

DISTRICT COURT OF PRISHTINË/PRIŠTINA  
P Nr. 504/2010  
4 July 2011

**IN THE NAME OF THE PEOPLE**

The panel of the District Court of Pristina, in a panel composed of EULEX Judge Karen Asphaug, as Presiding, and EULEX Judge Ferdinando Buatier de Mongeot and Kosovo Judge Fellanza Kadiu, as panel members, assisted by the court recorder Svetoslava Savova, in the criminal case against the defendants:

**X. T.** Kosovo Albanian, in detention on remand since 27 May 2010,

**A. K.**, , Kosovan Albanian; in detention on remand since 2010,

**G. I.**, f, Albanian citizen, in detention on remand since 4 December 2010,

Indicted with the indictment filed with the Court on 23 December 2010, by the EULEX Prosecutor of the Special Prosecution Office of the Republic of Kosovo (SPRK), Maarit Loimukoski, with the following offences:

**Count 1: Unauthorized Purchase, Possession, Distribution, and Sale of Dangerous Narcotic Drugs and Psychotropic Substances**, pursuant to Article 229, Paragraphs 1, 2, 3, and 4 of the Criminal Code of Kosovo (CCK) in conjunction with Article 23 thereof and punishable from three to fifteen years of imprisonment; an offence alleged to have occurred between 24 July 2009 and 15 September 2009 by A. K. and X. T.;

**Count 2: Unauthorized Purchase, Possession, Distribution, and Sale of Dangerous Narcotic Drugs and Psychotropic Substances**, pursuant to Article 229, Paragraphs 1, 2, 3, and 4 of the Criminal Code of Kosovo (CCK) in conjunction with Article 23 thereof and punishable from three to fifteen years of imprisonment; an offence alleged to have occurred between 4 September 2009 and 6 September 2009 by G. I. ;

**Count 3: Unauthorized Purchase, Possession, Distribution, and Sale of Dangerous Narcotic Drugs and Psychotropic Substances**, pursuant to Article 229, Paragraphs 1, 2, 3, and 4 of the Criminal Code of Kosovo (CCK) in conjunction with Article 23 thereof and punishable from three to fifteen years of imprisonment; an offence alleged to have occurred between 1 October 2009 and 25 November 2009 by X. T. ;

**Count 4: Organized Crime**, pursuant to Article 274, of the CCK and punishable from seven to twenty years of imprisonment, an offence alleged to have occurred between 24 July 2009 and 20 May 2010 by A. K. and X. T. ; and

**Count 5: Organized Crime**, pursuant to Article 274, of the CCK and punishable from seven to twenty years of imprisonment, an offence alleged to have occurred between 4 September 2009 and 6 September 2009 by G. I.;

After the main trial sessions held in public on 28, 29, 30 March, 26, 27, 28 April, 6, 14, 15, 28, 29 June 2011, in the presence of the accused, their defense councils (Visar Vehapi on behalf of A. K.; Bahtir Troshupa on behalf of X. T.; and Gafurr Elshani for G. I.) and the Public Prosecutor (Maarit Loimuskoski),

After deliberation and voting which took place on 30 June and 1 July 2011, pursuant to article 390 paragraph 3 and 391 CPCK, hereby renders the following:

### VERDICT

**Count 1: A. K. and X. T. are hereby found not guilty** for the commission of the criminal offence of unauthorized purchase, possession, distribution and sales of dangerous narcotic drugs contrary to article 229 paragraph 1,2,3,4, CCK,

**Because** there is insufficient evidence to prove the charge beyond a reasonable doubt; specifically, there was insufficient proof of the nature and quantity of the narcotic drugs and psychotropic substances allegedly possessed and distributed by the Defendants.

**Count 2: G. I. is hereby found not guilty** for the commission of the criminal offence of unauthorized purchase, possession, distribution and sales of dangerous narcotic drugs contrary to article 229 paragraph 1,2,3,4, CCK,

**Because** there is insufficient evidence to prove the charge beyond a reasonable doubt; specifically, there was insufficient proof of the nature and quantity of the narcotic drugs and psychotropic substances allegedly possessed and distributed by Defendant.

**Count 3: X. T. is hereby found guilty** of the criminal offence of unauthorized purchase, possession, distribution and sales of dangerous narcotic drugs and psychotropic substances, contrary to Article 229 paragraph 2 and paragraph 4 CCK in conjunction with Article 23 thereof,

**Because** X. T., in co-perpetration with others, including but not limited to S. T., G. G., A. T. and H. T., organized, supervised and directed the purchase of a narcotic substance, specifically, 109 kilograms of cannabis sativa, and planned

its importation from Albania to Kosovo for intended distribution elsewhere in Europe.

**Count 4: X. T. is hereby found guilty** of the criminal offence of organized crime contrary to article 274 paragraph 3 CCK, and **A. K. is hereby found guilty** of the criminal offence of organized crime contrary to article 274 paragraph 2 CCK,

**Because** between 24 July 2009 and 30 November 2009 X. T. and A. K. participated in an active, structured organized crime group consisting of three or more persons whose purpose was to transport, deliver and distribute narcotic drugs with the intent that they be distributed, sold or offered for sale. X. T. organized, supervised and managed the activities of the organized crime group by arranging and coordinating the importation, shipment and financing of shipments of controlled substances. A. K. actively participated in the organized criminal group by, amongst other activities, arranging couriers to transport the controlled substances, knowing that his participation would contribute to the commission of serious crimes by the organized criminal group.

**Count 5: G. I. is hereby found not guilty** of the criminal offence of organized crime contrary to article 274 paragraph 1 and 2 CCK

**Because** there is insufficient evidence to prove the charge beyond a reasonable doubt; specifically, there was insufficient proof that Defendant was a member of an organized crime group or knew that he was contributing to the commission of serious crimes by an organized criminal group.

## SENTENCE

### A. K.:

**Count 4:** Pursuant to article 38 and 274 paragraph 2 CCK, **A. K.** is sentenced to 8 years of imprisonment.

### X. T.:

**Count 3:** Pursuant to article 38 and 274 paragraph 3 CCK, **X. T.** is sentenced to 7 years of imprisonment and 200.000 EUR fine,

**Count 4:** Pursuant to article 38 and 229 paragraph 2 and 4 item 1 CCK, **X. T.** is sentenced to 10 years of imprisonment.

Pursuant to article 71 paragraph 1 item 1 CCK, the aggregated punishment imposed on X. T. is 15 years of imprisonment and 200.000 EUR fine.

**Confiscation:**

Pursuant to article 490 (1) CPCK, the Court confiscates the amount of 13.000 EUR seized from the defendant A. K. as the material benefit acquired by the commission of a criminal offence or as a result thereof.

The Court does not confiscate any goods from the defendant X. T., because insufficient evidence was submitted to the Court linking X. T.'s property to his criminal activities.

**Cost of the proceedings:**

The defendants, A. K. and X. T., jointly, shall pay the cost of the proceedings in amount of 300 EUR.

**Detention on remand**

Detention on remand of the accused A. K. and X. T. is hereby ordered until such time this verdict becomes final.

G. I. is immediately released from detention

**Reasoning**

**Procedural History**

1. On 23 December 2010 the Special Prosecution Office of the Republic of Kosovo (SPRK) filed an indictment against A. K., X. T. and G. I..

2. The indictment charged the defendants with unauthorized purchase, possession, distribution, and sales of narcotic drugs and psychotropic substances, and organized crime. The indictment alleges that A. K. and X. T. organized a shipment of drugs in September 2009, and that X. T. organized also the so-called November shipment. It is also alleged that A. K. and X. T. were part of an organized criminal group from July 2009 to May 2010. G. I. is charged with the same offences but the time frame he allegedly committed these criminal offences is reduced to a period between 4 to 6 September 2009.

3. A confirmation hearing was held before the Honorable Dr. Horst Proetel, EULEX Judge at District Court Prishtina. On 24 January 2011 Judge Proetel issued a ruling confirming the indictment in its entirety.

4. The case proceeded to the main trial and trial sessions were held on 28, 29, 30 March 2011; 26, 27, 28 April 2011; 6, 14, 15, 29 June 2011; and 1 July 2011 before the undersigned panel of judges.

5. The following witnesses appeared and testified at trial: Valentina Gashi, Sergeant Kadri Gashi; and Officer G. Islami (the last two witnesses are employed by the Kosovo Police).

6. In addition to the testimony of the witnesses, the trial panel admitted the following evidence:

a. Materials from Republic of Albania

- Police report on the operation dated 26, 28, 29, and 30 September 2009;
- Police report from Albania of 1, 2, 3 and 5 October 2009;
- Police officer report regarding 25.11.2009;
- Police officer report regarding 26, 27, 28, 29 and 30.9.2009;
- Police officer report regarding 1, 2, 3 and 5.10.2009;
- Police officer report regarding 16 and 22.10.2009;
- Police officer report regarding 7, 8 and 9.10.2009;
- Minutes on the inspection of vehicle Mercedes Benz License Plates TR 75981;
- Report on seizure of items by Albanian Police;
- Analysis of the Forensic Expert of the Republic of Albania on the substances found upon confiscation;
- Report from Republic of Albania regarding confiscation of the truck (of Sulejman Topuzi) dated 30.11.2010 (including photographs labeled "CD 5");

b. Materials from Kosovo

- Kosovo Police Surveillance Report of 5.08.2009, 2 to 5.09.2009 and 19.11.2009;
- Kosovo Police Surveillance Report of 3, 4, 5 September 2009;

- Supplement to Surveillance Report dated 24.05.2010 with photographs;
- Kosovo Police Report dated 3 March 2010: final interception report on results and analysis –‘summary of suspects’;
- Kosovo Police Report dated 16 June 2010 (Ref: 2008-XZ-039) re: financial investigation;
- Kosovo Police Report on Results of Financial Investigation dated 17<sup>th</sup> December 2010;
- Kosovo Police Search Report of X. T.’s house dated 27.5.2010;
- Debtors’ agreement, seized during house search of X. T. on 27.5.2010;
- Kosovo Police Search Report of A. K.’s house dated 27.5.2010;
- Kosovo Police Supplementary Report dated 31.5.2010 (2008-XZ-039);
- Report on forensic examination (Ref: 2008-XZ-039) of the items found during the house search of A. K. and X. T.;
- Kosovo Customs report on G. I. dated 4<sup>th</sup> December 2010;
- Kosovo Regional Border Police report on G. I. dated 4<sup>th</sup> December 2010;
- Order from Senior Police Officer Kadri Gashi on G. I. dated 30<sup>th</sup> November;
- Expert report on forensic analysis of the phone of G. I.;
- Kosovo Police Report about transcripts of interception from CDs from Albania, 17.11.2009 – 25.11.2009, dated 1<sup>st</sup> March 2010;
- Statements of A. K., to the Prosecutor, dated 1st June 2010 and 1<sup>st</sup> December 2010;
- Statements of X. T. to the Prosecutor, dated 2nd June 2010, 2<sup>nd</sup> December 2010 and 6<sup>th</sup> December;

- Statement of G. I. to the Prosecutor, dated 9<sup>th</sup> December 2010;
- Statement of Valentina GARA to the Prosecutor, dated 4th June 2010;
- Statement of Bashkim GASHI to the Police, dated 10th June 2010;
- Statement of Valter SHMID to the Police, dated 11th June 2010;
- All transcripts in Main Interception Binder (with enclosed CD of interceptions);
- All transcripts in Interception Binders I, II, III, IV, V, VI, VII, VIII, IX and X concerning X. T., A. K. and G. I.;

c. Materials from Slovenia

- Verdict at first instance of District Court of Kranj, Slovenia;
- Verdict at second instance of District Court of Kranj, Slovenia;
- Verdict at first instance of District Court of Ljubljana, Slovenia;
- Interceptions linked to A. K. (in translation) recorded by Slovenian Police;
- Report on the confiscation of drugs in car of Adrian CANA (including photographs labeled "CD4");

d. Material from Germany

- Financial report received from German authorities regarding X. T.;

e. Materials from Interpol

- Arrest warrant for A. K. from Slovenia; and
- Arrest warrant for A. K. from Italy

**Findings of Fact and Assessment of Evidence**

On 18 September 2008, the Interpol Liaison Office in Prishtina received a written request for joint cooperation and investigation from the Interpol Office in Ljubljana, Slovenia in regards to persons suspected of involvement in organized crime and drug trafficking. In response to this request, an investigation was launched in Kosovo. The investigation was conducted primarily by means of legal interception of communications and covert surveillance.

Defendants X. T. and A. K. are alleged to be members of an organized crime group centered in Albania that funneled illegal drugs through Albania, into Kosovo, and onward into other European destinations, including Slovenia, Netherlands and Italy. The group and its activities came under investigation due to an arrest in Slovenia. Defendant G. I. is alleged to be the courier for one of the drug shipments.

X. T. is a resident of Caprac village near Prizren. He was the supposed owner of the Restaurant Dora located in Prizren. Mr. T. owns residences in Caprac and Prishtina. He drives luxury motor vehicles, including a Mercedes Benz. He has previously owned an Audi motor vehicle. Mr. T. is married and has maintained an extra-marital relationship. His former girlfriend testified that during their time together, she received 5.000 to 6.000 Euro from Mr. T.. The Restaurant Dora did not generate enough business to be a viable business entity according to Sgt. Kadri Gashi, the lead investigator on this case. Mr. T.'s legitimate business venture did not support the lifestyle he maintained. At the time of trial, Mr. T. said that he is related to A. K..

A. K. is a resident of Korish village near Prizren. At the time of trial he stated that he and X. T. are friends. Mr. K. said that he is poor and has no regular income.

G. I. is alleged to be the courier for a shipment of drugs on 4 and 5 September 2009. Mr. I. is a resident of Koderlum village, Shtime Municipality, in the Republic of Albania.

The primary participants in the organized crime group are X. T., S. T. and G. G. (both residents of Albania), and H. T. and A. T. (both residents of the Netherlands). The investigation of this case focused on two primary events, the so-called 'September shipment' and the so-called 'November shipment'.

The interception of telephone communications occurred during the relevant time period of July 2009 through November 2009. The Defendants communicated by means of coded language, making efforts to avoid using drug-related terminology, but instead referring to the controlled substances by using other terms, such as 'cars', 'vehicles' or the like. The Defendants and others in their criminal group also use coded language to refer to a courier.

Surveillance conducted during the investigation revealed that meetings occurred between X. T., S. T., and G. G. in Vermice, Albania.

The intercepted communications between X. T., S. T., A. K., H. T., G. G., G. I. and others prove the existence of a well-organized international crime group whose purpose is to import and distribute controlled substances at a substantial profit to the members of the group. The intercepted telephone calls are replete with references to financial arrangements, profits and the shipment of drugs. Although the members of the group speak in code in an effort to conceal the true nature of their dealings, it is clear from the totality of the intercepted communications that they are speaking of one thing, and one thing only: organized crime focused on the importation and distribution of illegal narcotics.

The intercepted communications from the planning phase for the so-called September shipment include the following:

- **27.7.2009 at 14:42:58**

**X. T. speaks with G. G.** about an upcoming meeting with Syleman Topuzi. X. says that something has gone wrong "...I called him one day and he was saying I will see, I will bring you something, he should bring something and not play with me around, let's see what they will bring because this thing has gone wrong..."

- **28.7.2009 at 21:58:26**

**S. T. speaks with A. T. on X. T.'s phone**

"A. you have to straighten up (fix up) with X. and with H. and G. so I can finish the job in three days otherwise I have the car, I will sell the car and pay back your debt. You get on with life; I will get on with mine..."

A.: "...slow down Uncle Syl, because I will call him, I will call you back in five seconds. I will call you right back."

S. : "You have to fix this yourself because I do not have to interfere in your business, you mind your business and I will mind my business..."

- **28.7.2009 at 22:07:38**

**A. T. and X. T. are speaking** about the debt they have to S.

X. : "I should have told him f\*\*\* your car, you cannot sell nothing. How much money do you have? How much money do you have in total, how much do we owe him?"

A. : "How much money had G. given to him? How much do we owe him? You do the calculation."

X. : "He had 18 in total."

- **28.7.2009 at 22:10:35**

**A. and X. continue the conversation**

A. : "I asked who promised him and he told Hamdi had promised G. and I went with them to Hamdi and asked him, where is the money of Uncle Syl. He said 'What money?' I told him the money you have promised to him, all we can do is at least send the money to him. If he deserves it give it to him, why don't you give the money to him? I told him you don't have to take care of this. I will take care of Uncle Syl; did I not tell you don't promise people things?"

A. : "...all together, but you know they had to buy for you too, because I had to finance everything for you...Now man, you have taken more than half of the money..."

X. : "Let me talk to G. and see if things get better."

- **3.8.2009 at 19:25:27**  
**Conversation between X. and A. K.**

X. : "Okay, tell him in one week I will find you some 50.000 euro and we can make a deal."

- **5.8.2011 at 12:37:32**  
**X. speaks with G. G.**

Gezim: "Hey listen up, since you are there, call H. since G. told me that H. will send you money to give it to Uncle Syla."

X. : "Whom shall I call?"

G. : "H. . Tell him are you going to send money with Western Union?"

X. : "Okay, done."

- **5.8.2009 at 16:07:35**  
**X. speaks with A. T.**

X. : "I am with Uncle Syla and Gezim, going again at your house since we need to look at something else as well."

A. : "Okay, see that he spoke with a friend of his if he can find/lend some 4500 euro here."

X. : "is he going to be able to do that?"

A. : "Yes, there, and I am even with them."

X. : "Done. Okay, shall I tell Zenel not to get ticket at all?"

A. : "Okay, tell him. Tell him the little one, he will find a friend and will finish the business and then I will give it to the little one. And give him 4500 euro and he will call me on the phone and he will have not bother us anymore."

X. : "Since we are together here, going to the village. Where are you going to give him, in Albania?"

A. : "No, here in Kosovo...4500 euro, I am saying I will give it to him in here and he will give it to you over there."

- **7.8.2009 at 14:47:57**

**X. speaks with his sister Katrina about large cash deposits in a German bank account**

Katrina: "The one in the bank reported mom. Allegedly she was suspicious on where did she get 10.000 euro...when she saw her with 10.000 euro all in 20 bills she called the police."

- **7.8.2009 at 22:34:14**

**X. receives a SMS from a German number**

"Hey uncle, mom is saying the situation is not good. Come online, let's find a solution."

The investigating officer, Sgt. Gashi, explained that persons involved in criminal activities use the internet to communicate in order to avoid the risk of intercepted communications.

- **8.8.2009 at 19:01:24**

**X. speaks with an unknown male person (UMP)**

X. : "did I tell you that the guy is going to come, that is a done deal...and how much was he asking for the quantity?"

UMP: "This one said 85."

- **12.8.2009 at 21:32:32**

**X. sends two SMS to his girlfriend**

"On Saturday I will go with Qera to Albania, we have something to do there."

"I am upset, and this idiot is not answering the phone. If it is set to go tomorrow, I do not know what to do."

- **12.8.2009 at 21:33:27**  
**X. received SMS from his girlfriend**

“100 kg of meat will do (will be enough).”

The defendants had a series of communications concerning the September shipment, beginning on 1 September 2009. On 2 and 3 September 2009 alone there were 16 calls and SMS messages between X. T. and A. K. in which the logistics of the September shipment were made. During those same two days a total of 25 calls and SMS messages were sent between the members of the criminal group. In the various communications leading up to the so-called September shipment there are references to delivering the drugs to Italy (“to the water”) and to Switzerland (“to the cross”). The reference to Switzerland as the cross is a reference to the Swiss flag. Some of the communications are referenced below:

- **1.9.2009 at 12:09:36**  
**Unknown person calls X. T.**

X. : I am thinking very soon, I just wanted to first come and meet you and...then continue the procedure. I wanted to depart yesterday but there is no money.

- **1.9.2009 at 12:21:59**  
**X. T. calls A. K.**

X. : You have switched off both phones.

A. : Yes, I just switched them on.

X. : Are you crazy or what's wrong with you?

- **1.9.2009 at 21:54:09**  
**X. T. is speaking with S. T.**

X. : I talked to that guy. He can come, he can depart...to go there, he said there is no problem. And it needs to go to the water, do you understand me? ... He asks me how much is his car. I said I don't know.

Syleman: The car costs 12.000 euro.

X. : 12.000 euro? The one at the junction wants 1.700.

Syleman: It is ready whenever he wants.

X. : Okay, I will tell him to depart, and come here, when he reaches here, I shall give you a call.

S. : Yes he departs, but you shall approach tomorrow close to Quekesi, near Kukes, we shall meet there. We shall meet tomorrow, during the day, we shall meet there.

X. : Whenever you want, just give me a ring and I will go there.

• **2.9.2009 at 16:44:57**

**X. call his girlfriend, Valentina**

Valentina: Where is your location now?

X. : I am almost near customs.

Valentina: Really, with Qera?

X. : With Qera. Almost near the customs.

• **2.9.2009 at 16:48:50**

**X. calls G. G.**

X. : Hey uncle, I am coming towards you with my guy, we are together.

• **2.9.2009 at 19:44:08**

**A. K. calls X.**

X. : I am in the middle of Tirana, where can I be, where are you?

A. : I am in Prizren, I have just come.

X. : I am with this friend, when will that boy come?

A. : Tomorrow.

X. : At what time, afternoon or in the morning?

A. : He is coming, that is important.

• **2.9.2009 at 20:18:49**

**A. K. sends SMS to the courier**

"Has gone to take, as soon as he is back I call you."

The group originally planned to bring the drugs to X. T.'s house in Caparc and from there, send them on to Switzerland and elsewhere. On 2 September 2009 X. called A. and said "when they come to me, immediately we should finish with it because it shall not stay with me."

On 3 September 2009, X. informed A. that the courier would enter Kosovo the following day ("the uncle is here tomorrow"). X. and A. were seen meeting together by the Kosovo Police surveillance team at 18:58 on the evening of 3 September 2009 at the OK Restaurant near Prizren. Thereafter they went to the Restaurant Dora where they conversed until 22:20. Shortly thereafter, the surveillance team observed that X. T. went to the Restaurant Estrada in the village of Malsi e Re, where he met a large number of people, including a person with a Golf car with Slovenian registration LJ 389 SF and another with a BMW car with Swiss registration LU 237 324.

On 4 September 2009, X. received an SMS from S. T. that informed him that the courier would be at X. 's place "around 8". At 21:01:42 that evening, S. T. called X. T. to tell him that "the monkey is there", a codeword for the courier. Topuzi promised to text the courier's number and at 21:03:12, Topuzi sent X. and SMS with the telephone number "44715171". This is the telephone number of G. I., the courier.

After receiving the number, X. called G. I. twice and instructed G. to wait for X. at a wedding hall near the Hotel Albes complex in Korishe village, near Prizren. X. repeats his instruction to G. to wait "because one of my guys is coming to you (at) the gas station." The Kosovo Police surveillance team observed X. T. meeting with two people who got out of a green VW van bearing Kukës registration KU 1962 at the Albes complex around 21:13. The meeting lasted until around 21:28, when the driver of the van left in the direction of the Albanian border. The driver of the van, G. I., stopped at the Badallaj gas station near the border. He parked the van, opened the doors of the garage, and drove inside. The surveillance team was not able to see what occurred inside the garage.

G. I. stayed inside the garage until 21:41, at which time he exited and drove towards the border through Vermice. The prosecution argues that this is circumstantial evidence that Iseberi left the drugs in the garage where he picked them up the next day for delivery.

On the morning of 5 September 2009, X. T. and A. K. met at Restaurant Albes between 09:19 and 09:50. At 09:16, X. received a SMS message from an Albanian number concerning the destination of the drugs, "Murghentahl, close to Arau." Murghentahl is located in Switzerland. Following the meeting, X. left towards Prishtina and A. remained in the Prizren area.

G. I. returned to Kosovo on the morning of 5 September 2009. He was driving the same van in which he was seen on the previous day, bearing Albanian

registration KU 1962. The surveillance officer described the only occupant of the van as the driver, "aged approximately 50 years old, blond, wearing white shirt, blue jeans and black shoes." This description matches the physical characteristics of G. I.. Iseberi drove the van to the same garage in Badallaj that he entered the previous day. He entered the garage and closed its doors, thereby preventing his activities from being observed by the surveillance team. The van remained inside the garage until 09:51.

At 09:59 the van drove to a shop in Korishe village (the home village of A. K.) and a new person exited a dark blue Golf III car, bearing Kosovo registration 438-KS-121 and took over as the driver of the van. Iseberi exited the van and remained on foot. The van was driven by the new driver to Caparc village, the home village of X. T..

In Caparc village the new driver replaced the license plates on the van, removing the Albanian plates and replacing them with German temporary plates. The van then changed directions. It is believed that the driver of the van realized that he was being observed by a surveillance team and that the driver threw the drugs into a nearby field, intending that they be retrieved later.

At 10:11 the van reappeared on the highway and drove in the direction of the Albanian border. The van was stopped and searched, but no drugs were found inside the vehicle.

At 10:34 X. called S. about the problems during the delivery of the drugs. X. said "Somebody else met them...I have a real mess, my guys, because people went after them. For God's sake, right now...he is saying that they managed to run away, do you understand? When they saw that they were being chased, they changed the direction." X. reported to S. , "For God's sake, they flew away, it has been a big mess, they drove in front of them with cars; it is a big mess the whole thing."

X. told S. that he was leaving to see what the situation was like. He told S. that "the woman" (code for drugs) was left on the road in a safe place. X. recovered whatever was discarded from the van and later reported that "everything is fine." He then told A. to buy IPKO numbers, in an apparent effort to avoid potential interception of communications.

On 11.9.2009, H. T. called X. from a Dutch number and said, "...he finished the job and it means that the profit is 86.000."

The panel, in returning the not guilty verdicts for the September 2009 alleged shipment applied its understanding of the significant burden of proof in criminal cases, that being proof beyond a reasonable doubt. Due to the ongoing nature of the investigation, the police elected not to attempt to locate the package that was being transported on 5 September. The panel does not criticize the police

for their conduct on 5 September and understands that the events of the day occurred in the context of a multi-national ongoing investigation. But the fact remains that the alleged controlled substances were not seized and the intercepted telephone calls are not sufficiently clear to determine the nature of the substance. As a result, the panel cannot surmise or presume what was contained in the package that was allegedly transported.

The Prosecution has failed to prove the elements of Counts 1 and 2 beyond a reasonable doubt and as a result, the Defendants are acquitted of the charges of Unauthorized purchase, possession, distribution and sales of dangerous narcotic drugs alleged to have occurred in September 2009. Additionally, the Prosecution has failed to prove the elements of Count 5, Organized Crime, against G. I., and he is acquitted of that offense.

Following the September events, X. T., A. K. and others continued to participate in the organized crime group. X. T.'s role was to organize, supervise and manage the activities of the organized criminal group by arranging and coordinating the importation, shipment and financing of shipments to controlled substances. A. K. actively participated in the organized criminal group by, amongst other activities, arranging couriers to transport the controlled substances, knowing that his participation would contribute to the commission of serious crimes by the group.

Beginning in October 2009 X. T. organized, supervised and directed the purchase of 109 kilograms of cannabis sativa from associates in Albania. Thaqi planned its transportation from Albania to Kosovo for intended distribution to and sale in other European destinations. The drugs, however, did not make it to Kosovo or to their intended destination in Europe. Rather, on 25 November 2009 the Albanian Police intercepted a Mercedes Benz vehicle bearing Albanian license plate TR75981 which was abandoned by the couriers upon spotting the Albanian Police surveillance team. The vehicle contained 102 packages of cannabis sativa, with a total weight of 109 kilograms. The packages were analyzed by the Albanian Criminalistics Forensic Laboratory, which confirmed their contents as cannabis sativa.

On 4.10.2009 H. T. , a member of the organized crime group who lives in the Netherlands, called X. and said "A very powerful friend of mine has come from Switzerland. A very good guy with money has come." Soon afterwards, X. made plans to go to Albania to make an agreement with G. G. for the next shipment (see intercepted communications of 7.10.2009 between X. and H. T. ).

Five days later, A. T. called X. from the Netherlands. A. asked X. if he has seen "the parcels" and asked if they are big or small. X. replied "There was every kind, my dear. And I was sorry that I did not have a camera with me to take a picture of all those cars...there was everything even though I do not have much knowledge regarding cars but it seemed to be something very good." It

should be noted the word 'cars' is coded language for packages of illegal drugs. X. instructed A. to call him on his IPKO number.

On 26.10.2009 X. called A. K.. X. reported that he had eaten lunch with friends in Vermica and when A. asked "What did they say?" X. replied, "What the f\*\*\* they should say? They said we will give you as much money as you want", to which A. replied, "That is the most important."

On 17 November 2009 X. sent G. G. a SMS message stating "It will be ready for Thursday, 100 to 150 square meters." The next day X. sent a follow up message stating "I spoke with the guy who is a commander; for sure the job will be done, 100 to 150 square meters."

On 19 November 2009, X. T. met with G. G. near a market in Prizren. The meeting was observed by the Kosovo Police surveillance team. The two were seen meeting at a restaurant "Marlboro" in Prevala, from there they travelled to another restaurant, to the home of X. 's brother, and from there to X. 's restaurant, 'Dora'. On that same day G. asked X. , "A friend of mine keeps begging me for a job, so can you do me favor for that donkey?" X. replied "I will give you the answer in 2 or 3 hours", to which G. replied "For about 15 or 20 thousand." The term 'donkey' is used by drug dealers to describe a courier.

On 21 November 2009 H. T. called X. to inform him that "on Monday we will take 110.000 euros to be sent to G. for their goods" and that he had already received 62.200. X. asked H. to send 1000 euro to him through Western Union. On that same day A. T. called X. about the quality of the drugs. A. said "The place should be clean...the garbage should be clean." X. told A. not to worry about it.

Over the next two days there were conversations between X. and A. T. concerning the financing of the deal and the division of the profits. On 24 November 2009 G. G. sent a SMS message to an associate with number 0685381239 saying "we will land tomorrow morning", meaning that the shipment to Kosovo was schedule for the next day, 25 November 2009.

On 25 November 2009 Albanian Police observed G. G. and five other persons meeting in the town of Fier at the Hotel 'Europa'. The men arrived in three separate cars, one of which was the Mercedes Benz with registration plates TR7598. The men eventually drove away from the hotel and kept a distance of 2-3 km between their cars. As detailed above, the Mercedes Benz was found abandoned by its occupants. It contained 109 kilograms of cannabis sativa.

Following the arrests of X. T. and A. K., the Kosovo Police conducted searches of their homes. An illegal gun was seized during the search of X. T.'s residence. During one of the intercepted phone calls, X. asked where he could buy an armored car.

The police found 13.000 euro during the search of A. K.'s residence. A. K. does not have a legitimate source of income and his explanation for having a large sum of cash in his residence was simply not believable. The only logical explanation for cash found at A. K.'s residence is that it represents his share of the profits of the organized crime group.

The prosecution has proved beyond a reasonable doubt that X. T. is guilty of Count 3, Unauthorized purchase, possession, distribution and sale of dangerous narcotic drugs (the November shipment) and he is convicted of this offense as detailed in the Enacting Clause. Additionally, the Prosecution has proved beyond a reasonable doubt that X. T. and A. K. are guilty of Count 4, Organized Crime and they are convicted of this offense as detailed in the Enacting Clause.

In order to establish the sentence, the panel took into consideration the following aggravating circumstances:

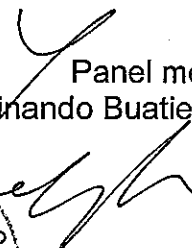
- The extended time period the defendants were involved in the organized crime activity;
- The seriousness of the offense perpetrated by the defendants;
- The large profit realized by each defendant in connection with their illegal activities; and
- The harm caused to the community and members of the public by the importation of dangerous narcotic drugs.

The Court did not find any mitigating circumstances to be considered in favor of either Defendant. The Court took into consideration the functions of punishment in this case: to prevent the defendants from committing similar activities in the future and to deter others from engaging in this type of organized criminal activity.

The Court is satisfied that the sentence imposed is commensurate with the seriousness of the offense.

  
 Presiding Judge  
 Karen Asphaug

  
 Panel member  
 Filanza Kadiu

  
 Panel member  
 Ferdinando Buatier de Mongeot

Court recorder  
 Svetoslava Savova

  
**Legal Remedy**



The parties have the right to appeal this verdict within fifteen (15) days of the day the copy of the judgment has been served pursuant to Article 398 Paragraph 1 of the Kosovo Criminal Procedure Code (KCPC) to the Supreme Court of Kosovo through the District Court of Prishtinë/Priština.

The appeal must be announced within eight days from the date of the verdict.