



THE AIRE CENTRE
Advice on Individual Rights in Europe



**REGIONAL
ANTI-CORRUPTION
INITIATIVE**

Case study

Kosovo

1. - Confiscation of assets-

This case of forfeiture was selected with the purpose of confirming the efficiency in implementing criminal legislation in Kosovo*, namely positive laws, such as: Criminal Code (CCRK), Criminal Procedure Code (CPCRK), Law on Extended Powers on Confiscation of Assets, Law on Prevention of Money Laundering and Combatting Terrorism Financing, with the purpose of punishing and preventing acquiring of property through criminal and illegal activities, with special emphasis on the perpetrator of criminal offences, who in this case pertains to a high profile.

On 28 June 2017, former judge K.P. was punished by the Basic Court in Prishtina with four years of effective imprisonment, a 5.000 Euro fine and prohibition to exercise public functions for three years, in relation to criminal offences of “issuing unlawful decisions”, Article 432 of the CPCRK, “abuse of official position or authority” Article 422 of the CPCRK, as well as “money laundering”, Article 56, paragraph 1, of the Law on Prevention of Money Laundering and Combatting Terrorism Financing”, and he was acquitted of “tax evasion”, Article 313, paragraph 2, in conjunction with paragraph 1 of the CPCRK.

The largest part of the concerned judgment issued by the Basic Court in Prishtina was also confirmed by the second instance court, which imposed a more lenient punishment to the defendant, thus punishing the defendant K.P. with imprisonment of three years and six months and a 3.000.00 Euro fine.

But, in a panel hearing held on 15 May 2018, the Supreme Court of Kosovo* approved partially the request for protection of legality put forward by the defence counsel of the defendant K.P. and partially annulled the judgment issued by the Basic Court in Prishtina and the judgment of the Court of Appeal, only in relation to the criminal offence of money laundering, and the case was reversed to the first instance.

The court proceeding in question was carried out in line with the indictment of the Special Prosecution Office Kosovo*, PPS.NR.22/09, which was filed on 29 December 2015.

According to count 3 of the indictment, due to which the case was reversed, K.P. was charged with the criminal offence of money laundering.

According to the indictment, during the period 2002 - 2008, although he was aware that the money was proceed of criminal activity, and with the purpose of concealing the origin of the money amounting to 1.200.000 euro, he bought different properties.

The indictment says that K.P. bought two apartments in Klina, a business premise and a two-floor building, two parcels in Montenegro, and an apartment in the neighbourhood “Ulpiana” in Prishtina.

The case of organized crime against the former judge K.P. and five lawyers, who are also being tried for criminal offences related to corruption and organized crime, has been transferred to the Special Department of the Basic Court in Prishtina.

The lawyers Z.M., L.P., I.S., F.M., B.N., are part of the indictment together with the former judge K.P. The latter three were representatives of insurance companies.

The SPRK indictment related to this case contains criminal offences of “organized crime”, “unlawful issuing of decisions”, “abuse of official position or authority”, “fraud”, and other criminal offences. They are accused of acquiring more than one million euro (1.200.00 euro) due to being engaged in unlawful activities.

The first indictment related to this case was filed on 12 December 2013, and it was specified on 14 November 2014, 30 June 2017 and 14 August 2017.

According to the indictment all defendants had participated in a structured criminal group, which acted at a certain time and space, and subjects of their attack were insurance companies that operated in Kosovo*.

According to the indictment the criminal group was created, managed, monitored and controlled by the former judge of Klina, K.P.

K.P., according to the indictment, succeeded in reaching an agreement with the members of the criminal group to imagine court cases, issue unlawful decisions, forge documents, present false facts, abuse official position or authority, as well as not respect judicial powers. This happened with the purpose of unlawfully acquiring huge amounts of financial assets in a quick and easy manner, to the detriment of others.

According to the indictment, K.P. had an agreement for unlawful gain with the lawyers that were the first ones in the chain of the criminal activity after K.P., such as Z.M., and L.P.

The indictment reads that Z.M., granted K.P. an authorization to have access to his bank account, thus unlawfully operating with huge amounts of money. Then, an agreement was reached with representatives of insurance companies such as I.S., F.M. and B.N., in order for them to agree with proposals-decisions of K.P. during court hearings, from his position of a judge. Further, the indictment says that a relation was created with specialist doctors also, mainly orthopedists such as the now late doctor B.B.

According to the indictment, this activity lasted from 2004 until 2008. Due to this activity, according to the indictment, the defendants had unlawfully split amongst themselves the amount of 1.225.927.93 euro. The indictment says that actions of all defendants contain elements of the criminal offence of organized crime.

K.P., is accused of unlawful issuing of court decisions and abuse of official position or authority. Z.M. and L.P. are accused of breach of trust. F. M. and B.N. are accused of fraud and abuse of official position, and I.S. is accused of abuse of official position or authority.

Otherwise, K.P. was also accused in another criminal case and, on 28 June 2017, was sentenced by the Basic Court in Prishtina with 48 months of effective imprisonment, a 5.000 Euro fine and a ban to carry out public functions for three years.

K.P. was found guilty of three out of four counts of the indictment. In relation to the first count of the indictment, issuing unlawful court decisions, K.P. was found guilty and punished with 18 months of imprisonment. In relation to count two of the indictment, abuse of official position, an offence that was subject to requalification due to a more favorable law, the court found K.P. guilty and punished him with 24 months of imprisonment.

Former judge K.P. was also found guilty in relation to count three of the indictment, money laundering, and was punished with 18 months and a fine of 5.000.00 euro.

Meanwhile, the court found K.P. not guilty in relation to the criminal offence of tax evasion. Whereas, on 14 December 2017, the Court of Appeal confirmed the punishment by imprisonment of the former judge K.P.

Immovable properties gained due to commission of the criminal offense, in a value of more than one million Euro (1.000.000.00), such as a flat in Klina, a flat in Prishtina, the immovable property (where a house has been built) in Ulcinj of Montenegro, with a surface of 308 m², the immovable property (a meadow) also in Ulqin, with a surface of 171 m², business premises in Klina, a vehicle of the type "Audi A6", as well as financial assets gained from the sale of two business premises, were forfeited from the accused

On 4 February 2019, former judge K.P. was found guilty by the Basic Court in Prishtina in relation to money laundering and was sentenced to one year of imprisonment and a 3.000 Euro fine. The judgment was issued by judge N.K. after finding the defendant guilty because during 2004 – 2008, although he was aware that the money was proceeds of a criminal activity and with the purpose of hiding the origin of the money in the amount of 1.200.000 euro, he bought different properties.