

IN THE DISTRICT COURT OF PEJA/PEC
Case P.nr.445/09
06 April 2011

IN THE NAME OF THE PEOPLE

The District Court of Peja/Pec, in the trial panel composed of Judge Malcolm Simmons as Presiding Judge and Judges Riku Jaakkola and Elmaze Syka as Panel members and Court Recorder Tarik Mripa, in the criminal case against

1. **Pal Pitaqaj**, born on 30 June 1963 in Gjakova, residing at St. Pasko Vasa, no. 47, Gjakova, son of Krist and mother's name and maiden name Hole Bashotaj, Albanian, citizen of the Republic of Kosova, married, father of 8 children, secondary school accomplished, mechanic, owner of the hotel "West Park", of poor financial situation, with no previous convictions, held in detention on remand from 7 April 2007 until 2 August 2007, currently at liberty.
2. **Aleksander Pitaqi**, nickname 'Sander', born on 10 July 1977 in Gjakova, where he currently resides at St. Mbretëresha Teutë' no. 69, son of Ndue and Pashke, maiden name Shkreli, Albanian, citizen of the Republic of Kosova, married, father of two children, secondary school education, trader, former owner of the bar 'AS', of poor financial situation, with no previous convictions. Held in detention on remand from 7 April 2007 until 02 August 2007, currently at liberty.
3. **Veronica Dragan**, born on 24 September 1981, in Falesti-Moldova, where she resides in the town Ungr, St. Kristjuk, 4/a, Departament 7, daughter of Juri and Lidija, maiden name Ciuvaga, citizen of Moldova, primary school education, widow, mother of two children, waitress, of poor financial situation, with no convictions previously, held in detention on remand from 10 September 2007 to 27 May 2008 and again from 17 June 2008 to 02 December 2009, currently at liberty and
4. **Elena Pislaru**, born on 14 February 1983 in Moldova, now residing in Gjakova, St. Nena Tereza, nn, daughter of Vladimir and Galina, maiden name Hrubu, citizen of Moldova, primary school education, single, waitress, of

poor financial situation, with no previous convictions, held on house custody from 29 September 2007 until 26 October 2007, currently at liberty.

charged pursuant to Indictment PP. number 37/2007 dated 17 December 2007, as amended on 22 February and 4 April 2011, with the following counts:

- as against Pal Pitaqaj under Count 1 Trafficking in Persons pursuant to Article 139, (1) and (3), in conjunction with Article 23 of the Provisional Criminal Code of Kosovo and under Count 4 Facilitating Prostitution pursuant to Article 201 (1), (2) and (3) in conjunction with Article 23 of the CCK;
- as against Aleksander Pitaqi under Count 1 Trafficking in Persons pursuant to Article 139, (1) and (3), in conjunction with Article 23 of the PCCK, under Count 2 Money Laundering pursuant to Section 11.2 of UNMIK Regulation no.2004/02 as amended by UNMIK Regulation 2006/53, in conjunction with Article 23 of the PCCK and under Count 4 Facilitating Prostitution pursuant to Article 201 (1), (2) and (3) in conjunction with Article 23 of the PCCK;
- as against Veronika Dragan under Count 1 Trafficking in Persons pursuant to Article 139, (1) and (3) of the PCCK, in conjunction with Article 23 of the PCCK and under Count 2 Money Laundering pursuant to Section 11.2 of UNMIK Regulation no.2004/02 as amended by UNMIK Regulation 2006/53, in conjunction with Article 23 of the CCK and
- as against Elena Pislaru under Count 1 Trafficking in Persons pursuant to Article 139, (1) and (3) of the PCCK, in conjunction with Article 23 of the PCCK and under Count 2 Money Laundering pursuant to Section 11.2 of UNMIK Regulation no.2004/02 as amended by UNMIK Regulation 2006/53, in conjunction with Article 23 of the PCCK;

after holding a public trial on 24 November 2010, 12, 20 and 24 January, 2, 21 and 22 February, and 4 April 2011 at which Suad Kuraja appeared for the Prosecution, the Injured Parties were not present and unrepresented, Lumturije Hoxha appeared for Pal Pitaqaj, Haxhi Cekaj for Aleksander Pitaqi, Adem Gorani for Veronika Dragan and Zenel Mekaj for Elena Pislaru and at which the Defendants were present

throughout, on 6 April 2011 announces in public the following

JUDGMENT

Under Count 1

Pal Pitaqaj,

Is

GUILTY

Because:

In January 2007 Pal Pitaqaj recruited the injured party having paid her traveling expenses to travel from Moldova to Kosovo. She was deceived by Pal Pitaqaj into believing she was coming to Kosovo to work as a waitress. Upon her arrival she was forced by Pal Pitaqaj to provide sexual services to the clients of "West Park". . . was economically vulnerable and dependent upon Pal Pitaqaj. He had paid her travelling expenses and she was required to repay those expenses from her earnings. Those earnings included money she earned from providing sexual services to the clients of West Park. Pal Pitaqaj was in a position of power vis-à-vis and he abused that power to exploit her into providing sexual services to the clients of West Park.

Therefore, he committed the criminal offence of Trafficking in persons under article 139 par. 1 of Criminal Code of Kosovo

Aleksander Pitaqi, Veronica Dragan and Elena Pislaru

Are

ACQUITTED

Because it was not proven that they have committed the criminal offence under Count 1 of the Indictment.

* * *

Under Count 2

Aleksander Pitaqi and Veronica Dragan

Are

GUILTY

Because:

From November 2006 to 07 April 2007 in Gjakova Aleksander Pitaqi transferred from Kosova to Veronika Dragan through "Western Union", funds in the amount of 3.150 €. During the same period in Gjakova Veronika Dragan transferred 10.900 € to various recipients in Moldova of which the Court is sure at least 6.000 € was transferred by Veronika Dragan on behalf of Aleksander Pitaqi.

Aleksander Pitaqaj is a criminal who is involved in at least one illegal business. The court has looked at every possible legitimate source of his income and finds that at least 9,150 Euros is the proceeds of crime.

Veronika Dragan is the girlfriend of Aleksander Pitaqi. She worked at West Park. They told the Court they were planning on buying property together in Moldova. She knew or at least had cause to know that a proportion of the money transfers she made on his behalf was the proceeds of crime, namely prostitution.

The Court finds that Aleksander Pitaqi, in joint enterprise with Veronika Dragan, transferred the sum of 6,000 Euros to recipients in Moldova for the purpose of concealing the source of the money, that was the proceeds of prostitution thereby promoting the underlying criminal acts.

Therefore, they committed the criminal offence under Section 11.2 of UNMIK Regulation No. 2004/2, as amended under UNMIK Regulation No. 2006/53, in conjunction with Article 23 of PCCK.

Elena Pislaru

Is

ACQUITED

Because it has not been proved that she committed the criminal offence under Count 2 of the Indictment.

* * *

Under Count 4

Pal Pitaqaj and Aleksander Pitaqi,

Are

GUILTY

Because:

Between November 2006 and 07 April 2007, at the premises of West Park, in Lug Bunar Village, Gjakova Municipality, in co-perpetration, in a continuing manner knowingly recruited and organized girls including and for the purpose of prostitution. The girls were sold to clients of West Park for sex. The premises of West Park were located within a radius of less than 350 meters of the "Ahmet Rrustemi" Primary School, in Lug Bunar Village.

Therefore, they committed the criminal offence of Facilitating Prostitution under Article 201 par. 3 in conjunction with par. 1 and 2 and in conjunction with article 23 of PCCK;

THEREFORE, pursuant the provisions of Articles, 6, 11, 15, 31, 32, 33, 34, items 1, 2, 36, 38, 39, par 1, 2, 54, par 1, 2 items 9, 62, par 1, 2, 4, 64, par 1, 3, 65, par 1, 66, items 1, 2, 67 par 1, 2 items 2, 71 par 1, 2, items 2, 4, 5, 73, par 1, 99, par 1, 139, par 3 in conjunction with par 1, 201 par 3 in conjunction with par 1, 2 in conjunction with Article 23 of the PCCK, Section 10.2 (d), (e) of the UNMIK Regulation, No. 2004/2 as amended by UNMIK Regulation no. 2006/53 Article 99 par 1, 2 items 99 par 1, 2 items 4 par 3, 102, par 1, 328 par 1, 385 par. 1, 2, 387 par 1, 2,

391 and 396 of the CPCK, the court imposes the following sentences:

Pal Pitaqaj,

- for the criminal offence under Count 1 is sentenced to four (4) years imprisonment;
- For the criminal offence under Count 4 is sentenced to two (2) years of imprisonment;
- Pursuant to article 71 par. 1 and 2 sub par. 2 of CCK, the aggregate punishment is determined to five (5) years of imprisonment

Aleksander Pitaqi,

- for the criminal offence under Count 2 is sentenced to three (3) years of imprisonment and a fine of 12.000€;
- For the criminal offence under Count 4 is sentenced to two (2) years of imprisonment;
- Pursuant to article 71 par. 1 and 2 sub par. 2 of CCK, the aggregate punishment is determined to four (4) years of imprisonment and a fine of 12.000 €.

Veronica Dragan,

- for the criminal offence under Count 2 is sentenced to two (2) years of imprisonment and a fine of 6.000 €

Against the Defendant Veronica Dragan, pursuant to article 54 par. 1 and 2 sub par. 9 of PCCK, the accessory punishment of Expulsion from the territory of Kosovo is imposed for a period of five (5) years. The said order shall be executed within 48 hours from the day this judgment becomes final.

The time spent in detention on remand by the First and Second Defendants Pal Pitaqaj and Alkesander Pitaqi, from 07.04.2007 until 02.08.2007 and by the Third Defendant Veronica Dragan from 10.09.2007 until 27.05.2008 and from 17.06.2008 until 02.12.2009, shall be credited against the punishment.

All of the convicted defendants shall pay the costs of the

proceedings in an amount of 1.000€ each and the lump sum in an amount of 200€ each.

The Injured Party may pursue a claim for compensation through the civil courts.

We shall deliver the written Judgment within 30 days.

The Parties have an obligation to announce any appeal within eight days.

The parties have the right to appeal this judgment.

Any appeal against a Judgment rendered at first instance shall be filed within fifteen days of the date of service of the said Judgment.

The Defendants are obliged to report to the court any change in address until the Judgment becomes final.

REASONING

A. Procedural background.

i. The Indictment

Indictment PP. number 37/2007 dated 17 December 2007 charged six defendants. The Indictment was confirmed on 20 February 2008.

The First Defendant was charged under Count 1 with Trafficking in Persons pursuant to Article 139, (1) and (3), in conjunction with Article 23 of the PCCK and under Count 4 Facilitating Prostitution pursuant to Article 201 (1), (2) and (3) in conjunction with Article 23 of the PCCK; the Second Defendant was charged under Count 1 with Trafficking in Persons pursuant to Article 139, (1) and (3) of the PCCK, in conjunction with Article 23 of the PCCK, under Count 2 Money Laundering pursuant to Article 11.2 of UNMIK Regulation no.2004/02 as amended by UNMIK Regulation 2006/53, in conjunction with Article 23 of the PCCK and under Count 4 Facilitating Prostitution pursuant to Article 201 (1), (2) and (3) in conjunction with Article 23 of the PCCK; the Third Defendant was charged under Count 1 with Trafficking in Persons pursuant to Article 139, (1) and (3)

of the PCCK, in conjunction with Article 23 of the PCCK and under Count 2 Money Laundering pursuant to Article 11.2 of UNMIK Regulation no.2004/02 as amended by UNMIK Regulation 2006/53, in conjunction with Article 23 of the PCCK and the Fourth Defendant was charged under Count 1 with Trafficking in Persons pursuant to Article 139, (1) and (3) of the PCCK, in conjunction with Article 23 of the PCCK and under Count 2 Money Laundering pursuant to Article 11.2 of UNMIK Regulation no.2004/02 as amended by UNMIK Regulation 2006/53, in conjunction with Article 23 of the PCCK.

A fifth defendant, _____ was charged with Trafficking in Persons pursuant to Article 139 (1) and (3), in conjunction with Article 23 of the PCCK and Money Laundering pursuant to Article 11.2 of UNMIK Regulation 2004/02 as amended by UNMIK Regulation 2006/53 in conjunction with Article 23 of the PCCK. Prior to the commencement of the first trial _____ fled the jurisdiction of the court. On 4 February 2008 she was separated from these proceedings.

A sixth Defendant, _____, was charged with the criminal offence of Facilitating Prostitution pursuant to Article 201 (1), (2) and (3) of the PCCK in conjunction with Article 23 of the PCCK.

On 27 May 2008, pursuant to Article 390 (3) of the Criminal Procedure Code of Kosovo (hereinafter "the CPCK"), _____ was acquitted of the charge under that Count. No Prosecution appeal was filed against his acquittal.

ii. Competence of the Court and Panel Composition

In accordance with Article 23 (1) of CPCK, District Courts shall have jurisdiction to adjudicate at first instance criminal offences punishable by imprisonment of at least five years or those offences punishable by long-term imprisonment.

In the present case the defendants were charged with Trafficking in Persons in Complicity contrary to Articles 139 (1) and (3) in conjunction with Article 23 of the PCCK, an offence punishable by a fine up to 500,000 Euros and by imprisonment of seven to twenty years; Money Laundering contrary to the Article 11.2 items a, b, d and e of UNMIK Regulation no. 2004/2, (as amended by section 1 item k of

UNMIK/REG/2005/9 and as renumbered by item h, last sentence of UNMIK/REG/2006/53) and Article 23 of the PCCK, an offence punishable by imprisonment up to ten years and a fine three times the value of the property that is subject of the criminal offence; and Facilitating Prostitution contrary to Article 201 (3) and (1) and Article 23 of the PCCK, an offence punishable by imprisonment from one to eight years.

The criminal offences, according to the Indictment, were committed in Gjakova, which is in the territory of the District of Peja. Therefore, in accordance with Article 27 (1) of CPCK, the District Court of Peja has territorial jurisdiction to adjudicate this case.

No issue was raised by the parties regarding the jurisdiction of this Court.

Furthermore, pursuant to the Article 3 of the Law on Jurisdiction Case Selection and Case Allocation of EULEX Judges and Prosecutors in Kosovo (hereinafter "the LoJ"), EULEX Judges assigned to criminal proceedings have the jurisdiction and competence over any case investigated or prosecuted by the Special Prosecutors of Republic of Kosovo.

Since the present case was investigated and the Indictment filed by the Special Prosecutor of Kosovo the Trial Panel of the District Court of Peja/Pec was correctly composed of a mixed panel of two EULEX Judges and one Local Judge in accordance with the article 4.7 of LoJ.

No issue was raised by the parties regarding the composition of this Court.

iii. Language

The Third and Fourth Defendants are Moldovan nationals. Both defendants and their counsel informed the court they understood Serbian. Having conducted enquiries the Panel was satisfied they were able to understand Serbian and to fully participate in the proceedings through a Serbian translator who was provided by the Court.

B. The main trial

i. Evidence administered during the main trial

During the course of the main trial the following witnesses were heard and the following evidence was administered

Witness testimony

1. Witness testified on 12 January 2011;
2. Witness testified on 12 January 2011;
3. Witness testified on 02 February 2011;
4. Witness testified on 02 February 2011;
5. Witness testified on 21 February 2011;
6. Witness testified on 21 February 2011;
7. Witness testified on 21 February 2011.

Witness statements read

1. Statement of dated 23 January 2007
2. Statement of dated 08 April 2007
3. Statement of dated 17 April 2007
4. Statement of dated 10 May 2007
5. Statement of dated 08 April 2007
6. Statement of dated 17 April 2007
7. Statement of dated 23 November 2007
8. Statement of dated 20 May 2008
9. Statement of dated 23 November 2007
10. Statement of dated 23 November 2007
11. Statement of dated 16 July 2007
12. Statement of dated 15 September 2007
13. Statement of dated 16 July 2007
14. Statement of dated 09 April 2007
15. Statement of dated 20 May 2008
16. Statement of dated 03 May 2007
17. Statement of dated 16 July 2007
18. Statement of dated 03 May 2007
19. Statement of dated 16 July 2007
20. Statement of dated 08 April 2007
21. Statement of dated 19 April 2007
22. Statement of dated 16 January 2007

Documentary evidence

1. Police Flash Report case number 2007-DI-056 dated 16.01.2007;
2. Police Officers Report case no. 2007-DI-056 dated 17.01.2007 drafted by Officer Sali Shoshi #6257
3. Investigative report on implementation of covert measures of surveillance of the Night Club West Park dated 06.02.2007 drafted by two police officers, code numbers 0001 and 0002
4. Police Criminal Report against Pal Pitaqaj and Aleksander Pitaqaj, case number 2007-DI-056 dated 10.04.2007, drafted by Office Sali Shoshi #6257
5. Police Report on implementing the covert measures dated 08.04.2007, drafted by officers #2027 and #2201
6. Photocopies of the money used for simulated purchase; two 100 euro bills and four 50 euro bills, which are attached to the criminal report
7. Photographs of the Night Club West Park from inside and outside which are attached to the criminal report
8. Meeting record of the school counsel expressing parents, teachers and school counsel dissatisfaction of opening a public house near the elementary school, which is attached to the criminal report
9. Three CD-s containing discussions between the officers executing the covert measures and Pal Pitaqaj and Aleksander Pitaqaj. First CD is named Time of the Arrest, second CD Conversation with the Owner and third CD agreement with the owner of the club
10. Transcript of CDs
11. Employment Contract between Pal Pitaqaj as the owner of Night Club West Park in Gjakova and Elena Pislaru dated 08.09.2006
12. Employment Contract between Aleksander Pitaqaj as the owner of Night Club AS in Gjakova and Veronica Dragan dated 06.02.2006

13. Extract from the registry book of the Hotel Metropol-City
14. Documents of the Department for Registrations, Civil Status and Civil Documents
15. Airport Police Report dated 03.07.2007 on travelling movement of Elena Pislaru, ,
 , Veronica Dragan and
16. Tax payer status for "Dardania" Company owned by Pal Pitaqaj
17. Kosovo's Tax Administration report on the tax status of the night clubs Dardania - owner Pal Pitaqaj and AS - owner Aleksander Pitaqaj
18. Business Registration Certificate of the Night Club Dardania with the owner Pal Pitaqaj
19. Business Registration Certificate of the Night Club AS with the owner Aleksander Pitaqaj
20. Forms of declaring employees of the Night Club AS for
 and with the
employer Aleksander Pitaqaj
21. Report of Kosovo Cadaster Agency on the immovable property of Pal Pitaqaj
22. Post-Telecommunication of Kosovo report dated 19.07.2007 on the metering and interception of number 044/635-556 from 01.01.2007 until 17.06.2007 and the content of SMS messages
23. Post-Telecommunication of Kosovo report dated 26.04.2007 on the metering of numbers 044/ and
044/ from 01.01.2007 until 10.04.2007
24. ProCredit Bank report dated 23.05.2007 for financial disclosure of Pal Pitaqaj's account
25. Raiffeisen Bank report dated 23.05.2007 for financial disclosure of Pal Pitaqaj's account
26. KasaBank financial disclosure of the account of Aleksander Pitaqaj

27. Financial Union of Prishtina report dated 27.09.2007 on financial disclosure of Western Union; transactions made by Veronica Dragan and photocopies of the forms to send money signed by Veronica Dragan

28. Financial Union of Prishtina report dated 27.09.2007 on financial disclosure of Western Union for transactions made by Pal Pitaqaj and Aleksander Pitaqaj, and the list of transactions

29. Notification of Tax Administration dated 27 January 2011

30. Prosecutors Report on Transfer of Money by the Defendants dated 8 February 2011

ii. Witness testimony

The Prosecution called . He testified on 21 May 2008 at the Defendants' first trial. He gave a statement to the Special Prosecutor on 17 December 2007.

He testified before this Court on 12 January 2011. He said he knew both the First and Second Defendants. He said they were acquaintances. He said he did not socialize with them.

Mr. testified that he had on several occasions had a drink in the bar owned by the First Defendant. He could not recall the name of the bar. In answer to a question put by the Prosecutor Mr. testified that he knew the Second Defendant was the proprietor of bar "AS" and that he had visited the establishment on several occasions.

Mr. knew Moldovan girls were employed in both premises. He denied he had ever been offered the services of girls in either establishment.

When he was examined by the Prosecutor on 17 December 2007 he described how he paid approximately 1,200 Euros for and the Third Defendant to travel to Kosovo from Moldova. He said he met approximately 1 year before when she worked in "AS". He said he had wired money to through Western Union.

The Prosecution called . He testified on 21 May 2008 at the Defendants' first trial. He gave a statement to the police on 19 April 2007 and to the Special Prosecutor on 12 December 2007. He testified before this Court on 12 January 2011.

He said he had known both the First and Second Defendants since 1999. He testified he did not know the First Defendant was the proprietor of "West Park" or that the Second Defendant was the proprietor of "AS". He could not recall having been in either bar.

Mr. testified before this Court that on 7 April 2007 he was working at the Hotel Metropol in Gjakova.

Sometime after 11pm he heard a knock at the door. He saw two men and two women standing outside. He said he did not know them. That contradicted what he told police on 19 April 2007. On that occasion he was asked if it was the first time the two girls had been to the hotel. In reply he said:

"No they were guests more times"

When he testified before this Court he denied he had seen either the First or Second Defendant at the hotel on 7 April 2007. However, that too contradicted the statement he gave to police on 19 April 2007. In that statement he said

"Pal Pitaqi was as well outside standing next to the vehicle approximately in a distance of ten meters from the hotel; he did not say anything to me"

Mr. was asked about this contradiction. He said the police behaved badly towards him. However, he was unable to convince the Court that the treatment he received from the police was such that his evidence was unreliable. His statement included a declaration that it was made willingly and without pressure having been exerted.

He said he spoke with one of the men who requested two rooms. Mr. said he told the men the price and requested their documents. The price of each room was 20 Euros.

The group proceeded to the second floor where one of the

men paid for both rooms using a 50 Euro note. Mr. gave 10 Euro in change. All four entered one of the rooms. Mr. testified he then heard a commotion downstairs and went to investigate. He was met en route by police who accompanied him back to the room where he had left the guests. Mr. testified that, upon the request of police, he returned the 50 Euro note he had been given in payment for the two rooms.

He testified he saw both the First and Second Defendants "many times" at the Metropol hotel.

When he was questioned by police on 19 April 2007 he was asked on how many occasions in the past he had seen the Second Defendant in front of the hotel bringing girls. In reply he said

"...I dealt only with guests that asked for a room but during the time when I opened the door I have seen females and males whereas I have seen Aleksander Pitaqi by vehicle many times..."

When he was questioned by police on 19 April 2007 he was asked on how many occasions other than on the night of 7 April 2007 he had seen the First Defendant in front of the hotel. In reply Mr. stated

"Also while opening the door for guests with females I have seen Pal in the hotel several times"

In his statement of 19 April 2007 Mr. referred to one occasion when two females stayed in the hotel for 5 days. He was asked if he knew where the girls worked. In reply he said

"Yes, one of them stayed in the hotel for five days and I know she is one of Aleksander and Pals workers..."

and
were, at the time of trial, not in Kosovo and/or their whereabouts were not known. None of those witnesses testified before this Court.

The Prosecution put in evidence the prior witness statements of dated 9 April 2007 and 16 July

2007 respectively. The Minutes of her testimony on 20 May 2008 before the Court at the defendants' first trial were also put in evidence.

Upon the agreement of the Prosecution and defence counsels her prior evidence was admitted into evidence pursuant to Article 368 of the Criminal Procedure Code.

stated she received a draft contract through . It was with whom she had, apparently, discussed working in Kosovo. The contract was sent by fax. She said the terms of the contract were that she would work as a waitress and receive a monthly salary of 200 Euros¹. She said that upon her arrival in Kosovo she signed a second contract with the First Defendant.

described how in March 2007² she travelled to Kosovo with . She was met at Pristina Airport by the First and Third Defendants. She said she travelled to Kosovo on a ticket that she purchased with her 'own' money. She said she was employed as a waitress at West Park. She said she only worked there for approximately one week. She said she had freedom of movement. She denied she was forced by the First Defendant to have sexual intercourse with clients.

Referring to events on 7 April 2007 she said she was working at West Park from 6pm until midnight. She could not recall if the First or Second Defendants were present.

The Prosecution put in evidence the Minutes on Witness Examination of given on 23 November 2007. Defence counsels were not present at that examination. The Minutes of her testimony on 20 May 2008 before the Court at the defendants' first trial were also put in evidence.

Upon the agreement of the Prosecution and defence counsels her prior evidence was admitted into evidence pursuant to Article 368 of the Criminal Procedure Code.

described how she arrived in Kosovo in

¹ In her statement of 16 July 2007 she says 200 Euros. When she testified on 20 May 2008 she said 150 Euros.

² In her statement of 9 April 2007 she said she arrived in Kosovo on 30 March 2007. In her statement of 16 July 2007 she gives the date as 27 March 2007. When she testified on 20 May 2008 she said she arrived on 28 March 2007.

February 2006. She said she was persuaded to come to Kosovo by

When she was examined on 23 November 2007 she said

*"I came to Kosovo with Veronika Dragan and Aleksander Pitaqaj was waiting for **us** at the airport". However, when she testified on 20 May 2008 she testified "I came in the month of February 2006. Aleksander waited for **me** at the airport. He was alone. I think he was alone, I cant remember very well. Yes, it was also Veronika **with** Aleksander at the airport."*

It appears on her evidence that she was met at the airport by the Second and Third Defendants. However, her evidence in that regard is somewhat equivocal. She said she travelled to Kosovo on a ticket that she purchased with her 'own' money.

She said she was employed by the Second Defendant as a waitress. She said she had a contract. The contract was sent to her by fax in Moldova. Her monthly salary was 150 Euros. She commenced working at "AS" the day after her arrival. She said she had freedom of movement. When she was examined on 23 November 2007 she said

"We did not dare to go out without the permission of Aleksandër Pitaqi, we haven't gone out at all without his permission, and that once per week all the girls together, we didn't dare to separate from each other, we took a Taxi to go to town and during the whole time we were in town, we have been under Aleksandër Pitaqis surveillance. We have been constantly afraid; he yelled at us but did not beat us."

She said she worked for the Second Defendant for approximately 6 months. She said she would also "pole dance". She said clients would pay her 20 - 30 Euros for each dance. She estimated she earned 3000 - 4000 Euros in the six months she worked for the Second Defendant.

She said the money she earned she transferred through Western Union to her family in Moldova. When examined on 23 November 2007 she conceded she had sent 1100 Euros to . She said the money was to reimburse her for the purchase of the airline ticket and a further 100 Euros was for to give to Ms. 's

mother. She said she sent a further 600 Euros to Elena Pislaru. This, she said, was a loan. She sent a further 700 Euros to . This too was, apparently, a loan.

She denied the Second Defendant had given her money to send to Moldova.

She denied she was forced by the Second Defendant to have sexual intercourse with clients.

The Prosecution put in evidence the Minutes of examination of dated 17 April 2007 and 10 May 2007. Counsel for the First and Second Defendants were present at both examinations and put questions to the witness. She also gave a statement to police on 8 April 2007.

Upon the agreement of the Prosecution and defence counsels her prior evidence was admitted into evidence pursuant to Article 368 of the Criminal Procedure Code.

In her statement of 8 April 2007 she stated she arrived in Kosovo for the first time in February 2006. She remained for approximately six months before returning to Moldova.

She was met at Prishtina Airport by the Second Defendant and taken to an apartment. She worked for the Second Defendant at bar "AS" for approximately six months. She stated that during that period she was not asked to provide any sexual services for clients.

In her statement of 8 April 2007, referring to her first trip to Kosovo, she said

"...I took money from my sister, I bought a ticket and came to Kosovo with "

The Court finds that " " is

testified on 17 April 2006 that in September 2006 she again spoke with who suggested she return to Kosovo to work as a waitress.

In her subsequent interviews on 17 April and 10 May 2007 no substantive distinction is made between Ms. 's first and second entries into Kosovo.

When asked by the Prosecutor about the purchase of the ticket on which she travelled from Moldova to Kosovo, referring to the First Defendant, Ms. testified

"...I borrowed money from my sister to pay him back"

She returned to Kosovo in October 2006. In her statement of 8 April 2007 she said she was met at the airport by the First and Second Defendants³. When she testified on 17 April and 10 May 2007 she said she was met at the airport by the First Defendant and

In her statement of 8 April 2007, referring to her second entry in Kosovo, she said she initially worked for the Second Defendant at "AS". She stated

"After several days Aleksander changed the business and the owner was Pal Pitaqi. The coffee bar was called "West Park".

She began working for the First Defendant at "West Park" the following day. She was employed as a waitress by the First Defendant.

Prior to her arrival in Kosovo she had received by fax a contract. The salary was 150 Euros per month. Her normal hours were from 6pm until midnight.

In answer to a question put by the Prosecutor regarding what, if any, other services the witness was required to perform, referring to the First Defendant, Ms. testified

"He told me that if you don't perform the other services, you will go home. A waitress had to perform other services offered by the owner of West Park café"

...

"He told me: "You have to work otherwise you will be sent away"

She testified

"...Pal would go and talk to different clients sitting

³ Statement of 8 April 2007

at the tables and after agreeing with them he would tell me to dress and go with them"

In her statement of 8 April 2007 she said

"Pal was always choosing the customers..."

...

"The money was always taken by Pal and I think he was taking 100 Euros from one client"

She said she was paid extra to perform those services.

"For each sexual relationship that you have, Pal told me, you'll get 50 Euros and I'll get 50 Euros as owner of the bar"

She testified that during the time she worked for the First Defendant she had sexual relations with approximately 15 clients. When she was examined on 17 April 2007, referring to the previous period of 6 - 7 months she estimated she had been with 5 or 6 clients.

In her statement of 8 April 2007

Prosecutor: *"When you arrived in Kosovo did you know that Pal would ask you to be involved in prostitution?"*

: "No I did not know because he had promised me that I would work as a waitress..."

When she testified on 17 April 2007 she said

"When I arrived in Kosovo, bar owner Pal Pitaqi asked me whether, in addition to my regular work as waitress, I would do other jobs - prostitution, I accepted that proposal and so I started to do prostitution in addition to my work as a waitress."

In his report dated 17 January 2006⁴ Officer Sali Shoshi described police having interviewed the female employees of

⁴ Report date should be 17 January 2007 because it refers to events in 2007

West Park on 23 January 2007. Amongst those employees interviewed was . There is no verbatim account of what, in fact, each employee told police. However, the report states *"all declared that they were not mistreated or forced to practicing prostitution from the side of the owner or another person"*. It appears from the officers report that the same employees were again interviewed on 12 February 2007 when they made similar statements.

When asked about her freedom of movement, Ms. testified:

"During their free time while in their houses, the victims did not dare to go out without contacting the bar owner Pal Pitaqi and without getting his permission"

She later qualified this by saying this was for *"security reasons"*.

In answer to a question put by defence counsel Ms. testified

"We were free; we went out and had coffee in restaurants"

When she was examined on 17 April 2007 Ms. stated

"...during the day, that is, until 18:00 hrs, we were free, we could walk around the town and nobody was forbidding us from leaving the bar."

Referring to events on 7 April 2007 Ms. testified:

"...that night Pal came to us at the bar and told us to dress up. We dressed, took our jackets and he told us to sit in the car. We drove towards the Metropol Hotel in Gjakova.

That is consistent with her statement of 8 April 2007. In that statement she stated the First Defendant took her and " *" to the Metropol Hotel.*

When asked by the Prosecutor who had spoken with the clients at the table Ms. testified

"Pal was the one who entered and reached the

agreement. Aleksander entered, sat down and then left, while Pal was the one who took us to the hotel"

...

"We were the first to get to the entrance of the hotel with Pal. Then Pal left in a car, then the clients arrived and we went with them upstairs"

She testified she had not seen the First defendant receiving payment.

Ms. was asked by the Prosecutor if either the First or Second Defendant had asked her to perform any other services. In reply Ms. testified

"Yes. Only Pal. He was the boss".

She was asked by the Prosecutor if both the First and Second Defendants were present when she worked at the bar. In reply she testified

"Yes, they were sitting at the table together, but then Pal went to talk to his clients"

Referring to the Second Defendant Ms. stated

"I know Aleksander Pitaqi, he was the owner of the coffee bar "As," also in Gjakovë/Đakovica, I worked for him for 6 months. After 6 months, during which I constantly worked for Aleksander, I transferred to Pal Pitaqi's.

While I was working at Aleksander's, I never went out with customers."

The Prosecution put in evidence the Minutes of questioning of dated 17 April 2007 and 10 May 2007. Counsel for the First and Second Defendants were present at both examinations and put questions to the witness. She also gave a statement to police on 8 April 2007.

Upon the agreement of the Prosecution and defence counsels her prior evidence was admitted into evidence pursuant to Article 368 of the Criminal Procedure Code.

She testified that in January 2007 she spoke with [redacted] who suggested she work as a waitress for the First Defendant.

She said that prior to her arriving in Kosovo she had received by fax a contract. The terms of the contract were that she would work as a waitress and receive a monthly salary of 150 Euros. She said it was the First Defendant who paid her airline ticket from Moldova to Kosovo. In her statement of 10 May 2007 she stated she arrived in Kosovo with [redacted].

The Indictment averred that on 1 and 2 February 2007 the Third Defendant made two transfers in the total sum of 1200 Euros. It was the Prosecution case that these sums were transferred "shortly before [redacted] and [redacted] flew from Moldova to Kosovo". In fact, according to the police immigration records, [redacted] entered Kosovo on 16 January 2007. When she testified on 10 May 2007 [redacted] stated she arrived in Kosovo in January 2007. In the six months prior to [redacted] arrival in Kosovo the Third Defendant made two transfers⁵ through Western Union to [redacted] in the total sum of 350 Euros.

Upon her arrival in Kosovo she was met at the airport by the First Defendant and taken to a house in Gjakova. She commenced work at "West Park" the following day. She worked from 6pm until midnight.

She testified⁶ that having worked for a week as a waitress and dancer she began providing sexual services to clients. She said she provided sexual services to approximately 20 clients. During her examination on 17 April 2007 she said she had sex with between 10 and 15 clients.

In response to a question put by defence counsel Ms. [redacted] testified

"...if I knew I would have to do other things besides being a waitress I wouldn't have come to Kosovo."

She was asked by the Prosecutor if she ever spoke with clients. In reply she testified

⁵ 10 November 2006 and 8 January 2007.

⁶ Extracts of evidence of this witness are from her examination on 10 May 2007 save where indicated

"We did not talk with the clients because we do not know Albanian and we were not allowed to. It was always Pal who talked with them and later he told us to be prepared and go with them."

When asked by the Prosecutor if they willingly engaged in providing sexual services to clients Ms. testified

"It was always without our will. It was obligatory not because the owner of "West Park" Pal Pitaqi ordered me, but because he would say "either you work or go back to your country". Though without my will it was also because of the economic conditions which [made] me engage in sexual services".

However, when she was examined on 17 April 2007 Ms. testified

"When I started working as a waitress, Pal asked me whether, in addition to the work as a waitress, I would also provide sexual services to interested customers, and for those services he offered me 50 percent of the agreed price. I voluntarily agreed, because it was in my interest."

In her statement of 8 April 2007 she said

"Pal selected the clients every time"

She testified she did not see the First Defendant take money from clients. However, she testified that it had been agreed that she would receive 50% of the money the First Defendant received for the sexual services she provided. She said she did not receive any money from the First Defendant.

When she was examined on 17 April 2007 Ms. testified

"The customers were always chosen by Pal, he found the customers and asked me "do you agree to go out with a customer," and I agreed, and then Pal took me to a hotel in the car, and came to pick me up in the morning."

On 17 April 2007, in response to a question put by defence counsel she testified

"Whenever I went with the clients who had been chosen by Pal I always went voluntarily, because this is what our previous agreement was, I was never afraid of Pal, because I did not have reason to be afraid because Pal always treated me and the other girls well."

She said

"Me and the other girls were given money only for cigarettes and drinks, while the food was provided to us by the owner".

When she testified on 17 April 2007 she said

"Before I started working for Pal Pitaqaj I owed him 600 Euros, the travel expenses from Moldova to Kosovo and when I started working for him I was gradually paying off that debt and now Pal owes me 395 Euros"

The Prosecution proposed in evidence "the diary of
". Regrettably that document could not be found either in the Prosecution or Court files.

In her statement of 8 April 2007, referring to her freedom of movement, she stated

"We could go out to the town but only when we asked Pal and he allowed us"

Referring to the night of 7 April 2007 Ms. testified that both the First and Second Defendants were present in "West Park". She said the First Defendant was talking with clients. She described how the First Defendant accompanied her and to the Metropol Hotel.

On 17 April 2007 she testified

"...on 7.04.2007, Pal told us that we should go to a hotel, because we had two clients, and we went in a car to hotel "Metropol" in Gjakovë. We immediately headed towards the rooms on the floor of the hotel."

Ms. was asked about the Second Defendant

Prosecutor: "Did Aleksander Pitaqi ever come to the bar?"

Ms. : " Yes, from time to time"

Prosecutor: "Have you ever seen Aleksander talking with the clients or taking money from them, or forcing waitresses to undertake something?"

Ms. : "No, I have never talked with him. We would just greet one another, he would stay there but I have not seen him talking with the clients"

Prosecutor: "Did he talk with the girls about you?"

Ms. : "No, whenever he came he talked only with Pal. He used to drink something and each time he paid himself for the drink"

The Prosecution put in evidence the Minutes of Questioning on 2 May 2007 of Officer and the Minutes of the Officers testimony before the Court on 20 May 2008. Counsel for the First and Second Defendants were present at both examinations and put questions to the witness.

The Officer testified at the Defendants' second trial. When he testified before this Court his recollection of the events in April 2007 was vague. This was in part due to the passage of time and because, he testified, he had since the date of those events participated in numerous similar operations⁷. The Court accepted that the passage of time would have inevitably diminished the quality of his evidence. Further, his involvement in other, similar operations might conceivably result in his confusing the events on the day in question with those subsequent operations. The Officer stood by his prior testimony.

When he appeared before the Court in May 2008 he chose simply to adopt the evidence he gave in May 2007.

Referring to the transcript of the Officers examination on 2 May 2007⁸, no mention is made at the start of the transcript of the night in respect of which the officer

⁷ He testified 10 – 15 since 2007.

⁸ Reference herein is to the Officers questioning on 2 May 2007 save where otherwise stated.

testified. However, the Court finds that he is referring to events on 7 April 2007. The Court also finds that Officer [redacted] was in the company of Officer [redacted]. Both were in plain clothes as part of an undercover operation.

The officers were wearing covert audio and video recording equipment. The dvd recordings made during the covert operation were put in evidence by the Prosecution.

The Officer described entering West Park at approximately 10.40pm. Girls were 'pole dancing'. They asked one of the waitresses if they could speak with the owner. The Officer testified that the Second Defendant approached their table and engaged them in conversation. Officer [redacted] stated

"Aleksander offered us services, he asked us whether we want a girl to stay with us in the bar or whether we want sexual intercourse"

When he testified before this Court he thought it was he or Officer [redacted] who initiated the conversation about girls providing sexual services. That was a contradiction with his prior testimony. However, the Court finds his earlier testimony was the more reliable given its proximity to the date of the events in issue.

The officer testified they requested sexual intercourse. Referring to the Second Defendant Officer [redacted] stated

"...he answered that it is 100 Euros for a woman from 24.00 to 08.00 o'clock..."

During the examination the Officer was asked if he could identify the Second Defendant if he were shown photographs. However, it is unclear from the Minutes if, in fact, the Officer was shown photographs and if he identified the Second Defendant.

The Officer testified they gave the Second Defendant 200 Euros - 100 Euros for each girl. He said he gave the Second Defendant two 50 Euro notes and Officer [redacted] gave the Second Defendant one 100 Euro note.

The Officer testified

"...Aleksander ordered him to take the women by car to

a motel, he took the women and we followed them behind in our vehicle".

It is unclear to whom the Officer is referring when he says the Second Defendant ordered "him".

However, the DVD evidence on which the Prosecution relied also depicted the First Defendant. He can be seen in conversation with the Second Defendant.

The Officer described entering the Hotel Metropol and subsequently paying the Hotel receptionist 40 Euros for two rooms. There was no dispute the person to whom Officer gave the money was the Hotel receptionist. The Officer testified the person who brought the girls to the Hotel immediately left. Clearly he was not referring to the Second Defendant.

In his statement of 19 April 2007 stated it was the First Defendant whom he had seen standing outside the Hotel when the girls and Officers and arrived, suggesting it was the First Defendant who had driven them to the Hotel.

The Officer described the First Defendant being present in West Park on the night in question. He said the First Defendant entered and left the bar and spoke with customers.

When he testified before this Court he had scant recollection of events after they left West Park.

Throughout his testimony on 2 May 2007 the Officer described his negotiations with the Second Defendant and their having given the Second the Defendant the money in payment for the sexual services.

When he testified before the Court on 20 May 2008 Officer referred to his initial conversation with the Second Defendant. However, he then testified

"I believe I remember the person who brought me those women, that person was Pal, he has mediated, I gave the money to Pal."

Therefore, when he testified on 20 May 2008 the Officer was sure he had negotiated with the First Defendant and that he

had given the money to the First Defendant. That contradicted his testimony on 2 May 2007.

However, during the course of the trial on 20 May 2008 Officer [redacted] pointed at the Second Defendant and, according to the minutes, identified the Second Defendant as the person with whom he has discussed the sexual services to be provided by the girls.

Somewhat unhelpfully, having identified the Second Defendant as the person with whom he discussed sexual services the minutes, the minutes state

"I have talked to Pal only when we have invited him through the waitress. Me and Pal, we had a conversation."

Clearly the officer confuses the names of the First and Second Defendants.

When he testified before this Court he was unable to identify among the defendants the person with whom he said he negotiated on 7 April 2007. The Court finds that is not wholly unsurprising given the passage of time and the countless other persons with whom the witness had come into contact in the course of his duties.

Having viewed the DVD evidence upon which the Prosecution relied the Court finds it was indeed the Second Defendant with whom the officers were in conversation. The quality of the audio recording is poor. It is impossible to clearly hear the content of their conversation. In the circumstances, the Court chose to rely instead on the testimony of the officer regarding his conversation with the Second Defendant.

The Court found Officer [redacted] to be a truthful and reliable witness.

The Prosecution put in evidence the Minutes of Questioning on 2 May 2007 of Officer [redacted] and the Minutes of the Officers testimony before the Court on 20 May 2008. Counsel for the First and Second Defendants were present at both examinations and put questions to the witness.

The Officer testified at the Defendants' second trial. When he testified before this Court his recollection of events

in April 2007 was also vague. Again, this was, in part, due to the passage of time and because the Officer had since the date of the events in issue participated in numerous similar operations⁹. The Court accepted that the passage of time would have inevitably diminished the quality of his evidence. The Officer stood by his prior testimony.

Officer testified on 2 May 2007¹⁰ that on the night in question he went to West Park, arriving at approximately 10.40pm. The Court finds that he was in the company of Officer .

Officer described talking with the Second Defendant. He stated

"The owner came, he presented himself as Aleksander..."

Officer was subsequently asked by counsel for the Second Defendant if he could be sure the Second Defendant was the owner of the bar. In reply Officer testified

"Yes,... he presented himself as the owner with the name Aleksander"

When he testified on 2 May 2007 Officer was asked if he could identify the Second Defendant in a photograph. Again, it is unclear from the Minutes if, in fact, the Officer was shown photographs and if he identified the Second Defendant.

When he testified before this court he was unable to identify among the defendants the person with whom he said he had spoken on 7 April 2007. Again, the Court finds that is not wholly unsurprising given the passage of time and the countless other persons with whom the witness had come into contact in the course of his duties.

When he testified on 2 May 2007 the Officer was asked about their conversation with the Second Defendant. In reply Officer testified

"Aleksander asked us if we wanted a service at the

⁹ He testified 6 or 7 each year since 2007

¹⁰ Reference herein is to the Officers questioning on 2 May 2007 save where otherwise stated.

table or if we wanted to have sex"

The Officer continued

"The owner informed us that for one waitress the fee was 100 Euros"

The Officer testified that they paid the money when they left the bar. The Second Defendant was given one 100 Euro note and two 50 Euro notes for two girls. It was clear from the Officers conversation with the Second Defendant that the sexual services were to be provided at other premises. Referring to the Second Defendant the Officer testified

"...he told us, I have my employee and you follow him to which motel he goes to."

The Officer was asked if he could identify the person who took the girls to the Metropol Hotel on the night in question. In reply the Officer stated *"Yes, that is the person which you told me to look at"*. It is unclear to whom the Officer is referring. However, later in his testimony, the Officer stated

"In the hotel which we entered together with females from the vehicle in front of us, those females were with Pal Pitaqi"

The Second Defendant called . He said he had known the Second Defendant for 10 - 15 years. He was the owner of "EDI" driving school. He said that in April 2005 he purchased a Mercedes lorry from the Second Defendant. He said he paid 5,000 Euros cash.

Council for the Second Defendant put in evidence an original signed but uncertified contract dated 2 April 2005, purportedly evidencing the purchase by from the Second Defendant of a Mercedes Benz type 817 motor vehicle registration number 480 - KS - 597. The contract price was 5,000 Euros. A registration document, an engineering certificate and insurance certificate relating to the said vehicle were also put in evidence.

The Second Defendant called . He is a cousin of the Second Defendant. He said that in 2005 he purchased

an Audi A4 motor vehicle from the Second Defendant. He said he paid 7,200 Euros cash. He said he owned the vehicle for approximately two years before he sold it. He could not recall if the vehicle had been registered in his name or in the name of his wife.

Council for the Second Defendant put in evidence an original signed but uncertified contract dated 12 September 2005, purportedly evidencing the purchase by from the Second Defendant of an Audi A4 registration number 409 - KS - 622. The contract price was 7,200 Euros.

The Second Defendant called . He said he had known the Second Defendant for some years. He said that in 2003 he purchased a Daimler Benz lorry from the Second Defendant. He said he paid cash. He could not recall if he paid 7,000 Deutsch Marks or 3,000 - 4,000 Euros. No contract purportedly evidencing the purchase of the said vehicle was put in evidence. A registration certificate was put in evidence confirming the witnesses son, is the current registered keeper of the said vehicle.

Upon the agreement of the parties, Council for the Second Defendant put in evidence an original signed uncertified contract dated 22 February 2006, purportedly evidencing the purchase by from the Second Defendant of a Nisan Patrol motor vehicle registration number 470 - KS - 016. The contract price was 5,300 Euros. Mr. was summonsed to appear before the Court. However, the summons was not served upon him.

The **First Defendant** was examined on 17 May and 27 July 2007. He testified on 22 May 2008 at his first trial. He testified on 22 February 2011 at his second trial.

During his examination in May 2007¹¹ he confirmed that he was the owner of Dardania and West Park. When he was examined on 27 July 2007 he said West Park was a sub-division of Dardania and was created in 2006.

The First Defendant, as proprietor of "Dardania P", declared income for the periods TM1/2005 and TM4/2005. No

¹¹ Reference herein is to the Minutes of Examination of 17 May 2007 save where expressly stated otherwise.

evidence was put before the Court of any subsequent tax declarations having been made.

According to the company registration documents the main activity of Dardania P was trade of motor vehicles, maintenance and repairing of vehicles. Its secondary activity was trading of vehicle parts and tools. Its other activities were restaurant and night club.

Tax was withheld at source from November 2005 to May 2006 and Pensions from December 2005 to January 2006.

For the period 03/2005 - 12/2005 the declared turnover of Dardania P was 6,236 Euros.

There were no separate tax records for "West Park".

The First Defendant said he employed seven girls at West Park. He said they were

" , , , , ()".

When he testified on 22 May 2008 he said he could not recall the names of all the girls who worked in the bar but said they included

"...Veronika,
and ".

The Court finds that " " is

The First Defendant testified the girls were from Moldova and used to work for "Aleksander"¹². The First Defendant clarified this by saying

"It was called "AS", the company was AS but it's the same bar, namely its now West Park".

When he testified on 22 February 2011 the First Defendant stated the assets and staff of AS transferred to West Park and West Park subsequently relocated to the village of Lug Bunar.

The First Defendant stated that the contractual monthly salary of each girl was 150 Euros. He said the girls also

¹² The Court finds that "Aleksander" is reference to the Second Defendant.

took a percentage of the money from drinks consumed by customers when they sat with customers while entertaining them.

When he testified on 22 February 2011 the First Defendant stated the girls all had employment contracts. He said each of the girls kept their original identification documents and had freedom of movement. He said their monthly salaries were paid regularly.

In answer to a question regarding the travel arrangements of each of the girls the First Defendant replied

"I sent them money for ticket, to all those that have come to my bar, through Western Union and the tickets were two way tickets"

When he testified on 22 May 2008, referring specifically to the First Defendant testified

"...I sent her the money so she can come to Kosovo. I sent her approximately 600 Euros and that for a return ticket...I told when she came to Kosovo that by working for me you will pay me back little by little. I have not obliged or forced her to go with some client"

When he testified on 22 May 2008 the First Defendant denied he had asked the Third Defendant to send money to on his behalf.

Referring to the Second Defendant, the First Defendant testified the Second Defendant frequented West Park because his girlfriend, the Third defendant, worked there. He denied the Second Defendant had any financial interest in West Park.

Referring to the events of 7 April 2007 he said he opened the bar at 6pm and then left. He said his mother was ill. He said he left the girls unsupervised. He said he returned to the bar at 10pm. When he testified on 22 February 2011 he said he returned to the bar after 11pm.

He said when he returned to the bar the Second and Third Defendants were sitting together.

When he gave evidence on 17 May 2007 the First Defendant

stated that after work two of the girls "begged" him to take them to the Metropol Hotel. He drove them to the hotel, got out of the vehicle and escorted the two girls to the door of the hotel. He gave the same evidence on 22 May 2008. When he testified on 22 February 2011 he said the two girls he had taken to the hotel were and

. However, his testimony before this Court contradicted his prior testimony. When he testified before this Court he said he did not enter the car park of the hotel. He said he stopped in the street and the two girls alighted. He said he did not get out of the vehicle.

The First Defendant denied he had ever asked the girls if they would be willing to perform sexual intercourse with customers. He described the girls having liberty to chose how they dressed, whether to dance for customers and having freedom of movement.

The **Second Defendant** was examined on 17 May and 27 July 2007. He testified on 23 May 2008 at his first trial¹³. He testified before this Court on 22 February 2011.

The Second Defendant stated he was the owner of AS. He said he ran the bar for 5 - 6 months. He said he recalled he employed 5 girls.

When he testified on 22 February 2011 the Second Defendant said he had an accident on 13 March 2006. He testified that from that date until AS ceased operating at the end of 2006 the bar was run by a friend called " ". He seemed unsure of family name. He said he thought it was . It was somewhat surprising the Second Defendant had entrusted the running of his business to someone of whose name he seemed unsure.

Counsel for the Second Defendant put in evidence a Discharge Certificate issued by the Orthopedic Clinic in Prishtina confirming the Second Defendant had been an in-patient there during the period 13 - 17 March 2006 following a road traffic accident on 13 March 2006 when, it appears, the Second Defendant suffered injuries to his back.

¹³ Reference herein is to the Minutes of Examination of 17 May 2007 save where expressly stated otherwise.

The Second Defendant testified on 22 February 2011 that since 2000/2001 he had operated a business selling cars. He said he sold between 5 and 10 cars a year. He thought his profit on the sale of each car was in the region of 200 - 800 Euros. He said the business was not registered for tax purposes.

In addition to selling cars he also sold fruit and vegetables at the local market. That business was also not registered for tax purposes.

When he testified on 22 February 2011 he said his income in 2006 derived from "AS", car sales and his market stall. In 2007, his only income was from car sales and the market stall.

The Second Defendant, as proprietor of bar "AS" declared income for periods TM4¹⁴/2005 and TM1/2006. Tax was withheld at source from November 2005 to May 2006 and Pensions¹⁵ from December 2005 to January 2006. No evidence was put before the Court of any subsequent tax declarations having been made.

According to the company registration documents the main activity of AS was "restaurant". Its secondary activity was "hotels and motels without restaurant". Its other activities were "hotels and motels with restaurant".

For the period 03/2006 the declared turnover of "AS" was 1,132 Euros.

When he testified on 17 May 2007, referring to "AS" he said he employed " " and " ". The First Defendant testified

"...I paid the travelling tickets"

However, when he testified on 23 May 2008 he said

"...I remember the surname of was ...They paid for their travelling on their own. I don't know how they afford it."

That contradicted his prior testimony.

¹⁴ Period of three-month/a quarter

¹⁵ Probably pension funds

When he testified on 22 February 2011 he could not recall if he had paid airline tickets.

On 23 May 2008 he further testified

"I did not send any money to those two women in Moldova. Those women were working for another company in Kosovo, I went there, had some drinks and got into contact with them. These women were Veronika Dragan and I do not remember"

Referring to the events of 7 April 2007 he testified

"I arrived in the bar at about 21.30 hrs, when I got in the bar Pal was sitting and I just greeted him"

That contradicted the First Defendants testimony. When he testified on 17 May 2008 the First Defendant said he did not return to the bar until 10pm and that upon his arrival he saw the Second and Third defendants sitting together. When the First Defendant testified on 22 February 2011 he said he did not return to West Park until after 11pm. He said the Second and Third Defendants were in the bar.

The Second Defendant testified on 17 May 2007 that he left the bar with the Third defendant at 10pm.

When he testified on 22 February 2011 he said he arrived at West Park at approximately 9.15pm. He said he spoke with the Third Defendant telling her he could not go out with her. He said he said "goodbye" to her and left. In answer to a question how long he had remained in West Park he said "as long as it took to drink a bottle of water". However, that contradicted the testimony of the First Defendant who said the Second Defendant was at West Park when he returned at 11pm.

When he testified on 22 February 2011 the Second Defendant denied he had spoken with any clients at West Park that evening. That was a lie. He can clearly be seen in the covert video talking with the undercover officers.

When he testified on 17 May 2008 the Second Defendant denied that he had been in conversation with Officers _____ and _____ about the provision of girls for sexual services.

When he testified on 23 May 2008 the Second Defendant denied the girls in his employ were restricted in their movements.

When he testified on 23 May 2008 the Second defendant admitted that he had sent money to various recipients in Moldova. In response to a question put by his counsel he said that he and the Third Defendant were planning to live together in Moldova.

Counsel for the Second Defendant put in evidence a Western Union document dated 22 November 2006 referring to a cash transfer to the Second Defendant of 5000 Euros.

The Prosecution put in evidence a summary of the Second Defendants account at the Kasabank. During the period December 2006 - April 2007 total activity in that account was approximately 38,000 Euros. Three principal deposits were made: 15,000 Euros in December 2006; 10,000 Euros in March 2007 and 13,000 Euros in April 2007.

In respect of the deposit of 15,000 Euros in December 2006 an annotation in the Kasabank statement reads "deposit for buying house and land- Aleksander Pitaqi".

In respect of the deposit of 10,000 Euros in March 2007 an annotation in the Kasabank statement reads "Deposit Aleksander Pitaqi". When he testified on 22 February 2011 he said that money belonged to his mother.

In respect of the deposit of 13,000 Euros in April 2007 an annotation in the Kasabank statement reads "Deposit of attorney () to Aleksander Pitaqi for house and land transaction".

Referring to his account at Kasabank the Second Defendant testified on 23 May 2008 that he received through Western Union the sum of 5000 Euros from his brother-in-law. The Financial Union reports refer to a transfer of 5000 Euros from a sender in Germany in November 2006.

There were five principal withdrawals from the account: 15,000 Euros on 6 December 2006; 1,000 Euros on 28 March 2007; 1,000 Euros on 30 March 2007; 1,000 Euros on 31 March 2007 and 20,000 Euros on 30 April 2007.

In respect of the withdrawal of 15,000 Euros on 6 December 2006 an annotation in the Kasabank statement reads "transfer of means on behalf of real estate transaction-seller _____, buyer Aleksander Pitaqi, municipality of Gjakova, str. M. _____".

In respect of the withdrawal of 1,000 Euros on 28 March 2007 an annotation in the Kasabank statement reads "Withdrawal by Aleksander Pitaqi."

In respect of the withdrawal of 1,000 Euros on 30 March 2007 an annotation in the Kasabank statement reads "Withdrawal by Aleksander Pitaqi."

In respect of the withdrawal of 1,000 Euros on 31 March 2007 an annotation in the Kasabank statement reads "Withdrawal by Aleksander Pitaqi."

In respect of the withdrawal of 20,000 Euros on 30 April 2007 an annotation in the Kasabank statement reads "Transfer of means on behalf of real estate transaction, parcel no.1247/1, house and yard of surf. 0.01045 ha, municipality of Gjakova."

When he testified on 22 February 2011 he said he received additional sums in cash from his brother-in-law in Germany. He said some of the money was sent through his mother. He could not recall the amounts he had received.

The Indictment avers specifically that during the period 30 January 2007 - 3 April 2007 the Third Defendant transferred through Western Union to various recipients in Moldova funds that she had received from the Second Defendant. The evidence upon which the Prosecution relied showed that, in respect of each transfer, the Second Defendant sent an sms message to a recipient in Moldova with the transfer number and, in some cases, the amount of the transfer.

When he testified on 22 February 2011 the Second Defendant stated he had given the Fourth Defendant approximately 3000 Euros to transfer to Moldova on his behalf.

According to the Financial Union records, during the period February - November 2006 the Second Defendant personally transferred through western Union the total sum of 4,800 Euros to Moldova. Of that sum, 4,750 Euros was sent to the Third Defendant.

When he testified on 22 February 2011 the Second Defendant said he and the Third Defendant were planning to buy an apartment in Moldova. He said that to date the money had not been invested in property in Moldova.

The **Third Defendant** gave a statement to police on 3 May 2007 and a subsequent statement on 11 September 2007. She was examined by the Special Prosecutor on 1 October 2007¹⁶. She testified on 23 May 2008 at her first trial¹⁷. She testified before this Court on 22 February 2011.

During the period 20 September 2005 - 20 March 2006 she was employed by _____ as a dancer at "A&A". Her monthly salary was 150 Euros. She was contractually entitled to a 20% uplift for working overtime and at weekends. It appears that contract was terminated early.

During the period 17 October 2005 - 17 October 2006 she was employed by _____ as a dancer at "Lugano". Her monthly salary was 150 Euros. She was contractually entitled to a 20% uplift for working overtime and at weekends. It appears that contract was also terminated early.

During the period 4 November 2005 - 4 February 2006 she was employed by the Second Defendant as a waitress at "AS". Her monthly salary was 150 Euros. She was contractually entitled to a 20% uplift for working overtime and at weekends.

During the period 6 February - 6 May 2006 the Third Defendant was employed by the Second Defendant as a waitress at "AS". Her monthly salary was 150 Euros. She was contractually entitled to a 20% uplift for working overtime and at weekends.

During the period 1 September 2007 - 1 September 2008 she was employed by _____ as a dancer at the restaurant Malibu. Her monthly salary was 200 Euros plus 2 Euros for each drink served.

¹⁶ Reference herein is to the Minutes of Examination of 1 October 2007 save where expressly stated otherwise

¹⁷ Reference herein is to the Minutes of Examination of 17 May 2007 save where expressly stated otherwise.

The Third Defendant testified that she was motivated by financial reasons to work in Kosovo. She said she arrived in Kosovo in September 2005. She said she borrowed the money to pay her travelling expenses. She said she returned to Moldova approximately two months later. She subsequently returned to Kosovo. She testified that apart from her first trip to Kosovo in September 2005 all subsequent trips were paid for with her own money.

She said she received a contract from the Second defendant by fax while she was in Moldova. She testified her monthly salary was 150 - 200 Euros. When she testified on 22 February 2011 the Third Defendant stated her monthly salary was 150 Euros. She was contractually entitled to a 20% uplift for working overtime and at weekends which might account for her receiving up to 200 Euros per month. In addition she received 20% for each drink served and a further 10% for each drink purchased for her by customers whom she entertained at the table.

She testified on 23 May 2008 that, in addition to her monthly salary, she received money from "the owner of the pub" as well as receiving approximately 60 Euros a night in tips from customers. She previously testified she might earn 60 - 100 Euros per day. When she testified on 22 February 2011 she said she received 60 - 70 Euros per night. She said she did not dance for clients.

She testified that she was in a relationship with the Second Defendant and that it was their intention to "invest jointly".

The Western Union transfer receipts show that during the period September - December 2005 the Third Defendant transferred the total sum of 1,130 Euros to various recipients in Moldova. According to the Financial Union records, during the period January 2006 - March 2007 the Third Defendant transferred the total sum of 19,629 Euros to Moldova.

During the period February - November 2006 the Third Defendant received by money transfer the sum of 4,750 Euros from the Second Defendant.

During the period May - September 2006 the Third Defendant received in Moldova cash transfers in the sum of 3,700

Euros from the Fourth Defendant.

During the period May - September 2006 the Third Defendant received in Moldova cash transfers in the sum of 4,000 Euros from

The Third Defendant was asked about the money transfers she had made to recipients in Moldova and about the money she had received. She gave various explanations regarding the intended purpose of the money. She also referred to the money she said she received from the Second Defendant. She testified "*I had a salary and a boyfriend who was helping me*".

When she testified on 22 February 2011 she was asked about the origin of the money she received from the Second Defendant. In reply she said he worked in the market. She said he also had an income selling cars.

Counsel for the Third Defendant put in evidence a translation of an extract from the Report of the Consultative Medical Council of the Public Medical and Sanitarian Institution of the Centre for Family Doctors of the Republic of Moldova dated 19 February 2009 confirming the Third Defendants mother had been diagnosed with chronic hepatitis. The Third defendant relied upon a second report dated 22 February 2011. It was the Third Defendants case that money transferred to Moldova was for her mothers hospital treatment.

The **Fourth Defendant** was examined by the Special Prosecutor on 25 October 2007¹⁸. She testified on 23 May 2008 at her first trial¹⁹. She testified before this Court on 22 February 2011.

The Fourth Defendant testified that she arrived in Kosovo on 4 February 2006. She said she was met at the airport by the Second and Third Defendants. She testified she borrowed money from a friend to pay her travelling expenses.

She said she worked as a waitress and dancer in the Second

¹⁸ Reference herein is to the Minutes of Examination of 25 October 2007 save where expressly stated otherwise.

¹⁹ Reference herein is to the Minutes of Examination of 17 May 2007 save where expressly stated otherwise.

Defendants bar, "AS", with four other girls. She said she received a contract by fax in Moldova. She said her monthly salary was 150 Euros. She said she received tips from clients. She said she might earn 30 - 40 Euros per night. She worked at "AS" for 6 - 7 months.

During the period 8 September 2006 - 8 March 2007 she was employed by the First Defendant as a dancer at "West Park". Her monthly salary was 150 Euros. She was contractually entitled to a 20% uplift for working overtime and at weekends.

The Fourth Defendant explained that her decision to work as a waitress in Kosovo was a commercial one. She said waitresses in Kosovo earn more than waitresses in Moldova. She said she transferred through Western Union money from Kosovo to her sister in Moldova. She said her sister was taking care of her daughter. She further stated that money sent to the Third Defendant was intended for her sister or for her father. Some transfers were also intended for her brother. She said she had been given some money by her boyfriend.

During the period February 2006 - January 2007 the Fourth Defendant transferred through Western Union to various recipients the total sum of 6,320 Euros.

During the period June 2006 - February 2007 the Fourth Defendant received in Moldova cash transfers in the sum of 1,100 Euros from the Third Defendant.

During the period March - May 2007 the Fourth Defendant received in Moldova cash transfers in the sum of 880 Euros from

In March 2007 the Fourth Defendant received in Moldova a cash transfer in the sum of 650 Euros from

The Fourth Defendant was asked about a transfer from the Third Defendant of 650 Euros in June 2006. She said this was to pay her travelling expenses. She said this was a loan.

Like the Third Defendant, the Fourth Defendant gave various explanations regarding the intended purpose of the money.

The Fourth Defendant made transfers to Moldova during the

period April - October 2006. She commenced working in West Park in or about 08 September 2006.

She testified she also worked as a dancer at West Park for 5 - 6 months. She said the First Defendant was the owner of the bar. She said the Second Defendant frequented West Park. She said he did not work there.

She denied she had been forced to perform sexual services for clients. She said she kept her passport and that she had freedom of movement. She qualified this by saying that she would send an sms to the Second Defendant when she went out.

C. Evaluation of the evidence

i. Findings of fact

The Court finds that, at all material times, the First Defendant was the registered proprietor of West Park. West Park was a trading name of the business Company Dardania P Sh.p.k. that was incorporated on 13 October 2004 and registered on 9 November 2004. The business address was Pashko Vasa number 47, Gjakova²⁰.

The Court finds that, at all material times, the Second Defendant was the registered proprietor of AS. The business name was Ndermarrje Hotelere AS. The date of incorporation and registration was 2 November 2005. Its registered address was _____, Gjakova²¹. AS ceased trading at the end of 2006 and its staff transferred to West Park.

The Court finds that in or about February 2007 West Park relocated from Gjakova to the village of Lug Bunar to premises within 350 meters of the Ahmet Rrustemi Elementary School.

The Court finds that _____ entered Kosovo on 13 October 2006 and she was allowed to remain until 4 May 2007; _____ entered Kosovo on 16 January 2007 and was given permission to remain until 11 January 2008.

²⁰ Registration Certificate number 70204332 dated 9 November 2004;

²¹ Registration Certificate number 70313657 dated 2 November 2005

There was no dispute that, at all material times, the Second defendants mobile phone number was 044 .

None of the Injured Parties was under the age of 18.

ii. Legal qualification of each Count and assessment of the evidence

Count 1 - Aggravated Trafficking in Persons in co-perpetration under Article 139 (1) and (3) and 23 of the Criminal Code of Kosovo.

Against the First, Second, Third and Fourth Defendants.

Under Article 139 of the PCKK the term "trafficking in persons" means the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threats or the use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

The term "exploitation" as used in subparagraph 1 of the present paragraph shall include, but is not limited to, the exploitation for prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

Article 139 (3) provides that whoever organizes a group of persons to commit the offence shall be punished by a fine of up to 500.000 EUR and by imprisonment of seven to twenty years. No definition of "group" is given. Article 109 of the CCK refers to a group as comprising "more than two persons".

The consent of a victim of trafficking in persons to the intended exploitation is, for most purposes, irrelevant.

Pursuant to Article 23 when two or more persons jointly commit a criminal offence by participating in the commission of a criminal offence or by substantially

contributing to its commission in any other way, each of them shall be liable and punished as prescribed for the criminal offence.

1. First Defendant

 testified that she had been persuaded by
 to work in Kosovo. She said it was
who read the contract terms to her. She was met at Pristina
Airport by the First and Third Defendants. She said she
travelled to Kosovo on a ticket that she purchased with her
"own" money. She said that upon her arrival in Kosovo she
signed a contract with the First Defendant.

She said she was employed as a waitress at West Park. She
said she worked there for approximately one week. She said
she had freedom of movement. She denied she was forced by
the First Defendant to have sexual intercourse with
clients. There was no evidence of sexual or, indeed, any
exploitation of by the First of other Defendants

 testified that she was persuaded by
 to work as a waitress in Kosovo. She worked in
Kosovo on two separate occasions.

On the first occasion it appears she traveled to Kosovo
with and was met at the airport by the
Second Defendant. She said she borrowed money from her
sister to purchase the ticket. She worked for the Second
Defendant as a waitress at AS for approximately six months.
During that period she denied she was required by the
Second Defendant to provide sexual services for clients.

She returned to Kosovo in October 2006. She initially
worked for the Second Defendant at AS. She stated

*"After several days Aleksander changed the business
and the owner was Pal Pitaqi. The coffee bar was
called "West Park".*

Indeed, when he testified on 22 February 2011 the First
Defendant stated

*"It was called "AS", the company was AS but it's the
same bar, namely it's now West Park".*

She began working at West Park the following day. She was employed as a waitress.

In answer to a question put by the Prosecutor regarding what, if any, other services she was required to perform, referring to the First Defendant, Ms. testified

"He told me that if you don't perform the other services, you will go home. A waitress had to perform other services offered by the owner of West Park café"

...

"He told me: "You have to work otherwise you will be sent away"²²

She testified

"...Pal would go and talk to different clients sitting at the tables and after agreeing with them he would tell me to dress and go with them"²³

She said she was paid extra to perform those services.

"For each sexual relationship that you have, Pal told me, you'll get 50 Euros and I'll get 50 Euros as owner of the bar"

When she testified on 17 April 2007 she said

"When I arrived in Kosovo, bar owner Pal Pitaqi asked me whether, in addition to my regular work as waitress, I would do other jobs - prostitution, I accepted that proposal and so I started to do prostitution in addition to my work as a waitress."

In her statement of 8 April 2007

Prosecutor: *"When you arrived in Kosovo did you know that Pal would ask you to be involved in prostitution?"*

: "No I did not know because he had promised me that I would work as a waitress..."

²² Statement given at the Prosecutors Office dated 10 May 2007 page 3, English version.

²³ Statement given at the Prosecutors Office dated 10 May 2007 page 5, English version

She testified that she had had sexual relations with approximately 15 clients of West Park.

The female employees of West Park were interviewed by police on 23 January 2007 and 12 February 2007. It appears the interviews were conducted at the premises of West Park. Given that fact, it is not wholly surprising the witnesses were less than candid.

On 10 May 2007 when asked about her freedom of movement, Ms. testified:

"During their free time while in their houses, the victims did not dare to go out without contacting the bar owner Pal Pitaqi and without getting his permission"

She later qualified this by saying this was for "security reasons".

In answer to a question put by defence counsel Ms. testified

"We were free; we went out and had coffee in restaurants"

When she was examined on 17 April 2007 Ms. stated

"...during the day, that is, until 18:00 hrs, we were free, we could walk around the town and nobody was forbidding us from leaving the bar."

Referring to events on 7 April 2007 Ms. testified:

"...that night Pal came to us at the bar and told us to dress up. We dressed, took our jackets and he told us to sit in the car. We drove towards the Metropol Hotel in Gjakova.

When asked by the Prosecutor who had spoken with the clients at the table Ms. testified

"Pal was the one who entered and reached the agreement. Aleksander entered, sat down and then left, while Pal was the one who took us to the hotel"

...

"We were the first to get to the entrance of the hotel with Pal. Then Pal left in a car, then the clients arrived and we went with them upstairs"

She testified she did not see the First defendant receiving any payment.

Ms. was asked by the Prosecutor if either the First or Second Defendant asked her to perform any other services. In reply Ms. testified

"Yes. Only Pal. He was the boss".

The Court finds Ms. decision to work in Kosovo was for financial reasons. She was economically vulnerable and dependent upon the Second Defendant for whom she initially worked. It appears on the face of the Western Union and Financial Union records that she sent money to her family in Moldova. When AS closed and she went to work for the First Defendant she remained economically vulnerable and now dependent upon the First Defendant.

The First Defendant was in a position of power and authority over , which power he abused in order to exploit her in order that she provide sexual services for his clients.

The consent of a victim of trafficking in persons to the intended exploitation is irrelevant. In any event, the consent was not real in the sense that Ms. was economically vulnerable. Had she not consented she would have had little choice other than to return to Moldova.

The Court finds that was employed by the Second Defendant as a waitress. No evidence was put before this Court that during her employ at AS she was required by the Second Defendant to perform sexual services. When AS ceased trading went to work for the First Defendant. The First Defendant was in a position of power vis-à-vis and he abused that power to take advantage of who was economically dependent on him and exploited her for his own material gain.

When she was examined on 17 April 2007 Ms. testified

"When I started working as a waitress, Pal asked me whether, in addition to the work as a waitress, I would also provide sexual services to interested customers, and for those services he offered me 50 percent of the agreed price. I voluntarily agreed, because it was in my interest."

She testified she did not see the First Defendant take money from clients. However, she testified that it had been agreed that she would receive 50% of the money the First Defendant received for the sexual services she provided. She said she did not receive any money from the First Defendant.

When she was examined on 17 April 2007 Ms. testified

"The customers were always chosen by Pal, he found the customers and asked me "do you agree to go out with a customer," and I agreed, and then Pal took me to a hotel in the car, and came to pick me up in the morning."

On 17 April 2007, in response to a question put by defence counsel she testified

"Whenever I went with the clients who had been chosen by Pal I always went voluntarily, because this is what our previous agreement was, I was never afraid of Pal, because I did not have reason to be afraid because Pal always treated me and the other girls well."

testified that she was financially dependant on the First Defendant. She said

"Me and the other girls were given money only for cigarettes and drinks, while the food was provided to us by the owner".

When she testified on 17 April 2007 she said

"Before I started working for Pal Pitaqaj I owed him 600 Euros, the travel expenses from Moldova to Kosovo and when I started working for him I was gradually

paying off that debt and now Pal owes me 395 Euros"

When he testified on 22 May 2008, referring specifically to the First Defendant testified

"...I sent her the money so she can come to Kosovo. I sent her approximately 600 Euros and that for a return ticket...I told when she came to Kosovo that by working for me you will pay me back little by little. I have not obliged or forced her to go with some client"

The First Defendant subsequently denied he had sent money for her travelling expenses. That was a lie.

The First Defendant paid Ms. travelling expenses. She was required by the First Defendant to repay those expenses from her earnings.

Ms. believed she would be working as a waitress at the First Defendants premises. She testified *"...if I knew I would have to do other things besides being a waitress I wouldn't have come to Kosovo."* She said she provided sexual services to clients of West Park. She said it was *"always without our will"*. She too was in a position of economic vulnerability.

In her statement of 8 April 2007, referring to her freedom of movement, she stated

"We could go out to the town but only when we asked Pal and he allowed us"

The First Defendant was in a position of power and authority over her, which power he abused in order to exploit in order that she provide sexual services for his clients. As such, he exploited her for his own material gain.

The consent of a victim of trafficking in persons to the intended exploitation is irrelevant. In any event, the consent was not real in the sense that Ms. was economically vulnerable.

The Court finds that the First Defendant paid travelling expenses to Kosovo. She was deceived by the First Defendant into believing she was coming to

Second Defendant at "AS". She stated

"After several days Aleksander changed the business and the owner was Pal Pitaqi. The coffee bar was called "West Park".

The Court has found that as at 1 November 2006 the girls formerly in the employ of the Second Defendant at AS had transferred to West Park.

No evidence was put before the Court the Second Defendant had alone or in co-perpetration, trafficked either or

No substantive evidence was put before the Court the Second Defendant committed an offence under Article 139 of the PCCK.

3. Third Defendant

denied that she had been forced by the First Defendant to provide sexual services for clients. There was no evidence the Third Defendant through had recruited Ms. or, indeed, that she satisfied any of the relevant criteria under Article 139 of PCCK.

testified that she had been persuaded by to work as a waitress in Kosovo. The Third Defendant and are sisters. She denied she was forced by the Second Defendant to have sexual intercourse with clients. There was no evidence the Third Defendant through had recruited Ms.

said she had been persuaded to come to Kosovo by . Clearly there was some connection between the Third Defendant and because cash transfers in the total sum of 400 Euros were made by the Third Defendant to in April 2007. Those transfers were made after had arrived in Kosovo. Was this a payment to for recruiting ? No evidence was put before the Court that the Third Defendant through had recruited Ms.

testified that she had been persuaded by to work as a waitress in Kosovo. It was the Prosecution case that on 1 and 2 February 2007 the Third Defendant made two transfers in the total sum of 1200

Euros which sum was intended to pay their respective travelling expenses. However, the Court finds arrived in Kosovo in January 2007 - before the relevant transfers. In fact, in the six months prior to arrival in Kosovo the Third Defendant made two transfers²⁵ through Western Union to in the total sum of 350 Euros.

Indeed, testified it was the First Defendant who paid her traveling expenses. The First Defendant denied he had asked the Third Defendant to transfer money on his behalf.

No evidence was put before the Court that the Third defendant through had recruited . In the circumstances, the Court finds that no substantive evidence was put before the Court that the Third Defendant had committed an offence under Article 139 of the PCCK.

4. Fourth Defendant

and gave evidence that they had been persuaded to come to Kosovo by and respectively. No evidence was put before the Court that the Fourth Defendant had made money transfers to either or . Indeed, no evidence was put before the Court that the Fourth Defendant either personally or as part of an organized group had been engaged in trafficking either or .

No substantive evidence was put before the Court that the Fourth defendant either alone or in co-perpetration had committed an offence under Article 139 of the PCCK.

Count 4 - Facilitating Prostitution under Article 201 (1), (2) and (3) as read with Article 23 of the Criminal Code of Kosovo.

As against the First and Second Defendants.

²⁵ 10 November 2006 and 8 January 2007.

Pursuant to Article 201 whoever knowingly recruits, organizes or assists another person or provides premises to another person for the purpose of prostitution shall be punished by a fine or by imprisonment of up to three years. When the offence is committed within a 350 meter radius of a school or other locality which is used by children, the perpetrator shall be punished by imprisonment of six months to five years. Whoever, by force, threat of force, or by holding another person in a situation of personal or economic dependency compels such person to engage in prostitution shall be punished by imprisonment from one to eight years.

1. First Defendant

was employed as a waitress at West Park. She said she only worked there for approximately one week. She denied she was forced by the First Defendant to have sexual intercourse with clients.

returned to Kosovo in October 2006. Initially she worked for the Second Defendant at AS. She subsequently worked for the First defendant at West Park where she was also employed as a waitress.

In answer to a question put by the Prosecutor regarding what, if any, other services the witness was required to perform, referring to the First Defendant, Ms. testified

"A waitress had to perform other services offered by the owner of West Park café"

She testified

"...Pal would go and talk to different clients sitting at the tables and after agreeing with them he would tell me to dress and go with them"

In her statement of 8 April 2007 she said

"Pal was always choosing the customers..."

...

"The money was always taken by Pal and I think he was taking 100 Euros from one client"

She said she was paid extra to perform those services.

"For each sexual relationship that you have, Pal told me, you'll get 50 Euros and I'll get 50 Euros as owner of the bar"

She testified that during the time she worked for the First Defendant she had sexual relations with approximately 15 clients. When she was examined on 17 April 2007, referring to the previous period of 6 - 7 months she estimated she had been with 5 or 6 clients.

When she testified on 17 April 2007 she said

"When I arrived in Kosovo, bar owner Pal Pitaqi asked me whether, in addition to my regular work as waitress, I would do other jobs - prostitution, I accepted that proposal and so I started to do prostitution in addition to my work as a waitress."

Referring to events on 7 April 2007 Ms. testified:

"...that night Pal came to us at the bar and told us to dress up. We dressed, took our jackets and he told us to sit in the car. We drove towards the Metropol Hotel in Gjakova."

When asked by the Prosecutor who had spoken with the clients at the table Ms. testified

"Pal was the one who entered and reached the agreement. Aleksander entered, sat down and then left, while Pal was the one who took us to the hotel"

...

"We were the first to get to the entrance of the hotel with Pal. Then Pal left in a car, then the clients arrived and we went with them upstairs"

She testified she did not see the First defendant receiving any payment.

Ms. was asked by the Prosecutor if either the First or Second Defendant asked her to perform any other services. In reply Ms. testified

"Yes. Only Pal. He was the boss".

 testified that upon her arrival in Kosovo she was met at the airport by the First Defendant and taken to a house in Gjakova. She would stay at the house with other girls. She commenced work at West Park the following day. She normally worked from 6pm until midnight.

She testified²⁶ that having worked for a week as a waitress and dancer she began providing sexual services to clients. She said she provided sexual services to approximately 20 clients. During her examination on 17 April 2007 she said between 10 and 15 clients.

She was asked by the Prosecutor if she ever spoke with clients. In reply she testified

"We did not talk with the clients because we do not know Albanian and we were not allowed to. It was always Pal who talked with them and later he told us to be prepared and go with them."

When she was examined on 17 April 2007 Ms. testified

"When I started working as a waitress, Pal asked me whether, in addition to the work as a waitress, I would also provide sexual services to interested customers, and for those services he offered me 50 percent of the agreed price. I voluntarily agreed, because it was in my interest."

In her statement of 8 April 2007 she said

"Pal selected the clients every time"

She testified she did not see the First Defendant take money from clients. However, she testified that it had been agreed that she would receive 50% of the money the First Defendant received for the sexual services she provided.

²⁶ Extracts of evidence of this witness are from her examination on 10 May 2007 save where indicated

She said she did not receive any money from the First Defendant.

When she was examined on 17 April 2007 Ms. testified

"The customers were always chosen by Pal, he found the customers and asked me "do you agree to go out with a customer," and I agreed, and then Pal took me to a hotel in the car, and came to pick me up in the morning."

Referring to the night of 7 April 2007 Ms. testified that both the First and Second Defendants were present in West Park. She said the First Defendant was talking with clients. She described how the First Defendant accompanied her and to the Metropol Hotel.

On 17 April 2007 she testified

"...on 7 April 2007, Pal told us that we should go to a hotel, because we had two clients, and we went in a car to hotel "Metropol" in Gjakovë. We immediately headed towards the rooms on the floor of the hotel."

2. Second Defendant

was employed by the Second Defendant as a waitress. She said she had a contract that had been sent to her by fax in Moldova. Her monthly salary was 150 Euros. She commenced working at AS the day after her arrival. She said she worked for the Second Defendant for approximately 6 months. She denied she was forced by the Second Defendant to have sexual intercourse with clients.

arrived in Kosovo for the first time in February 2006. She remained for approximately six months before returning to Moldova. During that period she worked for the Second Defendant at AS. She said she was not asked to provide sexual services for clients. She returned to Kosovo in October 2006. For a short period she worked for the Second Defendant at AS before working for the First Defendant at West Park. During the period she worked for the Second Defendant she said she was not asked to provide sexual services to customers.

When the Second Defendant closed AS at the end of 2006 the girls in his employ transferred to West Park.

There is no dispute that according to the registration documents West Park was owned by the First Defendant. The Court heard evidence that it was part of the Dardania group. However, although West Park was owned by the First Defendant the question inevitably arises as to what extent, if at all, the Second Defendant was actively involved in the day-to-day activities of West Park. This is a factual issue.

When she gave evidence on 10 May 2007, referring to events on 7 April 2007 Ms. testified:

"...that night Pal came to us at the bar and told us to dress up. We dressed, took our jackets and he told us to sit in the car. We drove towards the Metropol Hotel in Gjakova.

When asked by the Prosecutor who had spoken with the clients at the table Ms. testified

"Pal was the one who entered and reached the agreement. Aleksander entered, sat down and then left, while Pal was the one who took us to the hotel"

Ms. was asked by the Prosecutor if either the First or Second Defendant asked her to perform any other services. In reply Ms. testified

"Yes. Only Pal. He was the boss".

She was asked by the Prosecutor if both the First and Second Defendants were present when she worked at the bar. In reply she testified

"Yes, they were sitting at the table together, but then Pal went to talk to his clients"

Indeed, in her evidence given on 10 May 2007 Ms. was asked about the Second Defendant role in the day-to-day activities of West Park. In reply she testified

"He would simply come, stay and leave. He was the former chief. He did not have any special role in

West Park..."

was employed by the First Defendant at West Park. When she gave evidence on 10 May 2007 she was asked about the Second Defendant

Prosecutor: "Did Aleksander Pitaqi ever come to the bar?"

Ms. : " Yes, from time to time"

Prosecutor: "Have you ever seen Aleksander talking with the clients or taking money from them, or forcing waitresses to undertake something?"

Ms. : "No, I have never talked with him. We would just greet one another, he would stay there but I have not seen him talking with the clients"

Prosecutor: "Did he talk with the girls about you?"

Ms. : "No, whenever he came he talked only with Pal. He used to drink something and each time he paid himself for the drink"

The First Defendant gave evidence that he left the female employees of West Park unsupervised when he left shortly after 6pm on 7 April 2007. He said he did not return until after 11pm. The Court finds that simply untenable. Indeed, the evidence given by the First and Second Defendants in this regard is contradictory.

When he testified on 22 February 2011 the Second Defendant testified he arrived at West Park at approximately 9.15pm and stayed for a short time. However, that contradicted the testimony of the First Defendant who said the Second Defendant was still at West Park when he returned at 11pm.

In his testimony on 22 February 2011 the Second Defendant said that he spoke only with the Third Defendant. That was a lie. He can clearly be seen in the covert DVD recording made by police on 7 April 2007 in conversation with the undercover officers.

testified about events on 7 April 2007 when, together with Officer , he was part of an

undercover police operation at West Park.

The officers were wearing covert audio and video recording equipment. The dvd recordings made during the covert operation were put in evidence by the Prosecution.

When he gave evidence on 02 May 2007 Officer said

"Aleksander offered us services, he asked us whether we want a girl to stay with us in the bar or whether we want sexual intercourse"

The officer testified they requested sexual intercourse

"...he answered that it is 100 Euros for a woman from 24.00 to 08.00 o'clock..."

Throughout his testimony on 2 May 2007 the Officer described his negotiations with the Second Defendant and their having given the Second Defendant money in payment for the sexual services.

Officer testified

"...Aleksander ordered him to take the women by car to a motel, he took the women and we followed them behind in our vehicle".

It was unclear to whom the Officer is referring when he says the Second Defendant ordered "him". However, the Court finds he was referring to the First Defendant. and testified it was the First Defendant who drove them to the Metropol hotel.

The First Defendant even gave contradictory evidence in this regard. When he gave evidence on 17 May 2007 the First Defendant stated that after work two of the girls "begged" him to take them to the Metropol Hotel. He said he drove them to the hotel, got out of the vehicle and escorted the two girls to the door of the hotel. When he testified before this Court he said he did not enter the car park of the hotel. He said he stopped in the street and the two girls alighted. He said he did not get out of the vehicle. That was a lie.

In his statement on 19 April 2007 stated it was the First Defendant whom he had seen standing outside the

Metropol Hotel - although he subsequently changed his evidence - on the night in issue when the girls and Officers and arrived.

When he gave evidence on 02 May 2007 described talking with the Second Defendant. He testified

"The owner came, he presented himself as Aleksander..."

He was asked about their conversation with the Second Defendant. In reply Officer testified

"Aleksander asked us if we wanted a service at the table or if we wanted to have sex"

The Officer continued

"The owner informed us that for one waitress the fee was 100 Euros"

The Officer testified that they paid the money when they left the bar. The Second Defendant was given one 100 Euro note and two 50 Euro notes for two girls. It was clear from the Officers conversation with the Second Defendant that the sexual services were to be provided at other premises. Referring to the Second Defendant the Officer testified

"...he told us, I have my employee and you follow him to which motel he goes to."

In his testimony, the Officer stated

"In the hotel which we entered together with females from the vehicle in front of us, those females were with Pal Pitaqi"

When he was questioned by police on 19 April 2007 was asked on how many occasions in the past he had seen the Second Defendant in front of the hotel bringing girls. In reply he said

"...I dealt only with guests that asked for a room but during the time when I opened the door I have seen females and malès whereas I have seen Aleksander Pitaqi by vehicle many times.."

When he was questioned by police on 19 April 2007 he was asked on how many occasions other than on the night of 7 April 2007 he had seen the First Defendant in front of the hotel. In reply Mr. stated

"Also while opening the door for guests with females I have seen Pal in the hotel several times"

In his statement of 19 April 2007 Mr. referred to one occasion when two females stayed in the hotel for 5 days. He was asked if he knew where the girls worked. In reply he said

"Yes, one of them stayed in the hotel for five days and I know she is one of Aleksander and Pals workers..."

The evidence given by was that the First and Second Defendants regularly took their female employees to the Metropol Hotel for the purpose of their having sexual relations with clients. That was precisely the modus operandi that pertained on 7 April 2007.

The Court also finds that on 7 April 2007 it was the Second Defendant who negotiated with the undercover police officers and agreed to provide and to the undercover police officers for the purpose of their having sexual relations with those girls. It was the Second Defendant who received payment for those intended sexual services. It was the First Defendant who drove and to the Metropol Hotel knowingly for the purpose of their having sexual relations with the two undercover police officers.

The Court finds that on 7 April 2007 at the premises of West Park, Lug Bunar Village, Gjakova Municipality, the First and Second Defendants, in co-perpetration, knowingly recruited and organized girls for the purpose of prostitution.

The Court finds that the premises of West Park were located within a radius of less than 350 meters from the Rushdim Ahdemi School, Lug Bunar Village. Counsel for the Defendants averred that because the premises of West Park operated at a time when the School was not in session the fact the premises of West Park were within a radius of 350

meters of the school was irrelevant. That was a somewhat disingenuous argument. Article 201 (2) is unequivocal.

There was no substantive evidence any of the girls employed in West Park were the subject of physical force, or the threat thereof to provide sexual services to clients of West Park.

gave evidence that she "and the other girls" were given money only for cigarettes and drinks, while the food was provided to us by the First Defendant. This would support the Prosecution case that was held by the First Defendant in a position of economic dependency. However, her evidence in this regard was contradicted by other witnesses.

Count 2 - Money Laundering under Section 11.2 of UNMIK Regulation 2004/2 as amended by UNMIK Regulation number 2006/53 as read with Article 23 of the Criminal Code of Kosovo.

As against the Second, Third and Fourth Defendants.

The constituent elements of the criminal offence of Money Laundering (Section 11.2 of UNMIK Regulation No. 2004/2, Article 10.2 (d), as amended under UNMIK Regulation No. 2006/53), are the defendant knew or had cause to know that certain property is the proceeds of some form of criminal activity and the property is in fact the proceeds of crime.

In addition, the Prosecution must prove the defendant, either alone or in joint enterprise, converted/transferred the property for the purpose of concealing or disguising the nature/source/disposition/movement or ownership, or assisting any person who is involved in or purportedly involved in, the commission of the criminal offence - which produced the property to evade the consequences of his/her actions, or promoting the underlying criminal activity.

1. Second Defendant

The Second Defendant was the owner of AS. He said he ran the bar for 5 - 6 months. Thereafter, he closed the bar and the girls in his employ transferred to West Park.

No evidence was put before the Court of any unlawful activity having been conducted by the Second Defendant at

the premises of AS. The girls in the employ of the Second Defendant had transferred to West Park on or before 1 November 2006.

The Court has found that the Second Defendant was actively engaged in the day-to-day activities of West Park. This was a joint enterprise conducted by the First and Second Defendants.

It was the Prosecution case that cash transfers between Kosovo and Moldova made by and on behalf of the Second Defendant were the proceeds of crime and that the Second Defendant in joint enterprise transferred that money for the purpose of concealing or disguising its source in order to evade the consequences of his criminal actions.

It was the Second Defendants case that the money was the proceeds of legitimate business activities.

The Second Defendant testified on 22 February 2011 that since 2000/2001 he had operated a business selling cars. He said he sold between 5 and 10 cars a year. He thought his profit on the sale of each car was in the region of 200 - 800 Euros. He said the business was not registered for tax purposes.

The Court heard evidence from various witnesses called by the Second Defendant regarding vehicles they said they had purchased from the Second Defendant during the period 2003 - February 2006.

Save for the vehicle purportedly purchased by in February 2006 the other vehicles were sold some years prior to the date of commission of the offences.

In addition to selling cars the Second Defendant testified he sold fruit and vegetables at the local market. No records of income derived from that business were put in evidence. That business was also not registered for tax purposes.

When he testified on 22 February 2011 he said his income in 2006 derived from AS, car sales and his market stall. In 2007, his only income was from car sales and the market stall. No evidence was put before the Court of vehicles sold by the Second Defendant during the period March 2006 - April 2007. No evidence was put before the Court of profit

derived from the operation of the market stall.

The Second Defendant, as proprietor of bar "AS" declared income for periods TM4²⁷/2005 and TM1/2006. Tax was withheld at source from November 2005 to May 2006 and Pensions²⁸ from December 2005 to January 2006. No evidence was put before the Court of any subsequent tax declarations having been made.

For the period 03/2006 the declared turnover of "AS" was 1,132 Euros.

The Prosecution put in evidence a summary of the Second Defendants account at the Kasabank. During the period December 2006 - April 2007 total activity in that account was approximately 38,000 Euros. Three principal deposits were made: 15,000 Euros in December 2006; 10,000 Euros in March 2007 and 13,000 Euros in April 2007.

In respect of the deposit of 15,000 Euros in December 2006 an annotation in the Kasabank statement reads "deposit for buying house and land- Aleksander Pitaqi".

In respect of the deposit of 10,000 Euros in March 2007 an annotation in the Kasabank statement reads "Deposit Aleksander Pitaqi". When he testified on 22 February 2011 he said that money belonged to his mother.

In respect of the deposit of 13,000 Euros in April 2007 an annotation in the Kasabank statement reads "Deposit of attorney () to Aleksander Pitaqi for house and land transaction".

Referring to his account at Kasabank the Second Defendant testified on 23 May 2008 that he received through Western Union the sum of 5000 Euros from his brother-in-law. The Financial Union reports refer to a transfer of 5000 Euros from a sender in Germany in November 2006.

There were five principal withdrawals from the account: 15,000 Euros on 6 December 2006; 1,000 Euros on 28 March 2007; 1,000 Euros on 30 March 2007; 1,000 Euros on 31 March 2007 and 20,000 Euros on 30 April 2007.

²⁷ Period of three-month/a quarter

²⁸ Probably pension funds

In respect of the withdrawal of 15,000 Euros on 6 December 2006 an annotation in the Kasabank statement reads "transfer of means on behalf of real estate transaction-seller _____, buyer Aleksander Pitaqi, municipality of Gjakova, str. M. _____".

In respect of the withdrawal of 1,000 Euros on 28 March 2007 an annotation in the Kasabank statement reads "Withdrawal by Aleksander Pitaqi."

In respect of the withdrawal of 1,000 Euros on 30 March 2007 an annotation in the Kasabank statement reads "Withdrawal by Aleksander Pitaqi."

In respect of the withdrawal of 1,000 Euros on 31 March 2007 an annotation in the Kasabank statement reads "Withdrawal by Aleksander Pitaqi."

In respect of the withdrawal of 20,000 Euros on 30 April 2007 an annotation in the Kasabank statement reads "Transfer of means on behalf of real estate transaction, parcel no.1247/1, house and yard of surf. 0.01045 ha, municipality of Gjakova."

Of the 38,000 Euros deposited in the Second Defendants account at Kasabank during the period December 2006 - April 2007 35,000 Euros was used for the purchase of property in Gjakova.

When he testified on 22 February 2011 he said he received additional sums in cash from his brother-in-law in Germany. He said some of the money was sent through his mother. He could not recall the amounts he had received or the dates when he had received the money.

The Financial Union and Western Union evidence upon which the Prosecution relied evidence the various money transfer made by the Third defendant. The documents obtained from PTK recorded data transmissions made using the Second Defendants mobile telephone.

On 30 January 2007 at 1400 the Third Defendant wired via Western Union to _____ the sum of 3000 Euros. The control number for the transfer was 938896090. On 30 January 2007 at 13.07 the Second Defendant sent an sms to a number in Moldova that simply stated "9383896090" being the number of the transfer.

On 9 February 2007 at 1100 the Third defendant wired via Western Union to the sum of 500 Euros. The control number for the transfer was 8713885779. On 9 February 2007 at 10.07 the Second defendant sent an sms to a number in Moldova that simply stated "8713885779" being the number of the transfer.

On 26 March 2007 at 0840 the Third defendant wired via Western Union to the sum of 200 Euros. The control number for the transfer was 8343870900. On 26 March 2007 at 07.50 the Second defendant sent an sms to a number in Moldova that simply stated "8343870900" being the number of the transfer.

On 28 March 2007 at 0830 the Third Defendant wired via Western Union to the sum of 1700 Euros. The control number for the transfer was 9134162319. On 28 March 2007 at 0801 and at 0802 the Second defendant sent the same sms to a number in Moldova that simply stated "9134162319, 1700 Euros".

On 29 March 2007 at 1120 the Third defendant wired via Western Union to the sum of 100 Euros. The control number for the transfer was 4255646906. On 29 March 2007 at 1034 the Second defendant sent an sms to a number in Moldova that simply stated "4255646906" being the number of the transfer.

On 30 March 2007 at 1335 the Third defendant wired via Western Union to the sum of 200 Euros. The control number for the transfer was 35598444057. On 30 March 2007 at 1243 the Second defendant sent an sms to a number in Moldova that simply stated "35598444057" being the number of the transfer.

On 3 April 2007 at 1420 the Third Defendant wired via Western Union to the sum of 300 Euros. The control number for the transfer was 3183912343. On 3 April 2007 at 1334 the Second defendant sent an sms to a number in Moldova that simply stated "Veronika Dragan sends 300 Euros, 3183912343".

During the period 1 November 2006 - 7 April 2007 the Second Defendant personally transferred to Moldova through Western Union the total sum of 3,150 Euros. Of that sum, 3,100 Euros was sent to the Third Defendant.

According to the Financial Union records, during the period 1 November 2006 - 7 April 2007 the Third Defendant transferred the total sum of 10,900 Euros to Moldova. The Court finds that of those transfers 6,000 Euros were made by the Third Defendant on behalf of the Second Defendant.

When he testified on 22 February 2011 the Second Defendant said he and the Third Defendant were planning on buying an apartment in Moldova. That might well have been true. He said that to date the money had not been invested in property in Moldova.

The Second Defendant is a criminal who is involved in at least one illegal business. The court has looked at every possible legitimate source of income and finds that the sum of 9, 150.00 Euros transferred to Moldova during the period 1 November 2006 - 7 April 2007 was the proceeds of crime, namely prostitution.

The Court finds that the Second Defendant, in joint enterprise with the Third Defendant, transferred the money to recipients in Moldova for the purpose of concealing or disguising the source of the money, and in so doing attempting to evade the consequences of his actions thereby committing an offence under Section 11.2 of UNMIK Regulation No. 2004/2, Article 10.2 (d) (as amended under UNMIK Regulation No. 2006/53)).

2. Third Defendant

The Third Defendant first entered Kosovo in September 2005. She worked as a waitress at the restaurant "Dina". She testified on 1 October 2007 that her salary was 150 - 200 Euros a month. She testified that she could receive 60 - 100 Euros per day. She left Kosovo on 11 December 2005.

According to the Financial Union records, during the period 1 November 2006 - 7 April 2007 the Third Defendant transferred the total sum of 10,900 Euros to Moldova. The Court finds that of those transfers 6,000 Euros were made by the Third Defendant on behalf of the Second Defendant.

The Third Defendant was asked about the money transfers she had made to recipients in Moldova and about the money she had received. She gave various explanations regarding the

intended purpose of the money. She said she also received money from the Second Defendant. She testified "*I had a salary and a boyfriend who was helping me*".

Counsel for the Third Defendant put in evidence a translation of an extract from the Report of the Consultative Medical Council of the Public Medical and Sanitarian Institution of the Centre for Family Doctors of the Republic of Moldova dated 19 February 2009 confirming the Third Defendants mother had been diagnosed with chronic hepatitis. It was the Third Defendants case that money transferred to Moldova was for her mothers hospital treatment. No evidence was put before the Court of what, if any, diagnosis had been made or treatment given to the Third Defendants mother at or about the time the money transfers in issue were made.

The Third Defendant is the girlfriend of the Second Defendant. She worked at West Park. It is simply inconceivable that she did not know that a proportion of the money transfers she made on behalf of the Second Defendant were the proceeds of crime, namely prostitution.

No evidence was put before the Court the Third Defendant had any financial interest in west Park. She was not charged under Count 4.

The Court finds that the Third Defendant, in joint enterprise with the Second Defendant, transferred the said money to recipients in Moldova for the purpose of concealing or disguising the source of the money, thereby assisting the Second Defendant who was involved in the facilitation of prostitution to evade the consequences of his actions, thereby indirectly promoting the underlying criminal activity.

3. Fourth Defendant

When he testified on 22 February 2011 the Second Defendant stated he had given the Fourth Defendant approximately 3000 Euros to transfer to Moldova on his behalf. However, it is unclear on the face of the Prosecution evidence the source of that income or precisely when those transfers were made. No evidence was put before the Court of any unlawful activity having been conducted by the Second Defendant when he was proprietor of AS.

Indeed, during the period 1 November 2006 - 7 April 2007 the Fourth Defendant transferred money to Moldova in the total sum of 1020 Euros. Each transfer made during the period in issue was a relatively nominal sum.

The Fourth Defendant was not charged under Count 4. No evidence was put before the Court she had any financial interest in West Park.

There was no evidence the money transfers made during the period 1 November 2006 - 7 April 2007 were made by the Fourth Defendant on behalf of the Second Defendant. It is equally likely the money transfers the Fourth defendant made during the period in issue were from her own income.

D. Determination of punishment

When imposing the criminal sanction, the court has to consider the general purposes of punishment, including deterrence, prevention and protecting society.

In the present case, the offence of Trafficking in Persons is a very serious offence and justifiably merits a commensurately severe sentence. Additionally, regarding the offence of Facilitating Prostitution, even though the punishment of a fine is also envisaged, only the punishment of imprisonment can reach the above-mentioned purpose. Of course, in relation to the criminal offence of Money Laundering the punishment shall be imprisonment and a fine.

These were serious cases of criminal acts committed over a period of time. Regarding Pal Pitaqaj and Aleksander Pitaqi, the aggravating circumstances are overwhelming compared to the mitigating ones: in fact the perpetrators showed particular determination, persistence and ruthlessness in committing the criminal acts. Moreover the criminal acts required a certain preparation, planning and commitment and the degree of criminal responsibility of Pal Pitaqaj and Aleksander Pitaqi must be considered as high because they were jointly involved in the day-to-day activities of West Park.

As to Veronica Dragan it is obvious she knew that at least a part of the proceeds of the money she transferred to

Moldova on behalf of the Second Defendant was the proceeds of an illegal activity.. Therefore, this is an aggravated circumstance in determining the punishment.

Pursuant to the rules of calculation of compounded sentence, the punishments shall be the followings:

as to Pal Pitaqaj:

the punishment for the criminal offence of *Trafficking in Persons* is four years of imprisonment; the punishment for the criminal offence of *Facilitating Prostitution* is two years of imprisonment; the aggregated punishment, due to the rules for punishment of concurrent criminal offences, is of five years of imprisonment;

as to Aleksander Pitaqi:

the punishment for the criminal offence of *Money Laundering* is three years of imprisonment and a fine of 12.000 Euro; the punishment for the criminal offence of *Facilitating Prostitution* is two years of imprisonment; the aggregated punishment, due to the rules for punishment of concurrent criminal offences, is four years of imprisonment and a fine of 12.000 Euros;

as to Veronica Dragan:

the punishment for the criminal offence of *Money Laundering* is two years and a fine of 6.000 Euro; Against Veronica Dragan an accessory punishment shall be imposed, since she is a foreigner who committed a criminal offence in the territory of Kosovo.

The time already spent in detention on remand is to be credited in the sentence of the defendants.

E. Costs

Pursuant to Article 102 paragraph (1) in conjunction with Article 99 paragraph (1) and (2) subparagraph (6) of KCCP, having convicted the Defendants Pal Pitaqaj, Aleksander Pitaqi and Veronica Dragan, they shall reimburse the costs of these criminal proceedings in an amount of 1.000€ each and the lump sum in an amount of 200€ each.

Pursuant to Article 102 paragraph 2 of KCCP, in respect of those offences of which the Defendants have been acquitted

and their legal expenses in defending that part of the criminal proceedings shall be determined and set off against those costs they are ordered to pay.

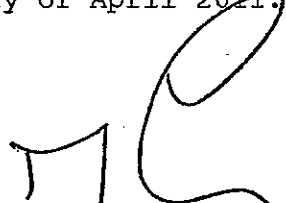
Pursuant to Article 103 paragraph 1 of KCCP, Elena Pislaru having been acquitted on all Counts her legal expenses shall be reimbursed from the State Budget.

F. Compensation Claim

The Injured Parties were not present at trial and were unrepresented. Pursuant to Article 108 paragraph 1 of the CPCK the Injured Parties have the right to pursue against the Defendants Pal Pitaqaj and Aleksander Pitaqi a property claim.

For the reasons stated herein we hereby render this Judgment.

Dated this 6th day of April 2011.

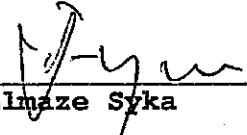


Judge Malcolm Simmons
President Judge



Judge Riku Jaakkola





Judge Elmaze Syka



Tarik Mripa
Court Recorder

LEGAL REMEDY: Pursuant to Article 398(1) of the Criminal Procedure Code of Kosovo, the authorized persons may file an appeal of this Judgment within fifteen (15) days of the day the copy of the judgment has been served. The appeal must be filed in written form through the District Court of Peja/Pec to the Supreme Court of Kosovo.

