

**DISTRICT COURT OF PRISTINA**

P 57/10

21 April 2011

The District Court of Prishtinë/Priština, in the panel composed of EULEX Judge Karen Aspbaug as Presiding Judge, EULEX Judge Dr. Horst Proetel and local Judge Shemsi Hajdini, as members of the Panel, in the criminal case against:

- 1) **A. K.**, residence Dogagi village in the municipality of Kacanik, male, nationality Kosovan Albanian, in house detention since 5 February 2009;
- 2) **X.Z.**, , residing in Kacanik, married, Kosovar Albanian;
- 3) **B.H.**, Firajë/Firaja Village, Shtërpçë/Štrpce Municipality; where he currently resides, born on 27 October 1976, Kosovo Albanian, profession Police Officer, single, good financial status,
- 4) **N. C.**, place of birth Doganaj/Doganovic Village, Kaçanik/Kacanik Municipality, where he currently resides, Kosovo Albanian, profession TMK member, married with two children, average economic status:

Assisted by the court recorder Vlora Johnston

After having held public hearings on 17, 18 November 2010; 6 and 8 December 2010; 14, 15, 16, 18, 21, 22, 23, 24 February 2011; 14, 23, and 25 March 2011; and 19 April 2011, in the presence of the SPRK Prosecutor Ms. Maria Bamieh, of all the accused and their defence counsels Ahmet Ahemti on behalf of A. K., Xhevdet Shala on behalf of X.Z., Ariannit Koci, appointed ex-officio by the Court on behalf of B.H., and Azem Vilasi on behalf of N. C, and Ibrahim Shalla on behalf of the Ministry of Justice and the KTA, after deliberation and voting held on 20 and 21 April 2011, publicly announces the following:

**VERDICT**

Pursuant to articles 37, 38, 39, 391, para 1 and 2, CPCK,

A. K., X.Z., B.H., N. C, with details above, are

**FOUND GUILTY**

Because

X.Z., A. K., B.H., and N. C, acting in co perpetration as part of a group on various dates between, on or about the 26<sup>th</sup> June 2006 and the 1<sup>st</sup> August 2006, with the intent to obtain an unlawful material benefit for himself or another used serious

threats to compel another to do or abstain from doing an act to the detriment of his property; specifically, the Defendants threatened to kill the injured parties if they did not withdraw from their winning tender with the KTA (16th wave) for a 32 hectare sheep farm in Rakaj village, Ferizaj Municipality. Over the course of several days from on or about 27<sup>th</sup> July 2006 until 1 August 2006 the Defendants coerced the winning parties to withdraw from the tender by use of direct and indirect death threats. As a result of these threats the victims Sh. L, Xh. S and A. S. agreed to withdraw from the tender and thereby handed over their interest to A. K., the second highest bidder. On or about 8 August 2006, B.H. and N. C accompanied Sh. L to the KTA offices in Prishtina, when the injured party actually filed the withdrawal from the tender, thereby bestowing great material benefit to the defendants.

***Thereby X.Z., A. K., B.H., and N. C committed the offence of Extortion contrary to ARTICLE 267 (1) (2) of the CCK as read in conjunction with article 23CCK***

Pursuant to article 390 point 2 CPCK, A. K., X.Z., B.H., N. C, with details above, are

#### **FOUND NOT GUILTY**

For the commission of the criminal offence of Threats contrary to article 161 paragraph 4 CCK, as charged in the count two of the indictment,

Pursuant to articles 37, 38, 39, 391, para 1 and 2, CPCK, X.Z. is

#### **FOUND GUILTY**

#### **Because**

On the 4<sup>th</sup> November 2008, during a search at the home of X.Z. in Kacanik Police found that he was in possession of a quantity of fire arms, ammunition and explosives without a valid weapons authorization card or any proper form of licensing. X.Z. had automatic weapon "MPT-9" of the caliber 9x19mm, its serial number is written in Persian alphabet deciphered as 73-23328, automatic weapon "MPT-9" of the caliber 9x19mm serial number is written in Persian alphabet deciphered as 732322, automatic rifle "AK 47" caliber 7.62x39 mm serial number E-75572, pistol "Crvena Zastava" model 99 caliber 9x19mm with serial number 72915, six magazines, quantity of bullets, an unexploded ordinance a Mortar 88 mm and quantity of explosive.

**Thereby X.Z. committed the offence of unauthorized ownership, control, possession or use of weapons contrary to Article 328(2) of the CCK**

Pursuant to articles 37, 38, 39, 391, para 1 and 2, CPCK, A. K. is

## FOUND GUILTY

### Because

On the 4<sup>th</sup> November 2008, police were executing a search warrant at the home of A. K.. In the course of this search police found that A. K. was in possession of a pistol "Ekol Special" model 99 serial number V760928 which pistol has been redesigned manually and was converted into a firearm of the caliber 7.65x17mm.

**Thereby A. K. committed the offence of unauthorized ownership, control, possession or use of weapons contrary to Article 328(2) CCK**

Therefore,

A. K. is sentenced to three years of imprisonment for the count one of the indictment and 1500 Euro fine for the charge of unlawful possession of weapons. The time spent in detention on remand and house arrest shall be included in the punishment to be served when this judgment becomes final.

X.Z. is sentenced to three years of imprisonment for the count one of the indictment and 1500 Euro fine for the charges of unlawful possession of weapons.

B.H. is sentenced to one year and two months imprisonment.

N. C is sentenced to one year and two months imprisonment.

The fine shall be paid by the defendants within three (3) months after the judgment has become final. In case the fine cannot be collected by compulsion, the payment of the fine shall be substituted with a day of imprisonment for each fifteen euro of the fine.

Pursuant to art. 102. para 1, of the CPCK, the defendants shall reimburse the costs of criminal proceedings with the exception of the costs of interpretation and translation. The Court establishes a cost of 600 Euro for the criminal proceedings to be paid jointly by the defendants.

## REASONING

### Procedural History

1. On 1 March 2010, the Special Prosecution Office of the Republic of Kosovo (SPRK) filed an indictment against X.Z., A. K., B.H., Fikri Hasani, Nesim Curri, N. C and Afet Dalloshi.

2. The indictment charged the defendants with extortion, threats, and for defendants X.Z. and A. K. also with unlawful possession of weapons. The indictment alleges that the defendants acting in co-perpetration as part of a criminal group, on various dates between the 26<sup>th</sup> of July 2006 and the 1<sup>st</sup> of August 2006 committed the offences of extortion by use of threats against Sh. L, Xh. S, and A. S. , in order to materially gain from these activities. In that, on or about the 27<sup>th</sup> of July 2006 they threatened to kill the injured parties if they did not withdraw from their winning tender with the KTA (16<sup>th</sup> Wave) for a 32 hectares sheep farm in Rakaj, Ferizaj Municipality. The defendants further allegedly threatened the victims on or about the 28<sup>th</sup> of July 2006, telling them that if they did not withdraw there will be bloodshed. On the same day, the 28<sup>th</sup> of July 2006 X.Z. called Xh. S and threatened him and later there was a meeting at the home of Xh. S attended by Nesim Curri where the victims were told again to withdraw. On or about the 29<sup>th</sup> of July 2006, the victims were told by Nesim Curri to withdraw or there will be bloodshed. At a meeting in Skopje, on a date between 30 July 2006 and 3 August 2006, as a result of these threats the victims Sh. L, Xh. S and A. S. agreed to withdraw from the tender and thereby hand over their interests to A. K., the second biggest bidder.

3. Further more, the indictment charges A. K. and X.Z. with unlawful possession of weapons, because during searches performed at the home of X.Z., the Police found and confiscated: automatic weapon MPT-9 of the caliber 9x19 mm, its serial number is written in Persian alphabet deciphered as 73-23328, automatic weapon "MPT-9" of the caliber 9x19 mm, its serial number is written in Persian alphabet deciphered as 732322(?) automatic rifle AK-47 caliber 7.62x39 mm, serial number E-75572, Pistol "Crvena Zastava" model 99 caliber 9x19 mm with serial number 72915, six magazines, quantity of bullets and quantity of explosive.

4. Likewise, the Police searched the house of A. K. and found a quantity of firearms, ammunitions, and explosives without a valid weapons authorization card or any proper form licensing. Namely: 3 hand grenades, automatic rifle AK-47 caliber 7.62x39 mm, serial number 0120114-91, Pistol "Ekoll Special" model 99 serial number V760928, which pistol has been redesigned manually and was converted into a firearm of the caliber 7.65x17mm, and a quantity of bullets.

5. A confirmation hearing was held before the Honorable Charles Louis Smith III, EULEX Judge at District Court Prishtina. On 19 July 2010 Judge Smith issued a ruling confirming the indictment in its entirety.

6. During the confirmation hearing held on 7 July 2010, the SPRK Prosecutor amended the first count of indictment, so as to read that the defendants were part "of a criminal group", as opposed to "part of an organized criminal group" as initially mentioned in the indictment.

4. The case proceeded to the main trial and trial sessions were held on 17 and 18 November 2010; 6 and 8 December 2010; 14, 15, 16, 18, 21, 22, 23,

24 February 2011; 14, 13, 15 March 2011; and 21 April 2011 before the undersigned panel of judges.

5. The following witnesses appeared and testified at trial: Xh. S, Sh. L, A. S. , E. S, Stefan Zwolak, Driton Vrajolli, R.R L., and G. S.. The defendants themselves decided to defend themselves by testifying, thus their testimony has been heard by the panel.

6. During the main trial session held on held on 18 February 2011 the Public Prosecutor withdrew the indictment against Fikri Hasani and Afet Dalloshi, and during the main trial session held on 24 February 2011 the Public Prosecutor withdrew the charges against Nesim Curri.

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

- Investigative notes Serkan Turkyilmaz 17420 dated 10/04/08 regarding the Telephone numbers E. S had at the relevant time;
- Investigative notes Serkan Turkyilmaz 17420 dated 09/04/08 informing that PTK do not have any information on Metering at all for period July 2007 –August 2006;
- Investigative notes Serkan Turkyilmaz 17420 dated 03/04/08 with regard to meeting with Xh. S, to obtain further information on telephone numbers asking the witness to provide list of threats;
- Investigative notes Serkan Turkyilmaz 17420 dated 04/04/08 regarding a meeting with Xh. S who brought the list of threats he received on his mobile 044 497 944, and his son's mobile 044 391 111;
- SMS messages received on 044497944;
- Details of threatening calls received by Xh. S's son Durim Suma;
- Investigative notes Semih Suer 17027 dated 24<sup>th</sup>/03/08 informing that KTA had destroyed all the visitor entry logs for 2006;
- Letter from Balkan International dated 25<sup>th</sup> March 2008 informing that KTA had destroyed all the visitor entry logs for 2006;
- Letter Kosovo Trust Agency ( KTA ) dated 20/03/08 informing that Deposit was returned to Witness Sh. L;

- CBAK money Transfer 50,000 Euros from KTA to Interkos return of deposit;
- Investigative notes Semih Suer 17027 ;
- Interview with Shkumbin Becaj Informing that KTA had destroyed all the visitor entrees logs for 2006;
- Investigative notes Semih Suer 17027dated 15 /03/08;
- Memo to KTA from Semih Suer 17027 dated 13/03/2008;
- Investigative notes Semih Suer 17027dated 12 /03/08;
- Diary entries Sh. L listing the threats;
- Investigative notes Semih Suer 17027dated 12 /03/08;
- Sh. listing further threats;
- Investigative notes Semih Suer 17027 dated 10/03/08;
- Details investigative actions;
- Police report Thomas Choate dated 10/03/2008;
- Investigative notes Semih Suer 17027 dated 06/03/08;
- Photo Identification by A. S. and photographs;
- Investigative notes Semih Suer 17027dated 06/03/08 ;
- Photo Identification by Xh. S;
- Police report Thomas Choate dated 05/03/08;
- Review of KTA documents;
- Police Report Thomas Choate 14395 dated 05/03/08;
- Photo Line up Sh. L;
- Police Report Thomas Choate 14395 dated 01/03/08;
- Photo Line up preparation;
- Police Report Thomas Choate 14395 dated 25/02/08;

- Police report Thomas Choate 14395 dated 19/02/08;
- Police Report Viacheslav Martynov 15071 dated 15/02/08;
- Police Report Semih Suer 17027 dated 15/02/08;
- Police report Thomas Choate 14395 dated 14/02/08;
- Record of search A. K. residence;
- Record of search X.Z. residence;
- police report Sgt. A. Rexha dated 4 November 2008 regarding the arrest and search of A. K.;
- investigative notes Serkan Turkyilmaz dated 20/10/08;
- report of Explosive Ordinance Disposal Haddock SFC Chebahtah P99 incident number 753-116-07; dealing with the disposal of the Device found by Sh. L at his home on the 2<sup>nd</sup> October 2007 the device was identified as a mortar Yugoslav M57 60mm;
- memorandum of Sgt Driton Vrajolli dated 04/11/08;
- notes from Dairy of Sh. L undated;
- report from Serkan Turkyilmaz dated 4 August 2008;
- request to PTK telephone metering 23<sup>rd</sup> May 2008;
- Report Serkan Turkyilmaz dated 23 May 2008;
- Metering of telephone calls and SMS messages;
- Report Serkan Turkyilmaz dated the 29 April 2008 about a prospective bid by Gaffur Saliu;
- Sale of property agreement Xh. S dated 14<sup>th</sup> June;
- Police report Herve Bousquet 00424 dated 8<sup>th</sup>/04/2009 detailing police activities in getting a KFOR report regarding the explosives found during the search; Marco Giacometti;
- Inventory of items seized which were handed over to EULEX;

- Police report Jorma Kuikka 00391 dated 16<sup>th</sup> 02.2009;
- Police report Jorma Kuikka 00391 dated 10.03.2009;
- Tenancy agreement for the Sheep farm between Bajram Murselli and Mohammad Reza and Bekim Avdiu for A. K. dated 14/08/08;
- Ballistics examination;
- Police report dated 20/01/2009 Jorma Kuikka;
- X.Z. gives a secret CD recorded at the Skopje meeting to Sabit Dalloshi the brother of Afet Dalloshi. Sait Dalloshi hands this to police;
- Summary of the CD;
- Police report of Semih Suer CP 17027 dated 10/03/08;
- Police report of Semih Suer CP 17027 dated 10/03/08, getting the telephone numbers from victim Xh. S regarding threats;
- Report on search of house of X.Z. from Sgt. Driton Vrajolli dated 04/11/2008;
- Police report of Officer Antonio Fulco dated 4<sup>th</sup> November 2008;
- Police report Viascheslav Martynov dated 15/02/2008;
- Police report Suer Semih 12/11/08 Seizure of Laptop HP S/N CNF7050PDF X.Z.;
- Police report Antonio Fulco dated 7/11/ 08 Regarding contacts with X.Z. following the arrest of the defendants;
- Search records B.H.;
- Search record X.Z.;
- Police report Smail Krasniq regarding search of B.H.;
- Search and arrest records N. C; and
- Search and arrest records A. K..

## Findings of Fact and Assessment of Evidence

Sh. L and Xh. S are both successful business owners who reside in the City of Hani I Elezit. They formed a partnership with Xh.'s brother, A. S. , for the purpose of submitting a bid in connection with a tender offer from the KTA concerning a sheep farm located in the Village of Rakaj. The three partners submitted a bid in the amount of 566.666 euro for the purchase of the sheep farm and deposited 51.000 Euro when they placed their bid. The bid was submitted in the name of Sh. L's company. Xh. S contributed 32.000 towards the deposit; Sh. L contributed the balance. A. S. did not contribute financially to the tender bid, but was a "sweat equity" partner in the endeavour.

On 26.07.2006 the three partners learned that they were the successful bidders in the tender offer. The three celebrated their success that same day. On the next day, 27.07.2006, the three partners were sitting in Xh. S's garden when Sh. L received telephone calls from Defendants A. K. and X.Z.. Both Defendants asked to meet with the three partners and they agreed to meet at the Restaurant Niki, located near Xh. S's home. Sh. L, Xh. S and A. S. went to the Restaurant Niki, where they were joined by X.Z., A. K. and Afet Dallosi.

X.Z. is the mayor of Kacanik, a successful business owner, and a former commander in the Kosovo Liberation Army (KLA). The other defendants, A. K., B.H. and N. C are all former KLA soldiers who were under X.Z.'s command. Mr. X. Z. continues to refer to them as 'my men' and there continues to be great loyalty among the group of former comrades in arms. X.Z. has a formidable reputation in the region in which the injured parties (Sh. L, Xh. S and A. S. ) reside. He is the mayor of the municipality, he is politically active, and he enjoys the status and respect of being a war hero. He holds himself out as a person of great authority who is often called upon to mediate disputes among members of the community.

A. K. established a business partnership together with several former KLA soldiers for the purpose of bidding on the sheep farm tender. The A. K. group submitted a bid in the amount of 319.582 euro, which was the second highest bid received. The tender was awarded to Sh. L and his partners and not to A. K. and his partners. A.'s business partners were Bekim Avdiu, Hestet Malesiu, Mustafe Dalosshi, Afet Dalosshi, N. C, B.H., Fikri Hasani, Ali Aliu, and the late Enver Haziri. X.Z. was not a member of the business venture.

The meeting at the Restaurant Niki was not of long duration. Tensions were high and there was commotion. A. K. demanded that Sh. L and his partners withdraw their winning bid, thereby allowing the sheep farm to be awarded to A. K. and his partners. Luri refused. X.Z. told Sh. L, Xh. S and A. S. , "You cannot take this tender, otherwise graves will be opened." This was a direct threat made by X.Z. to Sh. L and his partners. A. K. told Sh., Xh. and A. that they were not allowed to get the tender "as it belongs to us." A. K. threatened to kill Sh. L if L. did not withdraw from the tender.

Sh. L, Xh. S and A. S. left the Restaurant Niki and went immediately to the Kacanik Police Department where they reported the threats that were made to them. From the Police Department they returned home, where they were met by R. L. (Sh.'s brother) and other family friends. Earlier that evening Rexhep was "invited" for coffee at a local coffee shop. When he entered the coffee shop he was met by a group of 10 people, including A. K.. The group told Rexhep that it would be a good thing, a gentlemanly thing, if his brother withdrew from the tender because the members of the group were soldiers. Rexhep reminded A. and the others that Sh. and the others were soldiers also. Rexhep encouraged A. to withdraw from this business, and which point A. "laughed ironically". R. left the coffee shop and went to his brother's home. R. and the family friends urged Sh., Xh. and A. to avoid problems and to find a solution to the disagreement with A. K. and his partners. Rexhep encouraged his brother to withdraw from the tender if the situation worsened.

Two days later, on 28 July 2006, Sh. L visited Xh. S at Xh.'s home. They were visited by Fikri Hasani, B.H., N. C, and others. Fikri, B.H. and N. C. are all investors in A. K.'s partnership group. Fikri, B.H. and N. C. asked Sh. and Xh. to withdraw from the tender so that they could be awarded the sheep farm. Xh. told them that it was not in his interest to withdraw and he rejected their proposal. Xh. told Fikri, B.H. and N.C. that because they were war soldiers, he was prepared to offer them five hectares free as a donation, but that he was not willing to do more. Fikri, B.H and N. C. left the meeting. B.H. and N. C were employed respectively as a police officer and TMK officer, at that time. B.H. was wearing his official weapon during the meeting, but neither he nor N. C. threatened Sh. or Xh. during the encounter.

On 30 July 2006, Xh. S received a call from E. S, who comes from the same village as Xh.. E. S is a cousin of Xh. S and A. S. . In addition, E. was a comrade at arms with X.Z., Sh. L and A. S. . Prior to 30 July 2006, E. S was contacted by X.Z.. E. was living in Macedonia at that time. X.Z., A. K., B.H., Fikri Hasani and N. C came to meet with E. in Macedonia. They informed E. that his cousins had won a tender and that A. and his group had made the second best offer. They asked E. to intervene and find a way for Sh., Xh. and A. to withdraw from the tender in order for A. to win. E. S. refused to get involved at that time and the others returned to Kosovo.

A. and his group asked for a second meeting with E. S. in Macedonia. At the second meeting A.'s demands were harsher and threats of murder were made in the event Sh. did not withdraw from the tender. E. S. testified that during the meeting threats were made "that if they don't withdraw they will be killed." E. S. testified that most of the conversation during this meeting was conducted by A. K. and he described A. as "the loudest" of the group. E. S. was sufficiently concerned for the well being and safety of his cousins that he decided it was his moral duty to become involved as a mediator between the two groups.

E. S asked to meet with Sh. and Xh. on 30 July 2006 and the three met that afternoon. E. S. asked about the tender. E. S. told Xh. and Sh. that he had been

approached by a group of former soldiers who asked him to speak with Xh. and Sh.. The soldiers wanted E. S. to encourage Xh. and Sh. to withdraw from the tender in order for them to get the farm. Xh. and Sh. told E. S. that they refused to withdraw. E. S. encouraged them to find a compromise and said that it would be good to "avoid any bloodshed between you". Xh. again refused to withdraw at which time E. S. revealed that there was a possibility that the others would kill Sh. L.

Xh. and Sh. began to receive threatening phone and SMS messages from anonymous callers. The threatening calls continued for a significant period of time. They were sufficiently intimidated by the events that occurred that they decided to withdraw from the tender. A meeting was arranged at the Restaurant Bas, located near Skopje, Macedonia on 1 or 2 August 2006. Sh., Xh., and A. attended the meeting together with E. S, who acted as the mediator. A. K. attended together with X.Z., N. C, B.H., and Fikri Hasani. X.Z. acted in the role of mediator on behalf of A.'s group.

During the meeting an agreement was reached whereby Sh. agreed to withdraw from the tender in exchange for receiving four hectares of land. The terms of the agreement called for A. to receive the sheep farm, despite not having won the tender. During the meeting X.Z. urged the two groups to reach a peaceful resolution, saying "Life is very valuable and should only be given for the freedom of your country and nothing else. It cannot be justified to murder a man."

On 8 August 2006 Sh. received a call from B.H.. B. H and N. C drove to Sh.'s residence and took him to the KTA office in Pristina. B.H was the driver, N. C. was a passenger in the front seat and Sh. sat in the back seat. N. C. told Sh. that "You will be withdrawing from the tender." The three drove to Pristina and when they arrived at the KTA office, Sh. submitted a document in which he withdrew from the tender for the sheep farm. By virtue of his withdrawal, the sheep farm was awarded to A. K. and his group of investors. Sh. testified that his withdrawal was against his will and was not voluntary.

The threats to Sh. and Xh. did not cease after Sh. withdrew from the tender. They each continued to receive anonymous threatening phone calls and messages. On 2 October 2006 Xh. S received a phone call at approximately 08:05 from an unknown caller. The caller told Xh. "Wait for a message" at which time the caller hung up. Xh. then received a SMS message which stated that there is a bomb on the balcony of Sh. L. Xh. alerted Sh., who was on his way to Prishtina. Sh. immediately returned to his home and found a grenade at his residence. Sh.'s wife and family were in the family home at this time. Sh. removed the grenade and drove it to the River Lepenc.

Other family members of the injured parties received threatening calls, including Xh. S's son. On 14 July 2007 a masked intruder entered the house of Xh. S and frightened his elderly mother, who needed medical care as a result of the shock she received. The injured parties had not yet received the title to the four hectares of land they were to receive pursuant to the terms of the agreement and

they believe that the threats were designed to intimidate them from asking for the title to the property.

During the course of the investigation of this matter searches were conducted at the homes of X.Z. and A. K.. Numerous illegal weapons were found at X.Z.'s home, including automatic weapon MPT-9 of the caliber 9x19 mm, its serial number is written in Persian alphabet deciphered as 73-23328, automatic weapon "MPT-9" of the caliber 9x19 mm, its serial number is written in Persian alphabet deciphered as 732322(?) automatic rifle AK-47 caliber 7.62x39 mm, serial number E-75572, Pistol "Crvena Zastava" model 99 caliber 9x19 mm with serial number 72915, six magazines, a quantity of bullets and a quantity of explosive. Mr. X. Z. did not possess a license that authorized him to possess such weapons.

Likewise, the Police searched the house of A. K. and found a quantity of firearms, ammunitions, and explosives without a valid weapons authorization card or any proper form licensing. Namely: 3 hand grenades, automatic rifle AK-47 caliber 7.62x39 mm, serial number 0120114-91, Pistol "Ekoll Special" model 99 serial number V760928, which pistol has been redesigned manually and was converted into a firearm of the caliber 7.65x17mm, and a quantity of bullets. One of the pistols was found underneath the mattress of A.'s bed.

After reviewing the evidence submitted during the course of this trial, including witness testimony and documents compiled during the long investigation of this case, only one clear and logical conclusion is possible: Defendants, acting in co-perpetration, during the relevant time period of 2006, actively engaged in threatening, coercive conduct with the intent to obtain an unlawful material benefit for themselves or others, thereby compelling the injured parties to act in detriment to their own property interests.

The record is clear that Sh. L, Xh. S and A. S. were the winning bidders in a tender concerning a sheep farm. Within one day of learning they were the successful bidders, they began to receive threats and coercion from the second place bidders, in particular from A. K.. A. K. put together a group of investors, who included among others, B.H. and N. C. A. called upon his former war time commander, X.Z., and enlisted his assistance on behalf of A.'s group of investors.

Rather than respecting the tender process, A. began to increase the pressure upon Sh. L and his partners in an effort to coerce them to withdraw their winning bid. The coercion came in two forms: direct threats, threats that included death threats; and indirect threats communicated through a third party, E. S.

There was no reason for A. and his group of investors to have any contact whatsoever with Sh. L and his partners. Sh. was the winner of the tender; A. was the loser. Yet, A., due to his own financial ambitions and a misplaced view that the tender "belonged to the soldiers" exerted pressure in an effort to compel Sh. and his partners to back down; pressure that ultimately succeeded.

There was no reason for A. and his group to involve E. S in this matter, expect that E. S. was used as a tool to communicate threats towards Sh., and eventually E. S. was cast into the role of "mediator" for a dispute that was of A.'s creation; a dispute that should never have existed had the law on tenders been respected.

A. was the leader of the losing group of investors. A. put these events in motion; A. was the leader of conversation; A. was the person who communicated death threats directly to Sh. and Xh. and indirectly, through E. S.. A.'s threats were heard by X.Z., B.H. and N. C. Rather than withdrawing from this plan to gain the tender to which A. was not entitled, X.Z. used his authority to support his former soldier. X.Z. is recognized as a person of authority due to his activism, his military career, and now, his political career. Rather than upholding the law of Kosovo, and upholding an orderly transfer of former publicly held property into privately held property through the tender process, he went with A. on at least two occasions, to Restaurant Niki, and to Skopje to meet with E. S and he certainly overheard A. threaten Sh. and his partners. Rather than using his authority to influence A. to back down, Xh. Z. warned Sh. and his partners that if they failed to withdraw, graves would be opened. Xh. Z. was not an investor; he did not gain personally. His authority was used in an effort to assist his former soldier, A., to gain a benefit to which A. was not entitled.

Although each defendant denies overhearing threatening statements, their denials are not credible, and in fact, this defies logic and understanding. At the Restaurant Bas, Xh. Z. addressed the group of vying investors, urging them to peaceful resolution (of course, this occurred only after A. raised the stakes by threatening violence). Xh. Z. told the group that "Life is very valuable and should only be given for the freedom of your country and nothing else. It cannot be justified to murder a man." These comments corroborate the serious nature of the threats that had been made against Sh. and his partners; Xh. Z.'s comments corroborate that death threats were made. Otherwise, these comments make no sense in the context of what defendant's characterize as a friendly business meeting.

There is no evidence that B.H. or N. C made direct threats to Sh. L or his partners. B.H and N. C. were investors with A. and were present when A. made coercive threats towards Sh., particularly in a meeting with E. S that took place prior to the meeting at Restaurant Bas. B.H and N. C. knew that extortion was occurring and they substantially contributed to the commission of the crime by being the ones who drove Sh. to the office of the KTA in order to complete the withdrawal from the tender. It was B.H and N. C.'s job to see to it that the withdrawal actually occurred.

Defendants' acts fall well within the boundaries of conduct recognized as extortion. For these reasons, this panel finds the Defendants guilty of Count 1 of the indictment. Count 2 is dismissed. The allegations in count 2 are wholly incorporated in the offense of extortion and it would exaggerate the criminality of defendants' acts if they were convicted of both counts 1 and 2.

The panel heard ample evidence to support the convictions for the weapons offenses. It should be noted, however, that A. K. is convicted for the illegal possession of the weapon that was under his direct control, namely the weapon found in his bedroom.

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

- The serious nature of the threats made by the defendants, namely death threats;
- The impact of the coercion on the injured parties, who withdrew from a tender they legitimately won;

- The impact on the public trust and confidence in the integrity of property rights and the privatization process in Kosovo;
- The serious nature of the illegal weapons possessed by Defendants *X.Z* and *A.K*

The Court took into consideration the purpose of punishment: namely, to prevent the defendants from engaging in criminal activities in the future, to hold the defendants accountable for their actions and to deter other persons from engaging in similar conduct.

The panel considers that Besnik and Nusret's roles in the commission of the offense are, if not minor, certainly less culpable than the roles taken by *A.K* and *X.Z*. This is reflected in the sentences handed down.

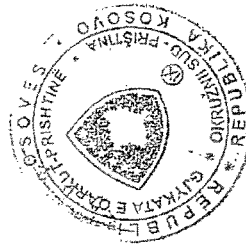
*Karen Asphaug*  
 Presiding Judge  
 Karen Asphaug

*Dr. Horst Proetel*  
 Panel member  
 Dr. Horst Proetel

Panel member  
 Shemsi Hajdini

*Shemsi Hajdini*

*Vlora Johnston*  
 Court recorder  
 Vlora Johnston



**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 to them, pursuant to Article 398 Paragraph 1 of the Kosovo Criminal Procedure Code (CPCK). The appeal shall be filed, through the District Court of Pristina, to the Supreme Court of Kosovo. The appeal must be announced within eight days from the date of the verdict.

