosovo.

In the following examples, we have presented some of the biggest corruption cases in which the alleged perpetrators have been declared not guilty or received small sentences by the Courts, as well as cases that have dragged on and in which huge negligence in handling of the cases have been identified.

The report features cases in which involve high profile officials, including ministers, members of parliament, mayors, rectors, principals, chief inspectors, the leader of the Procurement Review Panel, doctors and other state officials all saw indictments against them fail in 2018.

Basic Court of Prishtina

case: "PRONTO"

Criminal Offence:

co-perpetration from Article 31 of CCRK, Violating equal status of citizens and residents of the Republic of Kosovo, as per article 193, par.4¹ related to par.1 and attempted violation of equal status of citizens and residents of the Republic of Kosovo, as per article 193, par. 4 related to par. 1 of the CCRK, related to article 28 of the CCRK.

Accused:

Adem Grabovci, Arbenita Pjaziti, Ihmani Gashi, Besim Beqaj, Nijazi Kryeziu, Zenun Pajaziti, Fatmir Shurdhaj, Sadat Gashi, Ismet Neziraj, Xhavit Dakaj, Rexhë Abazi

Case Prosecutor:

Drita Hajdari

Judge:

Shashivar Hoti

Stage of procedure

confirmation of indictment

Indictment filed

6 April 2018

Initial Court hearing

15 November 2018

223

Days

223 days – passed between the indictment being filed and the initial Court hearing. The code of criminal Procedure of Kosovo stipulates a 30 day deadline to hold the initial court hearing after filing the indictment.

Not reading the charges of the indictment: In the initial hearing held for the case, despite the prosecutor Drita Hajdari demanding to read the charges of the indictment, Judge Shashivar Hoti did not allow this, considering it as having been read. Hoti was thus acting in violation of paragraph 3 of the CPC, that stipulates that "The single trial judge or presiding trial judge may ex officio determine whether it has jurisdiction over the matter within the indictment."²

Indictment

The indictment treats the issue of the criminal offence of employing or assigning posts based on political affiliation and personal relations. According to the indictment, these persons abused public office by cooperating with each other to provide unlawful privileges and advantages to persons who applied for different important functions such as: director of a central level public enterprise, chief executive of the Agency for Registration at the Ministry of Internal Affairs, Chief Executive Officer at the Agency for Medicinal Product and coordinator of the centre for civil Registry at the municipality of Klina, thus denying and limiting the freedoms and the rights of other candidates, guaranteed by the law³.

²Kosovo criminal procedure code

³<https://kallxo.com/n eser-nis-gjykimi-i-te-akuzuarve-te-rastit-pronto/>

<https://kallxo.com/grabovci-mungon-ne-seancen-e-pare-per-rastin-pronto/>

<https://kallxo.com/grabovci-per-pronton-aspak-se-ndjej-veten-fajtor-video/>

<https://kallxo.com/refuzohet-kerkesa-e-prokurores-drita-hajdari-per-perjashtimin-e-gjykatesit-ne-rastin-pronto/>

<https://kallxo.com/desh-ton-seanca-e-pare-ne-rastin-pronto/>

CASE: “OFFICIAL OF THE ACCREDITATION AGENCY”

Criminal Offence:

Abusing official position or authority in co-perpetration per article 339 par. 2 related to par. 1, related to article 23 of the Provisional criminal code of Kosovo (CCRP).

Accepting bribes per article 343 par. 2 of the Provisional criminal code of Kosovo, Giving bribes from article 343 par. 2i of the Provisional criminal code of Kosovo, article 343 par. 2 related to article 23.

Accepting bribes per article 343 par. 2 of the criminal code of Kosovo, abusing official position or authority from article 422 par. 1, sub par. 2.2 related to article 31 of the CCRK.

to be continued with accepting bribery per article 422, par. 1 related to articles 31 and 81 of the CCRP, Abuse of official position or authority per article 422 par. 1, sub par. 2.1,

Accused:

Ferdije Zhushi-Etemi, Basri Muja, Armend Muja

Case Prosecutor:

Atdhe Dema

Judge:

Valbona Musliu-Selimaj, Vesel Ismajli, Isuf Makolli

Stage of procedure

Acquittal and rejection judgment at the first instance

Accused are arrested

Indictment filed against the accused

The defendants were acquitted

November 2014

August 2015

January 2019

Indictment

In this trial, Basri Muja and Ferdije Zhushi were charged with abuse of official position and authority in co-perpetration, as well as for continuously accepting bribery in co-perpetration. Whereas Armend Muja was accused of accepting bribes continuously in co-perpetration.

At the time they were accused, Basria Muja was the director of the Agency for Accreditation of Kosovo, while Ferdije Zhushi was an official at the Agency. Ferdije Zhushi-Etemi, who was chairwoman of the Board of the Kosovo Accreditation Agency resigned from her position in September 2015, days after the indictment against her was filed. Naim Braha was charged with giving bribes but the case against him had reached statutory limitation.

Verdict

29 January 2019 – The Basic Court of Prishtina announced the verdict against the two former senior officials from the Kosovo Accreditation Agency, Ferdije Zhushi-Etemi and Basri Muja, who pleaded not guilty in relation to abuse of official position in co-perpetration, due to lack of evidence, while Armend Muja was acquitted, as the criminal offence he was charged with had reached the statutory limitation.

Parashkrimi

For the points of the indictments that saw the three accused being charged by the Prosecution with the criminal offences of abuse of official position and authority, as well as for accepting bribes in co-perpetration, the Court issued a rejection judgement, as the offence had reached absolute statutory limitation..

⁴<https://kallxo.com/gjykata-vendosi-per-ish-zyrtaret-e-agjencise-se-akreditimit/>

PF for the criminal offences under point 1 of the indictment, Basri Muja, Ferdije Zhushi-Etemi and Armend Muja, accused of the criminal offence of abuse of official position and authority in co-perpetration per article 339 par. 2 related to par. 1 related to article 23 of the Provisional criminal code of Kosovo, as well as the accused Basri Muja for the offence in the second provision, accepting bribes per article 343 par. 2 of the Provisional criminal code of Kosovo, as well as for the accused in the third provision, Naim Braha for the criminal offence of giving bribes per article 343 par. 2 of the criminal code of Kosovo, the state prosecutor withdrew the charges and criminal prosecution due to reaching the absolute statutory limitation from criminal prosecution in compliance with article 363 par. 1 sub par. 1.3 and for these points of the indictment, the Court issued a rejection judgment.

In regards to the criminal offence under provision six, where the accused Basri Muja, Ferdije Zhushi-Etemi and Armend Muja were charged with the criminal offence of accepting bribes per article 343 par. 2 related to article 23, and for the accused Basri Muja for the criminal offence under provision seven, accepting bribes per article 343 par. 2 of the criminal code of Kosovo, the Court also issued a rejection judgement as the offence had reached absolute statutory limitation.

The accused for the criminal offence under provision three, Basri Muja and Ferdije Zhushi-Etemi, for the criminal offence of abuse of official position or authority per article 422 par. 1 sub par. 2.2 related to article 31 in regards to criminal offence under provision four, Basri Muja and Ferdije Zhushi-Etemi for the criminal offence of accepting a bribe under article 422, par. 1 related to article 31 and 81 of the criminal code of Kosovo, as well as the accused Basri Muja, Ferdije Zhushi-Etemi for the criminal offence under provision five, abuse of official position or authority per article 422 par. 1 and par. 2.2 related to article 31 of the criminal code of Kosovo as well as provision nine, Basri Muja for the criminal offence of abuse of official position and authority per article 422 par. 1, sub par. 2.1, the Court found the defendants not guilty, due to the evidence presented by the Prosecution not proving that they have committed the criminal offences with which they were charged.

CASE: “OFFICIALS OF THE MINISTRY OF LABOUR”

**Criminal
Offence:**

Abuse of official position and authority per article 422 paragraph 1 related to article 31 of the CCRK

Accused:

Bajram Pajaziti, Bajram Azemi

Case

Dulina Hamiti

Prosecutor:

Judge:

Shashivar Hoti, Shadije Gërguri, Beqir Kalludra

**Stage of
procedure**

Acquittal, Retrial, acquittal

Initial Hearing

**case sent back for retrial
by Court of Appeals**

24 November 2016

March 2017

July 2017

April 2018

**The defendants were
found not guilty⁹**

**Accused declared not guilty for
a second time**

⁹<https://kallxo.com/lirohet-vellai-zahir-pajazitit/>

Indictment

According to the prosecution, Bajram Azemi, in his capacity as chairman of the Division for Families of Martyrs, Invalids and civilian Victims at the Ministry of Labour and Social Welfare and fellow defendant Bajram Pajaziti in his capacity of director at the same department, have damaged the budget of the Republic of Kosovo in order to provide illegal material gain to Rexhep Haxha.

CASE: "TOKA 1"

Criminal Offence:

"Organized crime", "Money laundering", "Accepting bribes", "Serious fraud", "Fraud in office", "Issuing illegal judicial decision", "Abuse of official position" "Legalisation of false content" and "Tax evasion".

Accused:

Azem Sylja, Shaban Sylja, Shpresim Uka, Fahredin Gashi, Hajrullah Berisha, Ramadan Uka, Arton Vila, Avdyrrahman Brajshori, Ilaz Sylja, Lubisha Vujoviq, Gazmend Gashi, Nuhi Uka, Sabedin Haxhiu, Lumnije Sopjani, Shqipe Maxhuni, Elheme Uka, Shqipe Sopjani, Nyrtene Brajshori, Sami Maqedonci, Ndue Palushi, Ramadan Mavraj dhe Mustafë Haliti.

Case Prosecutor:

Danilo Cecarelli / Sylë Hoxha / Naim Abazi

Judge:

Arcadius Sedeck pastaj te vendorët: Beqir Kalludra, Violeta Namani, Shashivar Hoti

Stage of procedure

Main trial

Court hearings failed due to the absence of the defendants

Azem Sylja and the other defendants pleaded not guilty.

December 2016 | October 2016 | December 2016 | November 2017

Indictment filed by EULEX prosecutor against 39 persons, separated into two indictments.

Indictment confirmed at Court of Appeals.

Court hearing postponed due to the lack of a full trial panel

case transferred from EULEX to local judges.

January 2018 | January 2018 | February 2018

Trial panel changed

855
days

Or 2 years and 4 months – have passed since the filing of the indictment while the case is only in the initial trial stage.

¹⁰<https://kallxo.com/vellai-heroit-zahir-pajaziti-deklarohet-pafajshem/>
<https://kallxo.com/kundershtohet-aktakuzat-e-korrupsionit-pensionet-e-familjeve-te-deshmoreve/>
<https://kallxo.com/vellai-zahir-pajaziti-pa-avokat-ne-seancen-e-sotme/>
<https://kallxo.com/gjykata-sot-shpalle-aktgjykimi-ndaj-vellaut-te-zahir-pajazitit/>
<https://kallxo.com/gjykata-vendosi-per-vellain-e-zahir-pajazitit/>
<https://kallxo.com/apeli-nuk-ia-verteton-pafajesine-vellait-te-zahir-pajazitit/>
¹¹ The defendant Nuhi Uka has died.

7 – Court hearings have failed between January and September 2018

1 - Defendant has died during the procedure. .

22 - Court hearings that provided special opportunities for investigation have been wasted.

The indictment was filed by the EULEX prosecutor, Danilo Ceccarelli on October 25, 2016. The Special Prosecution filed two indictments against 39 persons. The second indictment was filed by the same prosecutor against 17 persons for money laundering. The first indictment filed by an international prosecutor of the SPK, was filed against 22 defendants and contains 46 charges.

Indictment

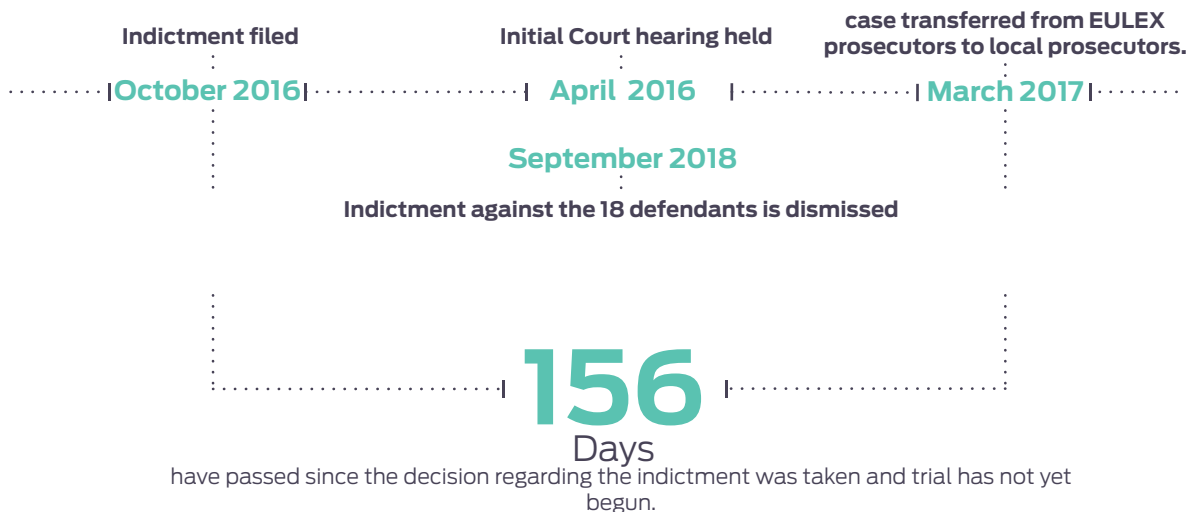
According to the indictment, members of this organized criminal group collaborated with each other, each with an assigned role, in order to deprive Kosovo of their social properties through criminal activities, including falsifying decisions and other official documents, fraud and corrupt acts.

The first group charged in the indictments includes Azem Sylja, Shaban Sylja, Shpresim Uka, Fahredin Gashi, Hajrullah Berisha, Ramadan Uka, Arton Vila, Avdyrrahman Brajshori, Ilaz Sylja, Lubisha Vujoviq, Gazmend Gashi, Nuhi Uka and Sabedin Haxhiu.

The second charge on organized crime stipulates that from 2006 up until 2016, in the territory of Kosovo, the accused have committed serious crimes as part of a structured criminal group with the purpose of financial gain and other material gain.

The former KLA commander and former PDK member of parliament Azem Sylja is described as the “organizer, supervisor, manager and leader” of the criminal group who “created the criminal activities of the group and financed them.”

	CASE: “TOKA 2”
Criminal Offence:	continuous abuse of official position, falsification of public documents, assisting in the criminal offence of issuing illegal judicial decisions, assisting in committing the criminal offence of abuse of official position, robbery, continuous money laundering.
Accused:	Arton Vila, Bejtush Zhugolli, Dalip Brahimi, Jeton Govori, Xhabir Kajtazi, Isak Ademi, Albion Mulaku, Lirim Zeka, Agim Jerlia, Gëzim Rama, Basri Beka, Enver Bajrami, Gani Ferizi, Fehmi Ferizi, Bislim Bajrami, Bajram Gashani, Shaip Krasniqi, Nexharije Hoti, Mehmet Prishtina, Dukagjin Emërllahu, Reshat Fetahu, Gani Ademi, Avni Maxhuni dhe Shqipe Maxhuni
Case Prosecutor:	Danilo Ceccarelli
Judge:	Beqir Kalludra
Stage of procedure	Main trial



The trial began on April 6, 2016, while only in September 2018, the chair of the trial panel, Beqir Kalludra, after reviewing challenges of the defence of the accused in regards to the filed indictment, decided to dismiss the allegations of the Prosecution against: Arton Vila, Bejtush Zhugolli, Dalip Brahimi, Jeton Govori, Xhabir Kajtazi, Isak Ademi, Albion Mulaku, Lirim Zeka, Agim Jerlia, Gezim Rama, Basri Beka, enver Bajrami, Gani Ferizi, Fehmi Ferizi, Bislim Bajrami, Bajram Gashani and Shaip Krasniqi.

In regards to the other defendants Nexharije Hoti, Mehmet Prishtina, Dukagjin Emerllahu, Reshat Fetahu, Gani Ademi, Avni Maxhuni and Shqipe Maxhuni, Judge Kalludra approved the indictment filed by the Special Prosecution.

Indictment

The Special Prosecution of the Republic of Kosovo accused the group of 24 defendants of organised crime, inciting and assisting in issuing illegal judicial decisions, continuous abuse of official position and authority, robbery, falsification of official documents, continuous abuse of position and authority and continuous money laundering.

Criminal
Offence:

CASE: "PRB OFFICIALS"

"Abuse of official position or authority" article 422, par. 1 of the CCRK.

Accused:

Tefik Sylejmani, Ekrem Salihu

Case
Prosecutor:

Ibrahim Berisha

Judge:

Valbona-Musliu Selimaj, Naime Krasniqi-Jashanica, Vesel Ismajli

Stage of
procedure

Acquittal



PRB officials, Tefik Sylejmani and Ekrem Salihu were acquitted on charges of abuse of official position. The verdict against them was announced at the end of October 2018. In January 2018, they had pleaded not guilty of the charges they were accused of.

Indictment

Based on the allegation of the prosecution Tefik Sylejmani and Ekrem Salihu in their capacity as members of the Procurement Review Body from 2015 up until May 2016, abused their official position by exceeding their competencies and acting to the detriment of the contracting authority, the Ministry of the Security Force of Kosovo (MSFK).

In the indictment it is said that the defendants, in contradiction to the law, approved the complaint of economic operator “Florenti&Korabicompany”, and as a result annulled other economic operators as irresponsible.

According to the allegations of the prosecution, more than two responsible economic operators participated in the Kosovo Security Forces (KSF) and MSFK tender with completed documentation, but the accused brought the tender back for revaluation and declared it invalid. Later, they issued a decision approving the complaint of economic operator “Beni Dona”, and voted without having a full quorum, and with only two members present.

According to this decision, Tefik Sylejmani was assigned in the position of acting chairman of the PRB, while the decision was then signed by a member of the PRB, Ekrem Salihu, and Tefik Sylejmani himself.

Through these actions, it was alleged that the defendants brought significant material damage to the KSF and MSFK, while the latter had then to resort to emergency activities in supplying the KSF and MFSK with food.²

Criminal
Offence:

Accused:

Case
Prosecutor:

Judge:

Stage of the
procedure

“KEK SHIRTS”

Abuse of official position and authority

Enver Hoxha

Habibe Salihu (Rafet Halimi at the retrial)

Hamdi Ibrahim, Naser Foniqi, Vehbi Kashtanjeva

Acquittal, Retrial, trial

I akuzuari
deklarohet se
është i pafajshëm

March 2017

Enver Hoxha shpallet i
pafajshëm

January 2018

Gjykata e Apelit e kthen
në rigjykim rastin

May 2018

February 2019

Fjala hyrëse në rigjykim

² <https://kallxo.com/zyrtaret-e-oshp-se-deklarohen-te-pafajshem-per-tenderin-e-ushqimit-te-fsk-se/>
<https://kallxo.com/ish-kryetari-i-oshp-se-deshmon-ne-gjykimin-per-tenderin-per-ushqimin-e-fsk-se/>
<https://kallxo.com/zyrtaret-e-oshp-se-shpallen-te-pafajshem-per-akuzen-e-keopordorimit-te-detyres/>
<https://kallxo.com/zyrtari-i-suspenduar-i-oshp-se-nuk-e-kam-pritur-se-do-ndiqesha-nga-drejtesia/>
<https://kallxo.com/i-akuzuari-me-anulimin-e-tenderit-per-ushqimin-e-fsk-se-tentova-te-shpetoj-850-mije-euro-te-shtetit/>

Enver Hoxha was acquitted from the charge of purchasing 2,464 ‘shirts’ that the Prosecution alleged had caused damage to the Kosovo Energy corporation (KEK). Enver Hoxha, the project manager of the Division for coal Production at KEK, on January 2018 was acquitted from the charges of abuse of official position or authority.

The Basic Court concluded that it was not proven that Hoxha had committed the criminal offence he was charged with.

Court of Appeals

On May 17, 2018, the Court of Appeals returned the case for retrial reasoning that the Basic Court of Prishtina had not processed all issues to prove critical facts and had not provided justification for critical facts.

According to the Court of Appeals ruling, the verdict of the Basic Court had made essential violations of criminal procedure provisions.

Retrial

On February 21, 2019 opening statements were delivered while the next Court hearing was scheduled for April 26, 2019.

Indictment

According to the indictment, in his capacity as project manager of the Division for coal Production at KEK, on June 19, 2013, with the purpose of personal and other people’s gain, Enver Hoxha committed the criminal offence of abuse of official position or authority by authorizing the purchase of 2,464 shirts from “Oe Ripten engineering” from Prishtina.

Per the same indictment, Enver Hoxha did not comply with the procedures foreseen in the Law on Public Procurement, acting in contradiction to the contract no. 4710 16.07.2011 for LOT -1, where it was based. The alleged amount of the damage caused by the accused to KEK is 57,000 euros¹³.

	“Police Officer”
Criminal Offence:	Abuse of official position or authority
Accused:	Hamdi Tërpeza
Case Prosecutor:	Feti Tunuzliu
Judge:	Valbona Musliu-Selimaj, Vesel Ismajli, Isuf Makolli
Stage of the procedure	conviction at the Basic Court, complaints to the Court of Appeals

**I akuzuari dënohet me
8 muaj burg**

February 2018

¹³<https://kallxo.com/enver-hoxha-lirohet-ne-gjyqin-per-maica/>
<https://kallxo.com/enver-hoxha-insiston-se-eshte-pafajshem/>
<https://kallxo.com/enver-hoxha-deklarohet-pafajshem-ne-gjyqin-per-maica/>

Trial

On February 12, 2018 the verdict was delivered against a Kosovo Police official charged with having threatened a driving instructor regarding passing a driving licence exam. The accused, Hamdi Terpeza, was convicted and sentenced to eight months' imprisonment on charges of abuse of official position or authority.

Indictment

The Police officer, in his capacity as an official person, was charged with having used his official position and exceeding official competences with the purpose of another person gaining benefits. Using his position as a civilian employee in the Directorate of Logistics of the Republic of Kosovo Police, the defendant aimed to have his brother Artan Terpeza pass a driving licence test for the "B" category without taking the theoretical or practical exam.

Further, the indictment reads that on January 20, 2013, Hamdi Terpeza called the injured party Kasim Hoxha on the telephone and threatened him with the following: "If you do not pass him tomorrow, I swear on my judgment day that for as long as I am alive I will make sure to tie you like a dog... go wherever you want, but tomorrow you will be detained, I will come tomorrow to the bus station and wait there for you, until Artan comes out."

As written in the indictment, the following morning, Hamdi Terpeza went to the bus station with his official car and after seeing the instructor Kasim Hoxha, without even introducing himself, he asked the latter: "Will you pass him in the exam?" After the injured party refused, Terpeza grabbed his arm and told him to: "come with me to the official car." After the injured party resisted, the indictment further reads that Hamdi told him that he would go to get the commander and come back, telling him directly: "He had set the stage to detain him today."

In addition, the Prosecution also alleged that Artan Terpeza refused to accept and take the exam for driving licence as all other candidates, claiming that it should be the injured party who fill the exam out and pass the exam for him.

The defendant has stated he feels not guilty of the charges he is accused of ¹⁴.

Criminal
Offence:

"Medicine banderols"

Abuse of official position or authority, forbidden manufacturing

Accused:

Ilir Dushi, Bersan Kolgeci, Edon Harullaga, Haki Ejupi

Case

Prosecutor:

Mirushe Llugiqi

Judge:

Beqir Kalludra, Shadije Gërguri, Shashivar Hoti

Stage of the
procedure

Conviction, Retrial, conviction, Retrial, Trial

¹⁴<https://kallxo.com/ep-mbrojtjen-zyrtari-akuzuar-se-kercenoi-instruktorin-e-autoshkolles/>
<https://kallxo.com/te-henen-shpallet-aktgjykimi-ndaj-zyrtarit-te-pollicise/>
<https://kallxo.com/zyrtari-i-pollicise-denohet-per-kercenim-te-instruktorit-te-auto-shkolles/>

Guilty verdict issued for accused at the Basic Court of Prishtina.

Guilty verdict against the accused issued for a second time at the Basic Court

June 2017

December 2017

February 2018

May 2018

Court of Appeals returned the case for retrial after approving the complaints of the defence.

Court of Appeals returns the case for retrial for a second time

Basic Court 1

On June 13, 2017, the Basic Court of Prishtina issued a guilty verdict against the officials of the Kosovo Agency for Medical equipment (KMEA): Bersan Kolgeci, Ilir Dushi, Haki Ejupi and Edon Harullaga, the owner of the “Prima Pfarm” company. Through this verdict, the Court sentenced Kolgeci and Dushi with 6 months imprisonment, while the other official of the Agency, Haki Ejupi was sentenced with 5 months imprisonment. Edon Hajrullaga, the owner of the “Prima Pharm” company was sentenced to pay a fine of 10,000 euros.

Court of Appeals 1

On December 14, 2017, as a result of the defence’s complaints, the case was sent back for retrial, the Court of Appeals having found that the first verdict of the Basic Court had committed essential violations of the criminal procedures provisions, and, according to the Court of Appeals, the reasons for the verdict are contradictory to critical facts. The case was sent back for a retrial with the suggestion to eliminate these violations.

Basic Court 2

In the verdict of the second trial issued on February 2018, Kolgeci, Dushi and Hajrullaga were found guilty, the same as in the first trial, while Haki Ejupi was freed from the indictment the second time around.

Court of Appeals 2

Even after the verdict of the second trial, in May 2018, the Court of Appeals sent the case back for another retrial, recommending the Basic Court of Prishtina eliminate the violations they had mentioned in the first verdict.

Basic Court 3

In the third trial for this case, the representative of the defendant Ilir Dushi, lawyer Nike Shala, requested the dismissal of the trial panel with the justification that despite the continuous suggestions of the Court of Appeals, the trial panel had not taken into account the said remarks, and had not eliminated the findings noted by the second instance Court.

In regards to the request for dismissal of the trial panel, the head of the Basic Court of Prishtina, Aferdita Bytyci is expected to make a decision soon.

Indictment

Bersan Kolgeci, Ilir Dushi and Haki Ejupi were charged by the Prosecution with the allegation that, as official persons at the KMEA they had issued 435,124 medicinal banderoles to the Prima Pharm company, whose director is the other defendant in this case, Edon Hajrullaga.

Kolgeci, Dushi and ejupi were charged with abuse of position, while Edon Hajrullaga was charged with illegal manufacturing.

According to the Prosecution, Bersan Kolgeci, who was the director of the Legal Department of the Agency for Medicine Products, recommended the Director of Administration at the Agency to issue banderoles for 18 medicine products from the “Prima Pharm” company, thus enabling the latter to put medicine imported from china on March 23, 2013, into the market.

The Prosecution alleged that Kolgeci should not have issued such a recommendation due to “Prima Pharm” not having been certified with the GMP – Good Manufacturing Practice.

Edon Hajrullaga had been fined 10,000 euros, but the Court of Appeals sent the case back for retrial ¹⁵.

“UKE RUGOVA AND OTHERS -VIZA”

**Criminal
Offence:**

“Smuggling of migrants”, “Unauthorised possession of weapons”, “Trading in influence”, “Fraud”, “Abuse of official position or authority”

Accused:

Ukë Rugova, Izet Beqiri, Florjan Petani, Qefser Baholli, Astrit Haraqija, Fitim Beqiri, Azad Beqiraj, Liridona Beqiri, Kujtim Avdyli, Ragip Gashi, Visar Beqiri, Hamza Beqiri, Azem Koskoviku, Edison Idrizaj, Beg Shaqiri, Hasan Shaqiri, Driton Voca, Valon Selimi, Fadil Ahmeti dhe Haxhi Islami.

**Case
Prosecutor:**

Allan Cansick, Florije Shamolli

Judge:

Vladimir Micula, Naime Krasniqi-Jashanica

**Stage of the
procedure**

In the initial stages

**Investigations for some of
the defendants initiated**

**Initial Court hearing held, defendants
pleaded not guilty to the charges¹⁶**

mentor 2013

maj 2016

gusht 2016

janar 2017

Indictment filed

**Initial Court hearing held again after
further refinement of the indictment¹⁷**

**Motion to dismiss the
indictment refused at
the Basic Court**

**Case transferred from
EULEX to local judges**

mars 2017

shtator 2017

janar 2018

janar 2019

**Court of Appeals refused defence's
complaints and confirmed the indictments**

**First Court hearing after the
case is transferred failed**

1075
Days

2 years 11 months and 10 days have passed since the indictment was filed and the case is still in the initial phases

¹⁶<https://kallxo.com/uke-rugova-deklarohet-i-pafajshem/>

¹⁷<https://kallxo.com/uke-rugova-deklarohet-i-pafajshem-2/>

¹⁸<https://kallxo.com/apeli-vendos-qe-uke-rugova-te-glykohet/>

433 days, or 1 year, 2 months, and 7 days have passed with no Court hearing being held regarding the case.

1075 days, 2 years 11 months and 10 days have passed since the indictment was filed and the case is still in the initial phases.

Trial

After more than a year of delays, on January 29, 2019, it was foreseen for the Court of Prishtina to finally proceed with the trial against Uke Rugova, former minister of culture, Astrit Haraqija and the other defendants in the case related to the Italian visas affair.

Nevertheless, the Court hearing, expected to start on that day, was postponed in absence of four of the accused: Liridona Beqiri, Hamza Beqiri, Ragip Gashi and Kujtim Avdyli.

The reason for the absence of the accused, the defence argued, was not having received the summons, though this was denied by the head of the trial panel, Naime Krasniqi-Jashanica, who stated that summons were sent to all parties accordingly.

The next date for this Court hearing has not been scheduled yet due to Judge Naime Krasniqi-Jashanica stating that she first needs to talk to the prosecutor and some of the defence in order to see the possibility of separating the procedure for some of the defendants in order to proceed more promptly in this criminal issue.

Indictment

The indictment was filed on May 18, 2016. According to the indictment filed by the Special Prosecution, Uke Rugova was part of a criminal group whose purpose was material gain through supplying individuals with Schengen visas to the EU through the Italian embassy in Prishtina, visas that were obtained unlawfully or through corruption.

According to the indictment, 556 Schengen visas were obtained by the Italian embassy in Prishtina through the activity of this group.

Together with Uke Rugova, the following were also indicted: Izet Beqiri, Florjan Petani, Qefser Baholli, Astrit Haraqija, Fitim Beqiri, Azad Beqiraj, Liridona Beqiri, Kujtim Avdyli, Ragip Gashi, Visar Beqiri, Hamza Beqiri, Azem Koskoviku, Edison Idrizaj, Beg Shaqiri, Hasan Shaqiri, Driton Voca, Valon Selimi, Fadil Ahmeti and Haxhi Islami. The defendants in this case pleaded not guilty and denied the allegations of the Prosecution¹⁹.

**Criminal
Offence:**

Accused:

**Case
Prosecutor:**

Judge:

**Stage of the
procedure**

“Vacancy at UCCK”
Abuse of official position and authority
Xhavit Bicaj
Feti Tunuzliu
Shashivar Hoti, Beqir Kalludra, Shadije Gërguri
Conviction, Retrial, Acquittal ²⁰

¹⁹<https://kallxo.com/gjykata-heshte-per-gjykimin-e-uke-rugoves/>
<https://kallxo.com/gjykata-e-harron-gjykimin-e-uke-rugoves/>
<https://kallxo.com/astrit-haraqija-pranon-se-rregulloi-40-80-viza-italiane/>
<https://kallxo.com/eulex-terhiget-nga-gjykimi-i-uke-rugoves/>
<https://kallxo.com/sa-vjet-burg-rezikon-uke-rugova/>

²⁰Gjykata Themelore e Prishtinës më datë 4 prill 2019 ka nxjerrë aktgjykim lirues

**Accused found guilty and given
a one-year conditional
sentence**

**case sent back for a retrial at the Court
of Appeals**

..... | **nëntor 2017** |

..... | **maj 2018** |

Trial

The trial against Xhavit Bicaj, who was convicted in the first instance for abuse of official position, allegedly for having sent the questions and answers to two candidates for the position of unit director of the University clinical center of Kosovo (UCCK), was overturned by the Court of Appeals and sent back for retrial.

In November 2017, Bicaj was convicted with a one year conditional sentence, i.e. a sentence which will not be executed if he does not commit another criminal offence within the year.

However, after the complaint of the defendant, the Court of Appeals returned the case for retrial.

Indictment

Xhavit Bicaj was charged with having sent an email with the correct answers to the questions to be asked regarding the vacancies for unit directors at UCCK to two candidates for these positions, Dr. Sonja Blakaj and Dr. Rame Miftari.

The alleged offence, according to the Prosecution occurred on July 31 and August 3, 2014. During the Court hearings, Bicaj called the case against him a “set up”.

According to the indictment, Bicaj in his capacity as a member of the evaluation committee for selecting candidates for the position of directors of the respective units at UCCK, had sent the tests with questions and correct answers that would be in the written interviews to two candidates, Dr. Sonja Blakaj and Dr. Rame Miftari, in order for them to be the most successful candidates out of the 30 that had applied²¹.

Officials of the municipality of Drenas

**Criminal
Offence:**

Abuse of official position and authority

Accused:

Hyrije Xhemajlaj Thaçi, Halim Vrellaku, Izet Kukaj, Musli Ademi

**Case
Prosecutor:**

Mirushe Llugiqi

Judge:

Shashivar Hoti, Beqir Kalludra, Valbona Musliu- Selimaj

**Stage of the
procedure**

conviction, Retrial , conviction and acquittal

**convictions issued at the Basic Court of Prishtina Hyrije
Xhemajlaj-Thaci and Halim Vrellaku. Izet Kukaj acquitted.
The prosecutor had withdrawn from prosecuting Musli Ademi.**

**Hyrije Xhemajlaj-Thaçi acquitted at the Basic Court.
Halim Vrellaku convicted and given a six-month
conditional sentence²²**

..... | **gusht 2017** |

..... | **Shkurt 2018** |

..... | **maj 2018** |

case sent back for retrial at the Court of Appeals

²¹<https://kallxo.com/nje-ekspert-kibernetikes-deshmon-ne-gjykimin-e-bicaj/>
<https://kallxo.com/prokurori-mungon-ne-gjykimin-e-bicajt-per-shperdorim-detyre/>
<https://kallxo.com/bicaj-e-quan-montim-rastin-ndaj-tij/>
<https://kallxo.com/denohet-akuzari-per-konkursin-ne-qkuk/>
<https://kallxo.com/igjykim-ndaj-xhavit-bicajt-per-konkursin-ne-qkuk/>
²²<https://kallxo.com/tirohet-ish-drejtoresha-denohet-shefi-i-drejtorse-se-inspeksionit-ne-drenas/>

Basic Court

In August 2017, the first instance Court convicted Hyrije Xhemajlaj-Thaçi, and sentenced her to 10 months imprisonment, while Hali Vrellaku was given a one-year conditional sentence.

The case was then sent back for retrial by the Court of Appeals.

The Court had acquitted businessman Izet Kukaj, the owner of the “elita-A” company, while the Prosecutor had withdrawn from prosecuting the inhabitant of this building compound Musli Ademi.

Court of Appeals

In February 2018, the Court of Appeals approved complaints submitted by the defence, thus sending the case back to the Basic Court for a retrial.

Basic Court 2

In May 2018, the Basic Court of Prishtina issued a verdict in the case involving the Municipality of Drenas officials, regarding changes of abuse of official position, due to an over-the-roof construction in this municipality.

Hyrije Xhemajlaj-Thaçi was acquitted, while the chief of the directorate of Inspection, Halim Vrellaku was issued a conditional sentence of six months with a verification period of one year by the Court.

Indictment

Two other people were indicted as well, businessman Izet Kukan, who was acquitted by the Court, and Musli Ademi, an inhabitant in this building compound, for whom the Prosecutor had ceased prosecution.

According to the indictment, Izet Kukaj, owner of the “Elita-A” company had performed over-the-roof construction without a permit, and hence illegally built another floor with a total 14 apartments totalling 1,800 square meters, which were built in Building 5 in Drenas.

The indictment stated that 13 of these apartments were sold by Izet Kukan for 252,000 euros, while he kept the last one for himself.

According to the indictment, one of the over-the-roof illegal apartments in this building compound was bought by the brother of defendant Hyrije Xhemajlaj-Thaçi who ran the Directorate of Inspection at the time²³.

	“Deputy Minister”
Criminal Offence:	“Abuse of official position and authority”, from article 422 of the CCRK, “Assistance (Abuse of official position or authority) per article 33 of the CCRK.
Accused:	Musa Cena, Nusret Shala, Hazër Shehu
Case Prosecutor:	Kujtim Munishi
Judge:	Nushe Kukaj
Stage of procedure	conviction

²³<https://kallxo.com/denohen-zyrtaret-per-mbindertimin-ne-drenas/>
<https://kallxo.com/prokurorja-ndryshon-aktakuzen-per-mbindertimin-ne-drenas/>
<https://kallxo.com/eksperti-e-konsideron-te-parrezikshem-mbindertimin-ne-drenas/>
<https://kallxo.com/kthehet-ne-rigjykim-rasti-zyrtareve-te-komunes-se-drenasit/>
<https://kallxo.com/lrohhet-ish-drejtoresha-denohet-shefi-i-drejtorse-se-inspeksionit-ne-drenas/>

Trial

The indictment against the deputy-minister at the Ministry of Regional Development, Musa cena, was filed on November 14, 2018.

A few days later, on November 22, 2018, the Basic Court of Prishtina found him guilty and convicted Deputy Minister cena, sentencing him to six months imprisonment. cena agreed to have his conviction converted to a fine of 5,000 euros instead.

The other defendant, Nusret Shala, was issued a fine of 4,000 euros.

The third defendant, Hazer Shehu, who was charged for assistance in abuse of official position, was sentenced to 3 months imprisonment, but his sentence was converted to a fine of 2,000 euros in accordance with him.

The sentences against the defendants were issued as they pleaded guilty to the charges at the initial Court hearing.

Indictment

Per the indictment, on October 12, 2018, the defendant Musa cena, in his position as the deputy minister of the Ministry of Regional Development, together with the other defendant, Nusret Shala, chief of the Directorate of Agriculture in Rahovec, using their official position or authority, illegally demanded the amount of 30,000 euros, which was then decreased to 25,000 euros from the injured party Afrim Berisha.

Meanwhile, according to the prosecution, former deputy minister at the Ministry of Regional Development, Musa cena, and Nusret Shala, had taken 15,000 euros from the injured party, Afrim Berisha through Hazer.

The Prosecution alleged that the defendants had undertaken these actions with the purpose of awarding “Bylmeti” company as the winner, aiming to later on gain the aforementioned amounts²⁴.

**Criminal
Offence:**

KPA

Abuse of official position or authority per article 422, accepting bribe per article 428

Accused:

Fevzi Hajdari, Taulant Tahirsylaj

Case

Prosecutor:

Dulina Hamiti

Judge:

Beqir Kalludra, Shadije Gërguri, Shashivar Hoti

**Stage of
procedure**

Conviction

²⁴<https://kallxo.com/denohet-ish-zevendes-ministri-i-shkarkuar-i-qeverise-haradina/>
<https://kallxo.com/apelli-e-le-ne-paraburgim-ish-zevendesministrin/>
<https://kallxo.com/aktakuze-ndaj-zevendesministr-it-shkarkuar-te-qeverise-haradina/>
<https://kallxo.com/vendimi-i-glykates-nje-muaj-paraburgim-per-zevendesministrin-e-aak-se/>
<https://kallxo.com/arrestohet-zevendesministr-i-zhvillimit-rajonal/>

Basic Court

On July 21, 2017, the Basic Court of Prishtina found the defendants guilty and sentenced them for the criminal offence of accepting bribes. Fevzi Hajdari was sentenced to 2 years imprisonment as well as a fine of 25,000 euros. While Taulant Tahirsylaj was given a conditional sentence, subject to not committing another criminal offence within a two year period.

Court of Appeals

In December 2017, the Court of Appeals sent the case back for retrial after assessing that the enacting clause did not comply with the statement of grounds.

Basic Court 2

On March 30, 2018, the officials from the Kosovo Privatisation Agency were again acquitted from the charges of abuse of official position, but convicted for accepting bribes in co-perpetration after the retrial.

Fevzi Hajdari was sentenced to 2 years' imprisonment and a 25,000 euro fine. Taulant Tahirsylaj was given a six month conditional sentence and a 4,000 euro fine.

When issuing the judgment, the president of the trial panel, Beqir Kalludra had stated that one of the reasons for lowering the sentence for Taulant Tahirsylajt was his good behaviour, which was noted and appreciated by the Court.

Court of Appeals 2

In July 2018, the Court of Appeals mitigated the sentences for the defendants and re-qualified the criminal offence they were convicted for by the Basic Court. The offence was re-qualified from accepting of bribery to fraud and attempted fraud.

As a consequence, the Court of Appeals changed the ruling on sentencing made by the Basic Court, instead sentencing Hajdari to eight months imprisonment and a 6,000 euro fine and Tahirsylaj to a six-month conditional sentence and a 2,000 euro fine within the verification period of one year.

Indictment

Fevzi Hajdari and Taulant Tahirsylaj, both officials of the KPA were charged by the Prosecution for accepting bribes and abuse of official position.

According to the indictment, Hajdari and Tahirsylaj, as officials of the KPA and with the purpose of illegal gain based their position by asking the injured party for 20,000 euros for expunging debt at the Tax Administration of Kosovo totalling 517,000 euros for a property that the injured party wanted to register²⁵.

²⁵<https://kallxo.com/denohen-per-ryshfet-zyrtaret-e-akp-se/>
<https://kallxo.com/bug-per-zyrtaret-e-akp-se-moren-ryshfet/>
<https://kallxo.com/shtyhet-perseri-seanca-ndaj-zyrtareve-te-akp-se/>
<https://kallxo.com/shtyrja-e-trete-e-gjykimit-te-zyrtareve-te-akp-se/>
<https://kallxo.com/prokurorja-vazhdon-te-mungoje-ne-gjykimin-e-zyrtareve-te-akp-se/>

**MTPT
Pkr.nr. 8/2013**

**Criminal
Offence:**

Organized crime per article 271 par. 3 of the Old Criminal Code of Kosovo, Abuse of Position or Authorisation per article 339 par. 1 and 3 of the Old Criminal Code of Kosovo; Accepting bribes in violation of article 343 par. 1 and 2 of the Old Criminal Code of Kosovo, related to article 23 of the Old criminal code of Kosovo (in co-perpetration) and related to article 117.1 a and d of the Law on Public Procurement; other criminal offences in the form of not declaring money accepted during campaigns in violation of UNMIK Regulation no.2004/02 on preventing money laundering and similar criminal offences per article 10.8 and articles 10.5 related to articles 5.1 and 5.6.
Assistance as per article 25 of the Old criminal code of Kosovo regarding the criminal offence of abuse of position or authorisation.
Giving bribes per article 344 par. 1 of the Old Criminal Code of Kosovo; Abuse of Authorisations in economy from article 236 par. 1, subparagraph 5 and par. 2 of the Old Criminal Code of Kosovo, related to section 117.1. a and d of the Law on Public Procurement.

Accused:

Fatmir Limaj, Nexhat Krasniqi, Endrit Shala, Shpëtim Telaku, Florim Zuka

**Case
Prosecutor:**

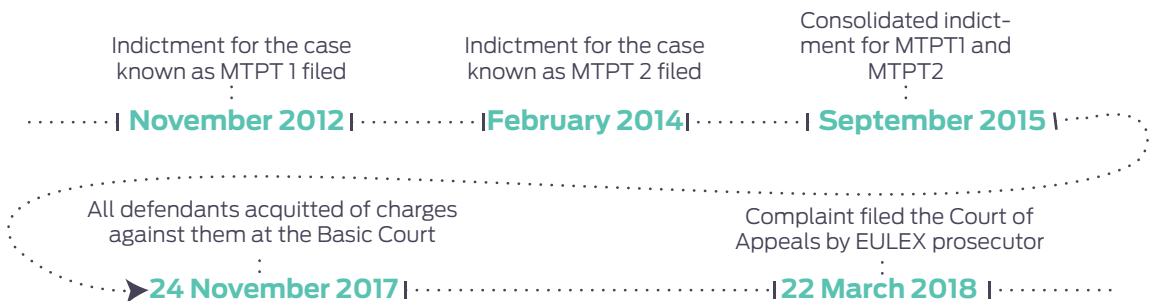
Charles Hardaway

Judge:

Maria Tuma, Jennifer Seel, Isuf Makolli

**Stage of
procedure**

Acquittal at the Basic Court, case currently in the Court of Appeals



2310
Days

Or 6 years 3 months and 27 days have passed since the first indictment and no final verdict has been issued.

1850 days or 6 years 3 months and 27 days have passed since the first indictment and no final verdict has been issued

343 days or 11 months and 6 days have passed since Prosecutor Charles filed a complaint at the Court of Appeals, while the latter has not yet ruled.

Indictment

Initially, Limaj, Shala and Zuka were charged in the indictment filed in November 2012 known as MTPT 1. During February 2014, EULEX filed a second indictment against Fatmir Limaj.

Limaj and the others were charged with various criminal offences: organized crime, appropriation, entering into harmful contracts, abuse of official position or authority, accepting bribes and other criminal offences related to corruption in the so called the Ministry of Transport and Post-Telecommunication Ministry case.

A press release by EULEX at the time stated that the prosecutor alleged that the budget of the Ministry of Transport was harmed by at least 890,000.00 euros. As a result, the trial panel ruled to join cases MTPT 1 and MTPT 2 together. This consolidated indictment was filed by the Prosecution in September 2015.

Basic Court

After eight years of legal procedures, on 24 November 2017, the Court found the former minister of Transport and Telecommunication Fatmir Limaj and four other defendants not guilty in all of the charges of the indictment.

Court of Appeals

Not happy with the ruling of the first instance Court, case prosecutor Charles Hardaway filed a complaint at the Court of Appeals on March 22, 2018. According to the complaint, prosecutor Charles Hardaway alleges that the first instance Court had not truthfully and completely established the facts, conducted fundamental violations of the criminal procedure and had violated the criminal code. In regards to the complaint filed by the EULEX prosecutor Charles Hardaway, the Court of Appeals has not issued a ruling yet.

Criminal
Offence:

**“Minister of economic Development”
Pkr-629/2016**

Conflict of interest

Accused:

Valdrin Lluka dhe Eliana Naka

Case
Prosecutor:

Habibe Salihu

Judge:

Hamdi Ibrahim, Naser Foniqi dhe Vehbi Kashtanjeva

Stage of the
procedure

Acquittal (for Valdrin Lluka), Retrial (for eliana Naka)

23 July 2018

Acquittal for Minister Lluka and conviction for Eliana Naka announced at the Basic Court of Prishtina.

December 2018

Part of the verdict regarding defendant Eliana Naka sent for a retrial by the Court of Appeals.

1523
Days

Or 4 years, 2 months and 1 day passed between the indictment being filed and the ruling of the first instance while the procedure against defendant Eliana Naka is continuing.

Basic Court

Through the judgment, the Court acquitted the defendant Valdrin Lluka while defendant Eliana Naka was found guilty and fined 7,000 euros.

Court of Appeals

The prosecution submitted a complaint against the judgment of the first instance court with the request to annul the first instance judgment and send the case back for a retrial.

Alongside the prosecution, the defence of the accused Eliana Naka also submitted a complaint.

After receiving the complaints and reviewing them, the Court of Appeals ruled to confirm the acquittal of the current Minister of Economic Development, Valdrin Lluka, while it also approved the complaint of the defendant Eliana Naka and sent the case back for retrial.

Indictment

According to the indictment, Minister Lluka, in his previous capacity as an official at the Ministry of Trade and Industry (MTI), on May 23, 2014 had acted in violation of the law by requesting the initiation of the procedures to pledge 20,000 euros to the Jakova Innovation center NGO, of which he was a founder, while at the same time holding the position of the chief of the Agency for Promotion of Investments.

In the same case, Eliana Naka was also charged over a conflict of interest, as, according to the indictment, in her position as the general secretary of the MTI, on June 2, 2014 she took the decision to allocate financial support worth 20,000 euros to the NGO where she was the director of the board, in violation of the law²⁸.

²⁸ <https://kallxo.com/lirohet-nga-akuza-ministri-valdrin-lluka/>
<https://kallxo.com/arsyetimi-i-gjykatesit-per-lirimin-e-ministrit-lluka/>

**Inspectors of the municipality of Prishtina
PKR. Nr.341/15**

**Criminal
Offence:**

Abuse of official position, falsification of documents

Accused:

Ismet Haliti, Skënder Canolli, Blerina Sylja, Blerim Ibishi, Ardian Muhadri, Arbenita Ajeti, Mërgim Shala, Granit Cenaj, Drita Rukiqi, Vebih Abdullahu dhe Qemajl Pozhegu

**Case
Prosecutor:**

Drita Hajdari

Judge:

Beqir Kalludra, Shadije Gërguri, Shashivar Hoti

**Stage of the
procedure**

Basic Court: Conviction, Court of Appeals: Retrial

Indictment filed by the
Special Prosecution

12 June 2015

Opening statements delivered

20 January 2015

20 April 2018

Conviction issued by the
Basic Court of Prishtina

27 December 2018

Case sent back for retrial by Court
of Appeals

1357

Days

Or 3 years and 16 days on from the filing
of the indictment and there is still no
final verdict

Basic Court

On April 2018, the Basic Court of Prishtina found the defendants guilty and convicted on charges of abuse of position the ten former construction inspectors at the Municipality of Prishtina and the owner of the “Pozhegu Brothers” company.

The Court issued sentences of imprisonment and fines for the defendants.

Ismet Haliti was sentenced to three years and six month imprisonment for abuse of position and a 1,000 euro fine for illegal possession of weapons. Skender Canolli was sentenced to two years and six months imprisonment for abuse of position and a 1,000 euro fine for illegal possession of weapons.

Blerina Sylja, Vehbi Avdullahu, Mergim Shala and Blerim Ibishi were sentenced to two years’ imprisonment each, while both Arbenita Ajeti and Drita Rukiqi were sentenced to one year and six months imprisonment. Granit cena and Ardian Muhadri were also sentenced to one year imprisonment each.

Ismet Haliti and Skender Canolli also both had a car confiscated while an apartment was confiscated from Mergim Shala. The owner of the “Pozhegu Brothers” company, Qemajl Pozhegu, was fined 20,000 euros for the falsification of documents.

Court of Appeals

About 8 months after the Court of Appeals had found the ten former construction inspectors of the Municipality of Prishtina and the owner of the “Pozhegu Brothers” company guilty, the Court of Appeals annulled the judgment and sent the process back to the beginning.

The Court of Appeals came to this decision after finding that the judgment contained basic violations of criminal procedure provision.

“The Court of Appeals, found that the appealed judgment of the first instance Court was involved in substantial violations of criminal procedure provisions per article 384 par. 1 point 1.12 of the CCPRK due to the enacting clause being in contradiction to the grounds statement,” noted the ruling of the Court of Appeals.

According to this ruling, the Prosecution charged Ismet Haliti, Skender Canolli, Blerina Sylja Vehbi Abdullahu, Blerim Ibishi, Ardian Muhadri, Arbenita Ajeti, Mergim Shala, Granit Cenaj and Drita Rukiqi for the criminal offence of participation or organising a criminal group while in the enacting clause of the judgment all the above mentioned defendants were found guilty, while in the statement of grounds on page 107, the first instance Court said that for this particular criminal offence, the administered evidence did not prove that the accused acted as an organised group thus reasoning that elements of this criminal procedure were not met³².

Indictment

The accused in this judicial process are the following: Ismet Haliti, Skender Canolli, Blerina Sylja, Vehbi Abdullahu, Blerim Ibishi, Ardian Muhadri, Arbenita Ajeti, Mergim Shala, Granit Cenaj, Drita Rukiqi and Qemajl Pozhegu.

According to the indictment, Chief Inspector Ismet Haliti and the defendants Skender Canolli, Vehbi Abdullahu, Drita Rukiqi, Blerina Sylja, Blerim Ibishi, Ardian Muhadri, Arbenita Ajeti, Mergim Shala and Granit Cenaj in their position as official persons at the Directorate of Construction Inspection at the Municipality of Prishtina, between January 2010 and March 2014 with the purpose of material gain, purposefully did not comply with their official duties, in such a way that they did not prevent nor halt unlawful construction.

The prosecution also alleged that the defendants did not execute a decision for demolishing building that were being unlawfully built within the territory of the municipality of Prishtina, thus acting as a criminal group that used their official position in order to commit criminal offences.

Whereas for the owner of the “Pozhegu Brothers” company, Qemajl Pozhegu, the Prosecution alleged that he had changed building permits in order to use it as an original document and was hence charged with the criminal offence of falsification of documents.

³² <https://kallxo.com/gjykata-vendos-per-ish-inspektoret-e-prishtines/>
<https://kallxo.com/gjykata-e-apelit-anulon-denimin-e-inspektoreve-te-qeverisjes-se-isa-mustafes/>

Basic Court of Prizren

	civil Registrar Pkr. 126/17
Criminal Offence:	Falsification of document per article 434 of the CCRK, par. I; Incitement to falsification of official document per article 434, par. I related to article 32 of the CCRK
Defendants	Mirat Shala dhe R.M
Case Prosecutor:	Mehdi Sefa
Trial panel	Ajser Skenderi (single judge)
Stage of procedure	Conviction judgement

Basic Court

11 January 2018 – Initial hearing held, defendants pleaded guilty

In the initial hearing held on January 11, 2018, the defendants pleaded guilty, and the Court issued a judgement of conviction on the same day.

The defendants were pronounced guilty and handed conditional six-month sentences with a verification period of one year.

During the sentencing, the Court took as a mitigating circumstance the good behaviour of the defendants, their guilty plea and the remorse they expressed.

Indictment

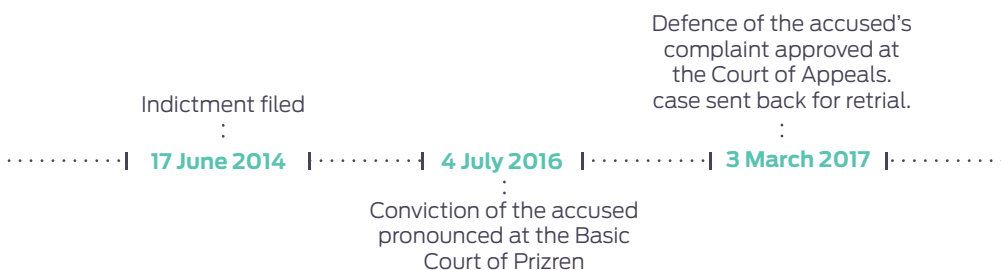
Per the indictment, Mirat Shala was accused that on August 15, 2017 at an indefinite time in the municipality of M., in his capacity as a civil registrar, he had recorded fake data in an official document and verified an official document containing fake data by signing and stamping the document.

On August 15, 2017 Shala was alleged to have issued and delivered to the parties an official document: a sworn declaration of entering into marriage for a couple. By signing and stamping the fake document, it verified the civil status of marriage, although it had not occurred yet, as in the solemn declaration, the noted date was August 21, 2017.

The second defendant R.M was accused with the allegation that, on the same date, time and location, in his capacity as the director of General Administration of the municipality, he purposefully incited the official person to note fake data and with the signature and official stamp to verify the official document. Therefore, in his position as Director of General Administration of the municipality of M. he incited the civil registrar to issue and deliver an official document on August 15, 2017, a solemn declaration of entering into marriage and verified a civil status that had not occurred yet, as the date on the solemn declaration was August 21, 2017.

**Importing artificial fertilizer
Pkr. 28/17**

Criminal Offence:	Abuse of official position or authority per article 422 par. I related to article 31 of the CCRK
Defendants	Ismet Fejzullahu, Sabedin Kadriu dhe Nedime Kalenderi-Krasniqi,
Case Prosecutor:	Mehdi Sefa
Trial panel	Ajser Skenderi
Stage of procedure	Conviction, Retrial, acquittal



Basic Court of Prizren

On July 4, 2016, the Basic Court of Prizren, issued a judgment, handing each of the defendants a six month conditional sentence and obliging them to pay a 300 euro fee for the scheduled judicial amount.

In the reasoning of the verdict, the trial panel assessed that the accused had no right to allow the import of a quantity of about 1,000 tonnes of non-packaged artificial fertilizer as, according to the law, that company had no right to package it, and goods in such form are forbidden from entering Kosovo.

Court of Appeals

On March 3, 2017, the Court of Appeals approved the complaint of the defence of the accused Sabedin Kadriu and Nadime Kalenderi-Krasniqi and annulled the verdict of the Basic Court of Prizren due to essential violations of criminal procedures provisions, and sent the case back for a retrial.

The Court of Appeals demanded that the actions of each of the accused and their responsibilities towards the allegations of the prosecution, as described in the enactment clause of the indictment, be clearly defined during the retrial.

Retrial

After the trial, the trial panel acquitted, as it was not proven that the accused had committed the criminal offences with which they were charged.

The trial panel justified their verdict by assessing that they did not connect the fact that the artificial fertilizer superphosphate had entered Kosovo with the defendants, as defined in the indictment. The prosecutor had failed to prove what the actions undertaken by the accused were that would constitute the criminal offence elements they were charged with.

According to the trial panel, the prosecutor had not been able to prove which parts of official duty the accused had not fulfilled according to their job description. The prosecutor was also not able to prove with a single piece of evidence what tasks that the three accused of abusing their official position or authority had not performed, or which actions or inactions of the accused criminal offence elements of abusing official position or authority per article 422 par. 1 related to article 31 of the CCRK would be constituted.

According to the judgment, the defendants were accused of having committed the criminal offence in co-perpetration per article 31 of the CCRK, but the prosecutor was not able to prove how this co-perpetration had occurred per the aforementioned article during the trial.

Indictment

According to the indictment, on 5-6 October, 2012, at an indefinite time at the customs point in Vermice, the defendants had abused their official position or authority by not complying with official duties with the purpose of material gain for a private company worth 11,496.00 euros according to the financial experts.

In their capacity of official persons, the first defendant Ismet Fejzullahu, the chief of the internal phytosanitary inspection, the second defendant Sabedin Kadriu – chief of the border phytosanitary inspection and Nedime Krasniqi-Kalenderi, border phytosanitary inspection at the border point in Vermice, without any legal basis and in violation of the administrative instruction MA.nr.10/16 had allowed 999.66 tons of artificial fertilizer superphosphate P 205-16% to enter the territory of the Republic of Kosovo through the Morine border crossing.

Municipal inspectors Pkr. 113/2017

**Criminal
Offence:**

Abuse of official position or authority per article 422 par. 1 – 2 sub par. 2.2 related to article 31 of the CCRK, Unlawful occupation of real property per article 332 par. 1 of the CCRK; Self justice per article 418 par. 1 of the CCRK.

Defendants

Bujar Hasani, Enver Bytyçi, Flurim Islami, Burhamedin Bojaxhiu, Alban Osmani

**Case
Prosecutor:**

Mehdi Sefa

Trial panel

Raima Elezi

**Stage of
procedure**

Dismissal indictment, judgment dated March 12, 2018

Request of the defence to
dismiss indictment
approved at the Basic
Court of Prizren

Prosecutor's complaint
refused at the Court of
Appeals, rejection of
indictment confirmed.

.....|12 March 2018|.....

.....|28 May 2018|.....

Basic Court Prizren

After holding the initial hearing on the case, the defendants pleaded not guilty. At the second hearing, the defence of the accused presented a motion to dismiss the indictment.

The defendant Bujar Hasani challenged the allegations in the indictment by stating that he had no competencies to sign a decision on demolishing or moving buildings, but such a responsibility is given directly to inspectors per the law and they are independent in performing their work.

He stated that the inspectors went out on the site and demolished buildings and now only some containers remain, while the latter are considered movable objects and hence do not pertain to the category of construction buildings. He further stated that there had never been any requests from the Forestry Agency of Kosovo to move objects from the property.

The other defendant, Enver Bytyqi, stated that he had not abused his official position but that he had acted upon the obligations deriving from his job description and highlighted that he is independent in performing his work.

The defence of the accused Flurim Islamaj, lawyer Orhan Rekathati, stated that the indictment against his client has no standing, as, according to him, Islamaj had undertaken all the requested actions to move the objects from the property in question.

The accused for unlawful occupation, Burhamedin Bojaxhiu, also requested the dismissal of the indictment stating that he had not committed the criminal offence he was charged with.

Additionally, lawyer Blerim Mazreku who defended the accused for self-justice, Alban Osmani also requested to dismiss the indictment as ungrounded as, according to him, his client had permission to place a temporary object and there is no need for municipal permit for such objects.

Mazreku said that the indictment was for a criminal offence that had reached statutory limitation as his client had placed the object in 2012, while the criminal offence of self-justice reaches a statutory limitation deadline four years after the criminal offence was committed.

The case prosecutor, Mehdi Sefa objected to the requests of the accused and their respective defences for the dismissal of the indictment, stating that their allegation against the indictment were ungrounded, as, according to him, the indictment is founded on legal evidence.

Further, prosecutor Sefa said that the municipal officials' were charged with not having acted per their competencies of removing illegal objects in public property and according to him, the accused Bytyqi and Islamaj have themselves stated to the police and prosecution that former director Hasani had not allowed them to execute the decision for the removal of said objects.

In regards to the allegations of the statutory limitation of the criminal offence against Alban Osmani, prosecutor Sefa said that this is not the case as the criminal offence had started in 2012 but has continued ever since

Ruling to dismiss the indictment

On March 12, 2018, after holding the second hearing, the case judge Raima Elezi ruled to dismiss the indictment against the accused Bujar Hasani, Enver Bytyqi, Flurim Islami, Burhamidin Bojaxhiu and Alban Osmani, reasoning that there were no facts to support the reasonable doubt that they had committed the criminal offence they were charged with.

In her ruling, the judge reasoned that the indictment generally says that the accused committed the criminal offence, but did not show concrete actions through which they could have committed the criminal offence, or, more precisely, what the authorisations were that they did not comply with, and based on what law or bylaw. For the indicted for unlawful occupation, Burhamedin Bojaxhiu, and for the indicted for self-justice Alban Osmani, Judge Elezi in her ruling said that they had an agreement with the Forestry Agency of Kosovo to use the property, and it can not in any way constitute unilateral actions from them.

Case prosecutor Mehdi Sefa filed a complaint to the Court of Appeals against the ruling within the set deadline, and requested to annul the ruling to dismiss the indictment, reasoning that in ruling the case, the Court had not fairly reviewed all the evidence and case files.

Prosecutor Sefa argued his complaint by stating that the Court dismissed the indictment calling upon lack of evidence, however in the statement of grounds did go into factual and legal qualifications of criminal offences, something that should not have been done without going into the main trial.

The case prosecutor argued that if the indictment was unclear or confusing for the Court, then it should have called upon the prosecution to provide clarification or to send it back for supplementing and improving, but not to dismiss it as ungrounded.

Court of Appeals

In its ruling of May 28, 2018, the Court of Appeals refused the complaint of the prosecution and assessed the ruling of the Basic Court of Prizren to dismiss the indictment as reasonable.

The Court of Appeals assessed that the allegation of the prosecution that the Court did not review the evidence from the case files was not reasonable, as evidence had been reviewed and it was concluded that they do not support the reasonable doubt whether the criminal offences were perpetrated by the defendants.

Indictment

The Basic Court of Prizren accused Bujar Hasani, enver Bytyqi and Flurim Islami for having continuously delayed issuing a decision to remove objects owned by the accused Burhanedin Bojaxhiu and Alban Osmani that were illegally placed on social property.

Hasani was accused of not having executed the decision issued on December 12, 2016 while Bytyqi and Islami had allegedly delayed issuing the decision from 2013 to December 2016. They allegedly did so in order to gain in any form from the accused Bojaxhiu and Osmani.

Bojaxhiu was accused of unlawful occupation of property belonging to the Forestry Agency of Kosovo through having placed a kiosk and a camp-house there without having the proper permits from competent municipal authorities.

Alban Osmani was charged with the criminal offence of self-justice, as according to the prosecution he had arbitrarily exercised the right he thought he was entitled to by placing two temporary objects in a 115 meter-square location without obtaining the required permits by local authorities.

Criminal Offence:	<p>Municipal director Pkr. 111/17</p>
Defendants:	<p>Abuse of official position or authority per article 422 par. 1 related to par. 2 sub-par. 2.2 of the CCRK.</p>
Case Prosecutor:	<p>Ilir Baldedaj</p>
Trial panel	<p>Mehdi Sefa</p>
Stage of procedure	<p>Artan Sejrani kryetar, Ajser Skenderi, Fatmir Krasniqi</p> <p>Conviction on May 25, 2018</p>



Basic Court of Prizren

After administering and reviewing all the evidence in the case, the Basic Court of Prizren ruled that the actions of the accused constituted all the elements of the criminal offence of abusing official position or authority per article 422 par. 1 related to par. 2 sub-par. 2.4. of the criminal code in such a manner that the accused, while being fully aware and conscious of his actions, had committed the criminal offence he was charged with, hence the Court found him guilty of this criminal offence and sentenced him conditionally for a period of six months, a sentence that would not be executed within a 1 year period if he did not commit another offence from the day the judgment became final.

The Court took the manner in which the criminal offence was committed and the actual weight of the offence as an aggravating factor. Further, the Court took as a mitigating factor the good behaviour of the accused during the trial, his age, economic standing, education and the fact that this was he had no prior convictions.

The Court justified the conditional sentencing as being a proportional punishment with the level of the criminal responsibility of the accused.

Court of Appeals

The Court of Appeals confirmed the judgment of the Basic Court of Prizren.

Indictment

According to the indictment of October 30, 2017, the accused Ilir Baldedaj during the period of August 2015 to December 2016 in his capacity as the director of Public Administration in the municipality of Prizren and while using his official position or authority had exceeded his official competences by abusing public goods with the purpose of material gain from others, namely TV Opinion, TV Besa and TV Prizren. He did so in such a manner that, without undergoing any procurement procedure, he entered into a contract and signed it in order to broadcast advertising clips for online applications for the needs of the municipality and in particular public administration.

Per the indictment, Baldedaj had entered into contract with TV Opinion for broadcasting worth 300 euros per month for the period of August 1, 2015 to July 31, 2016. He entered into a contract with TV Besa worth 250 euros per month for the period of September 1, 2015 to August 31, 2016, while he signed a contract with TV Prizren worth 500 euros per month for the period of April 1, 2016 to December 31, 2016.

After completing the financial expertise, it resulted that, according to the dossiers of the three aforementioned suppliers, the services for advertising clips for online applications had exceeded the foreseen funds in the signed contracts, which totalled 17,100 euros. Per the indictment, in this way the defendant committed the criminal offence of abusing official position or authority per article 422. par related to par. 2 sub par. 2.4 of the CCRK.

The indictment had proposed financial expertise while there was no freezing or sequestration of assets.

	Director and the inspector Pkr. 897/17
Criminal Offence:	Abuse of official position or authority per article 422 par. 1 related to par. 2, sub par. 2.2 of the CCRK; Unlawful occupation of immovable property per article 332 par. 1. of the CCRK
Defendants:	Bujar Hasani, Enver Bytyçi
Case Prosecutor:	Mehdi Sefa
Trial panel	Ajser Skenderi-kryetar, Kymete Kicja, Teuta Krusha- anëtarë
Stage of procedure	Acquittal on February 26, 2018

Indictment is filed

The Basic Court of Prizren
pronounced the acquittal

.....| **22 November 2017** | | **26 February 2018** |

Basic Court of Prizren

With the judgment issued on February 26, 2018, the Basic Court of Prizren acquitted Bujar Hasani and Enver Bytyqi, both charged with the criminal offence of abusing their official positions. Hasani was also acquitted of unlawful occupation of public property.

The trial panel argued that the accused were acquitted of all charged as it had not been proven that they had committed these criminal offences.

The Court confirmed that the actions of the accused did not constitute the substantial elements of the criminal offence of abuse of official position or authority per article 422 par. 1 related to par. 2 sub par. 2.2 of the CCRK and the criminal offence of unlawful occupation of immovable property per article 332 par. 1 of the CCRK. Similarly, the Court concluded the same for the other accused in the case.

Per the assessment of the Basic Court of Prizren, the criminal offence they were charged with can only be committed intentionally and with a direct intent, as for this criminal offence to be committed they would need to materially or non-materially gain either for themselves or for others, to cause damage to another person or to seriously violate the rights of another person. However, such a charge could be proven with any convincing evidence, as the evidence that was administered in fact proved the contrary.

Further, the Basic Court of Prizren assessed that in order for this criminal offence to exist, another law's provisions must be violated. However, in this particular case, the prosecution could not argue this.

Indictment

According to the indictment, from September 10, 2017, Bujar Hasani, in his capacity as the director of the Department of Inspection at the Municipality of Prizren had intentionally not fulfilled his official duties as defined by law. He did so with the purpose of material gain for himself in such a manner that he did not undertake adequate measures in compliance with his authorisations for the removal of a metallic construction placed as an annex of the "F" stores building, located in the protected zone of the city. The defendant is the owner of the place himself.

Per the indictment, the accused had unlawfully occupied immovable property of the municipality of Prizren in the protected zone of the city by adding an annex in the form of a metallic construction, as a continuation of the building of the bar "F", of which he is the owner.

The other defendant, Enver Bytyçi, was charged of not having complied with his official duties as defined by the law intentionally, in order to cause material benefit to B.H., who was his director while he was a construction inspector. He did so in such a manner that he did not undertake adequate measures of inspection as called upon by his legal authorization in order to initiate procedures to remove the annex-metallic construction that were added to the "F" bar located in the protected zone of the city.

**The director and teacher accused of corruption
Pkr. 211/16**

**Criminal
Offence:**

Abuse of official position or authority per article 422 par. 1 of the CCRK

Defendants

Nexhat Çoçaj, Bekim Thaçi, Bedri Çejku

**Case
Prosecutor:**

Mehdi Sefa

Trial panel

Ajser Skenderi, Xheladin Osmani, Kymete Kicaj

**Stage of
procedure**

Conviction, Retrial, Acquittal

Conviction against the
three accused announced
at the Basic Court of Prizren

June 2016

Case sent back for retrial
by the Court of Appeals

27 September 2016

September 2018

Retrial started at the Basic
Court of Prizren

19 November 2018

Basic Court announces the
rejection judgment/acquittal of the
accused

Basic Court of Prizren

After holding a few Court hearings, in June 2016, the Court issued a conviction against the three accused in the case. Nexhat Cocaj was sentenced to three years' imprisonment, the other defendant Bekim Thaci to 14 months while the third accused Bedri Cejku was sentenced to six months.

Court of Appeals

On September 27, 2016, the Court of Appeals confirmed the complaints of the defence and sent the case back for reconsideration.

According to the Court of Appeals, it was necessary to explain whether the accused were responsible for exceeding the public budget or if it was the responsibility of the municipal officials who had issued the funds.

The Court of Appeals also demanded a definition of what was the actual exceeding of the budget, whether damage was caused, if so to whom and who is responsible for doing so, because if the additional funds were permitted then it was the responsibility of the municipal officials.

The ruling of the Court of Appeals further said that the accused Nexhat Cocaj had presented financial expertise that contradicts the findings of the prosecution's expertise, hence a super-expertise was required in order to explain the contradictions.

Retrial

Initially the retrial failed to be held for about 8 months, as the Basic Court of Prizren had requested the super expertise from University of Prishtina per the instructions of the Court of Appeals, but the economic Faculty of Prishtina did not conduct the requested expertise for more than seven months.

After a few months of waiting, the University of Prishtina had responded through a letter containing 6-7 lines where it had justified itself and stated that they could not conduct the super-expertise, while the reasons provided were deemed not clear by the Court.

As a result, the trial panel assigned three experts whose expenses would be paid by the Court in order to conduct the super-expertise according to the instructions of the Court of Appeals.

Ultimately, the retrial commenced in September 2018.

After the elaboration of the super-expertise and fulfilling all instruction of the Court of Appeals, the trial panel decided to acquitted Nexhat Cocaj, while for one of the charges, it was the prosecutor who withdrew the accusations as the case had reached absolute statutory limitation.

The Court also acquitted the other two defendants Bekim Thaci and Bedri Cejku. In its statement of grounds, the trial panel highlighted that after acting upon the instructions of the Court of Appeals, it was found that the funds provided for “Remzi Ademaj week” were subsidies and as such they do not fall under procurement procedures.

Indictment

According to the first point of the indictment, during the period of May-June 2018, Nexhat Cocaj exceeded his competencies with the purpose of unlawful material gain for himself, as the president of the organising committee of the Manifestation of the week of Remzi Ademaj by allocating 12,803 euros to his personal bank account from the Municipality of Prizren.

Cocaj was charged with the allegation that through this amount of funds, without any tendering procedures, he paid invoices to suppliers through transfer, made purchases with credit cards in shopping centres, withdrew various amounts of money from ATMs. He is also alleged to have withdrawn cash from accounts that was allocated by the Municipal Assembly of Prizren: 2,000 euros on November 14, 2008 and 1,137 euros on December 4, 2008, without the destination of this public money being known.

In addition, of the allocated funds, supplies were bought from Bogdani company, whose owner is Cocaj himself. All these expenses did not go to the destination for which they were allocated, namely to cover the expenses of the event.

In the second indictment, Cocaj, was charged with the allegation that during the period of May-June 2009 in Prizren, he had yet again abused the events held to honour martyr Remzi Ademaj.

This time, Cocaj, had not taken the money into his own bank account but had the amount of 11,000 euros transferred into the account of the publishing house “Bogdani”, which he owns.

Through these funds, Cocaj was accused of having paid suppliers without tendering procedures, withdrawn money from ATMs, made purchases in shopping centres and purchased supplies from the “Bogdani” company worth 822 euros.

Per the indictment, all these expenses were made by Cocaj, outside of the actual destination for which the money was allocated, while the expenses had exceeded the allocated amount of 4,141 euros, without adequate decisions of the municipality. In the third point of the indictment, Cocaj was charged together with teacher Bekim Thaci from Nashec village of having abused official position or authority in co-perpetration.

During the period of May-June 2010, Bekim Thaci was charged with having abused his official position, exceeding competencies in his official position with the purpose of material gain for the accused Nexhat Cocaj.

Thaci in his capacity of the chairperson of the organising committee for the “Manifestation of the week of Remzi Ademaj” was accused of having transferred 5,650 euros initially, as well another payment of 4,350 euros to the bank account of Nexhat Cocaj after the amount of 10,000 euros was allocated and transferred to his personal account.

In the fourth point of the indictment, Cocaj, was accused of having abused his official position together with teacher Bekim Thaci again during the period of May-June 2011. In the fifth point of the indictment Cocaj was accused of committing the criminal offence of abuse of official position or authority in co-perpetration with teacher Bedri Cejku from Prizren.

Bedri Cejku was charged in his capacity of chairman of the organising committee of “Manifestation of the week Remzi Ademaj” during the period of May-June 2012, after the allocation of funds into his personal bank account of 10,000 euros. Part of the money was paid in cash for supplies needed for the manifestation during the period May 28, 2012 to June 4, 2012, while the other portion of the funds was given to the accused Nexhat Cocaj.

Basic Court of Peja

	Haki Rugova Pkr 25/18
Criminal Offence:	Conflict of interest per article 424.
Defendants	Haki Rugova
Case Prosecutor:	Ali Selimaj
Trial panel	Syle Lokaj
Stage of the procedure	Confirmation of the indictment

March 2018 | ➔ 17 January 2019

Indictment against
Haki Rugova filed

Initial court
hearing held

298

Days

passed between
the filing of the
indictment and
the initial court
hearing.

Trial

The indictment on conflict of interest against Haki Rugova was filed on March 2018 while only after 298 days, on January 17, 2019, was the Basic Court of Peja able to hold the initial hearing, thus flagrantly violating the deadlines set in the Criminal Procedure Code of the Republic of Kosovo regarding processing of cases.

This court hearing was scheduled to start on various dates, however due to the absence of the accused, the hearings failed, whereas the court never issued a warrant to forcefully bring the accused to the hearing.

Indictment

According to the indictment of the Basic Prosecution in Gjakova dated March 26, 2018, Haki Rugova was charged with the allegation that while being the Mayor of the municipality of Istog, on August 1, 2014, he had signed a contract with “Ma-con sh.p.k.” for the construction of the sewage system in the villages of Cerce and Lubozhde.

Per the indictment, at the moment of entering into the contract for construction work between the municipality of Istog and Ma-con sh.p.k., the director of the latter was Gani Rugova, the brother of the accused. The value of the contract was 289,119.85 euros.

The prosecution alleges that with these actions, the defendant Rugova had enabled the financial interests of his brother, Gani Rugova³⁶.

³⁶<https://kallxo.com/haki-rugova-ende-pa-avokat-nuk-paraqitet-ne-gjykate/>
<https://kallxo.com/shtyhet-serish-seanca-haki-rugova-rrezikon-te-sjellet-me-force-ne-gjykate/>
<https://kallxo.com/shtyhet-seanca-gjyqesore-ndaj-haki-rugoves/>
<https://kallxo.com/haki-rugova-serish-nuk-paraqitet-ne-gjykate-shtyhet-seanca-ndaj-tij/>

Qemajl Mustafa and the others Pkr. 227/16

Criminal Offence:

Organized crime per article 274 par. 2 related to the criminal offence of Abuse of official position or authority per article 339 par. 3; Organized crime per article 274: par. 2 related to criminal offence of abuse of authorisations in economy per article: 236 par. 2

Defendants

Qemajl Mustafës, Hatixhe Daku, Vehbi Geci, Agim Hoxha, Behar Mehmeti, Drita Kajtazi, Fadil Osmani, Fatmir Halili, Ganimete Kastrati, Hamdi Ismaili, Hesat Mahmuti, Ibrahim Foniqi, Ilaz Rashiti, Merita Shabani, Muhamet Kastrati, Musa Nasufi, Qefsere Limoni, Selvie Mustafa, Ramush Musliu, Shemdesin Qerimi, Selver Xhelili, Qemajl Latifi, Nazmi Jashari, Enver Biqku, Asllan Mustafa, Naser Sylejmani, Azem Mujku, Zeqirja Fazliu, Basri Kqiku, Mjedin Ahmeti, Naser Mehmeti, Burim Govori, Florim Zuka, Avdyl Pireva, Skender Imeri, Rustem Hajdari, Asllan Asllani dhe Asllan Sylja.

Case Prosecutor:

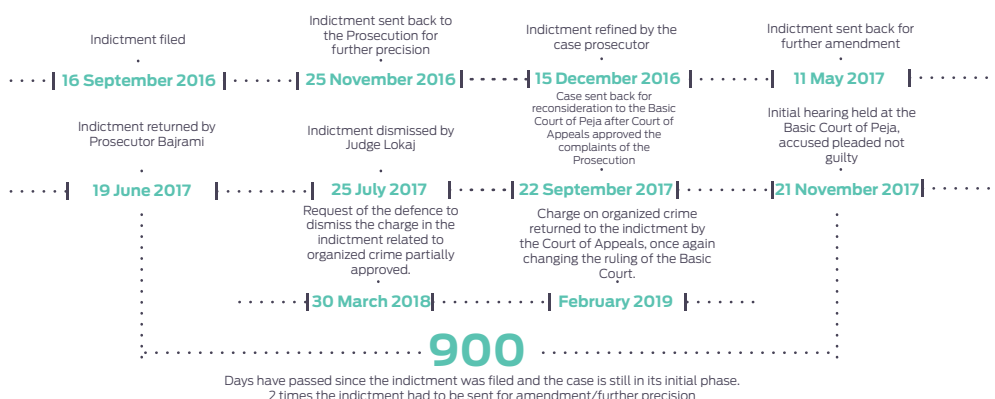
Agron Bajrami

Trial panel

Syle Lokaj

Stage of the procedure

Initial stages



Basic Court of Peja

The indictment against the defendant Qemajl Mustafa and the others was filed on September 16, 2016. More than 900 days have passed since and the Court has not yet initiated the main trial of the case.

The indictment was sent back for amending/supplementing twice. Initially on November 25, 2016, the judge in the case requested more precision in indictment from the Special Prosecution of the Republic of Kosovo.

The Prosecutor Agron Bajrami responded to the request of the Court and made the indictment more precise on 15 December 2016.

After this refinement of the indictment by Prosecutor Bajrami, Judge Syle Lokaj yet again sent the case back to the Special Prosecution for amendment/supplementing on May 11, 2017.

Special Prosecutor Agron Bajrami sent the amended indictment for the second time to the Court on June 19, 2017.

After receiving the amended indictment, on July 25, 2017, the case judge dismissed the indictment, while the Special Prosecution submitted a complaint.

On September 22, 2017, the Court of Appeals sent the case back for reconsideration to the Basic Court of Peja, with the justification that the first instance Court had not provided full reasoning in dismissing the indictment.

On November 21, 2017, the case judge held the initial hearing.

The 39 accused in the case pleaded not guilty of all charges of the indictment. After this, the judge notified the parties on the challenging of evidence and the motion to dismiss the indictment.

On March 30, 2018, the Basic Court of Peja, while acting on the motion of the defence to dismiss the indictment, partially approved their request by dismissing some of the charges in the indictment such as 'Organized crime related to authorisations in economy,' for the defendants Basri Kqiku, Avdyl Pireva, Rustem Hajdari, Florim Zuka, Skender Imeri, Naser Mehmeti, Mejdil Ahmeti, Burim Govori, Asllan Asllani and Asllan Sylja.

Special Prosecutor Agron Bajrami submitted a complaint against this ruling to the Court of Appeals.

After reviewing the claims in the complaint, the Court of Appeals found that the ruling of the Basic Court of Peja must be annulled, as it should be taken into consideration that the case is very complex and with a big number of defendants, the case requires a more serious and detailed treatment, with more professional grounds and evaluation which should be taken into account by the first instance court during the reconsideration.

After receiving the ruling of the Court of Appeals, on November 30, 2018, Judge Lokaj ruled to remove the "organized crime" charge from the indictment and to cease criminal procedures against the defendants for abuses in economy.

Additionally, from now and onwards, the accused would be judged per the new criminal code as it is the most favourable law.

According to the ruling, instead of organized crime, Qemajl Mustafa and the others who were charged with "organized crime" related to abuse of official position, would be charged with abuse of official position per article 422, par. 1, related to article 31 of the Criminal Code of the Republic of Kosovo.

Ultimately, in February 2019, the Court of Appeals once again ruled to overturn the ruling of the Basic Court of Peja and returned the charges of organized crime for all the defendants and instructed the Court to start the trial.

Indictment

The Prosecution indicted the following defendants: Qemajl Mustafa, Hatixhe Daku, Vehbi Geci, Qefserë Sadriu, Ilaz Rashiti, Musa Nasufi, Muhamet Kastrati, Hesët Mahmuti, Fatmir Halili, Drita Bajrami, Agim Hoxha, Ramush Musliu; Selvije Shefkju, Ganimete Kastrati, Shemsedin Qerimi; Merita Canaj-Shabani, Ibrahim Foniqi, Behar Mehtlleti, Hamdi Ismajli, Fadil Osmani, Hesët Asllani, Selver Xhelili, Qemajl Latifi, Enver Biçku, Asllan Mustafa, Naser Sylejmani, Zeqirja Fazliu, Azem Mujku and Naim Jashari, for the criminal offence of organized crime per article 274 par. 2 of the CCRK related to the criminal offence of abuse of official position or authorisations per article 339, par. 3 related to par. 1 of the CPC.

Whereas the defendants: Basri Kqjku, Avdyl Pireva, Rustem Hajdari, Florim Zuka, Skender Imeri, Naser Mehmeti, Mejdi Ahmeti, Burim Govori, Asllan Asllani and Asllan Sylë, were charged with criminal offences of organized crime per article 274 par. 2 of the CPC related to the criminal offence of abuse of authorisations in economy per article 236, par. 2 related to par 1, sub-par. 5 of the CPC.

According to the indictment, the officials, while acting in the capacity of official persons, abused their official position by exceeding their competencies and not fulfilling their official duties, while the other defendants, acting as owners or representatives of economic operators, had exercised economic activities with the purpose of unlawful gain for themselves or other economic operators, while bidding for procurement activities in that municipality.

Per the indictment, the former Mayor of the municipality had coordinated with the work of this group in fixing procurement activities, ensuring the winners of the tenders, always with prior agreements with the now defendants, more precisely owners or representatives of the economic operators (businesses) mentioned in the indictment.

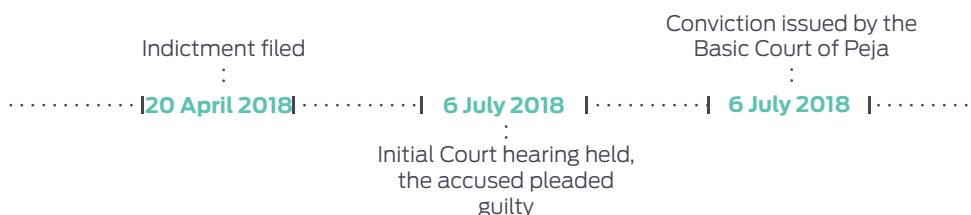
According to the Prosecution, while analysing and reviewing these procurement activities in detail between 2008 and 2011, it resulted that the former Mayor while exercising his executive power as the Mayor of the municipality, had coordinated and was aware of all of these procurement activities. This was based on direct communications and phone communications with the procurement manager and owners or representatives of these businesses. The Mayor had exercised his power through the procurement manager also in assigning members of evaluation committees for the bids and the members of evaluation committees in various procurement activities.

It is said that from these communications, the results were that the business owners were awarded contracts due to fixing them with the Mayor, procurement manager and prior agreements of the owners of these businesses, all with the purpose of unlawful gain for themselves or other persons and thus causing damage to the municipality of Gjiilan, Kosovo's budget and other economic operators who were not part of these fixings.

Motion to confiscate - We propose the Court that all contracts generated as a result of these unlawful procurement activities be annulled (be pronounced null) and to return all benefits to the injured party, the municipality of Gjilan, and to compensate the injured party in all cases of procurement activities that resulted unlawfully and are the object of the indictment.

Also, based on article 96 and 97, par. I of the CPC, the defendants as described in the indictment should pay back the amount corresponding to the material benefits gained

	Official registrar of the municipality of Klina Pkr. 32/18
Criminal Offence:	Falsifying official documents per article 434 par. 1 of the CPC
Defendants	Valdet Berisha
Case Prosecutor:	Ardian Hajdaraj
Trial panel	Syle Lokaj
Stage of the procedure	Conviction



Trial

The Basic Court of Peja filed an indictment against the defendant Valdet Berisha on April 20, 2018.

After the indictment was filed on July 6, 2018, the initial hearing was held. During the initial hearing, the defendant Valdet Berisha pleaded guilty to falsifying official documents.

³⁷<https://kallxo.com/gjykata-e-apelit-ndryshon-fatin-e-aktakuzes-ndaj-qemajl-mustafes/>
<https://kallxo.com/gjnk/18-tenderet-qe-rendojne-mbi-qemajl-mustafen-shoke/>
<https://kallxo.com/kerkohet-plotesimi-aktakuzes-ne-rastin-e-qemajl-mustafes/>
<https://kallxo.com/te-akuzuarit-si-ze-gjykata-seanca-mbahet-ne-sallen-e-asamblese-komunale/>
<https://kallxo.com/aktakuze-ndaj-qemajl-mustafes-dhe-38-te-tjereve/>

On the same date as pleading guilty, the Court issued a sentence of 6 months imprisonment, which upon the agreement of the defendant may be replaced with a fine of 2,500 euros.

As an accessory sentence, the defendant was prohibited from exercising public administration or public service functions for a period of five years. Valdet Berisha had previously been convicted on corruption charges and had served his sentence.

Indictment

On January 19, 2016, in the municipality of Klina, while using an official position, the defendant enabled the compilation of an official document with false content, while working in the civil Registry Office in the village Jashanice in the municipality of Klina. He intentionally registered fake data in the official registry for a person named J.D from the village of Gjurgjevik in the municipality of Klina. According to the indictment, the defendant had registered fake data related to J.D. in the matrix books of births, enabling him to obtain Republic of Kosovo documentation, including identification documents and passport.

Trial and prior conviction

Valdet Berisha was charged on two other criminal offences ‘abuse of official position or authority’ and ‘falsifying official documents,’ offences for which together with his lawyer Ndrece Dodaj, he had reached a plea agreement in August 2016.

After reaching the plea deal, case judge Lumturie Muhaxheri issued a guilty verdict for Berisha and sentenced him to 12 months imprisonment for both criminal offences.

Indictment

According to the indictment of the Basic Prosecution of Peja, between 2013 and 2016, Valdet Berisha, as a civil registrar in the village of Jashanice in the municipality of Klina, while using his official position, exceeded his competencies with the purpose of gaining material benefits for himself. He had done so by compiling birth extracts with fake content, thus changing identity data.

Criminal Offence:	10 euro bribe Pkr. 7/18
Defendants	Enes Kastrati
Case Prosecutor:	Valbona Disha - Haxhosaj
Trial panel	Lumturie Muhaxheri
Stage of the procedure	Conviction

Trial – On January 26, 2018, the Basic Prosecution of Peja filed an indictment against Enes Kastrati for the criminal offence of giving a bribe.

After filing the indictment, the defendant Enes Kastrati through his defence, Sadullah Zeqiri, requested to enter a plea deal.

With the agreement of the chief Prosecutor of Peja, prosecutor Valbona Haxhosaj entered into plea deal negotiation.

The defendant stated that he was willing to accept the charges in exchange for a lower sentence. The defendant and the prosecutor agreed to issue a fine of 150-200 euros and an accessory sentence of confiscating the 10 euro banknote used for the criminal offence of giving a bribe.

The plea deal was approved by the court. Afterwards, the Basic Court of Peja issued a judgement fining the defendant Enes Kastrati 150 euros for giving a bribe.

Indictment

On January 25, 2018, around 13:40 on the road between Rrozhaja and Peja, the defendant directly offered material gain to an official person with the aim for the latter not to fulfil his official duty. When the defendant was stopped by traffic police for not wearing a seatbelt and the police officer was issuing a fine, the defendant, in order to escape a fine-traffic ticket, took out 10 euros from his wallet and offered it to the police officer as a bribe.

	The mine and minerals inspector Pkr.201/2016
Criminal Offence:	Abuse of official position per article 422 and receiving a bribe per article 428.
Defendants	Lulzim Citaku
Case Prosecutor:	Sahide Gashi
Trial panel	Syle Lokaj, Sami Sharraxhiu, Sejdi Blakaj
Stage of the procedure	Conviction, Retrial, Acquittal

23 September 2015 | **September 2016**

Basic Court of Peja found the accused not guilty

Court of Appeals send the case back for retrial due to essential violations

Trial

In the trial for abuse of official position and receiving a bribe, the defendant Lulzim Citaku was found not guilty twice.

Initially, on 23 September 2015, the Basic Court of Peja acquitted Lulzim Citaku on all charges.

In the judgement issued by the trial panel composed of judges Syle Lokaj, Nushe Kukaj-Mekaj, and Murat Hulaj, it was said that it was not proven that the defendant had committed the criminal violations he was charged with.

Dissatisfied with the judgement of the Basic Court of Peja, the Prosecution submitted a complaint to the Court of Appeals.

Court of Appeals

After reviewing the complaint of the Basic Prosecution of Peja, the Court of Appeals annulled the judgement and the case was sent for a retrial at the Basic Court of Peja.

In the statement of grounds of the judgement, the Court of Appeals stated that in accordance with article 394 par. 1, in reviewing the judgement of the first instance Court and per the complaints and official duty, it had found that the first instance Court had committed essential violations of criminal procedure provisions.

Retrial

After holding the trial and administering all evidence, on July 18, 2018, the Court issued a judgement which acquitted of all charges the inspectors of mines and minerals, once again.

According to the pronounced judgement, the trial panel, composed of judges Syle Lokaj, Sami Sharraxhiu and Sejdi Blakaj, acquitted the defendant Citaku, as it was not proven that he had committed the criminal offences he was charged with by the Prosecution.

The case Prosecutor Sahide Gashi, told KALLXO that she intended to appeal again to the Court of Appeals, as there are sufficient evidence as to Citaku being guilty.

Indictment

Lulzim Citaku was charged with the allegation that in his capacity of inspector at the Independent Commission for Mines and Mineral (ICMM), on June 8, 2013, around 14:15, in the village of Gremnik in the municipality of Peja, he materially gained for himself. After reaching a deal the night before with convicted party Nuredin Bislimi, they went together to the workshop of the witness Bedri Elezaj and while Bislimi took 1,000 euros from Elezaj, the defendant Citaku, searched the place to check whether someone was watching them. After taking the money, they left together in an official car, when they are stopped by police investigators, who were following them. The money, which had previously been photocopied by police, was found in the pockets of the later convicted Nuredin Bislimi.

In the second charge of the indictment, the defendant is accused that, during 2011 and up until October 8, 2013, in the region of Peja, Klina, Decan and Gjakova, in his capacity as an official person, with the purpose of materially gaining for himself, he requested from economic operators: “Ndertimi”, and its owner Gezon Berisha, “Benita Compani”, and its owner Naser Kalludra, “Ermali”, and its owner Jeton Aliqkaj, and the Podrimja brothers in Gjakova to treat him to lunches and dinners in various locations in order not to fine them for operating without a licence or beyond the licences issued by the ICMM³⁸.

Basic Court of Gjakova

	School principal Pkr.nr. 91/17
Criminal Offence	Abuse of official authority; article 422 par.2/1 sub par. 2.3 and receiving a bribe per article 428 par. 1 of the CCRK
Accused	Adem Muslija
Prosecutor	Shpresa Bakija/Ali Uka
Trial panel	Nikollë Komani, Besarta Doli dhe Shaqir Zika
Stage of procedure	Conviction

Trial

After reviewing the evidence, hearing witnesses and the defence of the accused Adem Muslija, principal of the school SH.M.T. “Nexhemdin Nixha” in Gjakova, the Basic Court found him guilty of the criminal offence of receiving a bribe per article 428 par.1 of the CCRK and sentenced him conditionally with 1 year and a 2,000 euro fine. The Court rejected the charge of abuse of official position as during the main trial, the case Prosecutor withdrew from prosecuting this point of the indictment.

Court of Appeals

On August 13, 2018, the Court of Appeals refused the complaint of the defendant as ungrounded and verified the first instance Court verdict.

Supreme Court

The defence of the accused submitted a request for the protection of legality against the judgement but this complaint was rejected by the Supreme Court.

³⁸<https://kallxo.com/shpallet-i-pafajshem-inspektori-i-minierave-dhe-mineraleve/>
<https://kallxo.com/kthehet-ne-rigjykim-rasti-inspektorit-te-kpmm-se/>
<https://kallxo.com/prokurorja-inspektori-u-dergua-ne-dreka-e-darka/>
<https://kallxo.com/shpallet-i-pafajshem-inspektori-i-minierave-dhe-mineraleve-2/>
<https://kallxo.com/prokuroria-paralajmeron-ankese-pas-lirimit-te-inspektorit-lulzim-citaku/>

Indictment

According to the indictment, Adem Musliu was accused, in his capacity of official person as a principal at the secondary school “Nexhmedin Nixha” in Gjakova, of having abused his official position at the beginning of the school year 2015/2016. In violation of the decision of MEST, Musliu issued the diploma of the injured party Mentor Quni with the justification that he had supposedly completed year IV of this school privately. Additionally, Adem Musliu was accused that at the same time and place, in the name of the issued diploma for the injured party Mentor Quni for having supposedly completing year IV of secondary school, he received a 400 euro bribe.

According to the indictment, Adem Musliu allegedly committed the criminal offence of receiving a bribe in such a manner that in the name of issuing a diploma for the injured party Mentor Quni for having supposedly completed year IV of secondary school, he accepted a 400 euro bribe³⁹.

	The bill collector Pkr.nr.21/18
Criminal Offence	Abuse of official position or authority per article 422, par. 1 of the CCRK
Accused	Bajram Rudi
case Prosecutor	Ali Uka
Trial panel	Shaqir Zika
Stage of procedure	Conviction

Trail

After the main trial, the Basic Court of Gjakova convicted the defendant Bajram Rudi and found him guilty of the criminal offence of abuse of official position or authority and gave him a one year conditional sentence, a sentence that will not be executed if the defendant does not commit another criminal offence within a 2 year period.

The Court also obliged the defendant Bajram Rudi to compensate the injured party, KRU “Radoniqi-Dukagjini” in Gjakova, the amount of 947.27 euros through monthly instalments over a period of six months to one year.

The defendant Bajram Rudi and his lawyer Teki Bokshin had requested the prosecutor to negotiate a plea deal.

The case prosecutor Ali Uka, brought to the Basic Court of Gjakova the plea deal reached between the prosecutor, the defendant Bajram Rudi and his lawyer Teki Bokshi “-PP/I.nr.20/2018,” dated April 18, 2018, which was accepted by the Court.

³⁹<https://kallxo.com/drejtori-shkolles-njoftova-drejtorine-e-arsimit-per-keqperdorime/>
<https://kallxo.com/gjykimi-i-ish-drejtorit-te-shkolles-per-ryshfet-i-afrohet-fundit/>
<https://kallxo.com/demtuari-ish-drejtori-kerkoi-400-euro-per-te-marre-diplomen/>
<https://kallxo.com/gjykata-denoi-per-marrije-ryshfeti-ish-drejtori-i-shkolles/>

Court of Appeals

The Court of Appeals assessed that the complaint of the defence of the accused against the decision on the conviction was inadmissible.

The Court considered the first instance court judgement that found the defendant guilty of abuse of official position or authority, was taken based on a written plea agreement. The Court assessed that the parties can appeal the judgement on the conviction based on a plea agreement only in cases when the defendant cooperated substantially – article 233 par. 13 I of the CPC.

Indictment

According to the indictment, the defendant Bajram Rudi, with the purpose of unlawful material gain, abused his official position as a bill collector at the KRU "Radoniqi-Dukagjini" company between July 18, 2016 and November 30, 2017, misappropriating money from consumers totalling 947.27 euros. With these actions, the defendant Bajram Rudi had committed the criminal offence of abuse of official position or authority⁴⁰.

	Wrongful measurement Pkr.nr.44/2018
Criminal Offence	Abuse of official position or authority per article 422 par. 1 of the CCRK
Accused	Driton Hoti
case Prosecutor	Agron Matjani
Trial panel	Shaqir Zlka
Stage of procedure	Conviction

Trial

After the trial, the Basic Court of Gjakova convicted the defendant Driton Hoti after assessing that he was guilty of the criminal offence of abuse of official position or authority and sentenced him to eight months imprisonment, which will not be executed if the defendant does not commit another criminal offence within a period of one year.

Before that, the defendant Driton Hoti and his lawyer Azem Islamaj had requested to negotiate a plea deal with the prosecutor.

State prosecutor Agron Matjani had brought the plea agreement to the Basic Court of Gjakova that had been reached between the State Prosecutor, the defendant Driton Hoti and his lawyer Azem Islamaj on 01.08.2018- PP/I.nr.38/2018.

⁴⁰<https://kallxo.com/gjykimi-i-inkasantit-te-akuzuar-per-pervetesim-te-947-eurove/>
<https://kallxo.com/denim-me-kusht-inkasantit-per-pervetesim-te-947-eurove/>

This agreement was accepted by the Basic Court of Gjakova.

The agreement reached by the lawyer, the accused and the Prosecution in Gjakova agreed for the defendant to be issued a conditional sentence of six months to one year imprisonment, which would not be executed if the defendant did not commit another criminal offence in a 1-2 year period.

The Court followed the criminal sanctions proposed in the agreement and it issued a sentence per the plea deal, giving the defendant an 8 month conditional sentence, which would not be executed if the defendant did not commit another criminal offence during a one year period of time.

Court of Appeals

There is no complaint to the Court of Appeals

Indictment

According to the indictment, Driton Hoti in his capacity as an official person, on March 17, 2017 abused his official position or authority. Hoti conducted a wrongful cadastre measurement, by placing a building housing games of chance in direct proximity to educational institutions, historic and religious institutions, as well as municipal property. These objects should be placed at least 500 meters away from such institutions⁴¹.

Legalisation of weapons PKR.nr.1/18

Criminal Offence: Abuse of official position or authority per article 422 par. 1 related to article 33, par. 1 of the CCRK

Accused: Hamëz Bibaj dhe Mirsad Rexha

Prosecutor: Agron Matjani

Trial panel: Nikollë Komani, Besarta Doli, Mentor Bajraktari

Stage of procedure: Conviction

Trial

After the trial, the Basic Court of Gjakova convicted the accused Hamez Bibaj and Mirsad Rexha, and found them guilty of abuse of official position or authority.

As a result, Hamez Bibaj was sentenced to 6 months imprisonment, which was replaced by a fine of 1,000 euros while Mirsad Rexha

⁴¹<https://kallxo.com/gjakove-gjeodeti-pranoi-fajin-denohet-me-8-muaj-burgim/>

to compensate for the damages caused to the injured parties within one month.

Hamez Bibaj and Mirsad Rexha, together with their lawyer Sahit Bibaj and Myhedin Bekerri, had requested to enter plea deal negotiations with the Prosecution. State Prosecutor Agron Matjani, brought the plea agreement reached between the Prosecution, the accused

Hamez Bibaj and Mirsad Rexha and their lawyer Sahit Bibaj and Myhedin Bekerri “PP/I.nr.100/2017”, dated January 18, 2018, to the Basic Court of Gjakova and the agreement was accepted by the Court.

Court of Appeals

There is no complaint at the Court of Appeals.

Indictment

According to the indictment, the accused Hamez Bibaj, between December 2016 and July 2017, in his capacity as an official person at the office for legalisation of weapons at the police station in Rahovec abused his official position with the purpose of gaining materially for himself unlawfully. He requested different amounts of money for candidates who came to obtain weapon permits, although no taxes had been defined by the law for this purpose.

Meanwhile, the accused Mirsad Rexha, in the capacity as the caretaker of the police station building in Rahovec aided the accused Hamez Bibaj in committing the criminal offence, and also took money from the injured parties⁴².

	The examiner PKR.nr.104/17
Criminal Offence	Abuse of official position and authority per article 422 par. 1
Accused	Luan Haxhishabani
case Prosecutor	Agron Matjani
Trial panel	Shaqir Zika
Stage of procedure	Conviction

⁴¹<https://kallxo.com/deklarohen-te-pafajshem-zyrtaret-e-policise-te-akuzuar-per-leje-te-armeve/>
<https://kallxo.com/desh-ton-seanca-ne-gjykimin-e-zyrtareve-te-policise-te-akuzuar-per-lejet-e-armeve/>
<https://kallxo.com/te-akuzuarit-per-lejet-e-armeve-kerkojne-marreshje/>
<https://kallxo.com/gjykimi-i-zyrtareve-te-policise-gjykata-aprovon-marreshjen-per-pranim-fajesie/>
<https://kallxo.com/denohen-dy-te-akuzuar-per-keqperdorim-ne-lejet-e-armeve/>

Trial

After the trial, the Basic Court of Gjakova convicted the accused Luan Haxhishabani, and found him guilty of the criminal offence of abuse of official position or authority and sentenced him to six months, which was then replaced with a 2,000 euro fine.

The accused Luan Haxhishabani, together with his lawyer Masar Vula, had requested to enter plea deal negotiations with the prosecutor. State Prosecutor Agron Matjani brought the plea agreement reached between the Prosecution, the accused Luan Haxhishabani and his lawyer Masar Vula- PP/I.nr.87/2017 to the Court.

Court of Appeals

There is no complaint at the Court of Appeals.

Indictment

According to the indictment before and up until August 19, 2016, at the centre of driving licences in Gjakova, the defendant had abused his official position in order to gain materially in an unlawful manner. Luan Haxhishabani, while being an examiner for the theoretical part of the driving licence exam, had received payment of around 300-400 euros from candidates in order to pass the written exams. According to the indictment, he had filled out the exams of two candidates in order for them to gain the necessary points foreseen by law to pass the exam.

Criminal
Offence

Ragip Begaj
PKR.nr. 114/17

Keqpërdorim i autoritetit zyrtar, nenin 422 par.1 lidhur me par.2 nën par.2.1, 2.2 dhe 2.6 të KPRK-s

Accused

Ragip Begaj

case

Prosecutor

Abdurrahim Islami

Trial panel

Gezim Pozhegu

Phase of
the

procedure

Hedhje e aktakuzës

⁴¹<https://kallxo.com/gjakove-gjeodeti-pranoi-fajin-denohet-me-8-muaj-burgim/>

Trial

After reviewing the motions to dismiss the indictment, the Court dismissed the indictment and ceased the procedure against Ragim Begaj, the Mayor of the Municipality of Malisheva, having found that none of the evidence had proven the reasonable doubt of the defendant having committed the criminal offence he was charged with.

The Court concluded that the criminal offence that the Mayor of the municipality of Malisheva, Ragim Begaj was not supported by evidence proving the reasonable doubt.

According to the assessment of the Basic Court of Gjakova, the actions of the accused, Ragim Begaj, do not constitute a criminal offence as there was no intention, no gain and no damage caused, hence the Court dismissed the indictment and ceased the procedure.

Apeli

The Court of Appeals rejected the complaint of the prosecutor of Kosovo's Special Prosecution submitted against judgement PKR.nr.114/2017, dated 03.04.2018 as ungrounded.

The Court assessed that this was a case of administrative issue regulated by administrative procedure and that the defendant as an official person had acted upon recommendations.

Indictment

According to the indictment, the Mayor of Malisheva had acted in violation of the Civil Service Law and had damaged the budget of the municipality.

The indictment charged the leader of the municipality of Malisheva of having acted in violation of the Law on the Civil Service of the Republic of Kosovo and having damaged the budget of the municipality by engaging Labinot Mazdreku as the Procurement Manager in the scope of the Department of General Administration in the Municipality of Malisheva.

The Prosecution also alleged that Ragim Begaj had taken measures against procurement officials in violation of the law on abuses in procurement.

Criminal Offence	The doctor Pkr.nr.34/18
Accused	Abuse of official position or authority per article 322, par. 1 and conflict of interest, article 424 par. 1.
case	Ramadan Sopaj
Prosecutor	Agron Matjani
Trial panel	Nikollë Komani
Stage of procedure	Indictment dismissed

Basic Court

After the second hearing, the Basic Court of Gjakova dismissed the indictment of the Basic Prosecution of Gjakova and ceased criminal procedures against the accused Ramadan Sopaj, a doctor in Malisheva, justifying the verdict by stating that there was no evidence proving the reasonable doubt of the defendant having committed this offence.

From the evidence proposed in the indictment, the Court ruled that the allegations of the Prosecution as described in the indictment do not stand.

After reviewing and analysing the evidence, the Court concluded that the evidence proposed does not only not prove that no criminal offence was committed but also that the actions of the accused do not constitute a criminal offence, hence the Court dismissed the indictment.

Court of Appeals

The Court of Appeals confirmed the judgement of the Basic Court of Gjakova on the dismissal of the indictment.

Indictment

According to the indictment, in the period between August 2017 and April 2017, the defendant was accused of having used his official authority with the purpose of unlawful gain for himself or his children.

Sopaj was charged with the allegation that in his capacity of a doctor at the Main Family Medical center “Shpetim Robaj” in Malisheva, he had prescribed therapy of medications to 2,957 patients that included syrups and vials (medicine) that were being supplied by his son Shpend Sopaj, who worked at the pharmaceutical company EP-DEA in Prishtina.

The indictment of the Prosecution also explained that the other son of the defendant, Qendrim Sopaj, worked at the pharmaceutical company “Radinchpharm” in Prishtina, and also supplied pharmacies in Malisheva with medicine such as Eselan, Neo Endosix, Nipogalin etc.

Further, Sopaj was suspected of not having adapted the medicine prescribed with the description of the therapy for patients, actions that are in violation of the Law on Healthcare in the pharmaceutical sector⁴³.

Basic Court of Mitrovica

**Director of education in Mitrovica
P.nr.150/17**

Criminal
Offence

Abuse of official position or authority per article 422 par.1 of the CCRK

Accused

Ajmane Barani

case
Prosecutor

Ismet Ujkani

Trial panel

Radoslav Markoviq

Stage of
procedure

Main trial



Trial

The deadline of 30 days stipulated the criminal Procedure code for scheduling an initial hearing was significantly surpassed, while delays were also noted for the main trial hearing held on December 13, 2018.

After holding the trial where the witnesses were heard as well as the injured party, Mirdona Istrefi, the Court ruled and acquitted the accused.

According to judge Radoslav Markovic it was not found that the accused had not committed the criminal charge of abuse of official position per the indictment by not having complied with the decision of the education Inspectorate in Mitrovica, that had assessed that there were mistakes in the dates of the records of the commission with the injured party Mirdona Istrefi having been scored with the highest points, which then lead to re-launch the vacancy, and another candidate had been hired in her stead.

Indictment

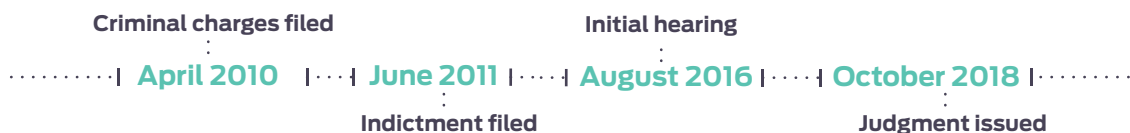
The Basic Prosecution in Mitrovica charged Ajmane Berani, former director of education in Mitrovica of having abused her official position or authority and not having complied with her official duties.

In the indictment it was alleged that with the intention of material gain for herself, Berani had caused damage to another person, the injured party Mirdona Istrefi.

Per the indictment, the accused ignored the decision of the commission for hiring teachers of psychology at the Frang Bardhi high school in Mitrovica regarding the additional vacancy that was announced in December 2014.

According to the indictment, the committee had decided to hire candidate Mirdona Istrefi while the now defendant had hired another candidate in her stead.

	Insurance agent P.nr.342/2013
Criminal Offence	Misappropriation while conducting official position per article 340 par. 3 related to par. 1 of the CCRK.
Accused	Sanja Radojeviq
case Prosecutor	Njazi Rexha
Trial panel	Beqir Halili kryetar, Tomislav Petroviq dhe Liridon Maloku
Stage of the procedure	Conviction at the Basic Court; case currently at the Court of Appeals



Criminal charges for this criminal offence were filed on April 7, 2010, the indictment was filed on June 13, 2011, while the initial court hearing was held on August 25, 2016.

The trial against Sanja Radojevic, which accused her of misappropriation while conducting her official duty, concluded on October 10, 2018.

After the trial, the Basic Court of Mitrovica found the defendant guilty and sentenced her to a conditional sentence of two years and a fine of 500 euros. According to the judgment, the sentence would not be executed if the defendant did not commit another criminal offence within a verification period of 3 years.

The case prosecutor had corrected the enacting clause in the indictment and replaced the legal qualification of “Misappropriation per article 340 par. 3. Related to par. 1 of the CCRK” to “Misappropriation in conducting official position” per article 425 par. 2 of the CCRK, as it is the more favorable law for the defendant.

Court of Appeals

Lawyer Fatmire Braha appealed the case, however no ruling on her request has yet been made.

Indictment

According to the indictment, Sanja Radojevic, between January 2005 and December 2006, while performing her official duty as an agent at the former insurance company “Dukagjini”, misappropriated her official position by materially gaining for herself by selling insurance policies through the company account. Some funds gained from selling insurance policies, were symbolically transferred to the company account, while the majority went to her own personal bank account.

	P.nr. 101/2017
Criminal Offence	Misappropriation while conducting official position per article 340 of the criminal code of Kosovo
Accused	Zhivorad Millutinoviq me Av. Ljubomir Pantoviq
case Prosecutor	Njazi Rexha
Trial panel	Beqir Halili, Besnik Feka, Florije Syla
Stage of the procedure	Retrial



Or 8 years 7 months and 20 days have passed since the filing of the indictment while the case is still in its initial phase.

The Court also obliged Zhivorad Millutinovic to compensate 40,000 euros in damages to the injured party, namely the Trepca enterprise in Zvecan.

The Court of Appeals

The case was sent back for a retrial by the Court of Appeals on July 20, 2017. Per the ruling, after the complaint of the defense lawyer Ljubomir Pantovic, it was found that the first instance Court had committed essential violations of criminal procedures provisions, per article 384 related to article 370 of the CPC. According to the ruling the judgement was also found to be an incomplete determination of the factual situation.

Retrial at the Basic Court

On June 11, 2018 the hearing for this case had been scheduled but was postponed in absence of the accused, Zhivorad Millutinovic.

The judge in the case, Beqir Halili notified that the summons had been returned as it had been confirmed that the person who had accepted it was not the defendant. The lawyer of the accused, Ljubomir Pantovic, said that he would take it upon himself to personally inform the accused and ensure his presence in the upcoming hearing. The representative of the injured party, KXMK "Trepca" in Zvecan was also absent from the hearing.

The next hearing was scheduled to be held on September 3, 2018 but again failed due to the absence of the accused. Pantovic presented a medical document dated September 3, 2018 to the Court, which concluded that Millutinovic was ill.

On October 8, 2018 the upcoming hearing was scheduled but it failed to be held again due to the absence of the representative of the injured party "Trepca", Liljana Lumovic.

Lumovic requested from the trial panel to postpone the hearing as, according to her, she had not received the judgment of the first instance, the complaint of the defendant's lawyer or the second instance court ruling.

After three failures, the court hearing was finally held on November 13, while an expertise for the determination of factual situation had been assigned, per the guiding of the Court of Appeals.

The trial panel, composed of the presiding judge Beqir Halili and its member Besnik Feka and Florije Sylja, notified the Court of Appeals that it annulled the judgment of the first instance and requested the assignment of an expert whose task would be to evaluate the actual quantity of silver particles that would contribute in determining the factual situation.

The defendant pleaded not guilty of the criminal charge while the parties stood per their opening statements in the previous hearings.

	15 police officers in the South P.nr.199/16
Criminal Offence	Accepting bribes per article 428 par. 1 related to article 31 of the CCRK
Accused	Ahmet Hasani, Arton Bimbashi, Avdi Beqiri, Avni Mehmeti, Bojan Saviq, Destan Rrecaj, Esat Haxhiu, Halit Shabani, Jovica Trajkovic, Nazim Hamiti, Rushit Hoti, Sabit Hajdari, Sedat Haxhimehmeti, Sllavisha Spasiq, Zeki Shala
case Prosecutor	Zejnije Kela
Trial panel	Beqir Halili, Besnik Feka, Florije Sylja
Stage of the procedure	Main trial

The following are accused of accepting bribes: Ahmet Hasani, Arton Bimbashi, Avdi Beqiri, Avni Mehmeti, Bojan Savic, Destan Rrecaj, esat Haxhiu, Halit Shabani, Jovica Trajkovic, Nazim Hamiti, Rushit Hoti, Sabit Hajdari, Sedat Haxhimehmeti, Sllavisha Spasic, Zeki Shala.

The Kosovo Police Inspectorate in Prishtina – Department of Special Investigation, Division of Proactive Investigations and Integrity – Basic Court of Mitrovica – Serious Crimes Department filed criminal charges on December 19, 2016.

The indictment was filed on May 17, 2017 and delivered to the court on May 18, 2017

Trial

The initial hearing was scheduled for June 29, 2017, but the hearing failed to be held. After separating the procedure in July 2017, a new hearing was scheduled for October 2.

The initial Court hearing was held on October 2, 2017 and 15 police officers of the Traffic Unit in South Mitrovica pleaded not guilty in regards to the charges of accepting bribes.

All the indicted police officers were present at the hearing: Ahmet Hasani, Arton Bimbashi, Avdi Beqiri, Avni Mehmeti, Bojan Savic, Destan Rrecaj, Esat Haxhiu, Halit Shabani, Jovica Trajkovic, Nazim Hamiti, Rushit Hoti, Sabit Hajdari, Sedat Haxhimehmeti, Sllavisha Spasic and Zeki Shala

Lawyers Ruzhdi Maloku, Shefqet Ibrahim and Zhivojin Jokanovic were absent as since this was an initial hearing, the accused Sllavisha Spasic, Sahir Hajdari and Bojan Savic stated that they were ready to proceed with the hearing without their lawyers being present.

All the police officers pleaded not guilty to the charges they were accused of.

With a ruling dated 16 April 2018, the Basic Court of Mitrovica rejected the objections to evidence of the 14 police officers, Ahmet Hasani, Arton Bimbashi, Avdi Beqiri, Avni Mehmeti, Bojan Savic, Esat Haxhiu, Halit Shabani, Jovica Trajkovic, Nazim Hamiti, Rushit Hoti, Sabit Hajdari, Sedat Haxhimehmeti, Sllavisha Spasic and Zeki Shala as well as their request to dismiss the evidence as ungrounded.

According to the ruling, the Court approved the objection presented by the defense of the defendant Destan Rrecaj and lawyer Agim Rrecaj, which saw the indictment against him dismissed, as well as criminal investigations on accepting bribery ceased.

Court of Appeals

In its ruling, the Court of Appeals confirmed the indictment against the police officers Ahmet Hasani, Arton Bimbashi, Avdi Beqiri, Avni Mehmeti, Bojan Savic, Esat Haxhiu, Halit Shabani, Jovica Trajkovic, Nazim Hamiti, Rushit Hoti, Sabit Hajdari, Sedat Haxhimehmeti and Zeki Shala.

In the ruling per the appeals submitted, the Court of Appeals confirmed the ruling of the Basic Court of Mitrovica dated April 16, 2018, hence rejecting the appeals of the 13 defendants to dismiss the indictment, and objecting to evidence as ungrounded.

No hearing has yet been held on this case yet

The case of 20 police officers in the North

Criminal Offence

Receiving bribes per article 428 par.1 related to article 31 of the CCRK

Accused

Vojkan Stepiq, Vasko Raduloviq, Shefqet Maxhuni, Srdjan Zivkoviq, Sinisha Milutinoviq, Milan Jovanoviq, Sllavisha Filipoviq, Nedzad Islamoviq, Zmajko Milenkoviq, Sdrjan Djoroviq, Branko Radosavljeviq, Milan Vitkoviq, Stevica Ignjatoviq, Zlatomir Simoviq, Milijan Jovanoviq, Vesko Kandi, Srdjan Milojeviq, Manjole Vlaskoviq, Milorad Mitrovic dhe Milijan Miliceviq

case Prosecutor

Zejniye Kela

Trial panel

Avni Mehmeti

Stage of procedure

Punitive order

Kosovo Police Inspectorate in Prishtina – Department of Special Investigation, Division of Proactive Investigations and Integrity – Basic Court of Mitrovica – the Department of Serious crimes filed criminal charges on 19 December 2016.

Indictment submitted to the Court on May 2017.

Trial

The Basic Court of Mitrovica, case judge Avni Mehmeti respectively, separated the procedure in the case of 35 traffic police officers in July 2017.

According to the ruling, the separation of the procedure for the accused of the Regional Traffic Unit in the North from those engaged with the Regional Traffic Unit in the south of Mitrovica had been done in order to conduct the criminal procedure more efficiently and economically.

The initial Court hearing scheduled for 29 June 2017 failed. The presiding judge of the panel, Avni Mehmeti, in the hearing at the culture center “Rexhep Mitrovica” said that conditions to hold the hearing had not been met. The hearing had failed due to the absence of the defendant Manjole Vlashkovic, as well as some of the lawyers.

Lawyer Miro Delevic, notified the Court that his client Vlashkovic was having serious healthcare problems which he proved through a medical certificate dated June 28, 2017, hence he could not be present in Court.

On October 3, 2017, the initial Court hearing on the case was held. During this session, after the prosecutor Zejnie Kela read the indictment, the 20 police officers from the regional traffic unit in the north pleaded not guilty to the charges.

Afterwards, Judge Avni Ahmeti notified the parties that a second hearing would be held, but the parties would have the possibility of objecting to evidence and the indictment within 30 days and the decision regarding such objections would be taken outside of the Court hearing.

This case is still in the phase of objections and no Court hearings were held after the initial hearing.

Amongst the accused were two citizens who were charged with “giving bribes”, Slavolub Dimic and Goran Djuric, however they pleaded guilty. At the proposal of the Prosecution, the Basic Court of Mitrovica issued a punitive order in June 2016 and fined each of them 500 euros.

Case of 24 accused, amongst them 12 police officers, charged with various criminal offences P.nr. 67/2015

Criminal Offence

“Abuse of official position or authority” per article 422 of the CCRK, “prohibited trade” per article 305, paragraph 2 related to paragraph 1, related to article 81 paragraph 1 and 31 of the CCRK.

case Prosecutor

Njazi Rexha

Trial panel

Avni Mehmeti, Tomislav Petroviq, Ferki Gjaferi

Stage of procedure

Main trial

Gjykimi

The indictment was filed on April 10, 2015 and received by the court on April 14, 2015. Kosovo Police, Mitrovica region, submitted the criminal charge with case number 2013-KE-116, dated March 14, 2013. Investigations were conducted according to the ruling on the initiation of investigations PP.I.nr.49/2013 dated April 14, 2013.

The initial hearing scheduled on December 26, 2017 failed due to the absence of two lawyers and three defendants. The defendants that were absent were Besim Zeqiri, Uke Atashi, Xhevat Muzliukaj, and lawyers Aziz Rexha and Nexhat Beqiri.

Judge Avni Mehmeti said that the Court had been informed by Kosovo Police that the defendant Zeqiri was abroad. Meanwhile for the accused Atashi, he said that the summons had not been sent back to Court yet and he was not aware whether he had accepted it or not. Meanwhile, for the accused Muzliukaj, Judge Mehmeti said that he was in Sweden, which was also confirmed by the brother of the accused in this case, Ali Muzliukaj.

The next hearing was scheduled for February 6, 2018. Meanwhile, the defendants were informed by the Court that in case of missing the hearings, the latter would take all legal measures to ensure their presence.

According to Judge Mehmeti, the defendant Uke Atashi, would be summoned especially, by delivering the summons through the Kosovo Police station in Peja. Whereas for the defendants Besim Zeqiri and Xhevat Muzliukaj, the judge said that he would verify whether they are at the addresses in Kosovo that they provided to the court through Police, and if not, an arrest warrant would be issued, and if necessary even an international wanted notice.

The initial hearing was eventually held in February 2018. The 21 accused pleaded not guilty of the charges against them.

Case Prosecutor Njazi Rexha withdrew from criminal prosecution of Ismet Zeqiri. He said that he did so for point 1 of the enacting clause charging him with the criminal offence of "prohibited trade" per article 305 of the CCRK, as the actions of the accused reflect more elects of a minor offence rather than a criminal one. Similarly, the prosecutor withdrew from two other offences he had charged Ismet Zeqiri with, namely on illegal possession of weapons, as this offence had already been granted amnesty as well as for the criminal offence of "tax evasion."

In order to proceed with the case more efficiently, Judge Avni Mehmeti separated the procedure against Besim Zeqiri and Xhevat Muzliukaj, due to their continuous absences. Regarding the absence of the accused, Besim Zeqiri, Mehmeti said that according to Police information provided on January 4, 2018, he has been outside of Kosovo for a while, and his current whereabouts are unknown. An arrest warrant was issued.

Meanwhile, regarding Xhevat Muzliukaj, Judge Mehmeti said that he had gone to court on January 10, 2018 and he was informed with the time, location and date of this hearing. The court also issued a summons for this hearing to him, and although he was informed adequately, he did not justify his absence.

Judge Mehmeti had given the parties a deadline of 30 to 40 days to present their objections on the indictment, for which that Court would decide outside of the Court hearing.

On October 5, 2018, the Basic Court of Mitrovica ruled on the objections on the indictment. According to this ruling, the Court approved the objections of the following police officers as defendants in the case: Mustafe Osmanaj, Haxhi Vojvoda, Slavisa Zhivkovic, Agron Hyseni, Shukri Basholli, Nexhat Imeri, Avdi Beqiri and Nazif Salihi as grounded, hence deciding to dismiss the indictment against them. The criminal procedures against them on the criminal offence of “abuse of official position or authority” ceased.

The Basic Court of Mitrovica rejected the objections requesting to dismiss the indictment and objection to evidence as ungrounded for the following defendants: Mentor Dallku, Ruzhdi Kajtazi, Beqir Dajakaj and Bedri Haliti.

Court of Appeals

On October 29, 2019, the Court of Appeals ruled, dismissing the appeal of the Basic Prosecution in Mitrovica as well as the defense who had appealed the verdict of the first instance court in regards to the dismissal of the indictment against 12 persons, including 8 police officers.

In the ruling of the Court of Appeals it was noted that in regards to the allegations of the defence for the defendants Spahija, Dallku, Kajtazi, Haliti and Idrizi they were ungrounded, as the first instance court in its appealed verdict on dismissing the indictment, had found that there were direct and sufficient reasons in the indictment filed by the Prosecution of Mitrovica against the defendants that support the reasonable doubt that they committed the criminal offences they were charged with, and there was no convincing evidence to dismiss the indictment now.

In its justification, the Court of Appeals added that the first instance court in its appealed verdict according to its official duty, had fairly articulated and provided sufficient reasons in regards to dismissing the indictment in its judgment.

Indictment

According to the indictment of the Basic Court of Mitrovica, police officers Mentor Dallku, Ruzhdi Kajtazi, Beqir Dajakaj, Bedri Haliti, were charged of not fulfilling their duties as official persons between March 21, 2013 and April 12, 2013 while they were working at different checkpoints on the Mitrovica-Prishtina highway.

According to the indictment, the criminal offence was conducted in such a manner that the defendant Besim Zeqiri, together with his helpers, transported goods without authorization, more concretely fuel. They were informed by the defendants about the situation on the roads so that they could transport the goods when the roads were free. Hence, they did not stop them from committing criminal offences as they are obligated per the law as police officers.

Additionally, according to the indictment Jeton Zymeri, Driton Spahija and Uke Atashi, were charged with continuously, and without authorization, having sold, bought or exchanged fuel, while having organization a network of sellers/buyers previously and benefiting with more than 15,000 euros. They were accused of having committed these criminal offences in co-perpetration during the period between March 21, 2013 and April 21, 2013 in the village Shpkovc in Mitrovica.

On February 7, 2019, the first hearing was held since the decision of Judge Avni Mehmeti on the objections of the parties. When holding the trial, the panel ruled to join the procedures with that of defendant Besim Zeqiri.

The defendant Xhevat Muzliukaj was not in Kosovo and a warrant had been issued while the Court had been able to ensure the presence of Besim Zeqiri. Hence, the hearing that was held on May 8, 2018 per case P.nr 10/2018 with the same indictment, as there were no objections made within the set deadlines, the case fulfilled all legal conditions to proceed to the main trial.

The court hearing continued with the opening statements of all parties. When concluded, the hearing was postponed for March 21 and March 22. In the hearing held on 21 March, material evidence proposed by the Prosecution were administered by the court.

Criminal Offence	Social Welfare centre official P.nr.23/17
Accused	criminal Offence: Abuse of official position or authority per article 422 par.1 related to par. 2 subpar. 2.2 amd subpar. 2.6 of the CCRK, and the criminal offence of Receiving bribes per article 428, par. 1 of the CCRK.
case Prosecutor	Vladimir Kovaqeviq
Trial panel	Njazi Rexha
Stage of the procedure	Avni Mehmeti kryetar, Dragica Jakovljeviq dhe Liljana Stojanoviq
	Conviction and acquittal

Trial

On February 21, 2017, the indictment was submitted to the Basic Court of Mitrovica. The initial hearing was held on April 25, 2017. Defendant Vladimir Kovacevic pleaded not guilty on all charges.

Another Court hearing was held on February 28, 2018, in which witness and injured party, Gazmend Zeqiri was heard.

Other hearings were held on April 10 and May 10, 2018 but the hearings scheduled for May 20 and May 30 failed.

The hearing scheduled for 20 May was not held due to the absence of trial panel member Liliana Stojanovic. Presiding judge Avni Mehmeti notified the parties that the judge had informed him that she could not be present in the hearing due to some family obligations.

The hearing scheduled to be held on May 30 failed due to the absence of trial panel member, Judge Dragica Jakovlevic. Presiding judge Avni Mehmeti notified the parties that Jakovlevic had informed him that she had travelled to Belgrade due to health issues, hence there were no conditions to hold the hearing.

Prosecutor Njazi Rexha and trial panel member, Judge Liliana Stojanovic were not present at the hearing either, while according to Judge Mehmeti, they were previously informed of the postponement of the hearing.

The last Court hearing was held on July 19, 2018. closing statements of the parties were delivered, while the defendant Vladmir Kovacevic presented his defense.

All Court hearings were held in the Albanian language and were translated into Serbian language, due to the defendant belonging to the Serb ethnic community, who stated that he does not understand nor speak Albanian.

On July 20, 2018, the Court publicly pronounced the judgment in the presence of the defendant, his lawyer Faruk Korenica, the injured party Gazmend Zeqiri, while the prosecutor, Ismet Ujkani, was absent.

Judgement of the Basic Court

According to the judgment pronounced on July 20, 2018 at the Basic Court of Mitrovica, Vladimir Kovacevic was acquitted on charges of "Abuse of official position or authority" per article 422 par.1 related to par 2 sub par.2.2 and 2.6 of the Criminal Code of the Republic of Kosovo.

Meanwhile, for the second point of the indictment on the criminal offence of "Receiving bribe per article 428 par. 1 of the Criminal Code of the Republic of Kosovo", he was convicted, and sentenced to six months imprisonment and a fine of 500 euros.

In agreement with the defendant Vladimir Kovacevic, the sentence issued was replaced with a fine of 3,080 euros, which the defendant was obliged to pay no later than 15 days after the verdict became final.

Court of Appeals

The Court of Appeals rejected the appeal of the Prosecution, as well as the defence of the defendant Vladimir Kovacevic as ungrounded thus confirming the verdict of the Basic Court of Mitrovica.

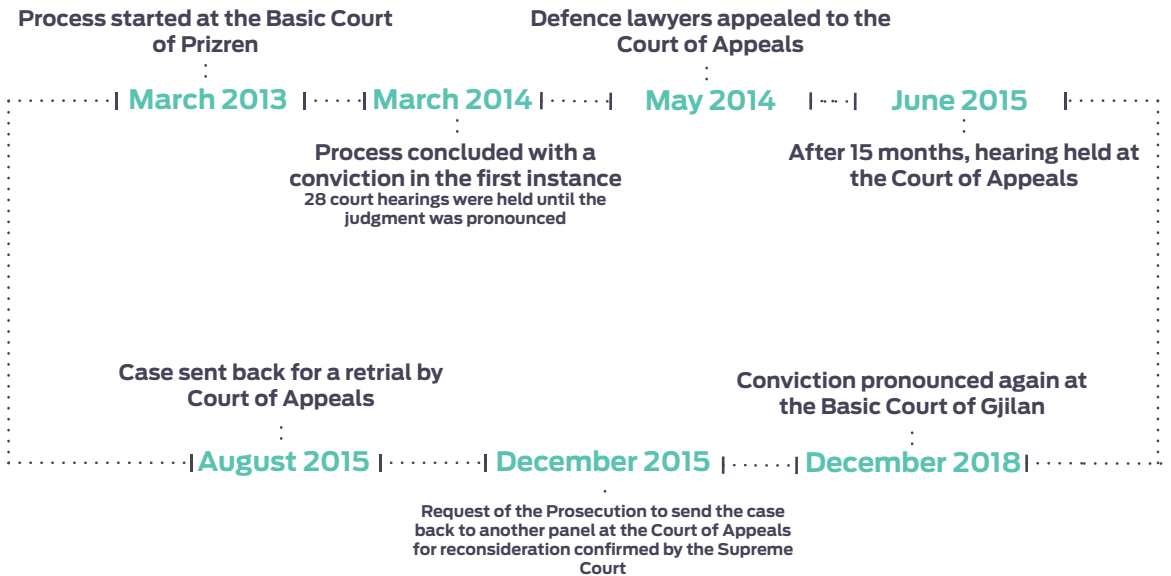
The Court of Appeals argued that the claims in the appeals of the prosecution and the lawyer of the accused were not grounded, as the first instance Court had indisputably found that the injured party had given 100 euros to the accused, after receiving this money from the Police, which was later on confiscated from the accused.

Indictment

Vladimir Kovacevic was charged by the Prosecution of Mitrovica with the allegations that while working as an official of the centre for Social Welfare in Prilluzhe, he had abused his official position.

According to the indictment, the defendant had agreed with Gazmend Zeqiri that the latter would give him the amount of 100 euros in order for him to get social welfare, by telling the injured party that he needed to reapply for social welfare although he was entitled to it through a Court decision, and told him that he would not send a verification commission to his house, unless he paid this amount of money.

Basic Court of Gjilan	
Judicial Marathon of Ramadan Muja	
PKR:189/17	
Criminal Offence	Abuse of official position or authority per article 422, par. 1 of the CCRK
Accused	Ramadan Muja, Sadik Paqarizi, Avni Ademaj, Kadri Ukimeri (deceased), Abdulla Tejeci and Minir Krasniqi
case Prosecutor	Fikrije Krasniqi
Trial panel	Fikrije Krasniqi
Stage of the procedure	Conviction, case currently at the Court of Appeals



Decision of the Basic Court of Prizren:

The procedure against Mayor Muja and the others in regards to the criminal offences they were charged with started on March 25, 2013 and concluded in the first instance court in March 2014.

In the closing statements delivered after 28 court hearings held, Muja together with five other municipal officials sought their innocence.

On March 13, 2014, Mayor of Prizren Ramadan Muja and five other municipal officials, were found guilty by the Basic Court of Prizren.

Ramadan Muja, for four points of the indictment, abuse of official position or authority, was given a two-year conditional sentence, not executed as long as he does not commit other criminal offences within three years. He also got an accessory sentence prohibiting him from exercising public functions within a 30 month period.

Minir Krasniqi, the former director of Public Administration was given an 18-month conditional sentence, not executed as long as he does not commit another criminal offence. He was also prohibited from exercising public functions within an 18 month period of time.

Kadri Ukimeri, former director of Geodesy, and Sadik Pacarizi, former director of Urbanisation, were given an 8-month conditional sentence, while Avni Ademaj, former director of Geodesy and cadaster, was given a 5-month conditional sentence. Despite the fact that the criminal offence of “Abuse of official position or authority” of the criminal code of the Republic of Kosovo is foreseen to have a sentence of imprisonment of at least 6 months and up to 5 years, the first instance Court in Prizren, in a case led by a EULEX judge that found the municipal official guilty, decided to sentence them minimally and to issue conditional sentences.

Appeal at the Court of Appeals

The defense appealed the case to the Court of Appeals as they were not satisfied with the judgment of the first instance court in Prizren.

According to the lawyers, the appeal was submitted in May 2014. However, the case of the Mayor of Prizren took four months to make it to the Court of Appeals. According to the legal office of EULEX, this was due to the need to translate the appeal from Albanian into English.

Although the Criminal Code of the Republic of Kosovo does not foresee a deadline for sending a case to the second instance court in regard to persons that are not currently in pre-detention, this delay was everlasting in practice.

Hence, taking into consideration that the criminal offence that Muja and five other municipal officials were convicted of by the Basic Court of Prizren is within the scope of the criminal offences of corruption, such delays have been protracted, especially when considering that the judiciary has committed to handle them with high priority. After 15 months of delays, the case was finally being dealt with. On June 9, 2015, the Court of Appeals held the hearing where the defence and the accused once again justified their appeals and objected to the decision of the Basic Court of Prizren as the first instance court.

Such long prolongations of the Muja case do not reflect the impression that the judiciary is treating this case with a high priority. Further this gives the impression that the Court of Appeals acted selectively, as there have been a large number of cases that were concluded within one, two or three months since the moment of submission, while the Muja case took more than a year to be concluded.

Ruling of the Court of Appeals

The Court of Appeals as the second instance court used its right to send the case of the first instance Court back for a retrial.

On August 31, 2015, after almost a year and a half since the judgment against Muja was issued, the judgment of the Court of Appeals officially returned to the Basic Court of Prizren.

Decision of the Supreme Court

Suddenly, the prolongations in the Muja case continued even further, with Muja almost completing his mandate running the municipality of Prizren.

The case Prosecutor decided to appeal the decision of the Court of Appeals to the Supreme Court, as she was dissatisfied with the decision. The Prosecutor requested the Supreme Court to send the case back for reconsideration to the Court of Appeals but to another trial panel.

EULEX prosecutor Judit Eva Tatrai stipulated that the Court of Appeals failed to address the issue of whether the Basic Court had exceeded the indictment, which was the allegation of the defense.

Në ankesën e prokurores së EULEX-it Judit Eva Tatrai thuhet se Gjykata e Apelit ka dështuar për ta adresuar çështjen nëse Gjykata Themelore ka tejkaluar akuzën, siç kanë pretenduar disa avokatë mbrojtës.

“We can conclude that the ruling of the Court of Appeals suffers from the same shortcomings as the ones defined by them in the judgment of the Basic Court,” reads the complaint of Prosecutor Tatrai.

The complaint noted: “Based on some reasons, the State Prosecution motion the Supreme Court of Kosovo to annul the ruling of the Court of Appeals dated July 22, 2015, and to send the case back to the Court of Appeals guiding them to assign the case to another collegium of judges.”

In December 2015, the Supreme Court ruled that the appeal submitted by the Prosecution on September 4, 2015 against the ruling of the Court of Appeals dated July 22, 2015 for the case of Muja and others was accepted.

The Supreme Court ruled that the appealed judgment must be annulled and the case sent back to the Court of Appeals for reconsideration but with a new trial panel. In the justification provided by the Supreme Court, it is said that there is a discrepancy between the evaluation of the Court of Appeals and the Supreme Court regarding the possibility of proceeding with the evaluation of the merits of the case by the Court of Appeals. Based on this fact, the Supreme Court ruled to send the case to the Court of Appeals for reconsideration by a new trial panel.

The ruling of the Supreme Court notes that “each ruling of the Court of Appeals must be grounded on a full and detailed evaluation of relevant factors and be properly justified [...] Unfortunately, this has not been done by the Court of Appeals in the appealed judgment, hence it is decided that the case will be sent back for reconsideration by a new trial panel.”

Muja case in retrial, again

After a long silence from the Court of Appeals, the case was sent back for a retrial, this time to be adjudicated by local judges. Since the Basic Court of Prizren had recused itself, the case went to the Basic Court of Gjilan. The latter scheduled the initial hearing against Muja and others accused for December 14, 2017. This date, “surprisingly” was his first day as a citizen free of official positions, as he had just completed his mandate as the Mayor of Prizren.

On December 13, 2017 Muja handed his position over, while on December 14, 2017, he told the Court that he is now a retiree. In the trial against him on abuse of official position, he told the Court “I handed my position of Mayor over, yesterday, while now I am a retiree.”

The other four accused were present at the hearing as well, apart from Kadri Ukimeri, who had passed away.

Taking into consideration the fact that for the case against Muja and five other municipal officials of Prizren, court hearings started at the beginning of 2013, it has been five years that this case is ongoing, and its completion does not seem on the horizon. Muja even completed his complete mandate as Mayor of Prizren during that time.

Until now, the retrial in Gjilan has seen 12 Court hearings, out of which 9 were held while 3 hearings failed.

The hearing scheduled on September 13, 2018 was not held because Minir Krasniqi was abroad. His lawyer had notified the Court of his absence the day before. The Court hearing scheduled for July 6, 2018 was not held due to strikes in the Court.

The trial only began on March 13 2018, because Judge Afrim Shala was appointed to the Court of Appeals and replaced by Judge Zyhdi Haziri. The Court hearing scheduled for March 19, 2018 failed due to the absence of the presiding judge of the panel, Agim Ademi, who was being interviewed at the KJc, for the president of the Basic Court of Gjilan.

The conviction in Gjilan

After a marathon trial, Muja was found guilty and convicted and given a 12-month conditional sentence with a verification period of 2 years. Minir Krasniqi and Sadik Pacarizi received six-month conditional sentences, while Avni Ademaj received a five-month conditional sentence.

It did not come as a surprise that while the case was being ping ponged from one Court to the other, point 4 of the indictment had reached statutory limitation.

Indictment

Muja was charged with four points of abuse of official position or authority. Another five municipal officials were charged on the same count: Sadik Pacarizi, director of Urbanization and Spatial Planning; Avni Ademaj, Kadri Ukimeri (deceased), Abdullah Tejeci and Minir Krasniqi – director of Administration.

Avni Ademaj, Kadri Ukimeri, Abdullah Tejeci in different periods of time were either running or acting directors of the Directorate of Geodesy and cadastre in Prizren.

All six of the accused, with the purpose of material gain for others, had not executed the decision of the Supreme Court and provided the land being administered by the Kosovo Privatization Agency, for use to other parties, while in another case they gave municipal land for use without compensation, and did so without complying with legal procedures.

This occurred during a period of time from 2008 to 2012, when municipal officials had committed another criminal offence, by obstructing geodesy experts from testifying in Court hearings of the injured parties from the abuses with lands, on at least seven separate occasions. The “Justice in Kosovo” televised programme broadcast on September 11, 2011, had reported on this obstruction. The value of some of the lands that the municipal officials were accused of having abused their official position over, was about 200,000 euros.⁴⁴

⁴⁴<https://kallxo.com/ne-gjykimin-e-ish-kryetarit-te-prizrenit-u-moren-ne-pyetje-tre-te-akuzuarit-e-tjere/>
<https://kallxo.com/ish-kryetari-i-prizrenit-del-neser-para-gjyqit-ne-gjilan/>
<https://kallxo.com/gjykata-ndalon-filimin-e-fytyrave-te-ramadan-mujes-dhe-te-tjereve/>
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<https://kallxo.com/supremja-kthen-ne-apel-vendimin-per-ramadan-mujer/>
<https://kallxo.com/ramadan-muja-te-gjykohe-ne-gjilan/>
<https://kallxo.com/gjykimi-ramadan-mujes-nis-nga-zeroja/>

V. CORRUPT LIBERALIZATION

Background

Fighting organized crime and corruption is the headline issue for Kosovo's political class, heads of state, and, in particular, leaders of the Kosovo judicial and prosecutorial system. However, almost all international and local reports have identified the fight against this phenomenon, and the resolution to court cases in these fields, as very problematic.

The resolution of high-profile cases of corruption and organized crime were imposed as a criterion by the European Union, and the fulfilment of this criterion would pave the way for Kosovo's integration processes. Specifically, it would constitute the last criterion in the process for visa liberalization, which would see visa restrictions lifted for Kosovar citizens and has been ongoing for more than eight years.

The process of identifying the most critical cases of organized crime and corruption initially resulted in 39 cases being selected. Later, this number increased to 43, mainly including criminal offenses under chapter 34 of the Criminal Code of the Republic of Kosovo (CCRK), which tackles 'Official Corruption and Criminal Offenses Against Official Duty.'

On March 16, 2018, BIRN and Internews Kosova published the first part of its report, according to which only eight of these cases had been resolved and concluded with a final verdict, while the rest remained unresolved, and in various stages of criminal proceedings.

In this report, we will evaluate the performance of the Kosovo justice system. Sadly, not only has there been no improvement in the treatment of these cases but there has been a clear deterioration.

This is due to several factors, including the failure of the indictments in the initial stages of the trial, failure to argue the indictments, enormous delays due to elemental errors, the aging of cases past the statute of limitations, minimal sentencing, and many other violations that show the defeat of Kosovo's justice system in facing the fight against corruption and organized crime.

Table: Targeted Visa Liberalization Cases, Case Status and Solution Mode.

Case LV	At work	Finalized Th.	Finalized A	Basic	Appeal	Retrial
AVOKATI 1			X	Indictment		
AVOKATI 2			X	Fine punishment		
QERAJA			X	Sentencing / acquittal		
SUHAREKA			X	Repulsive		
MATRIX			X	Sentencing		
OShP			X	Acquittal	Acquittal	
PROKURORI			X	Sentencing	Sentencing	Sentencing
UP			X	Sentencing	Sentencing/Acquittal	
KLLOKOTI 1			X	Indictment		
KLLOKOTI 2			X	Acquittal		
INSPECTORI			X	Sentencing		
APELI			X	Acquittal	Acquittal	

Case LV	At work	Finalized Th.	Finalized A	Basic	Appeal	Retrial
NDËRTIMI			X	Indictment and acquittal	Rehearing the sentencing part Certification in the release part	Refusal (statutory limitation)
AUTORITET -PROJEKTI			X	Indictment and acquittal		
SEKSERI (pjesa për Emin Beqirin)			X	Confirmation of Indictment	Indictment dismissal	
KONTRATA		X		Sentencing Acquittal Refusal	Retrial for sentencing part	Retrial for sentencing part
KEDS		X		Refusal Sentencing		
MSH II		X		Acquittal		
GJYQATARI		X		Acquittal and Sentencing	Retrial	
MERGIMTARI		X		Sentencing	Retrial	
NDËRRIMI		X				
FERRONIKELI		X		Sentencing Refusal (statutory limitation)		
FAN		X		Acquittal		
GOLD		X		Sentencing		
POSTA	X					
VETERANËT	X					
VIZAT	X					
SIGURIA	X			Acquittal (Statutory Limitation)		
AVOKATI 3	X					
QARKU	X					
DETYRIMI	X			Sentencing		
DEMI	X					
TRANSPORTUESTI	X					
STENTA	X			Sentencing 1/3		
SHKOLLA	X			Sentencing	Retrial	Acquittal
HIB-NAFTA	X			Sentencing	Retrial	Sentencing
KRYSTAL	X					
SHKURTI	INVESTIGATION					
AVANSI	INVESTIGATION					
PËRVETËSIM	INVESTIGATION					
HEKURUDHA	INVESTIGATION					
KLINA	INVESTIGATION					
QAFI	INVESTIGATION					

Individual Case Analysis

Case "FERRONIKELI"

Pkr.nr. 65/17, Basic Court of Prishtina

Judge: **Beqir Kalludra;**

Prosecutor: **Agron Bajrami**

The judgment of the Basic Court of Prishtina: **Sentencing, acquittal, refusal**

In this case, the former mayor of Lipjan, Shukri Buja, was found guilty by the Basic Court of Prishtina on charges of abuse of official position and authority, and was sentenced to three years in prison.

As for the other defendants in this case, Nebih Zeqiri, was sentenced to two and a half years in prison, while Halit Gashi, was also found guilty. Hasim Vishesella was also sentenced to five months imprisonment, while Edmond Rexhepi and Bajram Rizani were sentenced to six months imprisonment (which could be converted to a 3,500 euro fine). Fahri Ratkoceri was acquitted in this case, as were Driton Avdiu, Magbule Sadiku, and Burim Kodra.

Indictment: Accused in this case were the former mayor of Lipjan, Shukri Buja, eight municipal officials, and a construction company owner. The defendants were: Shukri Buja, Nebih Zeqiri, Halit Gashi, Fahri Retkoceri, Hasim Vishesella, Edmond Rexhepi, Driton Avdiu, Burim Kodra, Bajram Rizani, and Magbule Sadiku.

According to the indictment, to profit themselves and others, while causing damage to the affected parties (the municipality in question and social enterprises under the management of the Kosovo Privatization Agency), the defendants intentionally collaborated to unlawfully issue decisions that enabled the group to initially expropriate, and later alienate, social and municipal properties.

The Presiding Judge in this case was Beqir Kalludra, while the Prosecutor was Agron Bajrami.



129 days (or 4 months and 9 days) have passed and no hearing session has been scheduled from the time the Court of Appeals made its decision to retry the case. Responding to questions from BIRN and Internews Kosova, the Basic Court of Prishtina did not give any reason as to why a hearing session has not been scheduled;

⁴⁹ <http://kallxo.com/aktakuze-ndaj-ferid-aganit-dhe-63-personave-te-tjere/>
<http://kallxo.com/gjykimi-per-stentat-ne-sallen-e-konferencave/>
<http://kallxo.com/vetem-1-minute-pamje-nga-gjykimi-ne-rastin-stenta/>
<http://kallxo.com/gjykata-nuk-e-hedh-poshte-rastin-stenta/>
<http://kallxo.com/rasti-stenta-kthehet-ne-rivendosje/>

1226 days (or 3 years, 4 months, and 7 days): since the investigation began, we still have no final judgment in the case;

- Statutory Limitation: Some defendants, among them Shukri Buja, have benefited from the statutory limitation of four points of the indictment because they involve acts allegedly committed in 2008, while the ruling for the beginning of the investigation was taken in 2015.

..... **Case “STENTA”**

Pkr.nr. 369/16, Basic Court of Prishtina

.....

The Presiding Judge in this case is Shadije Gërguri, while the 6 prosecutors are: Besim Kelmendi, Agron Bajrami, Admir Shala, Sylë Hoxha, and Florije Salihu-Shamolli.

59 natural persons and 4 legal persons are charged in this trial, with the charges relating to the treatment of patients in private hospitals. Among the accused in this case is the former minister of Health, Ferid Agani, while General Secretary of the Ministry of Health Gani Shabani was also indicted.

Also among the accused are 44 doctors and one nurse employed in public health care institutions, as well as 13 persons that have worked, or currently work, in private health care institutions, a number of whom are leaders or shareholders.

In this case, investigations into the first group of defendants began on June 16, 2014, while investigations into the second group started on January 11, 2016. The Special Prosecution filed an indictment on June 14, 2016, and the initial hearing started on October 21, 2016. This hearing was postponed due to the absence of one of the accused, while another delay occurred due to the non-disclosure of evidence.

On August 5, 2017, the Basic Court of Prishtina rejected the objections of the defendants regarding the indictment, but in November 2017, the Court of Appeal restituted the objection to the indictment. On February 26, 2018, the Basic Court set the proceedings up in three parts due to the large numbers of the defendants.



- 646 days (or 1 year, 9 months, and 9 days) passed between the indictment being filed and the case undergoing a judicial review

- 989 days (or 2 years, 8 months, and 14 days) since the indictment was filed, and there is still no decision at first instance regarding this case;

- 9 hearings were held concerning this case, still without passing to the main trial;

..... **Case “SIGURIA”**

PKR.nr.18/15, Basic Court of Prishtina

.....

In this case, 7 persons are accused in regard to a tender for the physical security of Kosovo Energy Corporation's (KEK) facilities. Among the accused are the former KEK director, Arben Gjukaj, former head of the Procurement Review Body (PRB), Hysni Hoxha, and the former mayor of Skenderaj, Sami Lushtaku. The value of the tender over which the accused were charged was around 6 million euros.

The judge in this case is Beqir Kalludra, but before the transfer of the case from EULEX to local judges, the case was judged by Vladimir Micula. The prosecutor in this case is the EULEX prosecutor, Danilo Ceccarelli.

Although the Basic Court in Prishtina rejected objections to the indictment made by the defence, the Court of Appeals partially accepted the objections, finding that the indictment was filed after the investigation period. On September 9, 2015, the prosecutor complained to the Supreme Court of Kosovo, regarding the Court of Appeals' decision, and the Supreme Court amended the Court of Appeals' ruling.

By February 2016 (when the initial session began), until June 2016, 16 hearings were held in this case by the EULEX trial panel.

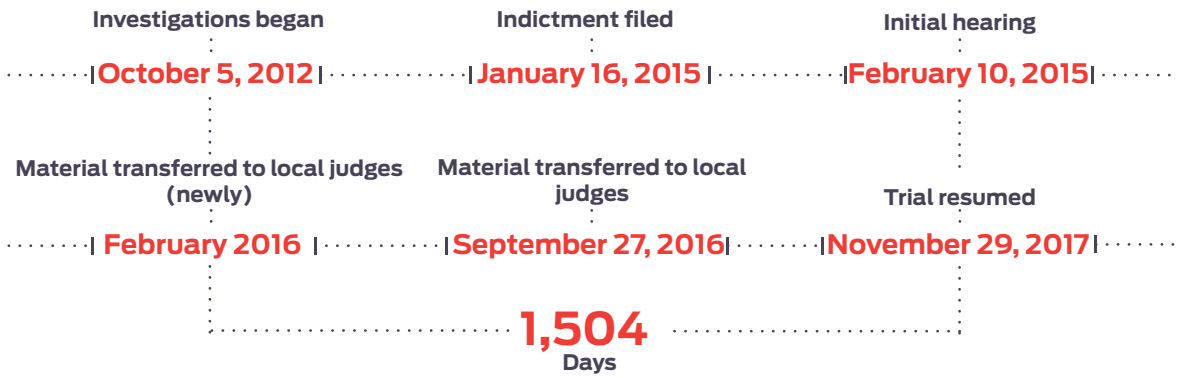
After 16 hearings, the Kosovo Judicial Council approved EULEX's request to transfer the case to a local judge.

On November 2016, the Constitutional Court of Kosovo decided on the claims filed in respect to the filing the indictment and refused them.

After the Constitutional Court's decision, in two cases, the foreseen hearing was postponed because the defense lawyers had other commitments. While in another case, the hearing was delayed at the request of EULEX prosecutor, Danilo Ceccarelli. In November 2017, the trial was resumed by the local judge, but the hearing scheduled for December 19 was postponed due to the health of the accused, Sami Lushtaku .

The only session scheduled for 2018 was postponed due to a mistake in scheduling. The court scheduled the hearing in late 2017 with the date set as February 19. However, in 2018, February 19 was a public holiday as Kosovo's Independence Day, February 17, fell on a weekend. Thus February 19 was not a date available for hearings on the calendar of the court for 2018.

⁴⁶<http://kallxo.com/gjendja-shendetesore-e-lushtakut-shtyn-gjykimin-per-tenderin-e-kek-ut/>



- 20 witnesses were heard in this case before it was transferred from the EULEX-based panel to local judges;
- 1,504 days (or 4 years, 1 month, and 12 days) – have passed since the filing of the indictment, and there is still no first-instance decision in the case;
- 16 seanca janë mbajtur në lidhje me këtë lëndë para se të transferohej te vendorët;
- 5 sessions were postponed for various reasons in this case before March 16, 2018;
- 1 adjudication hearing was postponed due to the calendar;
- 5 other sessions were postponed from March last year until February 28, 2019

case: “VISA”

Accused: Ilir Krasniqi, Milaim Zeka, Edmond Kerliu

case prosecutor: Atdhe Dema

Judge: Mustafe Tahiri



Indictment

On August 28, 2018, the Special Prosecution of Kosovo filed an indictment against the defendants Ilir Krasniqi, Milaim Zeka and Edmond Kerliu, for the criminal offences of fraud, tax evasion and money laundering.

According to the indictment of the Special Prosecution, the defendants, Ilir Krasniqi and Milaim Zeka, from 2016 up until March 2017, with the purpose of illegal material gain, on June 2, 2016, initially registered their business as an employment agency, where they presented fake facts regarding hiring Kosovo citizens in Germany, in such a way that the defendants Ilir Krasniqi and Milaim Zeka, defrauded 900 visa applicants over employment visas.

The prosecution charged the defendants as co-perpetrators for the criminal offence of fraud, while they were also charged to the criminal offence of tax evasion in co-perpetration.

Additionally, the defendants Ilir Krasniqi, Milaim Zeka and Edmond Kerliu, according to the prosecution committed the criminal offence of money laundering, related to the criminal offences of fraud and tax evasion.⁴⁷

..... **case: "POSTA"**

case no: PKR.nr.202/2018

criminal offence: "Abuse of official position and authority" per article 422 paragraph 1 of the CCRK.

Accused: Agron Mustafa, Ejup Qerimi and Rexhe Gjonbalaj
case Prosecutor: Naim Abazi (Abdurrahim Islami before him)

Judge: Lutfi Shala



Indictment

According to the indictment, the defendant Ejup Qerimi between February 2012 and October 2014, by using his position and official authority, did not comply with his official duty with the purpose of causing material damage towards someone else.

Through these actions, the defendant Qerimi, according to the indictment, allegedly committed the criminal offence of "abuse of official position or authority" per article 422 paragraph 1 of the CCRK.

Meanwhile, defendant Agron Mustafa, from February 19, 2015, when he got a leadership position, until May 24, 2017, had entered into an agreement for the execution of the final decision although he was not competent. Mustafa by using his official position and authority had not complied with his official duty, with the purpose of causing material damage to another company.

With these actions, according to the indictment, he was suspected of having committed the criminal offence of "abuse of official position or authority" per article 422 paragraph 1, of the CCRK.

Further, in the indictment of the Special Prosecution of the Republic of Kosovo, it is stipulated that a third defendant, Rexhe Gjonbalaj had abused his official position by not complying with his official duty in order to cause material damage to someone else.

With these actions, the defendant Rexhe Gjonbalaj is suspected of committing the criminal offence of "abuse of official position and authority" foreseen in article 422 paragraph 1, of the CCRK.⁴⁸

⁴⁸ <https://kallxo.com/aktakuze-ndaj-agron-mustafes-ejup-qerimit-dhe-rexhe-gjonbalajt-per-rastin-z-mobile/>

..... **Case: “Sekseri”**

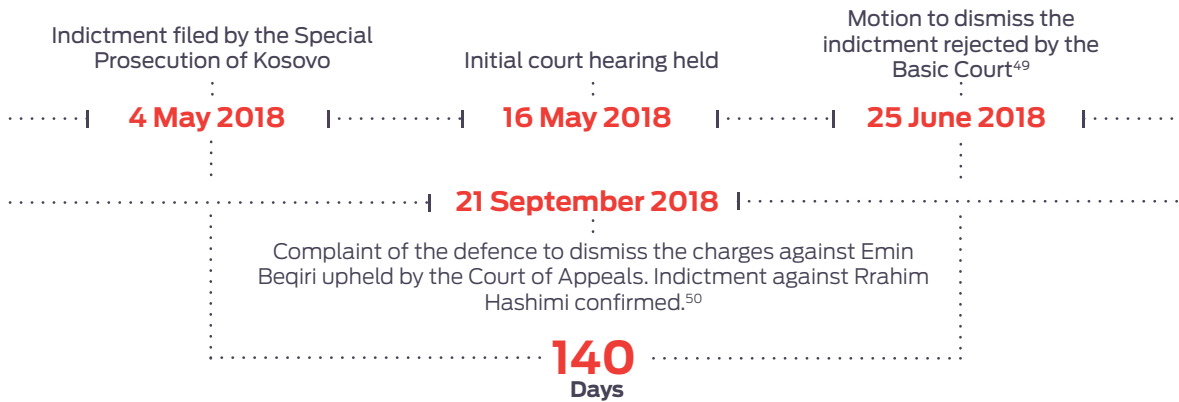
case number: Pkr.nr.112/18

Defendants: Emin Beqiri, Rrahim Hashimi

Prosecutor: Fikrije Fejzullahu

Judge: Vesel Ismajli

.....



140 days (or 4 months and 17 days) were needed for the procedure to dismiss the indictment against Emin Beqiri.

Basic Court

On May 16, 2018, during the initial hearing held at the Basic Court of Prishtina, the former head of Economic Crimes of the Kosovo Police, Emin Beqiri and fellow defendant, Hashim Rrahimi, pleaded not guilty. Afterwards, the defendants filed a motion to challenge the evidence and dismiss the indictment at the Basic Court of Prishtina.

On June 25, 2018, the Basic Court of Prishtina rejected the request of the defence to challenge the evidence and dismiss the indictment and hence confirmed the indictment. The accused through their defence appealed at the second instance Court of Appeals.

Court of Appeals

The Court of Appeals in September 2018 decided on the complaints submitted by the defence of the accused against the judgment of the Basic Court of Prishinta and approved the complaint.

The Court of Appeals ruled that there was not enough evidence on the charges against the accused Emin Beqiri, hence it dismissed the indictment while for the other accused, Rrahim Hashimi it sent the case back for retrial.

Indictment

On May 4, the Special Prosecution filed an indictment against the former director of the Economic Crimes Department of the Kosovo Police, Emin Beqiri, as well as businessman Rrahim Hashimi. The indictment was related to a corruption affair in investigating the non-governmental organisation QAD.

⁴⁹<https://kallxo.com/mbetet-ne-fuqi-aktakuza-ndaj-emin-beqirit-dhe-hashim-rrahimit/>

⁵⁰<https://kallxo.com/apeli-aktakuza-ndaj-emin-beqirit-nuk-pati-prova/>

Rrahim Hashimi was arrested by Kosovo Police under suspicion of having asked for a 100,000 euro bribe in order to ease the investigation for a criminal offence. According to the prosecution, both defendants had received 100,000 euros from the QAD organization in order to close a case in which they were subject of an investigation.

Beqiri was charged with the criminal offences of “abuse of official position or authority”, “obstruction of evidence” and “failure to report criminal offences or their perpetrators” while Hashimi was charged with the criminal offences “trading in influence” and “fraud”.

According to the indictment, Emin Beqiri in his position as director of the Directorate for Economic Crimes in Prishtina, during December 2016, with the purpose of illegal gain for himself and another person, director of the “City Group” who was the other defendant Rrahim Hashimi, demanded 100,000 euros from the injured parties Valmir Hajrullahu and Freskim Buqaj, against whom the directorate had initiated investigations for the criminal offence of fraud.

In the indictment it is alleged that Emin Beqiri had given Rrahim Hashimi information deemed as official secrets, and afterwards Rrahim Hashimi had told the injured parties that a search on their homes and premises according to the orders of the Court would take place. He then attempted to convince them to give the money requested in order to close the procedure.

..... **Case “KRISTAL”**

Numri i lëndës: P.nr. 76/18

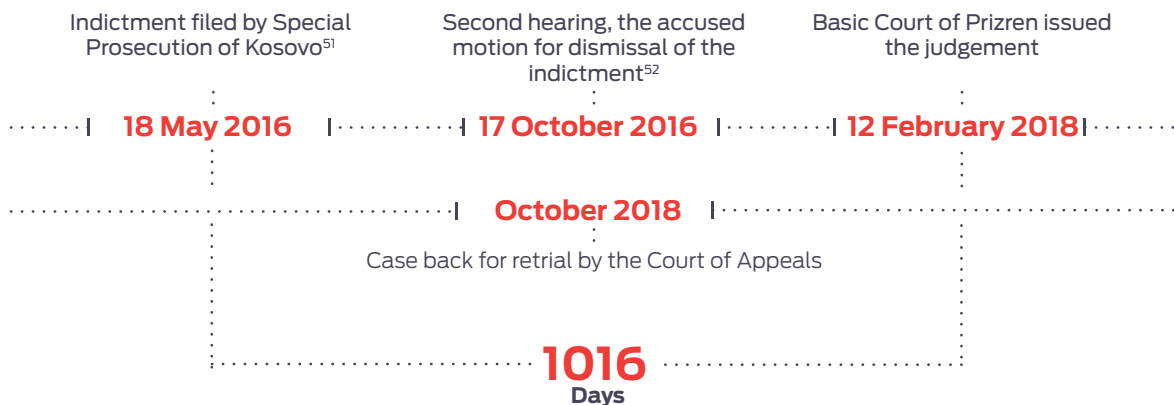
Accused:

Tunë Kçira, Kastriot Kçira, Gjon Kçira, Benson Buza, Gjeksion Kçira, Gëzim Kçira, Marjan Kçira, Zyrafete Hukolli, Besfort Omaj, Ragip Fazlija, Ekrem Leci, Hil Kaçinari, Sejde Kaqorraj

Case Prosecutor: Merita Bina - Rugova

Trial panel: Xheladin Osmani, Artan Sejrani, Refki Piraj

.....



1,016 days (or 2 years and 9 months) have passed since the indictment was filed while the retrial is in its initial phase.

In the judgement, in a case targeted for visa liberalisation, the judge did not note the names of the members of the trial panel in the verdict

⁵¹<https://kallxo.com/mbetet-ne-fuqi-aktakuza-ndaj-emin-beqirit-dhe-hashim-rrahimit/>

⁵²<https://kallxo.com/apeli-aktakuza-ndaj-emin-beqirit-nuk-pati-prova/>

After almost two years of the trial, the Basic Court of Prizren announced the judgement of one of the biggest cases judged in Prizren.

The acquittal part of the judgement:

Tune Kcira, Kastriot Kcira, Gjon Kcira, Benson Buza, Besfort Omaj, Gjekson Kcira, and Gezim Kcira, were acquitted of the following charges of the indictment:

Tune Kcira for the criminal offence of organized crime related to the criminal offences of compulsion and usury.

Gjon Kcira and Amrian Kcira for the criminal offence of organized crime related to the criminal offences of compulsion and usury while the accused Kastriot Kcira, Benson Buza, Gjekson Kcira, and Gezim Kcira, were also acquitted of the criminal offence of organized crime.

Ragip Fazlija and Sejd Kaçorraj were acquitted of the criminal offences of organizing pyramid schemes and unlawful gambling.

Tune Kcira, Kastriot Kcira, Benson buza, Marian Kcira, and Gjon Kcira, were acquitted of the criminal offence of money laundering.

The parts of the judgment on convictions issued:

Kastriot Kcira was found guilty for the criminal offence of usury and sentenced to 3 years imprisonment while for the criminal offence of unauthorised ownership, control or possession of weapons he was fined 1,500 euros.

Benson Buza was found guilty of the criminal offence of compulsion and sentenced to 2 years and 5 months imprisonment, and was fined 1,500 euros for the criminal offence of unauthorised ownership, control or possession of weapons.

Gjekson Kcira was found guilty of usury and sentenced to 8 months imprisonment.

Gezim Kcira was found guilty of the criminal offence of usury, and sentenced to 8 months imprisonment (converted to a fine of 2,000 euros).

Zyrafete Hukolli was found guilty of the criminal offence of usury and sentenced to 6 months and was fined 1,500 euros for the criminal offence of unauthorised ownership, control or possession of weapons.

Besfort Omaj was found guilty of the criminal offence of compulsion and sentenced to 2 years and 5 months in prison.

Tune Kcira was found guilty of the criminal offence of organizing pyramid schemes and unlawful gambling and sentenced to 2 years and 3 months in prison and was fined 1,500 euros for the criminal offence of unauthorised ownership, control or possession of weapons.

Gjon Kcira was found guilty of the criminal offence of organizing pyramid schemes and unlawful gambling and sentenced to 2 years and 5 months in prison and was fined 1,500 euros for the criminal offence of unauthorised ownership, control or possession of weapons.

Marjan Kcira was found guilty of the criminal offence of unauthorised ownership, control or possession of weapons and was fined 1,500 euros.

Ekrem Leci was found guilty of the criminal offence of organizing pyramid schemes and unlawful Gambling and sentenced to 6 months in prison (transformed to a fine of 2,500 euros).

Hil Kaçinari was found guilty of the criminal offence of organizing Pyramid Schemes and unlawful gambling and sentenced to 6 months in prison (transformed to a fine of 2,500 euros).

Court of Appeals

Complaints against this judgment were submitted by the injured party, the Special Prosecution of Kosovo and the Chamber of Lawyers.

Ruling of the Court of Appeals

After evaluating the claims of the Prosecution's complaint in regards to essential violations of criminal proceedings, the Court of Appeals found that the appealed judgement had made essential violations of criminal proceedings.

The violations relate to the fact that the judgment was not compiled in compliance with article 370 of the CPC as in the enacting clause of the appealed judgement of the first instance Court, the name of the trial panel presiding judge and its members were not written, and neither was the name of the record keeper, which constitutes essential violations of the criminal proceedings provisions, due to the composition of the trial panel not being in compliance with the law.

Further, an additional essential violation of the provisions of criminal proceedings was that in the enacting clause it was not noted that the accused Tuna Kcira, Kastriot Kcira, Gjon Kcira, Marjan Kcira, Benson Buza, Gjekson Kcira, were indicted for the criminal offence of organized crime related to the criminal offences of compelling and usury as foreseen in par. 2 of article 370 of the CPC, that foresees the enacting clause to include that the judgement is issued in the name of the people, the name of the single judge or presiding judge and members of the trial panel, of the record keeper, the criminal offence the defendants are charged with etc. The first instance Court should have included in its enacting clause what criminal offences were the accused charged with per the indictment and not the criminal offences they were found guilty or acquitted for.

Due to these reasons, the Court of Appeals found that the appealed judgement of the first instance court should be annulled and that these violations preclude the evaluation of other complaints of the injured parties representatives and the complaints of the defendants.

According to the ruling of the Court of Appeals, the first instance Court during the retrial must avoid the violations found, should administer evidence once again, evaluate whether hearing the testimonies of the proposed police officers by the Prosecution is necessary, and to also take into account the claims in the complaints of the Prosecution regarding violations of the criminal code in regards to whether it was adjudicated in total per the indictment and then to issue a fair judgement based on the law.

While for the proposal of the Prosecution regarding ruling on confiscations, the Court of Appeals found that the first instance Court must rule on this, based on concrete reasons. In regards to delegating the adjudication of the case to another Basic Court, the Court of Appeals considered there were no reasons foreseen in the provisions of the CPC to exclude this particular court from adjudicating this criminal case.

Indictment

According to the Special Prosecution, the accused Tune, Kastriot, Gjon, Marjan, Gjekson and Gezim Kcira as well as Benson Buza acted as an organized criminal group with the purpose of direct financial gain in committing serious criminal offences.

According to the indictment, Tune Kcira had overseen and steered the actions of this criminal group.

According to the indictment, the group used the difficult financial situation and the inexperience of the injured parties and provided them with usuries. Afterwards, through using serious threats they compelled them to pay considerably non-proportional interest rate or to commit other acts damaging their own property. They were suspected of having acted as an organized group with the purpose of gaining.

Basic Court of Prizren - Retrial

Initially, the first initial hearing was planned to be held on November 12, 2018.

The accused Benson Buza, Zyrafete Hukolli, Ragip Fazlija, and Ekrem Leci were absent. Under these circumstances and in the absence of legal conditions to commence, the hearing failed.

The special prosecutor Merita Bina-Rugova, had stated that she would analyse the possibility of separating the case or the procedure for some of the accused who were constantly absent and hence were obstructing the criminal proceedings.

On December 13, 2018, the retrial began. At the proposal of the special prosecutor Merita Bina-Rugova, the procedure against five of the accused: Zyrafete Hukolli, Ragip Fazlija, Ekrem Leci, Sejde Kacorri and Hil Kacinari was separated.

Xheladin Osmani, the presiding judge of the trial panel, through a special ruling outside of the Court hearing, approved the request of the special prosecutor as the request had not been challenged by parties in the procedure.

At the court hearing on January 14, 2019, heated arguments and many disagreements between special prosecutor Merita Bina-Rugova and the presiding judge Xheladin Osmani took place. The same situation occurred at the court hearing held on December 13, 2018.

In the next hearing held on February 21, 2019, the same situation occurred between special prosecutor Merita Bina-Rugova and the presiding judge Xheladin Osmani. The lawyer of the injured party, Tome Gashi, also had many objections and remarks towards the presiding judge of the panel.

Under these circumstances, on February 21, 2019, special prosecutor Merita Bina-Rugova requested the disqualification of the presiding judge Xheladin Osmani. Her proposal was backed by the representative of the injured party, lawyer Tome Gashi. The prosecutor had deemed the presiding judge Xheladin Osmani was not running the trial in an objective and impartial manner.

She requested audio and video recording of the Court hearing, to attach as proof on her request for the disqualification of the presiding judge of the trial panel.

Court hearings were paused and the president of the Basic Court Ymer Hoxha is expected to rule on the request of prosecutor Merita Bina-Rugova for the disqualification of the presiding judge of the trial panel.

..... **Case “CONSTRUCTION”**

Case number: Pkr. 10/18 (Retrial)

The accused: Salim Jenuzi, Nexhat Selaj.

Case Prosecutor: Genc Nixha

Trial panel: Ajser Skenderi, Kymete Kicja, Teuta Krusha

.....



Basic Court of Prizren

The former Mayor of Dragash, Salim Jenuzi was given a conditional sentence of one year in November 2017 after he was found guilty of abusing official position.

The other defendant Nexhat Selaj was sentenced to six months' imprisonment for unlawful occupation of property while Behan Haxhihasani and Vetim Hasani were acquitted on charges of abuse of official position, as according to the prosecution the factual situation was proved as per the indictment.

Court of Appeals

On March 2018, the criminal case against Salim Jenuzi and three other defendants was returned for a retrial due to essential violations in criminal proceedings.

The Court of Appeals had also ruled for a retrial in the case against Nexhat Selaj who was given a conditional sentence of six months, while for the other two defendants, Behan Haxhihasani and Vetim Hasani, who were acquitted, the Court of Appeals confirmed the judgement.

In the ruling of the Court of Appeals, it said that the first instance court did not justify its judgement to convict the accused Jenuzi and Selaj, as it did not specify what the actions were that each of them undertook to commit the criminal offence they were charged with.

The Court of Appeals instructed the Basic Court of Prizren to justify the correlation of proof in the indictment during the retrial and to show whether the Mayor had the right to sign the permit instead of the municipal director who was absent

Further, the Court of Appeals requested to precisely identify the time when the criminal offence was committed as it had concluded that the former Mayor Jenuzi had signed only one document, hence the time of having committed the criminal offence during the period of 31 August 2011 to 2016 does not stand.

Retrial

During the retrial, the Basic Court of Prizren issued a rejection judgement against Salim Jenuzi. Case Prosecutor, Genc Nixha, in his closing statement stated that he withdrew from criminal prosecution of Selim Jenuzi as the criminal offence he was charged with had reached absolute statutory limitation due to the rule of most favourable law, which in this case was the Provisional Criminal Code.

According to this code, the action of Selim Jenuzi is foreseen as exceeding competencies hence the case had reached statutory limitation when taking into account the initiation of the criminal investigation. The moment of committing the criminal offence is believed to be 31 August 2011, so the offence was qualified according to the Provisional Criminal Code, hence the trial panel issued a rejection judgement. Whereas against the other accused, Nexhat Selaj, the Court issued an acquittal, as it was not proven that he had committed the offence he was charged with.

Indictment

According to the indictment, the former Mayor of Dragash Salim Jenuzi from 2011 to 2016, with the purpose of material gain for another person and causing damage to the municipality had used his position as the Mayor to enable the owner of the Evropa bakery, Nexhat Selaj, to misappropriate real estate.

In this case, Selaj had built a commercial two-storey building without compensation or a decision from the Municipal Assembly of Dragash.

Whereas the director of Urbanisation, Behan Haxhihasani, in 2011 had issued a decision that allowed Nexhat Selaj to build a commercial building on public property belonging to the Municipality of Dragash. Later on, during the same year, Haxhihasani had issued a decision verifying that Nexhat Selaj had arbitrarily and unlawfully occupied public property belonging to the municipality of Dragash.

Municipal construction inspector, Vetim Hasani, was charged with not having fulfilled his duties as defined by the law intentionally, as he had not undertaken actions to halt construction works on the building built by defendant Nexhat Selaj, hence allowing the completion of the construction works in the two-storey building.

..... **Case “THE DISTRICT”**

Case number P.nr. 129/17

Prosecutor – Agron Bajrami

Trial panel – Burim Ademi, Avni Mehmeti and Tomislav Petrovic

.....

Indictment filed

Initial Court hearing failed

Initial Court hearing held

..... | **12 October 2017** |

..... | **5 December 2017** |

..... | **24 January 2018** |

.....
..... | **1,2,3,4 and 5 October 2018 – Court hearings all failed due to the
absence of the prosecutor and lawyers** |

.....

The case known as “the District” has 46 defendants accused of criminal offences such as participation in, or organization of, criminal groups per article 283 par. 1 related to criminal offences of: Avoiding payment of mandatory customs fees per article 318 par. 3 of the CCRK and prohibited trade per article 305 par. 2 of the CCRK, falsifying documents per article 398 par. 2 related to par. 1 of the CCRK, abuse of official position or authority per article 422 par. of the CCRK.

For four of the accused, Imri Bajrami, Nimon Zogaj, Mirko Ilic and Mursel Calakovic, the procedure was separated in the initial hearing held on January 24, 2018.

The 42 accused are: Argetim Ismaili, Armend Smaili, Arben Ismaili, Shkumbim Ismaili, Afrim Rustolli, Besim Biberovic, Mursel Calakovic, Bahri Rexhepi, Liridon Borovci, Haki Isufi, Radislav Mutavdzic, Milan Stojanovic, Mirko Ilic, Ramush Salihu, Zekri Salihu, Shkelzen Salihu, Ismet Zeqiri, Blerim Avdylaj, Kujtim Avdylaj, Nexhmedin Bajrami, Dukagjin Kollçaku, Ardian Rraci, Ahmet Sylja, Ruzhi Kolica, Afrim Hoti, Imri Bajrami, Alban Islami, Nimon Zogaj, Nezir Zogaj, Afrim Xhaçkaj, Rinor Rustolli, Arben Rustolli, Lulzim Kastrati, Gazi Tarashaj, Artan Kurpalaj, Florim Krasniqi, Reshat Kamberaj, Endrit Klllokoqi, Ramadan Mehmeti, Hasan Rexhepbeqaj, Zenel Isufi and Xhemail Islami.

The prosecution proposed a financial expertise report on the case on April 12, 2017, compiled by certified of TAK and Kosovo customs experts.

The initial court hearing scheduled to be held on December 5, 2017 failed. The hearing was postponed to January 2018 due to the absence of four of the accused, and the defense of 13 defendants.

On January 24, 2018 the initial hearing was held and the defendants declared their pleas on the charges.

Judge Burim Ademi ruled regarding the objections of the lawyers in the case and scheduled the hearing for October 1, 2018.

The hearing was postponed at the request of prosecutor Agron Bajrami and lawyer Gezim Baloku. Lawyer Baloku in his motion to postpone the hearing reasoned that he was scheduled to be in another Court hearing in the Basic Court of Prishtina where the defendant was in pre-detention, and on the 1st and 4th of the month he could not be present.

Prosecutor Agron Bajrami, through the motion to postpone the hearing, said that on the 3rd and 5th he was not available as he had to attend another Court hearing for which he had received the summons beforehand.

The hearings planned for October 1-5 were all postponed. The next Court hearings were scheduled for November 20-22, with the Court hearings scheduled for November 20 and 21 designated for delivering the opening statements of the defense.

The hearing scheduled for November 21 at 09:30 started at 11:05 due to the lateness of lawyer Zyhdi Axhemi. The lawyer was fined 250 euros for the delay.

During this hearing, the defendant Xhemajl Islami was charged with the criminal offence of illegal possession of weapons, where he pleaded guilty, and the Court ruled to separate the procedure and the case against, which would be assigned a new case number, while the procedure would be continued so that the parties could deliver their closing arguments.

Afterwards, the hearing continued with closing arguments of the defense.

Some of the defendants delivered their opening statements in writing to the trial panel while others elaborated on them.

Other hearings in the case were scheduled for January 14 and 15, 2019. The hearing scheduled for January 14 failed due to the absence of the member of the trial panel Sinisa Mandusic.

Judge Burim Ademi told the parties that judge Sinisa Mandusic had health problems and thus could not attend the hearing.

Hence, legal conditions to hold the hearing at the Basic Court of Prishtina were not met, however the hearing scheduled for January 15 was held.

Indictment

According to the indictment filed by the Special Prosecution, the accused, from January 2015 to 22 March 2016, intentionally and while fully aware and with a clear intention organized a criminal group and committed a criminal offence punishable with at least 4 years.

Additionally, the accused were able to organize three sophisticated work schemes or, more concretely, unlawful import, through not declaring properly the types of cigarettes and the smuggling of pharmaceutical products and sexual stimulants “Kamagra” and “Viagra”.

According to the indictment, all of those in the criminal group had unlawfully gained during the period of their activity by avoiding payment of mandatory customs fees or other fees when importing or exporting goods of the type of cigars, pharmaceutical products and sexual stimulants that resulted in an overall custom tax evasion of 1,666,842.07 euros, as well as avoiding tax obligations on the aforementioned goods through not properly declaring financial statements up to the amount of 2,430,620.16 euros.

Case “DËMI”

PKR.nr. 658/15, Basic Court of Prishtina

Accused in this case are Blerim Sinani, Skender Sinani, Samir Sinanaj, Isa Dërguti, Sabit Sogojeva, Enver Hasani, and Mentor Emini, while, according to the indictment, the damage caused was around 4 million euros.

The 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 Emini. Later, the Basic Court in Prishtina separated the judicial procedure for Fatmir Sinani.

With the allegation that the defendants acted as an organized criminal group for personal gain and direct financial enrichment over a number of years, the eight accused have been facing prosecution charges since November 2015.

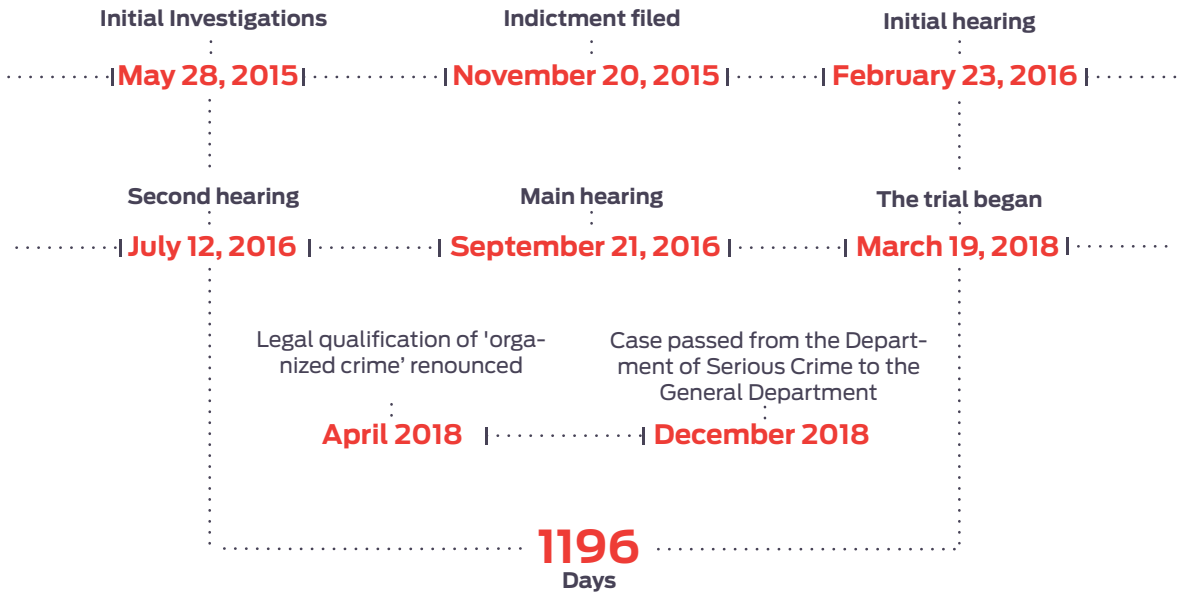
Based on the indictment, the eight accused initially agreed to register their businesses, some of which were fictitious according to the prosecution.

The initial judge in the trial for this case was Judge Elmaz Zenuni, who after 22 hearings requested to return to the Basic Court of Ferizaj. The Kosovo Judicial Council (KJC) approved this request, and the case was assigned to Judge Hamdi Ibrahim. It is now expected that the entire court process is resumed, by dropping 22 held sessions. The prosecutor is Faik Halilaj.

In April 2018, after the trial began again, prosecutor Faik Halilaj withdrew from the part of the indictment which charged the accused with organized crime due to a failure to prove “a well-organized structure.”

After this charge was dropped, the lawyers requested that the case be referred to the General Department of the Court, but Judge Ibrahim, refused this request until December of last year when he agreed to the transfer of the case.

At the General Department, there is no information that a hearing was scheduled for this case



- **1196 days** (or 3 years, 3 months, and 8 days) have passed from filing the indictment, while the case is continuing to "wander" from one department to the other, endangering the statutory limitation.
- **886 days** (or 2 years, 5 months, and 4 days), after the indictment was filed and more than 20 hearings were required for prosecutor Faik Halilaj, on his last year before retirement, to understand that there is no organized crime nature in this case;
- **22 seanca** were held before Judge Elmaz Zenuni sought to return to the Basic Court of Ferizaj, and the KJC approved his request. The case has in the meantime, been assigned to Judge Hamdi Ibrahim.
- **2 witnesses** were heard in the 22 held hearings;
- **Court sessions were postponed 3 times** before March 19, 2018: on October 13, 2016, because of the absence of the accused, Skender Sinani, on November 7, 2016, due to the absence of the financial expert, Selman Berisha and on March 19, in the absence of the lawyer, Emine Bajrami-Statovci.
- **238 days** (or 7 months and 24 days) were needed for the judge to understand that this case should be adjudicated by the General Department of the Basic Court;

..... **Case “APELI”**

PKR.338/16, Basic Court of Prishtina
.....

In this case, the former chairman of the Court of Appeal, Salih Mekaj, was accused of abuse of official position and authority, but during the process the act was requalified as an ‘exercise of influence.’ Three other persons also stood accused of other offenses.

Since the initial stage, this trial has been conducted behind closed doors at the request of the defence, while the prosecution agreed the closing of the sessions.

The judge in this case was Shashivar Hoti, while the prosecutor was Drita Hajdari.

After the filing of the indictment, the initial and second hearing were both postponed. The initial hearing on October 20, 2016, was postponed because the accused was not brought from detention, while the second hearing on January 30, 2017, was postponed because of the absence of one of the accused.

Upon the request for the protection of legality, the Basic Court refused the objections of the defense, while the Court of Appeals canceled the decision of the Basic Court and returned the case on reinstatement.

After the Court of Appeals, the Basic Court refused the requests and objections of the defense for a second time. The Court of Appeals released Salih Mekaj from one of the accusations, while it verified the rest of the ruling of the Basic Court.

The case of Salih Mekaj went to the Supreme Court upon the request for the protection of legality presented by the prosecution. The last session of this case was planned to be held on January 19, 2018, but it was postponed because the Supreme Court did not decide on the request on the protection of legality, and none of the accused of the case were present.

On May 28, 2018, the Basic Court of Prishtina, found all the accused in this case not guilty⁵³.

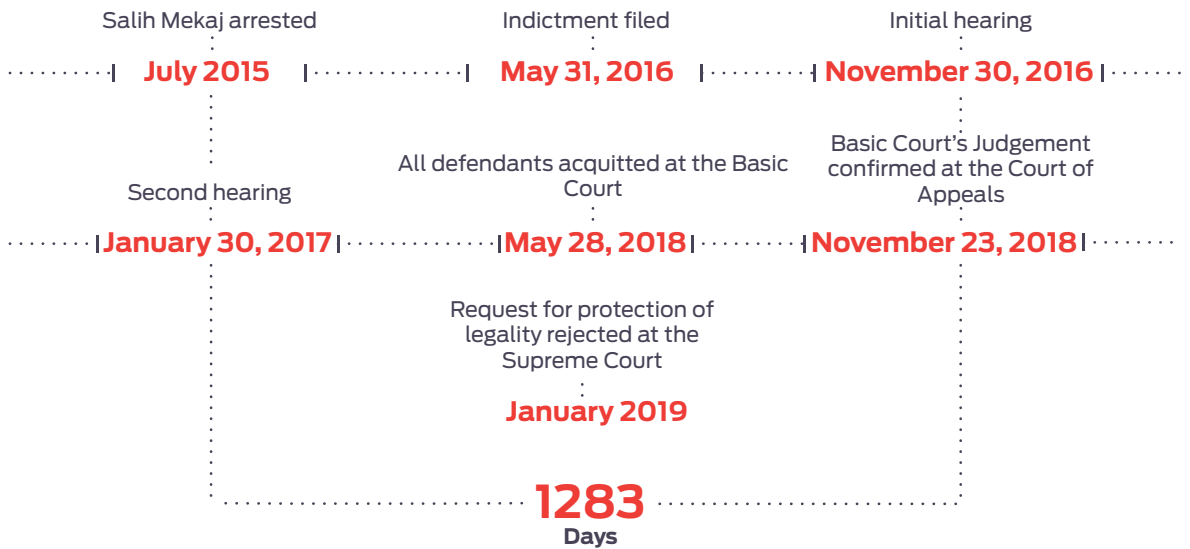
On November 23, 2018, the Court of Appeal, that was once chaired by Mekaj, upheld the verdict of the Basic Court and rejected the Prosecution’s appeal⁵⁴.

In January of the same year, the Supreme Court of Kosovo confirmed the verdict, rejecting the request for the defense of legality exercise by the Prosecution.⁵⁵

⁵³<https://kallxo.com/gjykata-vendosi-per-salih-mekajn/>

⁵⁴<https://kallxo.com/gjykata-e-apelit-ia-verteton-pafajesine-ish-kryetarit-te-vet/>

⁵⁵<https://kallxo.com/supremja-i-verteton-pafajesine-salih-mekajt/>



- **1283 days** (or over 3 years and 6 months) were needed from the arrest of Mekaj to the decision of the Supreme Court, to finally acquit him.
- **661 days** (or 1 year, 9 months, and 23 days) passed from the time of the indictment up to the court hearing;
- **3 sessions** - were postponed due to the absence of the accused;

Case "FAN"

PKR.734/15; Basic Court of Prishtina

In this case, former deputy in the Kosovo Assembly Naser Osmani is accused of abuse of official position and authority. Accused alongside him are Bahri Shabani, Shkelzen Lluka, Naim Avdiu, Melita Ymeraga, Adrian Kelmendi, and Agim Deshishku.

The case ended with a first-instance acquittal judgment for all the accused except Agim Deshishku, who was sentenced to 1 year and 8 months imprisonment, while the parties are expected to use legal remedies.

The Presiding Judge was Shashivar Hoti, while prosecutor Fikrije Fejzullahu represented the prosecution in this case.

From the filing of the indictment on December 23, 2015, until April 4, 2016, no initial hearing was held because it was postponed three times. In January 2016, the initial session was postponed due to the death of one of the lawyers, while two other times the session was postponed due to the absence of the prosecutor⁵⁶.

After the second hearing, four further sessions scheduled to happen in 2017 were postponed. In one case, the session was postponed because of the absence of the accused, Melita Ymeraga, while in another case, the session was postponed due to the absence of the accused, Naser Osmani and Bahri Shabani, lawyer Besnik Berisha, and member of the trial panel, Beqir Kalludra.

The hearings on September 11 and October 16, 2017, were postponed at the request of the accused, Naser Osmani and in the absence of the presiding judge, Shashivar Hoti respectively.

⁵⁵<https://kallxo.com/gjykata-vendosi-per-salih-mekajn/>

⁵⁶<https://kallxo.com/gjykata-e-apelit-ia-verteton-pafajesine-ish-kryetarit-te-vet/>

⁵⁷<https://kallxo.com/supremja-i-verteton-pafajesine-salih-mekajt/>



- **Seven sessions** – have been postponed since the filing of the indictment, including during the conducting of the main trial;
- **1143 days** (or 3 years, 1 month, and 16 days) passed between the indictment being filed and the judgment in the first instance

..... **Case “KEDS”**

Pkr.nr.577/15, Basic Court of Prishtina

.....

Accused in this trial were three persons (initially four, but one of the accused was deceased).

Vjollca Ajvazi, Drita Hamiti (whom the prosecutor withdrew from prosecution), and Avni Alidemaj.

Blerim Sokoli was also included in the indictment, accused of “acting as a director of the Kosovo Metrology Agency at the Ministry of Trade and Industry, in co-operation and by using the official duty intentionally overcame his powers, and enabled KEDS and Kohler stakeholders to benefit unlawfully.”

The Presiding Judge is Shashivar Hoti, while the prosecutor is Hivzi Bajraktari.

After the initial hearing on November 27, 2015, five sessions were postponed during the trial, in three instances at the request of defense counsel, and in one instance due to the absence of one of the accused.⁵⁶

⁵⁶<http://kallxo.com/shtyhet-seanca-per-njehsoret-kohler/>



965 ditë (or 2 years, 7 months, and 22 days) passed between the indictment and the decision in the first-instance.

This trial has been postponed five times for various reasons;

- 3 times the trial was postponed upon the lawyer's request;

- 20 witnesses were proposed to be heard;

14 injured parties and 2 experts were proposed to be heard;

Case "DETYRIMI"

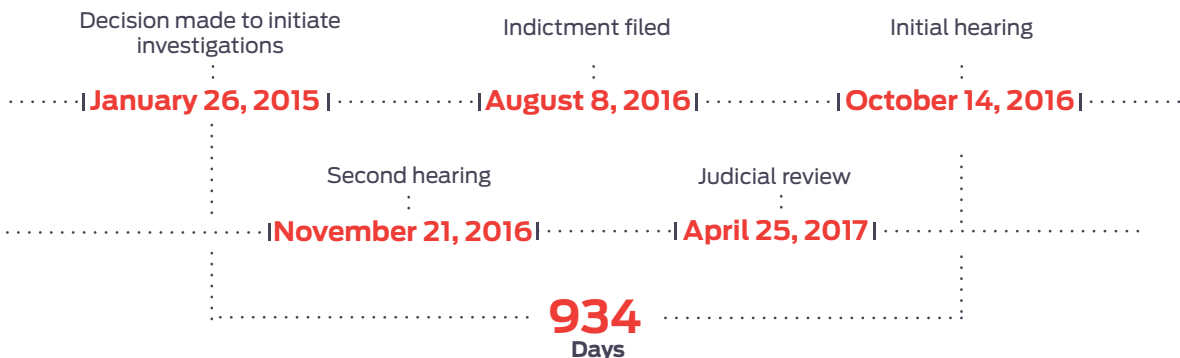
Pkr.nr. 458/16; Basic Court of Prishtina

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

According to the indictment, since 2014, the accused, together with Ruzhdi Shaqiri, known as "Baksi" (killed in August 2014), made constant pressure against the injured parties, to vacate their property with a surface area of 10.12.52 hectares in Fushë-Kosove.

According to the indictment compiled by Prosecutor Merita Bina-Rugova, the injured party, in this case, took the disputed property under their use for 10 years from socially owned enterprise KBI Bujqesia.

The judge in this case is Arben Hoti, while the prosecutor is Merita Bina-Rugova.



*On May 6, 2019, the Basic Court of Pristina pronounced a sentence of six years imprisonment for defendant Arben Bashota, four years and six months imprisonment for Osman Bajrami, and three years imprisonment for Sylejman Bajrami

934 days (or 2 years, 6 months, and 20 days) passed between the indictment being filed and the verdict being reached;

67 days (or 2 months and 6 days) passed between the indictment being filed and the initial hearing;

9 hearings have been held on this case so far;

9 witnesses were heard at the hearings held;

4 sessions were postponed in July–November 2018;

..... **Case “HIB-NAFTA”**

PKR.385/15;

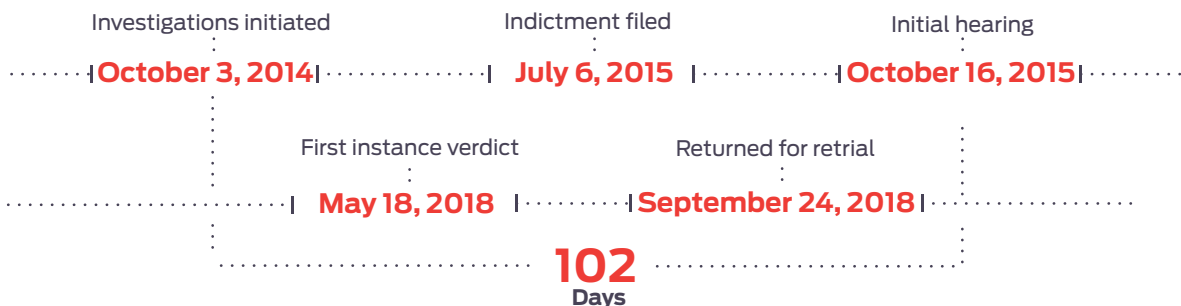
.....
In this case, the accused is Kujtim Bucaliu and HIB Petrol Sh.pk for the criminal offense of Fraud according to Article 335, par. 5 relating to par. 3 and 1 of the CCRK, and the criminal offense of fraud of buyers, in accordance with Article 299, paragraph 1 of the CCRK.

This case is under investigation and now stands in the phase of interviewing experts – representatives of the testing laboratory, “Kosova Lab,” the sessions for which will be held in May this year.

The judge of the trial panel is Rrustem Begolli, while the prosecutor Atdhe Dema represents the indictment.

In May last year, the Basic Court of Prishtina found guilty and sentenced the defendant Kujtim Bucaliu to four years in prison, who was also fined, while the legal representative of HIB was sentenced with a unique amount of 30,000 euros. Following an appeal from the defense, in September last year the Court of Appeal decided to return the case for retrial.⁵⁸

In November last year, the judge, Rrustem Begolli, requested from the new prosecutor Bashkim Zeqaj, to fill out the indictment, because according to him, “the indictment does not contain a detailed description of the incriminating actions of the defendants.”



- **102 days** (or 3 months and 10 days) passed between the filing of the indictment and the initial hearing
- **405 days** (or 1 year, 1 month, and 9 days) passed between the filing of the criminal report and the filing of the indictment

⁵⁷<https://kallxo.com/gjykata-vendos-per-kujtim-bucaliun-dhe-hib-petrolin/>
⁵⁸<https://kallxo.com/rasti-i-hib-petrolit-per-naften-jocilesore-kthehet-ne-rigjykim/>
* On 10 May 2019, the Basic Court of Prishtina found the defendant not guilty.

..... **Case “INSPEKTORI”**

Pkr.nr. 24/17; Basic Court of Prishtina

.....

In this case, the accused is Muhamet Binaku, who was charged with receiving a bribe in September 2016, in his capacity as Chief Inspector of the Pristina Region at the Labor Inspectorate within the Ministry of Labor and Social Welfare.

After a guilty plea, the defendant was sentenced to 6 months' imprisonment with the possibility of being replaced with a fine.⁶⁷



- **424 days** a(or 1 year and 2 months) passed between the indictment being filed and the main trial;
- **470 days** (or 1 year, 3 months, and 15 days) were needed from filing the indictment up to the first instance verdict;
- **1 session** - was postponed due to the request for protection of legality;

..... **Case “UP”**

Pkr.nr. 432/15, Basic Court of Prishtina

.....

In this case, the accused were the former Rector of the University of Prishtina, Enver Hasani, former Procurement Officer at the University of Prishtina, Hakif Veliu, and the University's Director of the Institute for International Studies, Albert Rakipi.

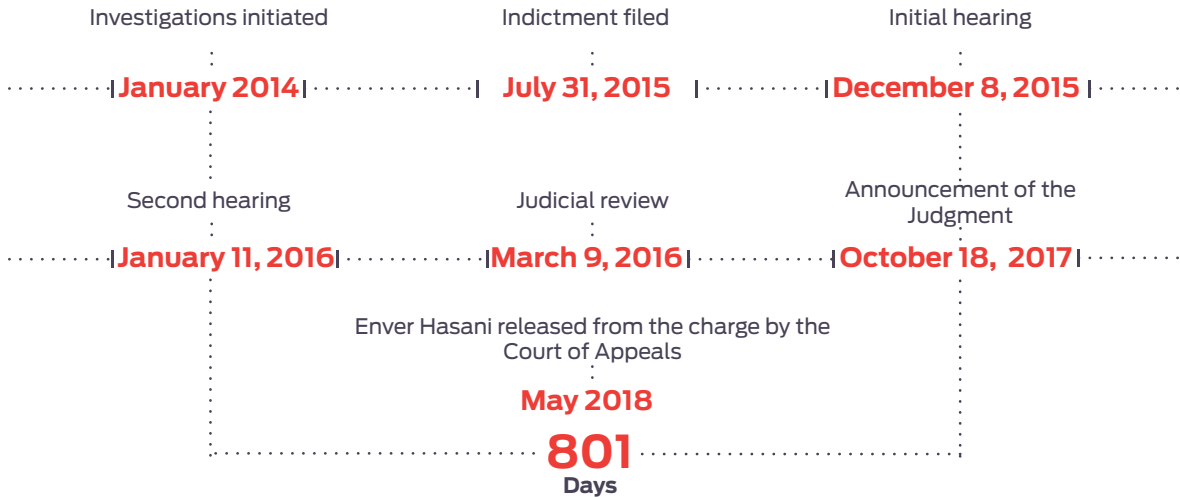
The indictment charged them with the criminal offense of deception regarding the contract for the translation of books from English into Albanian, for the needs of the University of Prishtina.

On October 18, 2018, the Basic Court of Prishtina sentenced Enver Hasani to a one-year conditional sentence, while Albert Rakipi and Hakif Veliu were sentenced to a six-month conditional sentence, a sentence which was converted to a fine of 10,000 euro ⁶⁷.

⁶⁷<https://kallxo.com/gjnk/ekskluzive-arsyetimi-i-apelit-per-lirimin-e-enver-hasanit/>

After an appeal, in May last year, the Court of Appeal amended the decision of the Basic Court, acquitting Enver Hasani, while increasing the sentences of the two other defendants Albert Rakipi and Hakif Veliu ⁶⁸.

This case was adjudicated by Arben Hoti (formerly adjudicated by Aferdita Bytyqi), while the prosecutor was Drita Hajdari.



- **801 days** (or 2 years, 8 months, and 18 days) were needed from the filing of the indictment until the pronouncement of the verdict in the first instance;
- **130 days** (or 4 months and 8 days) passed between filing the indictment and the accused's statement at the initial hearing;
- **314 days** (or 10 months and 10 days) passed with no hearing being held in this case (May 20, 2016 – March 30, 2017);
- **3 sessions** of this case were postponed due to the absence of the accused, the prosecutor and the witness;
- **229 days** or six and a half months, were needed for the Court of Appeal to decide on this case.

Case "GOLDI"

P.nr. 137/18, Basic Court of Ferizaj, Kaçanik branch

The Basic Prosecution charges 34 natural persons in Ferizaj for the criminal acts of smuggling of goods, tax evasion, prohibited trade, and for the criminal offense of the purchase, receipt, or concealment of the proceeds obtained by committing a criminal offense.

According to the indictment, 12 of the defendants are accused of the criminal offense of smuggling goods and tax evasion because they have secretly carried commodities like gold and silver from Turkey to Kosovo through the customs point of Hani i Elezit, thereby avoiding a customs duty totalling 243,275.39 euros.

⁶⁸<https://kallxo.com/gjnk/ekskluzive-arsyetimi-i-apelit-per-lirim-in-e-enver-hasanit/>

*me 16 prill 2019 gjykata e apelit në rivendosje i shqyrtton ankesat në lidhje me pjesën dënuese të aktgjykimit

For those 12, the charges are for prohibited trade, while for the rest, charges are for the purchase, acceptance, or concealment of the proceeds obtained by committing a criminal offense.

The judge in this criminal case is Shabi Idrizi, while the prosecutor Valdet Avdiu.

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



- 1 year, 11 months and 17 days passed from the ruling for the commencement of investigation and the filing of the indictment
- 65 days – passed between the time the indictment was filed to the initial hearing (which was scheduled for April 17, 2018).

On December 31, 2018 - the Kacanik branch of the Basic Court of Ferizaj, announced a judgment in the criminal case evidenced as: P.nr.137/18, against defendants: Visar Ibraj, Gani Ibraj, Bujar Ibraj, Shefqet Lajqi, Naser Ballkan, Ibrahim Ballkan, Taulant Lajqi, Haki Ibraj, Izet Ballkan, Shenoll Ballkan, Rexhep Ballkan and Ardit Ibrajetj for the criminal offense committed in co-perpetration smuggling of goods under Article 317 paragraph 1 in conjunction with Article 31 of the CCRK, the criminal offense of concealing the tax from Article 313 paragraph 3 in conjunction with Article 31 of the CCK, the trade prohibited by Article 305 paragraph 2 in conjunction with Article 31 of the CCRK. There was also judgements issued for the defendants Sadedin Sharku, Marsel Seba, Kristian Seba, Agron Osmani, Xhemajl Bajrami, Behar Pruthi, Enver Tertini, Ilaz Ilazi, Ridvan Halimi, Arian Hasani, Edmond Zhavelli, Fuat Llausha, Abdurrahman Bakiq, Hilmi Jupolli, Hizir Cini, Ozan Shporta Qemajl Foki, Naser Kamberi, Taulant Tamniku, Durim Sylejmani, Bastri Ismajli, and Orhan Kasemi for the criminal offense committed separately; purchase, acceptance or concealment of the proceeds obtained by committing a criminal offense under Article 345 paragraph 1 in conjunction with paragraph 3 of the CCRK.

Defendants Visar Ibraj, Gani Ibraj, Bujar Ibraj, Shefqet Lajqi, Naser Balkan, Ibrahim Balkan, Taulant Lajqi, Haki Ibraj, Izzet Balkan, Shenoll Balkan, Recep Balkan, and Ardit Ibraj were found guilty of the criminal offense committed in co-perpetration of confiscation of goods from Article 317 paragraph 1 in conjunction with Article 31 of the CCRK.

The defendants Sadedin Sharku, Marsel Seba, Kristjan Seba, Agron Osmani, Xhemajl Bajrami, Behar Pruthi, Enver Tertini, Ilaz Ilazi, Ridvan Halimi, Arian Hasani, Edmond Zhaveli, Fuad Llausha, Abdurahman Bakiq, Hilmi Jupolli, Hizir Cini, Qemal Foki, Naser Kamberi, Taulant Tamnik, Durim Sylejmani, Bastri Ismajli and Orhan Kasemi, were found guilty of the criminal offense of the purchase, acceptance, or concealment of the proceeds obtained by committing the criminal offense under Article 345 paragraph 1 in conjunction with paragraph 3 of the CCRK.

⁶⁷<https://kallxo.com/gjnk/ekskluzive-arsyetimi-i-apelit-per-lirimin-e-enver-hasanit/>

Therefore the defendants were judged as follows:

1. Visar Ibraj: 180 days imprisonment replaced with a fine of 3,000 euros;
2. Gani Ibraj: a prison sentence of 150 days replaced with a fine of 2,500 euros;
3. Bujar Ibraj: 180 days imprisonment replaced with a fine of 2,800 euros;
4. Shefqet Lajqi: 150 days imprisonment replaced with a fine of 2,000 euros;
5. Naser Ballkan: 180 days imprisonment replaced with a fine of 2,800 euros;
6. Ibrahim Ballkan: 180 days imprisonment replaced with a fine of 3,000 euros;
7. Taulant Lajqi: 120 days imprisonment replaced with a fine of 1,800 euros;
8. Haki Ibraj: 90 days imprisonment replaced with a fine of 1,200 euros;
9. Izzet Balkan: 120 days replaced with a fine of 2,000 euros;
10. Shenoll Ballkan: 180 days imprisonment replaced with a fine of 3,000 euros;
11. Recep Ballkan: 120 days replaced with a fine of 2,000 euros;
12. Ardit Ibraj: 90 day conditional sentence;
13. Sadedin Sadiku: one-year conditional sentence;
14. Marsel Seba: 90 day conditional sentence;
15. Kristian Seba: 120-day conditional sentence;
16. Agron Osmani: one-year conditional sentence;
17. Xhemajl Bajrami: 120-day conditional sentence;
18. Behar Pruthi: 120-day conditional sentence;
19. Enver Tertini: one-year conditional sentence;
20. Ilaz Ilazi: 90 day conditional sentence;
21. Ridvan Halimi: 90 day conditional sentence;
22. Arian Hasani: one-year conditional sentence;
23. Edmond Zhaveli: 90 day conditional sentence;
24. Fuad Llausha: one-year conditional sentence;
25. Abduraman Bakiqi: one-year conditional sentence;
26. Hilmi Jupolli: one-year conditional sentence;
27. Hizir Cini: one-year conditional sentence;
28. Ozan Shporta: one-year conditional sentence;
29. Qemal Foki: one-year conditional sentence;
30. Naser Kamberi: 90 day conditional sentence;
31. Taulant Tamniku: 90 day conditional sentence;
32. Durim Sulejmani: one-year conditional sentence;
33. Bastri Ismajli: one-year conditional sentence;
34. Orhan Kasemi: one-year conditional sentence.

The defendants Visar Ibraj, Gani Ibraj, Bujar Ibraj, Shefqet Lajqi, Naser Balkan, Ibrahim Balkan, Taulant Lajqi, Haki Ibraj, Izzet Balkan, Shenoll Balkan, Recep Balkan and Ardit Ibraj in accordance with article 364 paragraph 1 point 1.3 of the PCKK are released from the indictment for the criminal offense of tax evasion from Article 313 paragraph 3 in conjunction with paragraphs 1 and 31 of the CrPRK and the criminal offense of trafficking prohibited by Article 305 paragraph 2 in conjunction with Article 31 of the CrPRK. Judge Shabi Idrizi adjudicated this case.

..... Case "AUTORITETI-PROJEKTI"

PKR.220/17, Basic Court of Prishtina

.....

In this case, the accused were former procurement director at the Ministry of Education, Science and Technology (MEST), Xhemajl Buzuku, and director of the Alb-Architect Company,

⁶⁷<https://kallxo.com/gjnk/ekskluzive-arsyetimi-i-apelit-per-lirimin-e-enver-hasanit/>

Afrim Demiri. Buzuku was charged with the criminal offense of abuse of official position or authority, while Demiri was charged with that of fraud.

Part of this judicial process as a defendant for the criminal offense of abuse of official position or authority, was former MEST Minister, Rame Buja, as well as the former secretary general in the same ministry, Xhavit Dakaj. However Judge Valon Kurtaj, approved the request of the defense for the dismissal of their indictments.

The indictment against Buzuku and Demiri is in relation to the public tender for the "Professional Surveillance of Capital Premises Built by MEST," for which the contract was signed in 2009 with the Alb-Architect company.

The presiding judge is Arben Hoti, while it is still unknown who will represent the case for the prosecution.

KALLXO.com reported that when filing this indictment, the Special Prosecution Office of Kosovo did not issue a press release, which is the practice for all cases⁶⁸.

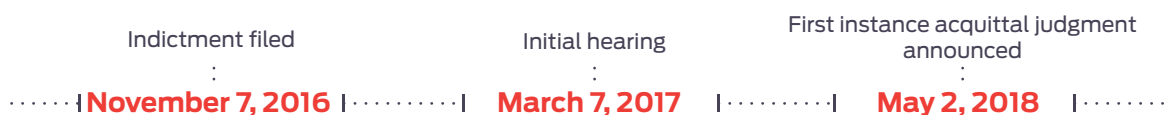
In the second hearing on April 1, 2017, the defence motioned to dismiss the indictment⁶⁹.

On April 28 of the same year, the Basic Court in Pristina partially approved objections and requests for dismissal of 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 Dakaj⁷⁰.

On May 29, the Court of Appeals rejected the appeal of Special Prosecutor Ali Rexha as unfounded, as well as the defense of the accused Xhemajl Buzuku and Afrim Demiri, who also filed an appeal against the decision of the Basic Court in Prishtina. This second-instance verdict confirmed the indictment against Buja and Dakaj, while verifying the indictment for Buzuku and Demiri.

On January 20, 2018, the Special Prosecutor, Ali Rexha, who filed the indictment and represented in the court, was suspended⁷¹. Since then, it is still unknown who will represent the indictment in this case.

On May 2, 2018, the Basic Court of Pristina announced an acquittal judgment against two defendants⁷².



- **298 days** (or 9 months and 23 days) have passed since the Kosovo Court of Appeal ruled on the appeals of the parties in the proceedings filed against the decision of the Basic Court in Prishtina;
- **501 days** (or 4 months and 16 days) passed between the moment of filing the indictment and the commencement of the main trial;
- **541 days** (or 1 year, 5 months and 25 days) passed between filing the indictment and the court decision in the first instance.

⁶⁸<http://kallxo.com/pse-u-fsheh-aktakuza-ndaj-rame-bujes/>

⁶⁹<http://kallxo.com/kundershtohet-aktakuza-ne-rastin-e-ish-ministrir-buja/>

⁷⁰<http://kallxo.com/gjykata-prokuroria-nuk-ofroi-prova-ndaj-rame-bujes/>

⁷¹<http://kallxo.com/suspendohet-prokurori-ali-rexha/>

⁷²<https://kallxo.com/gjykata-shpall-aktgjykimin-per-ish-drejtorin-ne-masht/>

Case “KONTRATA”

Pkr.220/17, Basic Court of Prishtina

In this trial, Xhavit Dakaj and Milot Vokshi were accused of exceeding their competencies for material gain for themselves and others in December 2014. They did so by unlawfully entering into a memorandum of understanding between the institution where they worked, respectively, between MEST and the Constitutional Court, for the purpose of using the public contract framework by MEST, to use the economic operator, Grafo-Loni, to supply MEST with goods.

Upon signing this contract, the Special Prosecution claims that the economic operator in question received benefits totalling 31,612.60 euros, for which many prosecutors claim that the budget of the state of Kosovo has been damaged. The presiding Judge, in this case, is Vehbi Kashtanjeva, while Special Prosecutor Faik Halilaj represented the indictment.

Dakaj was found guilty of abuse of official position in the first instance, as well as a violation of equality in the exercise of economic activity in co-perpetration, and sentenced to 10 months imprisonment. For the same criminal offenses Vokshi, was sentenced to a unique sentence of 6 months imprisonment. Xhemajl Buzuku, Fehmi Zylfiu, and Bukurije Borovci were also included in the indictment.

On December 30, 2016, the Basic Court of Pristina sentenced Xhavit Dakaj to 10 months of effective imprisonment, and Milot Vokshin to six months in prison. Meanwhile, against the official Xhemajl Buzuku, the court has pronounced a release judgment in the absence of evidence. Part of this trial was also Fehmi Zylfiu and Bukurije Borovci, to whom the court issued a refusal judgment, as the prosecutor in the final word withdrew from the prosecution of these two.

On June 19, 2017, the Court of Appeals rejected the appeal of the Special Prosecution Office of the Republic of Kosovo regarding the acquittal of Xhemajl Buzuku as ungrounded. However, the Court of Appeals upheld the appeals of defendants Xhavit Dakaj and Milot Vokshi, thus annulling the decision of the Basic Court and returning the criminal case to a retrial.

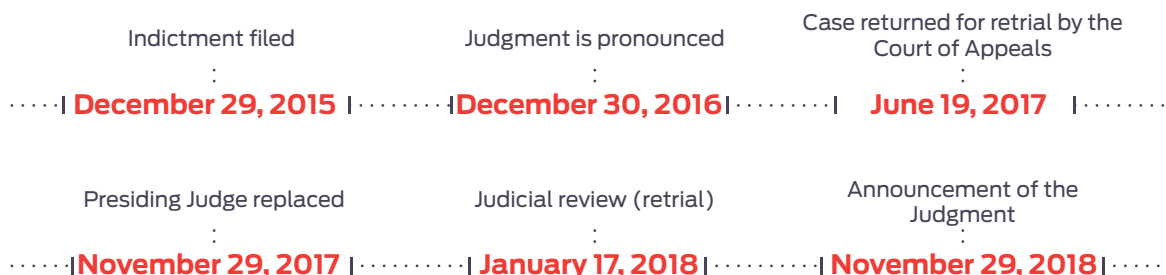
In October 2017, Judge Valon Kurtaj was elected director of the Academy of Justice, and in the same month, the chairman of the panel changed. The current Presiding Judge, Vehbi Kashtanjeva, announced that the trial would begin again due to the replacement of the presiding judge.

In January 2018, a court hearing was held, in which three financial experts elaborated their financial expertise compiled in this trial. Due to controversial expertise, the Basic Court in Pristina issued an order for the so-called super-financial expertise from the financial expert group of the Faculty of Economics⁶⁸.

On November 29, 2018, the Pristina Basic Court acquitted the accused⁶⁹.

⁶⁷<http://kallxo.com/fjalosje-mes-te-akuzuarit-dhe-ekspertit-pas-seances/>

⁶⁸<https://kallxo.com/lirohen-nga-akuzat-sekretari-i-gjykates-kushtetuese-dhe-ish-sekretari-i-masht/>



- **171 days** (or 5 months and 20 days) passed between the announcement of the initial verdict and the Court of Appeal rendering a decision on the restitution of the case for retrial;
- **1066 days** (or 2 years and 11 months) passed between the indictment being filed and the first instance verdict being pronounced;

..... **Case “NDËRTIMI”**
 Pkr. 10/18 (Pkr. 131/16 before being sent back for retrial), Basic

Accused in this case is the former mayor of the Municipality of Dragash, Salim Jenuzi, and three other persons.

The Basic Prosecution of Prizren claimed that Salim Januzi, being the mayor of the Municipality of Dragash, between 2009-2016, enabled Nexhat Selaj to acquire public property, which he had occupied in advance.

Two other persons were indicted in this case, but were acquitted by the Basic Court of Prizren, an acquittal verified by the Court of Appeal. The Presiding Judge is Ajser Skenderi, while Prosecutor Genc Nixha represents the indictment.

On November 21, 2017, the Basic Court of Prizren sentenced the two accused, Salim Jenuzi and Nexhat Selaj, while acquitting Behan Haxhihasani and Vetim Hasani from the charges.

However, in March 2018, the Court of Appeal remanded the judgment in the punitive part, while confirming the release.

In October last year, the Basic Court of Prizren issued a refusal judgment, as the prosecutor of the case, Genc Nixha, who took the case after the resignation of prosecutor Sefer Morina, withdrew from the indictment because of the statutory limitation of the case⁶⁹.



⁶⁹<https://kallxo.com/aktgjykim-refuzues-per-ish-kryetarin-e-dragashit/>

790 days (or 2 years 1 month and 29 days) passed between the filing the indictment and the acquittal judgment due to the statutory limitation;

..... **Case “AVOKATI 3”**

PKR.125/17, Basic Court of Prishtina

.....

The 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 lawyer of the accused, Nimon Berisha, against whom criminal proceedings are conducted in the Basic Court in Peja, obtaining material benefit for himself or other persons. He allegedly deceived the injured party, Mirjeta Imeri, in continuity by commencing from January 6, 2015 until the date of his detention and arrest on February 15, 2017.

The prosecution claims that Çekaj received 43,000 euros from Imeri, for the protection of Nimon Berisha, the father of the injured party, as his defence lawyer allegedly in order to ‘obtain expertise’ form Turkey. He also took 40,000 euros from the injured party allegedly ‘on behalf of the Basic Court of Peja.

This money was confiscated by officials on the arrest of the defendant, while the damage caused to the injured party, according to the prosecution, exceeds 50,000 euros.

The Presiding Judge, in this case, is Valbona Selimaj, while the Special Prosecutor, Florije Shamolli-Salih represent the indictment.

Indictment filed

Initial hearing

..... | **April 11, 2017** |

..... | **November 22, 2017** |

The initial session scheduled for September 13, 2017, was postponed, in the absence of the accused. The absence has been justified as being because of health reasons.

On September 20, 2017, due to the absence of the accused and the lack of presentation of his defense, the initial hearing was postponed for a second time. The reasons for the defendant's absence was the same as for the session on September 13 and the hearing was postponed for an indefinite period. On November 22, 2017, the initial hearing was held;

5 sessions failed from March 2018 to December 2018⁷⁰;

..... **Case “MËRGIMTARI”**

PKR.30/18, Basic Court of Prishtina

.....

In this case, the accused are Miftar Dobraj, Artan Kelmendi, Daniell Prenrecaj, and Dren Mulla.

⁷⁰<https://kallxo.com/nderpritet-seanca-ne-gjykimin-e-avokatit-gjyqtaret-duhej-te-shpallnin-aktgjykimin-ne-nje-rast-tjeter/>
<https://kallxo.com/avokati-e-kundershton-nderrimin-e-trupit-gjykues-shtyhet-gjykimi-per-mashtirim/>

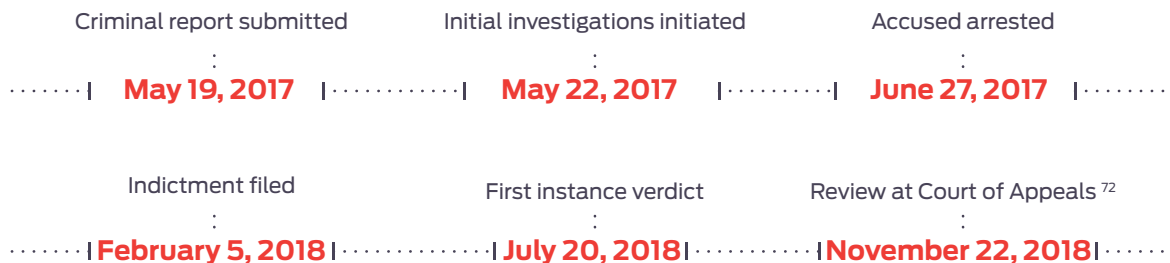
Miftar Dobraj, Artan Kelmendi, and Daniell Prenrecaj are charged in co-perpetration with Albert Veli (for whom the criminal proceedings are being conducted in the US) of committing the criminal offense of participation, or the organization of an organized criminal group” from Article 283, paragraph 1 of the CCRK, regarding the criminal offense of import, export, supply, transportation, exchange, or unauthorized sale of weapons under Article 372, paragraph 2 of the CCRK.

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

The presiding judge in this criminal case is Shpresa Hyseni, while Prosecutor Merita Bina-Rugova represented the indictment.

In July last year, the Basic Court of Prishtina found guilty and sentenced the accused. Miftar Dobraj was sentenced to 5 years and 6 months imprisonment and a fine of 7,000 euros. Artan Kelmendi was sentenced to 5 years imprisonment and a fine of 5,000 euros, while Daniell Prendrecaj was sentenced to 2 years in prison and a fine of 5,000 euros. Dren Mulla was fined 4,000 euros⁷¹.

In March 2019, the Court of Appeals sent the case back for a retrial, annulling the judgement of the first instance court, concluding that the latter had made essential violations of provisions in the Criminal Procedure Code.



- **262 days** (or 8 months and 17 days) passed between the filing of the criminal report and the filing of the indictment;
- **223 days** (or 7 months and 9 days) passed between the date of the arrest and the filing of the indictment;
- **49 days** (or 1 month and 21 days) passed between the filing of the indictment and the original hearing being held
- **125 days** (or 4 months) passed between the decision of the Basic Court and the review of appeals in the Court of Appeal.

⁷¹<https://kallxo.com/rasti-i-te-akuzuarve-per-kontrabande-me-arme-shqyrtohet-ne-gjykatën-e-apelit/>

⁷²<https://kallxo.com/jepet-fjala-hyrese-ne-rastin-e-shenjestrUAR-per-liberalizim-te-vizave/>

*Gjykata e apelit e kthen rastin në rigjykim

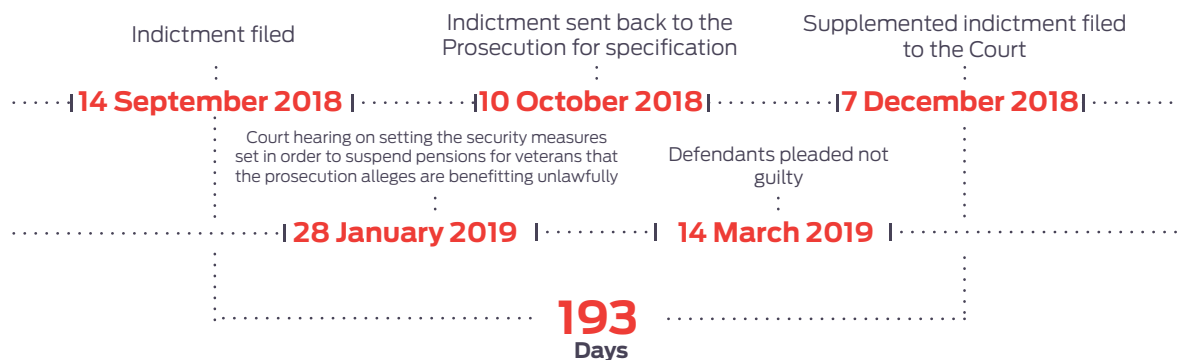
..... **case: Veterans**

case no: PKR.nr. 230/18

Defendants: Agim Ceku, Nuredin Lushtaku, Sadik Halitjaha, Shkumbin Demaliaj, Qele Gashi, Shukri Buja, Ahmet Daku, Rustem Berisha, Faik Fazliu, Smajl Elezaj, Fadil Shurdhaj, Xhavit Jashari.

case prosecutor: Enver Krasniqi, Valdet Gashi

.....



(or 6 months and 12 days) passed between the filing of the indictment and the initial hearing being held.

This is one of the most important cases in post-war Kosovo, due to the alleged damage caused, the profile of the defendants, the number of persons involved as illegal beneficiaries and other societal implications.

Since the investigation phase, this case has been problematic and a particular focus for the media due to the prosecutor who was in charge of the case, Elez Blakaj, resigning in July 2018. He claimed that the chief prosecutor of the country, Aleksander Lumezi was exercising influence on him, while also implicating the chairperson of the Prosecutorial council of Kosovo at the time, Blerim Isufaj.

Blakaj made a series of allegations from the United States, but no one else resigned as a result. Serious damage had already been caused to the public's trust in the State Prosecutor however.

Initially, the State Prosecution did not file the indictment as compiled by Blakaj, justifying doing so by pointing to shortcomings and a lack of clarity in the indictment, including the number of illegal beneficiaries. However, two months later, an indictment was filed with the Court, but the judge in the case, Nushe Mekaj, sent it back for specification, as a basic lack of clarities were noted.

About two months after having been sent back for specification to the State Prosecution, finally the indictment was re-filed at the Court, and on January 28, 2019 the Court hearing to rule on the motion of the Prosecution to suspend pensions for the beneficiaries that the Prosecution alleges are benefitting unlawfully was scheduled.

⁷⁰<https://kallxo.com/nderpritet-seanca-ne-gjykimin-e-avokatit-gjyqtaret-duhej-te-shpallnin-aktgjykimin-ne-nje-rast-tjeter/>
<https://kallxo.com/avokati-e-kundershton-nderrimin-e-trupit-gjykues-shtyhet-gjykimi-per-mashttrim/>

The initial Court hearing was not held due to the absence of Rrustem Berisha and Faik Fazliu, and the hearing was postponed to March 14, 2019.

Indictment

In September 2018, the Special Prosecution of the Republic of Kosovo filed an indictment against 12 persons charging them with abuse of official position or authority, for the case known to the public as "VETERANET".

The Prosecution alleged that from the evidence secured, it was proven that illegal payments to war veterans of the KLA damaged the budget of the Republic of Kosovo by 68,153,533.14 euros.

A month later, more precisely on October 9, the Court sent the indictment back, demanding from the Special Prosecution of Kosovo to correct it within 30 days. The Special Prosecution had not been able to define the indictment within the deadlines set in the ruling, and they requested from Judge Nushe Kukaj-Mekaj an additional 30 days, which she granted.

The indictment was sent back with the purpose of clarifying how the following defendants had committed the criminal offence: Agim Ceku, Nuredin Lushtaku, Sadik Halitjaga, Shkumbin Demaliaj, Qele Gashi, Shukri Buja, Ahmet Daku, Rrustem Berisha, Faik Fazliu, Smajl Elezaj, Fadil Shurdhaj and Xhavit Jashari.

The Court had also requested to clarify the number of persons who allegedly are benefiting unlawfully, hence it was requested from the Special Prosecution to clarify whether the number of illegal beneficiaries taking pensions from the budget of Kosovo was 20,238 or 15,115.

The Court had demanded changes in the request of the Prosecution to suspend the payment of pensions for 20,238 war veterans until the end of the criminal procedure. The judge of the case Nushe Kukaj-Mekaj had stated that it would be good for such a case to be treated through another procedure, as according to her, there is a risk of this case dragging on endlessly.

VI. ASSESSMENT OF PERFORMANCE OF JUDGES AND PROSECUTORS

The data provided by BIRN and Internews Kosova's monitoring show that only 10 percent of corruption indictments resulted in sentencing verdicts with effective imprisonment, while nearly 40 percent of verdicts on cases of corruption in 2018 led to releases and rejections.

BIRN Kosovo and Internews Kosova monitoring also shows that during 2018, corruption cases have prescribed to statutory limitations, including cases targeted for visa liberalization. This is despite commitments from all heads of the judiciary that these cases will be dealt with priority and professionalism.

A worrying finding of this report is that targeted cases have often been returned to retrial from the Court of Appeals, due to elemental errors in drafting judgments from the Basic Courts, whereas negligence, delays, and failure to comply with the deadline set by the Criminal Procedure Code, are present in almost all cases monitored.

Furthermore, despite all the findings from this year, and the findings demonstrated previously in BIRN and Internews Kosova reports, as well as reports from other organizations, no judges or prosecutors have been assessed as having a "poor" or "insufficient" performance in the last two years.

BIRN and Internews Kosova have gathered data from the relevant councils which show that judges and prosecutors have all had positive assessments, despite the fact that the situation on the ground is not favorable.

Performance Evaluation of Judges 2017

In 2017, performance appraisal was given to 64 permanent-term judges, of whom:

01-30 points (poor)	0
31-50 points (good)	3
51-80 points (very good)	56
Over 81 points (excellent)	3
Total	62

Data provided by the Kosovo Judicial Council indicate that a performance evaluation was conducted for 64 judges in 2017, but the data presented to BIRN only contain information for 62 judges that entered the performance evaluation during 2017.

Beyond this inaccuracy, the data shows that from the total of 62 judges that were subject to performance evaluation, none of the judges was evaluated with a poor performance. Three judges were evaluated with a "good" performance, 56 a "very good" performance, and three an "excellent" performance.

⁸⁸ Sipas të dhënave të dërguara nga Këshilli Gjyqësor i Kosovës Një gjyqtar që ka qenë i përzgjedhur për vlerësim të performancës për këtë vit, për shkak të arritjes së moshës së pensionimit nuk i është nënshtruar fare vlerësimit.

Evaluating Judges Performance in 2018

01-30 points (poor)	0
31-50 points (good)	1
51-80 points (very good)	58
Over 81 points (excellent)	1
Total	60

Data provided by the Kosovo Judicial Council show that performance evaluation in 2018 was subjected to 61 judges, but the data presented to BIRN only contain information for 62 judges that entered the performance evaluation during 2018.

Beyond this inaccuracy, the data shows that a total of 60 judges entered the performance evaluation, from which none were evaluated with a "poor" performance. One judge was assessed with a "good" performance, 58 other judges were assessed with a "very good" performance, while one judge was said to have shown an "excellent" performance.

Thus, it results that during the two last years, 122 judges entered the performance evaluation, and none were evaluated with a "poor" performance. Four judges were evaluated with a "good" performance, 114 judges with a "very good" performance, and four judges with an "excellent" performance.

Performance evaluation during these two years included judges on first time mandates as well as those vying for promotion at the Court of Appeal and the Supreme Court.

For judges rated with "good" performance, the Judges Performance Evaluation Committee recommended attendance for training at the Academy of Justice, depending on the areas where judges were lagging; mainly for case management, drafting court decisions, and code ethics.

The performance evaluation by judges in the Performance Evaluation Commission of the KJC, is done based on Regulation no. 11/2016, for the assessment of the performance of judges, which came to power on January 1, 2017, as amended by Regulation no. 01/2019. Both regulations provide that in cases where judges are considered to have a "poor" performance, the Evaluation Committee recommends the dismissal of the judge.

At least in the last two years, there has been no such recommendation for any judges.

Prosecutors Performance Assessment 2018

Insufficient	0
Sufficient	3
Good	23
Very good	40
Total	67
(33 permanent prosecutors and 34 prosecutors with initial mandate)	

According to data provided by BIRN and Internews Kosova, during 2018, the performance evaluation included a total of 66 prosecutors, from which none resulted with "insufficient" assessment, which would result in dismissal.

On the contrary, out of the 66 evaluated prosecutors, 40 have achieved a "very good" rating in the performance evaluation, 23 others "good," and only three prosecutors have been evaluated as showing a "sufficient" performance.

The assessment of prosecutors in the Republic of Kosovo is done based on Regulation No. 12/2015 on the evaluation of the performance of prosecutors. Article 34 of this regulation provides that if a prosecutor has two consecutive "insufficient" performance evaluations, a dismissal may be initiated.

VII. FAILURE TO BENEFIT THROUGH CRIME

Cracking down on organized crime and corruption through sequestering and confiscation of wealth acquired through criminal offences has consistently been a commitment of all responsible judges and prosecutors. However, BIRN and Internews Kosova reports continually evidence the failure of the Prosecution and courts to confiscate wealth acquired by criminal offences through court decisions.

Sequestering, freezing assets, and confiscation, through the Criminal Procedure Code, is determined by a special law, the 2013 Extended Competence for the Confiscation of Assets, which has been superseded by the new 2018 Law⁹¹

Moreover, in 2018, reports from BIRN and Internews Kosova, as well as the Kosovo Prosecutorial Council show a regression in the confiscation of wealth acquired through criminal offences.

During the period of January 1 to December 31, 2018, assets in the Republic of Kosovo that were sequestered or frozen valued 27,867,583.23 euros. However, after the final decisions were made in these cases, only 49,393.92 euros were confiscated.

Converted to a percentage, only 0.177 percent of sequestered or frozen wealth has been confiscated by a final decision.



This low figure reflects the relationship between sequestered and confiscated wealth, and is an indicator that shows the failure of the justice system in Kosovo to crack down on organized crime and corruption.

The failure enlarges when considering that the data in this report shows that only 10 percent of punitive rulings in corruption cases are effective prison terms. These data clearly show that organized crime and corruption cases remain unpunished with effective prison terms, and have survived from wealth confiscation.

“A whole judicial system, with hundreds of police investigators, TAK investigators, Kosovo Customs, and hundreds of prosecutors and judges in the criminal field, and on the other hand, less than 50,000.00 euros confiscated, is an alarming and negligible figure. The two responsible councils, the KPC or KJC should not tolerate such a situation. Therefore, despite the shortcomings identified in the legal infrastructure, it remains an inescapable fact that this year only a total of 50,000.00 euro was confiscated. It will be extremely difficult to argue why we have come to such a situation after years of training, advocacy, and awareness raising on the importance of confiscation of wealth from perpetrators of criminal acts,” states the report of the National Coordinator for Combating Economic Crime for the period of the last quarter of 2018.

⁹¹ <https://gzk.rks-gov.net/ActDetail.aspx?ActID=8651>

The formulation itself, and the language of the report, best show that the report writers are not able to elaborate on how only 50,000.00 euros was confiscated from more than 27 million euros sequestered.

	Total sequestering, freezing	Total confiscations
2018	27,867,583.23 €	49,393.92 €
2017	15,237,208.76 €	1,330,133.88 €
2016	70,411,328.00 €.	1,222,005.86 € +(333,534.92€)

Sequestering, Freezing and Confiscation
in Corruption Cases in 2018

	2018 Total	Corruption
Sequestering	163	3
Freezing	5	0
Confiscation	2	0

The table above shows the very disturbing fact that, in the Republic of Kosovo in 2018, there were a total of 163 cases of sequestration of different criminal offenses foreseen by the Criminal Code, while there were only 3 cases regarding criminal offenses relating to the chapter on corruption in the Kosovo criminal code.

Out of 163 cases where there was sequestration, and 5 cases where there was freezing of assets, only in 2 cases was there confiscation with a final court decision. Undoubtedly, these data evidence that not only did the justice system fail to crack and weaken organized crime and corruption, but also on other criminal offenses, they failed to prove that wealth has been acquired through criminal offences, and to subsequently confiscate this wealth.

BIRN and Internews Kosova estimate that this should be the last time that the Kosovo Prosecutorial Council, Kosovo Judicial Council, the National Coordinator for Combating Economic Crime, and all other mechanisms involved, review these data and take the necessary actions to identify which chain of the justice system is enabling organized crime and corruption to escape without penalty and inexcusable wealth.

BIRN and Internews Kosova consider an intensive training for judges and prosecutors indispensable, regarding changes proposed in the Criminal Procedure Code, which is under procedure in the Assembly of Kosovo, and in particular with respect to the Law on Extended Competence for Confiscation of Wealth.

The new law on extended competence for confiscation, enacted in January of this year, provides additional mechanisms and foresees some innovation in comparison with the abrogated 2013 law.

The new law provides that confiscation is only possible after punishment, and it also foresees that the assignment of replacement value and confiscation of additional wealth. In cases where confiscation is not possible, and no substitute value can be collected, the court orders the confiscation of any wealth up to the value of the substitute wealth, implying that a person's wealth gained by legal means can also be confiscated.

Another novelty of this law is the possibility of returning 10 years back on the identification of wealth, since the initiation of investigation and 5 years after the verdict came into power. Thus, up to 5 years after the verdict came into power, the prosecutor can identify and request forfeiture of the additional assets identified.

Investigations regarding the confiscation of wealth can be made at any stage including any phase of penal investigation, after filing the indictment and before and during the main trial and after punishment.

Another important element is the order to disclose information. Family members are not protected by the principle of non-incrimination. However, the obligation to testify only applied to the confiscation procedure, and such information cannot be used for criminal proceedings against that person.

In addition to the positive changes envisioned by the new law on confiscation of wealth, this law also has shortcomings that can pose serious problems in implementation.

Such is the limited opportunity of only 10 years to identify acquired assets that cannot be explained by legitimate earnings. Thus, wealth gained, for example, 11 years before and beyond from the time of the commencement of investigations, cannot be subject to confiscation even if all other conditions are met.

Such a limitation in time is a serious deficiency that erases the meaning of the enforcement of the law itself.

Even more concerning, is the other limitation provided by the law; the five year limitation after the validity of the verdict. Under the terms of this law, each defendant who can conceal wealth beyond the five-year period after the punishment has been enforced, that wealth, after the five-year deadline, cannot be confiscated.

Another unclear issue regarding the five-year deadline after the validity of the verdict is the issue of supervision during this period. What will be the oversight mechanism during the five-year period, the case prosecutor with the completion of the case of legal basis does not have this responsibility, while there is no other responsible institution.

VIII. SUPREME MISTAKES

The invoice of the failure of the war on criminal offenses of corruption and abuse of official position or authority, as well as other acts where accused are public officials in Kosovo, always remains untitled.

The Prosecution raises the indictment, while after the marathon trials, the courts release the accused. Often this follows with a distant war of declarations between the heads of the justice system, blaming one another. The courts complain about the quality of indictments, while the Prosecution blames the courts for the quality of rulings.

In the midst of the war of declaration, considerable damages are added continuously to the state budget. These damages are almost always found in courts, and are not disputable, while the defendants are released as innocent, and no one takes responsibility for this failure.

The court structure in Kosovo is regulated in such a way that the Court of Appeals, as a second instance, plays a corrective role over the decisions of the Basic Courts, and minimizes eventual errors made by these courts, while the Supreme, as the last instance of regular courts, is the last filter for assessing decisions of lower courts.

Precisely by playing this role, the Supreme Court of Kosovo, has, in at least four cases, found that lower-ranking courts, the Basic Courts, and the Court of Appeals, decided in favour of the accused for abuse of official position or authority, and other offending acts, against the provisions of the Code of Criminal Procedure.

Paragraph 2 of Article 438 of the Code of Criminal Procedure of Kosovo stipulates the following:

"When the Supreme Court of Kosovo finds that the request submitted for protection of legality to the detriment of the defendant is grounded, it only finds a violation of the law without affecting the final decision."

Such a provision implies that even in cases where the Basic Court and the Court of Appeals, or only one such body, decides erroneously in favour of the accused, the violation is only ascertained by the Supreme Court, and this finding has no effect on the accused.

The following are the cases when the Supreme found that the law was violated from the lower-ranking courts in favour of the accused:

CASE 1: Officials of the Municipality of Obilic PML-200/2018

Të akuzuar:

Accused: Mehmet Krasniqi, Xhavit Krasniqi, Haki Raqi, Nazmi Gashi, Ramadan Hashani, Bajram Paloji, Hasije Dushi, Azem Spanca, Altin Preniqi, Sami Kadriu, Bujar Alidemaj, Shpend Krasniqi, and Basri Kqiku;

Vepra penale: Abuse of official position or authority, fraud;

Basic Court

By the verdict of the Basic Court of Prishtina, of May 19, 2017, defendants Mehmet Krasniqi, Xhavit Krasniqi, Haki Raqi, Nazmi Gashi, Ramadan Hashani, Bajram Paloji, Hasije Dushi, Azem Spanca, Altin Preniqi and Shpend Krasniqi were acquitted, while the defendants Emri Sopjani, Sami Kadriu, Bujar Alidemaj, and Basri Kqiku, were sentenced with conditional sentences.

Court of Appeals

Deciding according to the complaints of both the prosecution and some of the defendants condemned by the Basic Court, the Court of Appeals rejected all appeals as ungrounded with its verdict of April 19, 2018.

The Supreme Court of Kosovo

Deciding upon the request for protection of legality exercised by the Prosecution, the Supreme Court of Kosovo, through its verdict of January 21, 2019, found the following violations:

Reasons given by the court of the first instance, regarding the first point of the indictment where an acquittal ruling was released, are not clear. Also, there was a lack of justification regarding the defendant, Xhavit Krasniqi, and no exculpatory evidence was elaborated. It is not justified why an economic operator built a 250 meter road if there is no requirement to do so.

Also, regarding the points II and IV of the verdict, the reasons of the first instance act are unclear and incomplete.

According to the Supreme Court, the Basic Court has unclear justifications regarding the will of the accused, using terms that are not in the Criminal Procedure Code such as “special will” (as a degree upon direct intent) when it is known that according to the Code of Procedure, only the direct will or eventual will exists.

Regarding the points of Ruling III and V, the Supreme Court held that the reasoning of the Basic Court was not complete and clear with regard to the specific duties of the members of the commission.

Indictment

The object of the first indictment in this case is related to the asphaltting of 1,650 meters of the Brezhnica-Koskovik road by the Delta Ing operator. This contract was signed by the Mayor of Obilic, Mehmet Krasniqi, while Xhavit Krasniqi, was the supervisor of the project.

However, the object of the indictment in this case, is not the first contract, but the additional asphaltting of a length of 250 meters by the same economic operator. According to the Prosecution, Mehmet Krasniqi verbally ordered the defendant, Xhavit Krasniqi, to request from the company, that outside the date of August 22, 2012, to build the road of the length of 250 meters more than what was foreseen by the initial contract.

According to the Prosecution's claims, the defendant, Xhavit Krasniqi, knew that this was out of the contract but still required this from the operator. The other defendant, Haki Raqi, according to the Prosecution's claims, although aware that the request was out of the contract dated on August 22, 2012, admitted that these additional 250 meters be accepted in the other project titled, continuation of the asphaltting of the Brezhynica-Koskovik road, and Kozharica village,” and drafted a report on April 16, 2013, showing that this road is incorporated in another project.

According to the Prosecution's allegations, these actions have caused damage to the budget of Municipality of Obilic totalling 18,683.54 euros.

According to points II and IV of the verdict of first instance, Haki Raqi and Hasie Dushi, were project managers, respectively, Haki Raqi, the manager of the, continuation of asphaltting the Brezhynica-Koskovik road and Kozharica village, project dated December 3, 2012, while Hasie Dushi, the manager of the asphaltting rural roads, projects dated May 24, 2012.

The Prosecution alleged that these two defendants have drafted fake reports of the work done, misleading the authorized person at the Municipality of Obilic to make payments to companies, pretending that work had been done in accordance to the signed contract, causing damage to the Municipality of Obilic totalling 44,954.53 euros in the first contract, and 157,942.53 euros in the second contract.

Points III and V of the first instance verdict relate to actions of the defendants, Ramadan Hashani, Nazmi Gashi, and Bajram Paloji, as members of the technical admission committee regarding the continuation of asphaltting of the Brezhnice-Koskovic road and Kozharica village project, as well as, defendants, Haki Raqi, Nazmi Gashi, and Xhavit Krasniqi, as members of the technical admissions committee for the asphaltting rural roads, project.

These were burdened by the reports that economic operators engaged in these two projects, performed work according to the contracts, while the laboratory expertise had resulted otherwise.

CASE 2, Minister of Return, Dalibor Jevtiq

Accused: Dalibor Jevtic, Nenad Stojcetovic, and Mihajlo Pelincevic;

Criminal offense: Abuse of official position or authority;

Basic Court

With the ruling of the Basic Court of Prishtina dated on July 31, 2017, the Court dismissed the indictment the Kosovo Special Prosecution as ungrounded, hence approving the claims of the defence.

Court of Appeals

By the ruling of October 9, 2017, the Court of Appeals refused the request of the Prosecution, and upheld the decision of the Basic Court.

Supreme Court

The Supreme Court of Kosovo, by its ruling of February 15, 2018, found that the decision of the Basic Court in Prishtina, and the decision of the Court of Appeals, is incorporated in the violation of the provisions of the Code of Criminal Procedure, in favour of the accused.

In its ruling, the Supreme Court states that the court of the first instance, violated the provisions of the criminal procedure from article 384 paragraph 1 item 1.12 of the KCP, because the reasoning of the contested decision, according to the Supreme Court, is in contradiction with the case file and does not contain a proper and concrete justification regarding the decisive facts of this judicial case.

Further, according to the Supreme Court, the reasoning of the first instance does not support the evidence found in the case files, and is not in accordance with paragraph 7 of article 370 of the Code of Criminal Procedure.

“The case files also have the Administrative Order of the government nr.03/2008 for the use of vehicles of the Government of Kosovo, and that in article 16.3 of this order, the Government is that which decides regarding the fact that one government vehicle be sold or given to use by another institution. Also, with the same order – article 6, the request for the temporary use of the vehicle can only be exercised by the civil servant, and not a private company as it is in this case.”

Also, the Supreme Court evaluated that the court of the first instance, in the decision to dismiss the indictment did not provide any reasoning how the defendant, Jevtic, issued the decision with which they received a permanent use of the vehicle, property of this Ministry, to the Radio KIM Company, in the centre of Caglavica, although according to this order, only the government has this right.

Indictment

According to the indictment, the defendant, Dalibor Jevtic, in violation of article 16 of the Administrative Order no.03/2008 on the use of the vehicle of the Government of Kosovo, issued the decision with nr.172/ 2 dated 11.02.2014, which grants the permanent use of one (1) vehicle, owned by the Ministry, to a private company, namely Radio KIM – TV Centar, based in Caglavica, Municipality of Gračanica,” read the announcement of the Special Prosecution of Kosovo.

Meanwhile, the defendant, Nenad Stojcetovic, was accused of being responsible for managing the property of the Ministry, knowing that such a decision is unlawful, he agreed with this action and ordered the Legal Office of this Ministry, to draft a contract (agreement) on the issuance of a permanent use for Radio KIM TV-Centar with headquarters in Caglavica.

“The defendant, Mihajlo Pelincevic, was accused of being responsible in the Department of Administration and Finance at the Ministry and signing contract no.172/2 dated 11.02.2014, between the Ministry and Radio KIM TV-Centar with headquarters in Caglavica, giving permanent use of the vehicle,” it was further stated in the Special Prosecution’s press release.

CASE 3: Chief of Economic Crimes

Pml.nr. 341/2018

Accused: Emin Beqiri and Rrahim Hashimi;

Criminal offense: Abuse of official position or authority, non-notification of criminal offenses, exertion of influence and deception;

Basic Court

With its ruling on June 25, 2018, the Basic Court of Prishtina rejected the request for dismissal of the indictment, thus confirming the indictment.

Court of Appeals

With its ruling on September 18, 2018, the Court of Appeals approved the appeal of the defence of Emin Beqiri, dismissing the indictment for this defendants, while for Rrahim Hashimi, it annulled the decision of the Basic Court, returning the case to resettlement.

The Supreme Court

With its ruling on April 1, 2019, the Supreme Court of Kosovo found that the Court of Appeals violated the provisions of the Code of Criminal Procedure by dismissing the indictment of the accused, Emin Beqiri.

“This Court considered that the Court of Appeals had no right to conclude that there was no evidence involving the defendant, Emin Beqiri, on criminal offenses for which he has been charged. Moreover, the reasoning given in the contested ruling is in full contradiction with the evidence referred, and with evidence which unequivocally the Court of Appeals elaborates and evaluates as a court of the first instance,” is said in the ruling of the Supreme Court.

The Supreme Court further finds that the Court of Appeals has taken over the role of the Basic Court.

“Thus, the court of the second instance, taking the role of the court of the first instance, made it impossible to verify the innocence of the defendants, as well as whether the proof presented by the prosecution was true or not by assessing evidence themselves. Although, in the midst of these evidence, there was evidence supporting the grounded suspicion that these persons committed offenses for which they have been charged,” reads further the ruling of the Supreme Court.

In the end, the Supreme Court found that the Court of Appeals did not act the same for the two accused when deciding to file the indictment.

“The Supreme Court finds that dismissing the indictment and ceasing the procedure against the defendant E.B., violates the criminal law from article 285 point 4 of KCCP, to the benefit of the Kosovo Court of Appeals. Simultaneously, the Court of Appeals violated the criminal law when in the same circumstances (same violations) for the defendant (E.B.), changed the ruling, while for the second defendant (Rr.H.) annulled the ruling, although the first instance verdict has been drafted for both defendants alike,” says the ruling of the Supreme Court.

CASE 4: Subsidies in agriculture
Pml.nr.99/2018

Accused: Berat Nika, Krenare Macula, Nehat Veliu, and Xhelal Selimi;

Basic Court of Gjilan

With its ruling of October 18, 2017, the Basic Court of Gjilan freed the defendants from the charges.

Court of Appeals

With its ruling of January 17, 2019, the Court of Appeals refused as ungrounded the Prosecution’s appeal, and confirmed the ruling of the Basic Court.

The Supreme Court

The Supreme Court of Kosovo found as grounded, the request for the protection of legality filed by the Prosecution, finding that the verdict of first instance had been issued in violation of the criminal law.

“Regarding the defendants, Berat Nika, Krenare Macula, and Nehat Veliu, it was erroneously concluded that their actions did not manifest elements of criminal acts of the abuse of official position and authority, since the same, during the application evaluation for the Calabria ShPK applicant, in the capacity of official persons for the evaluation and approval of projects in AZhB- Ministry of Agriculture and Rural Development, have exceeded their official competences for the, Meat Industry Calabria ShPK Company, in Gjilan, and did not respect the Measure 103, guide, as this company did not have two years experience in the meat processing industry before the date of application, and so they had benefited from the grant in the amount of 201,000.00 euros, from which it received an amount of 166,427,52 euros.”

IX. BIRN AND INTERNEWS KOSOVA'S FINDINGS ON JUDGES, PROSECUTORS AND LAWYERS TECHNICAL AND PROCEDURAL VIOLATIONS

During 2018, a total of 520 court hearings were monitored, including criminal and civil cases, from which many procedural violations by prosecutors, judges, and trial panels, were found.

Procedural violations discovered by monitors during 2018 throughout the territory of the Republic of Kosovo are varied and many. From the failure of court hearings, to unreasonable delays in trials, to failure to respect legal deadlines for initial hearings, to holding trials without the presence of the accused, to breaking order of the main trials, to poor preparation of prosecutors at trials, to the failure of holding of trials due to the absence of judges, through to one of the basic principles of justice for holding trials, being in the language known to the defendant in proceedings.

Below are detailed examples of concrete violations found through monitoring during court hearings, for both criminal and civil cases.

Failure of Judicial Court Hearings

Court hearings were held only to ascertain the lack of prosecutor, Ismet Ujkani and the defendants, circumstances that prevented the continuation of this session.

In the Basic Court of Mitrovica, at the scheduled session to be held on January 5, 2018, in case no. Pkr. 4/2010, on charges of unauthorized purchase, possession, distribution, and sales of dangerous narcotics and psychotropic substances (article 229 par. 2 regarding article 23 of the CCRK), the court hearing was not held due to the absence of the accused and the prosecutor of the case, Ismet Ujkani⁹³.

In the Basic Court of Mitrovica in case no. P. no 13/2009, scheduled to be held on January 1, 2018, on charges of trafficking of persons (article 139 par.1 of the CCRK), the court hearing was not held because the prosecutor, Njazi Rexha, had informed the court that this case had been sent to the EULEX prosecutor⁹⁴.

In the Basic Court of Mitrovica in case no. P. No. 24/2010, on charges of attempted murder (article 146 in relation to article 20 of the Criminal Code of Kosovo) the court hearing was not held due to the absence of lawyer, Shefqet Ibrahim, who, according to his defendant, was busy in a trial in the Municipality of Peja, and was not present at the hearing. The lawyer did not justify his absence in the judicial hearing⁹⁵.

In the Basic Court of Prishtina in case no. PKR.no. 76/10, on charges under article 255 of CCRK, the court hearing was postponed due to the absence of the prosecutor, Valdet Gashi, who, the court was told was on an official trip abroad.

⁹² Gjyqtari: Burim Ademi; Prokurori: Ismet Ujkani; tw akuzuarit: Ilir Kamberi dhe Jeton Sejdiu.

⁹³ Gjyqtari: Burim Ademi; Prokurori: Njazi Rexha; tw akuzuarit: Armend Bajrami dhe Sofija Uhejl.

⁹⁴ Gjyqtari: Beqir Halli; Prokurori: Njazi Rexha; tw akuzuarit: Jashar Bekteshi.

⁹⁵ Trupi Gjykues: Valbona Mustiu Selimaj (kryetare), Isuf Makolli dhe Vesel Ismajli (anwtarw), Prokurori: Valdet Gashit; i akuzuari: Albert Ademi.

In the Basic Court of Mitrovica in case number P.no. 147/16, one of the cases targeted for the liberalization of visas, the hearing scheduled on April 4, 2018 was not held as two of the defendants, Demë and Albion Lokaj were absent. The accused, Albion Lokaj, did not justify his absence, although according to the court, he was regularly invited. Demë Lokaj's lawyer, Shqiponjë Iberdemaj, submitted to the court a medical document from the Regional Hospital in Peja, with which she justified the absence of the defendant⁹⁶.

In the Basic Court of Prishtina in case number PKR.no.80/18, the hearing scheduled for April 13, 2018 was not held as the prosecutor for the case, Ferdane Sylejmani, before the reading of the indictment, expressed that she needed more time to reevaluate the criminal offense, with the justification to make some improvements and refinements for the re-qualification of the offense. Therefore, at her request, it was decided that the hearing would be postponed for another date. "From what I have observed being written in the indictment, is that although with the describing of actions of the defendant it is evident that he did not commit the criminal offense of aggravated murder, the defendant is charged with aggravated murder. This could have been a technical mistake where instead of the criminal offense of attempted aggravated murder, they wrote aggravated murder, which I believe is the reason why the prosecutor has asked for time to requalify the offense," was the justification of the session's prosecutor⁹⁷.

TECHNICAL VIOLATIONS

Since 2008, BIRN and Internews Kosova, have paid special attention to technical problems, which have proved to be factors that have paved the way for other procedural violations.

In 2018, BIRN and Internews Kosova's monitors also encountered cases when court hearings did not start on time, the clothing code was not respected, phones were used during court hearings that directly affected loss of concentration, hearings were held in lawyer's offices instead of being held in trial halls, and cases where hearings were held in trial halls but did not use audio and video official recording, as well as the inactivity of judges when they are engaged as members of the judicial panel.

Although the issue of technical violations appears to be considered as something out-dated, in reality, statistical data still speak of the number of these violations.

During 2018, BIRN and Internews Kosova monitored 520 court hearings, from which 318 were monitored at the Department of Serious Crimes, 98 court hearings were monitored at the General Department, and 1 juvenile hearing was monitored.

⁹⁶Trupi Gjykues: Beqir Hallli (kryetar), Avni Mehmeti dhe Burim Ademi (anwtarw);Prokurori: Abdurrahim Islami; tw akuzuarit: Agron Zymeri me av Skender Musa, Ismet Zeqiri me Nexhat Beqiri, Canabeg Hyseni me av Bashkim Mehana, Ali Musliukaj me av Zeqir Maxhuni, Liridon Hyseni me av Besart Kadriu, Besnik Istrefi me av Imer Ahmetaj, Dugagjin Latifi me av Resmije Shabani, Azem Islami me av Xhafer Maliqi, Xhevdet Spahija me av Miftar Qelaj, Shkelqim Jusaj me av Kujtim Kerveshi, Selami Morina me av Agim Lushta, Sabri Hasani me av Fitore Ahmeti, Nexhat Mazrek me av Ahmet Gjinovci, Deme Lokaj me av Shqiponje Iberdemaj, Alban Nikaj me av Muharrem Ramadani, Albion Lokaj me av Avdi Dinaj, Granit Zymeri me av Shqiper Mehmeti, Fadil Qollaku me av Gzim Baloku.

⁹⁷ Gjytarja: Valbona Musliu Selimaj; Prokurorja: Ferdane Sylejmani; tw akuzuarit: Fitim Abazi Av. Behar Ejupi, Ardian Elezaj, Vjollcë Bajrami, Dilbere Bajrami.

Departments	Number of cases	%
Serious crimes	318	76.2%
General	98	23.5%
Minors	1	0.23%
Total	417	100%

5.1 Was the court hearing held?

	Number	%
NO	82	15.76%
YES	438	84.23%
TOTAL	520	100%

From 520 court hearings monitored, 82, or 15.76% percent, scheduled were not held, while 438 of these court hearings were held.

The number of 438 court hearings held will be a sample for measuring findings of technical violations as follows.

During 2018, court hearings continued to be reported on both from monitors at the entrance of the court, as well as through the internet on the KJC website.

From 438 court hearings monitored, 282 were announced, while 156 were not announced. The number of unannounced court hearings, this year, seems to be high, and has only increased compared to the previous year from 23 percent of court hearings that were not announced in 2017. This percentage increased to 35 percent of monitored court hearings that were not announced in 2018, despite the fact that courts have officials engaged for information.

5.3 Was the court hearing announced?

	Number	%
NO	156	35%
YES	282	65%
TOTAL	438	100%

The following table reflects court hearings that started on time, and those that were delayed during 2018. According to the statistical data, during 2018, 33 percent of court hearings did not start on time.

5.6 Did the court hearing start on time?

	Number	%
NO	146	33%
YES	292	67%
TOTAL	438	100%

Over the years, many court hearings were held in judges' offices, instead of being held in trial halls, hence, the place where court hearings were held consistently has been the object of BIRN and Internews Kosova's monitoring interest.

According to the data from our monitoring, it appears that only 13 percent of court hearings monitored were held in offices, while the rest of monitored court hearings that make up 87 percent were held in trial halls, which marks a rise in transparency and readiness of courts to be open to the public.

5.2 Where was the court hearing held?

	Number	%
COURTROOM	379	87%
OFFICE	59	13%
TOTAL	438	100%

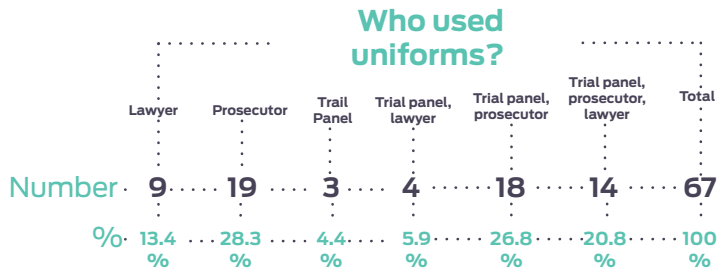
Following the frequent reports from BIRN and Internews Kosova, the lack of uniform by judges and parties in the proceedings, the Judicial and Prosecutorial Councils, have been careful on providing uniforms for all judges and prosecutors. The Kosovo Chamber of Lawyers has done the same.

During 2018, 15 percent of court hearings monitored did not use the uniforms.

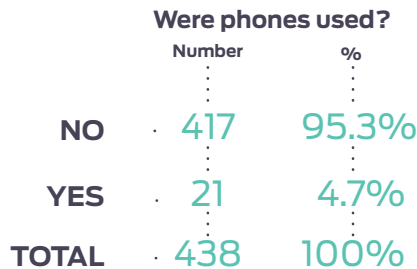
5.4 Was the uniform used?

	Number	%
NO	67	15%
YES	371	85%
TOTAL	438	100%

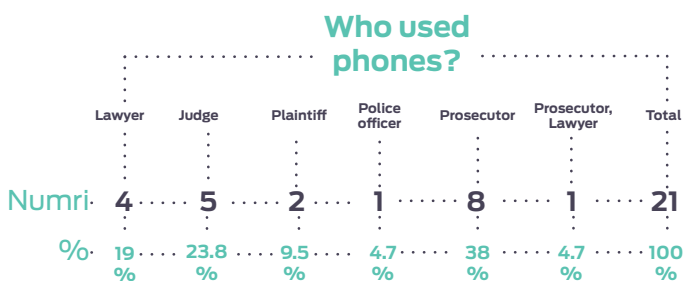
From 15 percent of court hearings monitored, or 67 court hearings, prosecutors with 19 instances, make up the largest number of the non-use of uniforms, followed by lawyers and judges.



Considering that during court hearings different parties are present, starting from lawyers, prosecutors, police, and the public, and also judges and the trial panel, this year, the report has monitored the use of telephones. From the court hearings monitored, during 2018, 21 people used their phones.



From 21 cases of the use of phones, or 438 court hearings monitored during 2018 where phones were used, prosecutors with 8 cases, make up the biggest percentage, followed by judges and lawyers. The other part consists of other parties present in the trial, including the police and the public, or in some sessions, several parties at once.



Audio and video recording of court hearings continues to be one of the most troubling findings in the technical violations during 2018.

In 96% of court hearings monitored, recording equipment was not used for official recording of court hearings. The non-use of the possibility of recording court hearings, which is also determined by the Criminal Procedure Code of the Republic of Kosovo, leads to the non-compliance of this code, despite the fact that courts have prepared at least one of the halls for recordings.

Was there audio and video recording used in the court hearing?

	Number	%
NO	423	96.5%
YES	15	3.5%
TOTAL	438	100%

Seeing the inactivity of judges as members of trial panels, BIRN and Internews Kosova measured their activity in the role of members of the trial panel for the first time in 2016. The same has continued in 2017 and 2018.

Often, experienced and dedicated judges have been very active when rulings are made in their name, while when the same judges are engaged in a trial panel, it seems to have become a habit that they are overwhelmed by passivity.

From 438 court hearings held, in 20 percent of court hearings, judges appear to have been averagely active. In 15 percent of court hearings they have been active, in 14 percent they have been a little active, and in 12 percent they have been inactive. Compared with data on the previous year, there is an increase in the inactivity of judges in court hearings.

How active were members of the trial panel?

	Number	%
Not at all	56	12%
On average	90	20.54%
No trial panel members	162	36.9%
A little	62	14.1%
Very	68	15.5%
TOTAL	438	100%

X. RECOMMENDATIONS

Kosovo Prosecutorial Council

- To drastically change the performance evaluation of prosecutors, eliminating the random selection of cases that are part of the assessment.
- Corruption cases should be directly part of the performance evaluation and not through the “random” selection method.
- To conduct a thorough and transparent analysis with civil society stakeholders in order to identify the reasons for the failure in indictments for the targeted cases and to undertake disciplinary measures against prosecutors who, due to their incompetence, have caused the failure of indictments in the targeted cases.
- To organize training programs in cooperation with the Academy of Justice for prosecuting new cases foreseen within the new Criminal Code, in particular related to criminal offences in article 415 on “Abuse and fraud in procurement” and article 388 on “Revenge or obstruction of whistleblowers.”
- To organize training programs in cooperation with the Academy of Justice for the investigation and exposing of economic crimes for all prosecutors and support staff with the purpose of increasing efficiency in prosecuting crimes of this type;
- To comply with the legal deadlines for issuing bylaws for the initiation of the implementation of the Law on Disciplinary Responsibilities of judges and prosecutors.
- Exercise rigorous oversight of the work reports of all levels of prosecution, and the treating of corruption cases in particular, which may be done through detailed monthly reports and statistics that may be generated through the SMIL case management system.

Kosovo Judicial Council

- To drastically change the performance evaluation of judges with particular focus on the manner of selection of cases used as the basis for the evaluations.
- Corruption cases should be directly used as part of the performance evaluation of judges.
- To immediately conduct a detailed and comprehensive analysis through a transparent process with the inclusion of civil society in regards to the alarming findings on the handling of targeted cases, and to identify the reasons that lead in trials being delayed in these cases and the causes for the high number of retrials, continuous delays and acquittal and rejection verdicts.
- To organize, in cooperation with the Academy of Justice, training for judging new cases foreseen by article 415 “Abuse and fraud in procurement” and article 388 “Revenge or obstruction of whistleblowers” of the Criminal Code of Kosovo.
- To organize training programs in cooperation with the Academy of Justice with the purpose of improving and refreshing knowledge of all judges and support staff in order to increase the level of knowledge for this type of crime.
- To comply with the legal deadlines in issuing bylaws to initiate implementation of the Law on Disciplinary Procedures of judges and prosecutors.
- To conduct rigorous oversight on the work reports of all levels of courts.

