

MUNICIPAL COURT OF Pristina  
GJYKATA KOMUNALE NË Prishtinë  
OPSTINSKI SUD U Pristini  
P No.2615/08  
Date 09 September 2009

### IN THE NAME OF THE PEOPLE

The Municipal Court of Pristina, the Eulex Judge Arkadiusz Sedek, acting in the capacity of single Judge, assisted by court recorder Jacqueline Ryan **In the criminal case against:**

**Sokol Qyse**, son of Eshref and Desanka (maiden name Nikolic) born on 26.06.1968 in Prizren, married, father of two children, Turkish nationality, indicted for the criminal act of Trading in Influence pursuant to article 345 paragraph 1, of CCK and for the criminal act of Falsifying Documents pursuant to article 332 paragraph 1 in relation with paragraph 3 of CCK

After having held the main trial hearings in public on 23 March, 13 of May, 01 of July, 02 and 08 of September 2009, in the presence of the defendant mentioned above his defense council Mr. Zivojgin Jokanovic and Special Prosecutor Lulzim Sylejmani;

After the panel's deliberation held on 09 September 2009, and based on the Article 391 (1) KCCP;

Pronounced in public and in the presence of the parties the following:

### VERDICT

The accused **Sokol Qyse**, with personal data, mentioned above

**is found guilty**

Of the criminal acts of Trading in Influence pursuant to article 345 paragraph 1, of CCK and for the criminal act of Falsifying Documents pursuant to article 332 paragraph 1 in relation with paragraph 3 of CCK,

Because

I. In July 2007, in Pristina, Sokol Cuse, with the complicity of an unknown person, who introduced himself to Yalcin Avci as Carol Peralta, received from Yalcin Avci 80,000 Euros in consideration of the exertion an improper influence over Carol Peralta, Chief International Judge, and Annunziata Ciaravolo, Chief International Prosecutor, both of them official persons, in order to obtain the release on bail of Sedat Uz, Bilal Koten, Hakan Yldirim, who were in detention on remand, thus committing as such the criminal offence of Trading in Influence, pursuant to Article 345, Paragraph 1, CCK.

II. On the 17/07/2007, in Pristina, Sokol Cuse drafted a false document, the cover letter of Anunziata Ciaravolo, who was at that time in the capacity of Deputy Director of UNMIK Justice Department and at the same time UNMIK International Chief Prosecutor, allegedly writing to the Head of UNMIK International Judges Carol Peralta, providing him with information of the possibility of reviewing liberty on bail for the defendants Sedat Uz, Bilal Koten and Hakan Yldirim who at that time were in detention for the criminal offence, in relation to the "King Kazino" case. The defendant Sokol Cuse falsified a document and gave this document to the defendant Yalcin Avci in order to convince him that he was working with international UNMIK Judges and Prosecutors on the possibility of considering liberty on bail for the detained persons Sedat Uz, Bilal Koten and Hakan Yldirim. Also, almost at the same period of time in July 2007 in Pristina he compiled a totally false document without a date and protocol number as a formal official document on behalf of lawyer Tome Gashi who during the year 2007 defended defendant Hakan Yildirim, that the same defense counsel allegedly addressed to the Department of Justice with the suggestion that the Office of the Prosecution and the also the UNMIK judges should be more careful in deciding upon the requests of other defense counsels, particularly those of the defendants Sedat Uz, Bilal Koten and Hakan Yldirim on their release from detention, as there is a risk of flight.

thus committing as such criminal offence of Falsifying Documents pursuant to article 332 paragraph.1 in relation with paragraph 3, of CCK

## SENTENCE

### Sokol Qyse

I. Pursuant to Article 3 paragraph 1(1), Article 6, Article 11 paragraph 1, Article 15 paragraph 1 and 2, article 34, and 38 paragraph 1 and 2, Article 345(1) is sentenced to imprisonment of 1 (one) year for the criminal offence described in point I,

II. Pursuant to Article 3 paragraph 1(1), article 6, Article 11 paragraph 1, Article 15 paragraph 1 and 2, Article 34, and 38 paragraph 1 and 2, Article 332 (1) in relation with (3) is sentenced to imprisonment of 1 (one) year and 6 (six) months for the criminal offence described in point II,

III. Pursuant to Article 71, paragraph 1 and 2 (2) an aggregate punishment of 2 (two) years imprisonment is imposed for criminal offences described in point I and II,

IV. No property claim,

V. Pursuant to article 99 and article 102 of the KCCP, the defendant is obliged to compensate the general costs of the proceedings, which are determined in the amount of 100€.

## REASONING

### I. Procedural history.

Based on the indictment filed by International Public Prosecutor Gianfranco Gallo on 27 June 2008 ( PP.No. 1901-3/08), defendant Sokol Cuse was charged with criminal offence of Trading in Influence, pursuant to article 345 paragraph 1 of the CCK. The other defendant Yalcin Avci was charged with criminal offence of Trading in Influence, pursuant to Article 345, paragraph 2 of the CCK.

On 2 January 2009 the case file was handed over from UNMIK Department of Justice to EULEX judges. The President of the Assembly of EUELEX Judges on 5 January 2008 issued the decision, that the case against Sokol Cuse and Yalcin Avci shall remain under the authority of EULEX Judges in Municipal Court in Prishtina. The decision was taken according to Article 15.2 of the Law on Jurisdiction, Case Allocation of EULEX Judges and Prosecutors in Kosovo (Law No. 03/L-053).

The main trial sessions were scheduled for 23<sup>rd</sup> March 2009, 13<sup>th</sup> May 2009, but the defendant Yalcin Avci didn't show up even though he was dully summoned. Therefore, on 21<sup>st</sup> April 2009 the court issued an order for arrest against the defendant Yalcin Avci. In addition, on 23<sup>rd</sup> June 2009 the court decided to render the ruling on the severance of the proceedings against the accused Yalcin Avci. For the session scheduled for 1<sup>st</sup> July 2009, Antonio Fulco was summoned as a witness, but he didn't turn up, justifying his absence.

The Public Prosecutor extended summary indictment on 22 April 2009, by charging Sokol Cuse with criminal offence of Falsifying Documents pursuant to Article 332, Par. 1 in relation with Par. 3 of CCK.

The main trial started on 2<sup>nd</sup> September 2009 in open session and was presided over by an individual judge mentioned above. The Presiding Judge confirmed that the he was assigned to this case in accordance with the law. The jurisdiction of the EULEX Judges in this case is based according to Article 3.3 p) of the Law on the Jurisdiction, Case Allocation of EULEX Judges and Prosecutors in Kosovo -Law No. 03/L-053. It must be underlined that no objections were raised by the parties as to the composition of the panel. During the same session after the indictment was read by the Public Prosecutor, the defendant was asked to plead guilty or not guilty. In the response to this question he rejected the accusation; he also mentioned that process is politically motivated. Taking into considerations this political motive, the defendant decided to remain silent. At the same session Antonio Fulco was examined as a witness.

On 8<sup>th</sup> September 2009, material evidence was exhibited and the defendant having had a chance to dispel the grounds for the accusation and state the facts in his favor refused to give any statement, decided not to give any statement. During the same session the closing statements of Public Prosecutor and defense council were presented. On 9<sup>th</sup> September 2009, after deliberation, the Court has announced the above written enacting clause of this judgment.

## II. Factual findings

Sokol Cuse was an employee in Prison Management Division responsible for collection and collation of necessary information and when the competences of this division were transferred to PISG he became an employee of the Ministry of the Justice. Due to particular sensitivity of these cases and their relation with international judges and because the defendant used to be in

charge of conditional release within PMD, he was a frequent visitor in the office of Chief International Judge Carol Peralta.

Basing on that facts the defendant Sokol Cuse in July 2007 asserted that he was able to exert an improper influence on Carol Peralta, Chief International Judge, and Annunziata Ciaravolo, Chief International Prosecutor, both of them official persons in order to obtain the release on bail of Sadat Uz , Bilal Kotev , Hakan Ylderi the Turkish citizen working for the same company as Yalcin Avci. These three defendants were at that time in detention on remand for the criminal offence so called "King Kasino" case. Sokol Cuse in order to exert that influence, asked Avcin for 80.000 Euros, adding that 50.000 Euros were for Carol Peralta, and 30.000 Euros for Annunziata Ciaravolo. The money was given to Sokol Cuse in the office of lawyer Floria Drevine who wasn't present at this time at the office.

About a week later Yalcin Avci realized that the money given to the defendant Sokol Cuse didn't lead to the release of above mentioned Turkish defendants. So he asked Sokol Cuse to arrange a meeting with judge Carol Peralta in order to faster the procedure of releasing Turks. Sokol Cuse did organized the required meeting, but not with judge Carol Peralta, who wasn't involved in this criminal act at all, but with a man who led himself off as Carol Peralta. This meeting was organized with the aim of misleading Yalcin Avci that the money was given to the right person who would lead to the release of these detainees.

Sokol Cuse also made additional steps to make Yalcin Avci believe that the money given by him will lead to release of his friends. On the 17/07/2007, in Pristina, Sokol Cuse drafted a false document, the cover letter of Annunziata Ciaravolo, who was at that time in the capacity of Deputy Director of UNMIK Justice Department and at the same time UNMIK International Chief Prosecutor, allegedly writing to the Head of UNMIK International Judges Carol Peralta, providing him with information of the possibility of reviewing liberty on bail for the defendants Sedat Uz, Bilal Kotev and Hakan Yldirim who at that time were in detention for the criminal offence, in relation to the "King Kasino" case. Sokol Cuse falsified this document and gave it to Yalcin Avci in order to convince him that he was working with international UNMIK Judges and Prosecutors on the possibility of considering liberty on bail for the detained persons Sedat Uz, Bilal Kotev and Hakan Yldirim.

Also, almost at the same period of time in July 2007 in Pristina he compiled a totally false document without a date and protocol number as a formal official document on behalf of lawyer Tome Gashi who during the year 2007 defended defendant Hakan Yildirim, that the same defense counsel allegedly addressed to

the Department of Justice with the suggestion that the Office of the Prosecution and the also the UNMIK Judges should be more careful in deciding upon the requests of other defense counsels, particularly those of the defendants Sedat Uz, Bilal Koten and Hakan Yldirim on their release from detention, as there is a risk of flight.

### III. Assessment of evidence.

The facts established in this verdict are based on the evidence presented during main trial, most notably on the evidence exhibited during the main trial, to wit:

- 1. Internal memorandum by Annunziata Ciaravolo, former Chief International Prosecutor, dated 13<sup>th</sup> December 2008,
- 2. Memo dated 17<sup>th</sup> July 2007, completely falsified allegedly compiled by Annunziata Ciaravolo, former Chief International Prosecutor,
- 3. Letter of lawyer Tome Gash, dated 1<sup>st</sup> December 2008, addressed to the case prosecutor,
- 4. Memo without date and protocol number, completely falsified and allegedly compiled by lawyer Tome Gashi,
- 5. Memo in the form of recommendation- request compiled by the defendant Sokol Cuse, without date or protocol number, and allegedly received on 21<sup>st</sup> June 2007 by Carol Peralta, former Chief International Judge,
- 6. Document compiled in handwriting by the defendant Sokol Cuse, dated 16 August 2007,
- 7. Document in handwriting, signed by the defendant Sokol Cuse, without date, where appear the numbers 30,000, 80,000, 50,000, 30,000, as well as names Flora, Sokol and expressions: for C. P.(J)- for P.P( Italian),
- 8. Four CD's where three of the CD's have content of conversations between Yalcin Avci and the wife of the defendant Sokol Cuse that were carried out on the 14 August 2007 and 27 August 2007 with the transcript of these phone conversations where one CD has the content of video surveillance in public places in restaurant Valentino,
- 9. A letter addressed to Carol Peralta compiled in handwriting on 8 August 2007, by Yalcin Avci, containing 6 pages,
- 10. Statement of Carol Peralta former Chief International Judge, dated 10 August 2007, containing 3 pages,
- 11. statement of the witness Antonio Fulco,

- 12. two reports of police officer Antonio Fulco dated 11<sup>st</sup> and 17<sup>th</sup> of August 2007,
- 13. ruling on initiation of investigation dated 27<sup>th</sup> February 2008.

The statement given by the witness Antonio Fulco was also taken into consideration. It should be emphasized that this statement was auxiliary evidence, as factual findings are based on the written documents. The panel has no doubts as to the credibility of this witness and veracity of his statements. He testified in clear and objective way. He remembered all important details of the video and audio surveillance despite the lapse of time.

Due to the fact that the defendant decided not to answer charges, hoping this is the best defense for him, the court took into consideration only material evidence that was exhibited during the main trial, conscientiously assessed each item of evidence separately and in relation to other items of evidence and on the basis of such assessment reached a conclusion that the defendant is guilty of committing two offences described in enacting clause.

The indisputable fact, is that the defendant Sokol Cuse has received the amount of 80.000€ from Yalcin Avci in July 2007. The document admitted as **exhibit number 6** constitutes the primary evidence in this respect. Contrary to the submission of the defence counsel that the money given by the defendant was a kind of a loan, the court is of different opinion. The defence point of view is totally groundless, illogical and in contradiction with the other evidence disclosed during the main trial. This document was handed over to Yalcin Avci on 16<sup>th</sup> of August 2007 during the meeting in Valentino restaurant.

To start with the deliberation on establishing the actual reasons why the defendant Sokol Cuse took the money, another material evidence should be taken into consideration, that is **exhibit number 5** memo in the form of recommendation- request compiled by the defendant Sokol Cuse, without date or protocol number allegedly received on 21<sup>st</sup> June 2007 by Carol Peralta, former Chief International Judge. The defendant Sokol Cuse prepared this document with the specific intent, since he wanted to convince Yalcin Avci that he had made further steps to release from detention on remand following persons Sedat Uz, Bilal Koten, Hakan Yldirim. This logical inference is drawn from the text of the above-mentioned recommendation in which the defendant stated quote: *"From those reasons I request that this case take over by you and mentioned persons to be released in the further procedure and to fight from the freedom under ball"*. The memorandum addressed to Carol Peralta clearly indicates that the defendant

Sokol Cuse accepted the money not as a loan, but as a form so-called remuneration for exerting improper influence on Carol Peralta, Chief International Judge, and Annunziata Ciaravolo, Chief International Prosecutor, both of them official persons in order to obtain the release on bail of Sedat Uz, Bilal Koten, Hakan Yldirim, who were in detention on remand. It's a well-known fact that such huge amount of money is not lent between men without specific reason. As the defense didn't convince the court that this money was a lone, the only logical reason is that Sokol Cuse received it undue advantage in consideration of the extortion of an improper influence.

Previously mentioned evidence has to be assessed in conjunction with evidence **number 7** document in handwriting, signed by the defendant Sokol Cuse, without date, where appear the numbers 30,000, 80,000, 50,000, 30,000, as well as names Flora, Sokol and expressions: for C. P.(J)- for P.P( Italian). This document was handed over by the defendant Sokol Cuse to Yalcin Avci, as a kind a receipt when the latter became worried that Sedat Uz, Bilal Koten, Hakan Yldirim are still in detention on remand despite the fact the money was given so as to release them.

The content of this document is completely clear and in the light of logical reasoning shows it was prepared as a kind of receipt for obtained money. The expressions: "50.000-For C.P.(J)" and "30.000- For P.P.(Italian)" explicitly indicate that previously mentioned amounts of money were allocated for Carol Peralta Chief International Judge- 50.000 C.P.(J) and Annunziata Ciaravolo Chief International Prosecutor- 30.000- For P.P.(Italian). It is commonly known that the abbreviation P.P stands for Public Prosecutor and Annunziata Ciaravolo of Italian nationality used to perform the function of Public Prosecutor in Kosovo at that time. As it was above explained this documentary evidence was an important element in the process of establishing the factual findings in this case and to prove the guilt of the defendant.

Another important evidence in this case is the handwritten letter by Yalcin Avci compiled on 8.08.2007 addressed to the judge Carol Peralta **exhibit number 9**. There is no reason to doubt the credibility of the statement given by Yalcin Avci in this letter. Yalcin Avci wrote a letter to Carol Peralta Chief International Judge desperately seeking for justice when he realized that Yalcin Avci had had no capacities to bring about the release on bail Sedat Uz, Bilal Koten, Hakan Yldirim, so Yalcin Avci had no reason to conceal the true facts from him. This official declaration written and signed by Yalcin Avci is clear, precise and logical. Yalcin Avci presented all circumstances of the relationship with Sokol Cuse even these events that put him in unfavorable position and in the end laid him open to criminal charge. It should be also

emphasized that, however Yalçin Avci was also charged with criminal offence, it doesn't mean that credibility of this statement could be undermined, as the court was in possession of other evidence that allowed to establish beyond any doubts that Sokol Cuse accepted money not as a loan, but as a remuneration for alleged release of three Turkish citizens who were in detention on remand.

This exhibit is also especially essential, since allows making an inference about the motives for falsifying documents described in enacting clause. It is clear that Yalçin Avci having paid such amount of money when he didn't see expected result, started to put pressure on Sokol Cuse to speed up the release of Sedat Uz, Bilal Koten, and Hakan Yilderim. It is apparent that Sokol Cuse wanted to shame Yalçin Avci that he has done anything possible to ascertain the release of previously mentioned.

That was the reason why he prepared memo dated 17<sup>th</sup> July 2007, completely falsified allegedly compiled by Anunziata Ciaravolo, former Chief International Prosecutor -**exhibit number 2** and handed it over to Yalçin Avci. He built up Yalçin Avci's hope with the following words:" *Currently we are deciding about amount of the releasing bail. Grounds for this deciding we have, only we are waiting for recommendation from international prosecutor who is dealing with this case*". According to intrigue carried on by the defendant a major obstacle in the way to release Sedat Uz, Bilal Koten, Hakan Yilderim was their former defense council Tome Gashi:" *Please be informed that we have big pressure from former lawyer on this case Mr. Tom Gashi. He is not lawyer for this case any more, but make pressure on former local prosecutors which was reasonable(responsible) for this case. Taking into consideration serious of this case I am informing you that we are going to take necessary measures to resolve this problem.*"

There is objective evidence that proves beyond any doubts that the defendant falsified this document (exhibit no.2). Anunziata Ciaravolo, former Chief International Prosecutor, in internal memorandum dated 13<sup>th</sup> December 2008 – **exhibit number 1** informed the prosecutor in charge of this investigation about falsification of previously mentioned memo. Anunziata Ciaravolo explained in convincing way why she was not the author of this memo. Anunziata Ciaravolo explained that the signature appearing besides her name was not hers as it can be easily noticed comparing that signature with the signature on internal memorandum. Secondly she mentioned that falsified document was full of grammatical mistakes and misspellings and even her name was misspelled. Furthermore, in addition to the false content, the document contained formal shortcomings and did not bear the necessary formal elements required by the Correspondence Manual of the United Nations. Lastly, the falsified document did not bear a reference number and

did not appear in the outgoing log of the Criminal Division. Having checked the falsified document in the lights of Anunziata Ciaravolo's internal memorandum the court share the same view and finds no grounds to doubt as to the credibility of her statement.

Another document that was falsified by the defendant is memo without date and protocol number, allegedly compiled by lawyer Tome Gashi-**exhibit number 4**. The opinion of this court is that that document was also completely falsified and the defendant had strong motive to prepare it. It is known from the file that Tome Gashi was defence council of Hakan Yldirim, but he was dismissed while the defendant offered his service. Sokol Cuse falsified this memo with clear intention. He wanted to drive a wedge between Yalcin Avci and Tome Gashi, since he was afraid that Tome Gashi would reveal his criminal actions.

Having compared the falsified memo with a letter of lawyer, dated 1<sup>st</sup> December 2008 –**exhibit number 3**, and addressed to the case prosecutor it is obvious that the first mentioned document was completely falsified. A headline of the exhibit no. 3 demonstrates that Tome Gashi has the seat of his law office located at the street Luan Haradinaj 15 and this issue does not raise doubts, meanwhile the defendant was not aware of this fact and he situated the seat of Tome Gashi's office at Mather Teresa street. Moreover Tome Gashi in his correspondence uses special logo (see headline exhibit no.3). The falsified document ( exhibit no.4 ) does not have such.

The court has also no doubts as to the veracity of the statement of Carol Peralta former Chief International Judges, dated 10 August 2007 **exhibit number 10**. Carol Peralta explained in details all the circumstances of meeting with Tome Gashi and Yalcin Avci that took place on Wednesday, 8<sup>th</sup> August 2008. His statement is sincere, logical and objective, as he admitted that Sokol Cuse as an employee of the Prison Management Division in charge of Conditional Release had been a frequent visitor in his office in the discharge of his daily duties. In this statement Carol Peralta also indicated that Yalcin Avci had approached him and told him that his wife's uncle was arrested together with two other men of Turkish ethnicity and expressed his concerns that they would not be treated properly by local courts. Yalcin Avci asked Carol Peralta if he would consider taking over the case. In response to this suggestion Carol Peralta suggested Yalcin Avci to prepare written application that would be than considered through the proper channels and decision would be taken.

It is important to underline, that Carol Peralta neither undertook any actions leading to release on bail Sedat Uz, Bilal Koten, Hakan Yldirim from the detention on remand, nor accept any money from Sokol Cuse.

There are no doubts as to the credibility of this document, as it was compiled by high rank professional enjoying unblemished reputation.

Other evidence that has to be evaluated is a transcript of telephone conversations between Yalcin Avci and the wife of the Sokol Cuse that were carried out on 14 August 2007 and 28 August 2007 **exhibits number 8 and 12**. After examination of these documents the inference is that the money was given not as a loan but as remuneration for illegal deeds. Yalcin Avci strongly insisted on Sokol Cuse's wife for return of the money, since he felt cheated by Sokol Cuse who promised him that Sedat Uz, Bilal Koten, Hakan Yldirim would be released on bail from the detention on remand. Police reports written by Antonio Fulco indicates circumstances of police actions taken during collecting evidence in restaurant Valentino.

All the evidence fully corroborates with each other and supports logic and obvious inference that Sokol Cuse took from Yalcin Avci 80.000 Euros in consideration of exertion of an improper influence over Carol Peralta and Annunziata Ciaravolo, both of them official persons in order to obtain the release on bail of Sedat Uz, Bilal Koten, Hakan Yldirim who were in detention on remand. The other option presented by defense council is totally ungrounded and should be considered as prepared just for the purpose of this trial.

The documents mentioned in enacting clause were also falsified by the defendant whose aim was to reassure Yalcin Avci that he undertook actions to obtain the release on bail, but he faced obstacles.

#### IV. Legal Assessment:

Having perused the above mentioned exhibits and having examined the witness during court proceedings, the Court found that Sokol Cuse is guilty beyond any reasonable doubt of the criminal offences as charged in the indictment and in the amended indictment.

It is clear that the defendant has committed the crime of Trading in Influence, pursuant to Article 345, Paragraph 1, CCK since in July 2007, in Pristina, Sokol Cuse, with the complicity of an unknown person, who introduced himself to Yalcin Avci as Carol Peralta, received from Yalcin Avci 80,000 Euros in consideration of the exertion an improper influence over Carol Peralta, Chief

International Judge, and Annunziata Ciaravolo, Chief International Prosecutor, both of them official persons, in order to obtain the release on bail of Sedat Uz, Bilal Kotev, Hakan Ylderim, who were in detention on remand.

It is irrelevant whether or not the supposed influence is exerted or whether or not it leads to the intended result, to find the perpetrator guilty of committing this crime. The link with the influence of over decision-making of an official person must be established. Article 107, paragraph 1 of CCK, states:” The term official person means(...) 3) a person who exercises specific official duties , based on the authorization provided by the law, 4) a person who is a member of UNMIK personnel or KFOR, without prejudice to the applicable privileges and immunities accorded to such person”. Whereas Article 107, paragraph 14 of CCK, states:” the term UNMIK personnel means United Nations officials , experts and other persons assigned to serve in any of the components of UNMIK and holding an ID card, which indicates that he holder is a member of UNMIK, issued by or under the authority of the Special Representative of the Secretary- General”.

In the light of the cited provision both Carol Peralta being Chief International Judge and Annunziata Ciaravolo being Chief International Prosecutor were official persons at the time this crime was committed.

As it is stated in the explanatory report to the Council of Europe Criminal Law Convention on Corruption (paragraph 64):” Criminalizing trading in influence seeks to reach the close circle of the official or the political party to which he belongs and to tackle the corruption behavior of these persons who are in the neighborhood of power and try to obtain the advantages from their situation, contributing to the atmosphere of corruption.”

Additionally the defendant has committed an offence of Falsifying Documents pursuant to article 332 paragraph.1 in relation with paragraph 3, of CCK since: on the 17/07/2007, in Pristina, Sokol Cuse drafted a false document, the cover letter of Annunziata Ciaravolo, who was at that time in the capacity of Deputy Director of UNMIK Justice Department and at the same time UNMIK International Chief Prosecutor, allegedly writing to the Head of UNMIK International Judges Carol Peralta, providing him with information of the possibility of reviewing liberty on bail for the defendants Sedat Uz, Bilal Kotev and Hakan Ylderim who at that time were in detention for the criminal offence, in relation to the “King Kazino” case. The defendant Sokol Cuse falsified a document and gave this document to the defendant Yalcin Avci in order to convince him that he was working with international UNMIK Judges and Prosecutors on the possibility of considering liberty on bail for the detained

persons Sedat Uz, Bilal Kote and Hakan Yldirim. Also, almost at the same period of time in July 2007 in Pristina he compiled a totally false document without a date and protocol number as a formal official document on behalf of lawyer Tome Gashi who during the year 2007 defended defendant Hakan Yldirim, that the same defense counsel allegedly addressed to the Department of Justice with the suggestion that the Office of the Prosecution and the also the UNMIK judges should be more careful in deciding upon the requests of other defense counsels, particularly those of the defendants Sedat Uz, Bilal Kote and Hakan Yldirim on their release from detention, as there is a risk of flight.

Article 107, paragraph 6 of CCK, states that the term "document" means any object suitable or designed to serve as evidence of some fact relevant to legal relations. Both of the documents mentioned in count 2 of the enacting clause fall under the scope of the legal definitions of the term document.

Deciding on Sokol Cuse punishment, the court was bound by the provision of Article 345 paragraph 1 of the CCK, that imposes an imprisonment sentence of up to 2 years. In case of second crime, Article 332 paragraph 1 and 3 of the CCK provides for the imprisonment of up to 3 years. According to Article 38 (1) and (2) of the CCK the punishment of imprisonment may not be shorter than fifteen days. The punishment of imprisonment is imposed in full years and months and, in cases where the term is up to six months, in full days.

Pursuant to Article 64 (1) of the CCK the court when rendering a judgment has to take into the consideration the purpose of punishment, all the circumstances that are relevant to the mitigation or aggravation of the punishment in particular the degree of criminal liability, the motives of committing the act, the intensity of danger to the protected value, the circumstances in which the act was committed, the past conduct of the perpetrator, the personal circumstances and his behavior after committing the criminal offence. The punishment shall be proportionate to the gravity of the offence and the conduct and circumstances of the offender.

1. As mitigating circumstances:

- He is married, has family.

2. As aggravating circumstances:

- High intensity of danger to the protected values to wit: public order in case of crime of falsifying documents and official duty in case of the crime of trading influence,
- The large amount of money he received,
- That he didn't still pay the money back ,
- The fact that he not only exposed Carol Peralta being Chief International Judge and Annunziata Ciaravolo being Chief International Prosecutor to the danger of destroying their high reputation, but he also undermined the authority of justice system in post-conflict Kosovo.

Taking all these circumstances into careful consideration this court found that imprisonment of: one year as to first count, and one year and six months as to second count will be appropriate and necessary to serve all purposes of punishment mentioned in Article 64 (1) of the CCK. According to Article 71 (1) and 2(2) of the CCK, the court was obliged to impose an aggregate punishment for all offences, as the defendant committed two criminal offences for which he was tried at the same time. When deciding on the aggregated punishment, the court also took into consideration the following provision:” If the court has pronounced a punishment of imprisonment for each criminal offence, the aggregate punishment must be higher than each individual punishment but the aggregate punishment may not as high as the sum of all prescribed punishments not may it exceed a period of twenty years.”

The court was of the opinion that aggregate punishment of two years would be appropriate and necessary to serve all purposes of punishment mentioned in Article 64 (1) of the CCK.

This court decided that conditions for rendering suspended sentence are not observed, since the defendant is unscrupulous person engaged in illegal activities , as he decided to use a professional acquaintance with highly placed-persons in Kosovo justice system and his knowledge and experience of this system, in order to make personal benefits. It must be heavily underline that the amount of 80.000 Euros is huge sum, taking into consideration economic situation in Kosovo, and the defendant has not even taken any steps in order to pay the money back. Sokol Cuse was so enormously self-confident and convinced that he successfully will get the money that he created web of intrigues to convince Yalcin Avci that Sedat Uz, Bilal Koten, Hakan Yldirim will be released on bail. With this aim he falsified two official document and even asked one man to pass himself off as Carol Peralta during the meeting

with Yalcin Avci. It also shouldn't be forgotten that after he had received the money, he led Yalcin Avci on with promises, that would pay the money back.

Taking into the considerations above mentioned circumstances the court was of the opinion that the perpetrator didn't deserve to be treated leniently by providing him with a privilege of the suspended sentence. This kind of conduct as the defended presented must be strongly condemned. In this case only the punishment of imprisonment without suspension will guarantee that the purpose of the penalty against the offender will be achieved, and in particular he will not relapse into crime. This punishment will persuade the defendant that law must be respected.

It must be observed that during the main trial no injured party came out and the property claim wasn't filed.

V. Costs of criminal proceedings:

The defendant has to bear the costs of criminal proceedings pursuant to Article 99 and 102 of the CCK. The amount of 100 € shall be paid as a lump sum.

Court Recorder  
Jacqueline Ryan



Presiding Judge  
Arkadiusz Sedek

**Legal remedy**

Pursuant to article 400 (1) KCCP, an appeal must be announced within 8 days from the announcement of this verdict and, according to article 398(1) KCCP, the appeal shall be filed with this Court within 15 days from the date the copy of the judgment has been served to the parties.