

IN THE MUNICIPAL COURT of PRIZREN  
Case P. Number 351/10  
14 July 2010

**IN THE NAME OF THE PEOPLE**

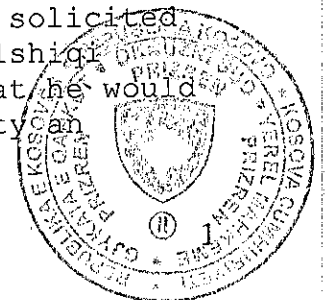
Judge Malcolm Simmons Presiding with Judges Vaton Durguti and Fahri Tershnjaku as Panel members and Court Recorders Christin Nilsson and Robert Abercrombie, in the criminal case against Elez Hoxha (hereinafter "the Defendant"), charged pursuant to Indictment PP. Number 1916/09 filed by the Municipal Prosecutor in Prizren dated 8 August 2009 with the criminal offence of Accepting Bribes under Article 343 (1) of the Provisional Criminal Code of Kosovo (hereinafter "the PCCK"), after holding a public trial on 1 July 2010, 2 July 2010 and 13 July 2010 at which Ms. Gabriela Walentich appeared for the Municipal Prosecution Office and the Defendant, who was unrepresented, on 14 July 2010 took and publicly announced the following

**JUDGMENT**

The Defendant Elez Hoxha, fathers name Tahir Hoxha, mother's name Vogla Cuni, born on 16 December 1948 in the village of Gjonaj, Prizren Municipality, currently residing at Matican, Isa Kastrati Street, Number 306, Pristina, identification number 1004375242, married, father of three children, Lawyer, Kosovar Albanian, of average financial situation, is

**GUILTY**

Because during the years 2005/2007 the Defendant, while a Judge of the District Court Pristina and therefore an Official Person within the meaning of Article 343 of the PCCK, with the intermediation of Agim Zeka, accepted from Vesel Alshiqi money in the sum of 53,000 Euros and a Volkswagen Caddy motor vehicle, which vehicle he solicited for his son, and that he did accept from Vesel Alshiqi further sums of money, all with the intention that he would perform within the scope of his official authority an



official or other act which he should not have performed or to fail to perform an official or other act which he should have performed, specifically the acquittal of Afrim Alshiqi and/or Besim Alshiqi who were each charged with murder or, were they convicted, the imposition of a disproportionately lenient sentence. At a subsequent meeting attended by Vesel Alshiqi and Ramadan Alshiqi, at the latter's home, the Defendant gave Ramadan Alshiqi an envelope containing cash in the sum of approximately 59,000 Euros or 61,000 Euros being the return of a part of the bribe money the Defendant had received from Vesel Alshiqi.

By reason thereof the Defendant committed the criminal offence of Accepting Bribes under Article 343 (1) of the Provisional Criminal Code of Kosovo and is

#### **SENTENCED**

to a term of imprisonment of 4 (four) years. Further, pursuant to Article 54 (2) of the Criminal Code of Kosovo, the Court imposes a fine of 10,000 (ten thousand) Euros.

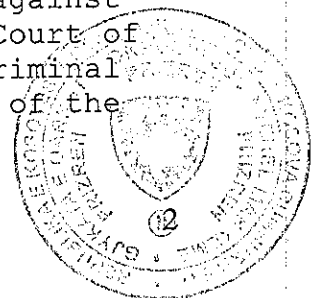
Pursuant to Article 73 of the Criminal Code of Kosovo, the sentence of imprisonment shall take into account the time spent in house detention shall be taken into account from 27 June to 24 September 2008.

In accordance with Article 102 (1) of the Criminal Procedure Code of Kosovo the Defendant shall pay the costs of these criminal proceedings. The Defendant shall also pay the sum of 250 (two hundred and fifty) Euros in respect of the Scheduled amount.

Pursuant to Article 391 (1) (6), the final Judgment may be announced in the public media.

#### **REASONING**

The Municipal Prosecution Office of Prizren filed Indictment PP. number 1916/09 dated 8 August 2009 against the Defendant Elez Hoxha, a judge of the District Court of Pristina and Agim Zeka who were charged with the criminal offences of Accepting Bribes under Article 343 (1) of the



Provisional Criminal Code of Kosovo and Giving Bribes under Article 344 (1) of the Provisional Criminal Code of Kosovo, respectively.

The first Main Hearing in this case commenced on 23 March 2010 and resumed on 26 May, 31 May, 8 June and 9 June 2010. Following the adjournment of the Main Hearing on 9 June the composition of the trial panel changed. Article 345 of the CPCK provides that when the composition of the trial panel has changed, the adjourned main trial shall start from the beginning. In consequence thereof, on 1 July 2010 a new Main Hearing commenced.

At the commencement of the first Main Hearing Agim Zeka pleaded guilty to the offence of Giving Bribes under Article 344 (1) of the Provisional Criminal Code of Kosovo.

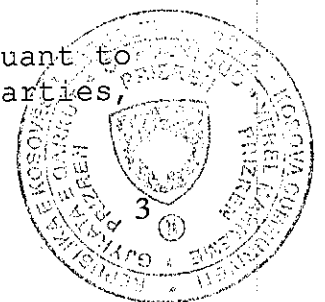
Thereafter, pursuant to Article 34 of the Criminal Procedure Code of Kosovo, the Court issued a Ruling whereby it ordered the severance of proceedings against the aforementioned Defendants.

In the Indictment it was averred that during the years 2005/2007 Vesel Alshiqi, on several occasions, with the intermediation of Agim Zeka, conferred upon the Defendant, while performing the duties of Judge of the Prishtina District Court and therefore an official person, money in the total sum of 123,000 Euros and a Volkswagen Caddy motor vehicle so that the Defendant, within the scope of his official authority, performed an official act which he should not have performed - specifically the acquittal or at least the release of Afrim Alshiqi and Besim Alshiqi who were each charged with murder. It was alleged in the Indictment that by reason thereof the Defendant committed the criminal offence of Accepting Bribes pursuant to Article 343 (1) of the Provisional Criminal Code of Kosovo.

#### **1. Testimonial Evidence**

At the first Main Hearing the Panel heard testimony of three witnesses: Officer Bronislav Prochazka, Ramadan Alshiqi and Agim Zeka.

At the commencement of the second Main Hearing, pursuant to Article 345 of the CPCK, with the agreement of the parties,



the Panel admitted the record of the testimony of those witnesses given at the first Main Hearing. The testimony of each of the witnesses was read into the Record.

**Bronislav Prochazka**, is a police officer in the service of the police force of the Czech Republic, seconded to the EULEX Mission to Kosovo. He testified on 26 May 2010 during the first main hearing.

During the period September 2007 - November 2008 Officer Prochazka was deployed with UNMIK as an International Investigator in the Specialised Investigation Unit (hereinafter "the SIU").

In early 2008 police were contacted by Vesel Alshiqi who had information regarding alleged judicial corruption. The case was referred to the SIU.

Officer Prochazka took statements from Vesel Alshiqi on 11 January 2008<sup>1</sup> and 29 April 2008<sup>2</sup> and from Ramadan Alshiqi on 16 May 2008<sup>3</sup>. Officer Prochazkas Report dated 8 April 2008 was also put in evidence<sup>4</sup>

In his Report, officer Prochazka referred to his having received information on 11 June 2008 from Vesel Alshiqi concerning alleged bribery involving the Defendant. Clearly the month to which Officer Prochazka referred in his Report is incorrect. The date of the Report is 8 April 2008. Further, the first statement of Vesel Alshiqi was made on 11 January 2008. The Officers Report should have, therefore, referred to the information having been received on 11 January 2008. The Court finds that was a typographical error.

In his Report, Officer Prochazka records the information he received during his interview of Vesel Alshiqi on 11 January 2008.

Vesel Alshiqi informed Officer Prochazka that he had been approached by Agim Zeka who had offered to act as intermediary between Vesel Alshiqi and the Defendant.

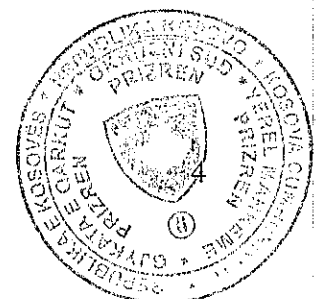
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<sup>1</sup> Exhibit P1

<sup>2</sup> Exhibit P2

<sup>3</sup> Exhibit P3

<sup>4</sup> Exhibit P4



Officer Prochazka testified at the first main hearing that Vesel Alshiqi had informed him that he had given money to the Defendant directly and through the intermediation of Agim Zeka. He further testified about a Volkswagen Caddy motor vehicle registration number 488-KS-189 that Vesel Alshiqi had given to the Defendant.

Officer Prochazka testified that Vesel Alshiqi informed him that the money and motor vehicle were intended as a bribe to secure the release of his brothers Afrim Alshiqi and Besim Alshiqi. Both men were charged with murder.

Officer Prochazka was asked by the Prosecutor if he could recall the amount of money Vesel Alshiqi had given the Defendant. He testified

*"I remember it quite well, a big amount of money, especially for a country such as Kosovo, and in that time it was approximately 130 000 Euros, the value of the bribe was approximately 130, 000 including the car."*

That evidence was hearsay in that the Officer did not have personal knowledge of how much, if any, money had been given by Vesel Alshiqi to the Defendant. His report and his testimony in this regard was based upon what he says he was told by Vesel Alshiqi.

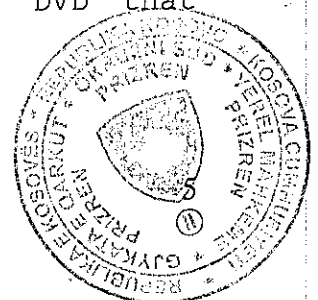
During their initial meeting Vesel Alshiqi gave Officer Prochazka five CDs that contained recordings of conversations between the Defendant and members of the Alshiqi family. Those recordings had been made by members of the Alshiqi family. Officer Prochazka subsequently interviewed Ramadan Alshiqi who identified the voices on the CDs.

Officer Prochazka testified about searches he had conducted of the relevant database to determine the identity of the keeper of the Volkswagen Caddy motor vehicle about which he had received information from Vesel Alshiqi. In his Report<sup>5</sup>, Officer Prochazka stated the said vehicle was registered to "Armand (Elez) Hoxhaj DOB 01/07/1977".

Officer Prochazka testified that he watched a DVD that

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<sup>5</sup> Exhibit P4



depicted a meeting between the Defendant and members of the Alshiqi family. The recording had been made by the Alshiqi family. He described the Defendant handing an envelope to Vesel Alshiqi. In fact, on the DVD the Defendant can be seen handing an envelope to Ramadan Alshiqi who, in turn, hands it to Vesel Alshiqi. Officer Prochazka testified:

*"Vesel Alshiqi told me Elez Hoxha brought money back to him because he was not able to help him with this issue which was to get his brothers out of jail. Basically he did not succeed."*

**Ramadan Alshiqi** testified on 31 May 2010 during the first main hearing. He gave a statement to Officer Prochazka on 16 May 2008<sup>6</sup>. He made a further statement on 10 June 2008<sup>7</sup>.

Ramadan Alshiqi was somewhat vague when he testified at the first main hearing about the detail of the conversations with the Defendant, including who was present and what was discussed.

In its assessment of his testimony, this Court was mindful of Ramadan Alshiqi's own participation in the offences and the fact it was the Defendant who was President of the trial panel that had convicted Ramadan Alshiqi's sons Afrim and Besim Alshiqi and sentenced them to long prison terms.

In its assessment of the evidence the Court recognized that Ramadan Alshiqi's testimony was supported by both documentary evidence and the testimony of other witnesses.

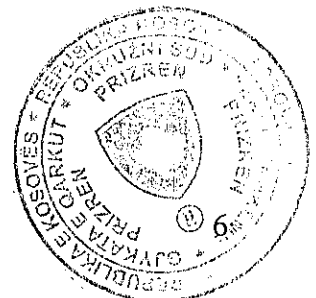
Ramadan Alshiqi testified at the first main hearing that his son, Vesel Alshiqi, had met the Defendant on several occasions. He admitted being present at most of those meetings. He could not recall the dates of those meetings. However, Ramadan Alshiqi testified that the first meeting with the Defendant occurred prior to judgement being given in the case of Besim and Afrim Alshiqi. Judgement in that case was given on 10 March 2006.

Ramadan Alshiqi was asked about the bribes given to the Defendant.

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<sup>6</sup> Exhibit P3

<sup>7</sup> Exhibit P5



**Prosecutor:** "Were you present when the more than 123,000 Euros was given to Elez Hoxha?"

**Ramadan Alshiqi:** "I was always with my son."

**Prosecutor:** "What did Vesel tell you?"

**Ramadan Alshiqi:** "He told me that he had given Elez Hoxha 123,000 Euros and he brought a car for him from Austria where he is a citizen. I believe Elez Hoxha is still in the possession of that car, he gave him the car through Agim Zeka."

**Prosecutor:** "You were told by your son that he gave 123,000 Euros to... [the Defendant]?"

**Ramadan Alshiqi:** "123,000 Euros and a car..."

That evidence was hearsay in that Ramadan Alshiqi claimed not to have personal knowledge of how much money had been given by Vesel Alshiqi to the Defendant. His testimony was based upon what he says he was told by Vesel Alshiqi. However, on the face of the CD evidence<sup>8</sup>, Ramadan Alshiqi personally handed the Defendant money in the total sum of 73,000 Euros. In reaching its verdict the Court has relied primarily on his testimony.

In his statement dated 16 May 2008<sup>9</sup> Ramadan Alshiqi stated

"I gave all my money and property to Vesel and later on he told me that he has paid 130,000...Euros to the judge."

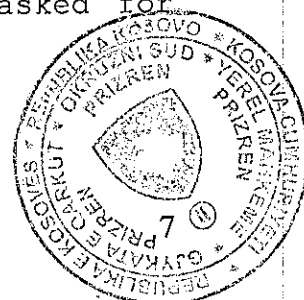
Again this was hearsay. Ramadan Alshiqi claimed not to have personal knowledge of how much, if any, money had been given to the Defendant but relies on what he says he was told by Vesel Alshiqi.

When asked by the Prosecutor why the Defendant asked for

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<sup>8</sup> CD 7, Exhibit P8

<sup>9</sup> Exhibit P3



money Ramadan Alshiqi replied

*"In order to give him a sentence according to the law and not against the law."*

However, later in his testimony, referring to a subsequent meeting with the Defendant, Ramadan Alshiqi testified

*"...we talked about how to get to the more lenient sentence that's what we spoke about."*

On 16 May 2008 Ramadan Alshiqi attended the offices of the SIU when he was shown a DVD<sup>10</sup>. He stated the DVD was recorded at his house in Pristina. He could not recall the date. He testified the DVD depicted himself, Vesel Alshiqi and the Defendant.

He further testified that the Defendant came to his house on four occasions. When he testified before this Court Ramadan Alshiqi stated that during one of those meetings the Defendant returned money to Vesel Alshiqi. He testified

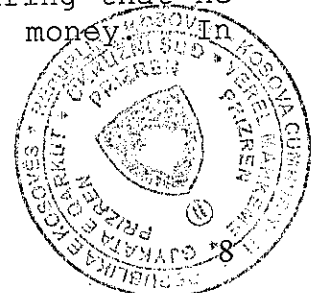
*"...Elez Hoxha came to my house on four occasions and he asked us not to report it, he brought it there...and it can be seen on a video. On the first occasion he brought 59,000 Euros and we did not accept the money on that occasion. On the second he brought 61,000 Euros and we accepted that. He was there with his wife Sadije and we had coffee there."*

Ramadan Alshiqi later testified he could not recall if the amount he said the Defendant returned was 59,000 or 61,000 Euros. Indeed, that was consistent with his statement of 16 May 2008.

Ramadan Alshiqi testified at the first main hearing that he was asked why the Defendant wanted to return money. In reply he stated

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<sup>10</sup> Exhibit P10



*"Probably he received more than he should have from the damaged party."*

That was an absurd assertion.

Officer Prochazka testified that Vesel Alshiqi told him the Defendant returned the money because

*"he was not able to help him with this issue which was to get his brothers out of jail. Basically he did not succeed."*

Again, that evidence was hearsay.

Indeed, in his statement of 16 May 2008 Ramadan Alshiqi stated the Defendant wanted to return "bribery money" he had taken from Vesel Alshiqi. He said the Defendant told them he had returned the money because

*"he didn't fix the job"*

Ramadan Alshiqi testified that he listened to the CDs of the conversations with the Defendant upon which the Prosecution relied. He stated that he recognized his voice, his sons' voice and that of the Defendant.

When he was interviewed by police on 16 May 2008, Ramadan Alshiqi was asked to listen to the CDs marked 2<sup>11</sup> and 4<sup>12</sup> upon which the Prosecution relied. He identified his voice, that of Vesel Alshiqi and the Defendant.

When he was interviewed by police on 10 June 2008, Ramadan Alshiqi was asked to listen to CDs 3<sup>13</sup>, 5<sup>14</sup>, 7<sup>15</sup>, 8<sup>16</sup> and 9<sup>17</sup>.

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<sup>11</sup> Exhibit P8

<sup>12</sup> Exhibit P8

<sup>13</sup> Exhibit P8

<sup>14</sup> Exhibit P8

<sup>15</sup> Exhibit P8

<sup>16</sup> Exhibit P8

<sup>17</sup> Exhibit P8



On Cds 3, 5 and 7 Ramadan Alshiqi identified his voice and that of Vesel Alshiqi and the Defendant.

On Cds 8 and 9 Ramadan Alshiqi identified his voice and those of his sons Vesel Alshiqi and Naman Alshiqi and the that of the Defendant.

Of course, Ramadan Alshiqi was present at the meetings when the DVD and three<sup>18</sup> of the Cds were recorded.

It is clear on the face of the CD evidence that Ramadan Alshiqi played a more central role than the one he portrayed to the Court. The Court was satisfied that fact did not undermine the probative value of his evidence that was, in any event, supported by documentary and other testimonial evidence.

**Agim Zeka** testified on 8 June 2010 at the first main hearing that he was approached by Vesel Alshiqi who asked him to act as intermediary in the latters dealings with the Defendant. He said he knew the Defendant was the Presiding Judge in the case of Afrim and Besim Alshiqi.

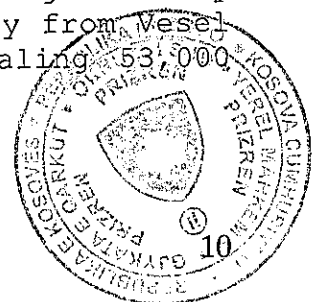
While performing the role of intermediary, Agim Zeka testified that he had received from Vesel Alshiqi cash in the amount of 53,000 Euro's and a Volkswagen Caddy Motor Vehicle. He said the Defendants son collected the vehicle from him. He could not recall the name of the Defendants son. Agim Zeka was asked why Vesel Alshiqi gave the Volkswagen Caddy to the Defendant.

He testified that he only attended one meeting between Vesel Alshiqi and the Defendant. That meeting took place at the Rama Petrol Station on the Pristina to Skopje road. He testified he gave 53,000 Euros to the Defendant prior to the meeting at the petrol station. He said the meeting at the petrol station was after the judgement was given in the case of Afrim and Besim Alshiqi. However, that was contradicted by his later testimony regarding the date of registration of the vehicle.

Agim Zeka said he could not recall the dates he gave money to the Defendant. He said he received the money from Vesel Alshiqi in 2 or 3 installments, together totaling 53,000

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<sup>18</sup> CD's 3, 5 and 7



Euros. He did, however, testify that he gave the Defendant part of the 53,000 Euros before he delivered the Volkswagen Caddy motor vehicle to the Defendants son and some money after delivery of the said vehicle.

Agim Zeka was asked why Vesel Alshiqi had given a motor vehicle to the Defendant. In reply he testified

**Agim Zeka:** *He did all of that because of his brothers.*

**Presiding Judge:** *Why?*

**Agim Zeka:** *In order to have Besim released as he was innocent.*

**Presiding Judge:** *...the vehicle and the money were given in order to have the brothers released from prison as they were innocent?*

**Agim Zeka:** *For that reason, yes.*

Agim Zeka testified that in 2000 the Defendants son had bought from him what he described as a "VW van".

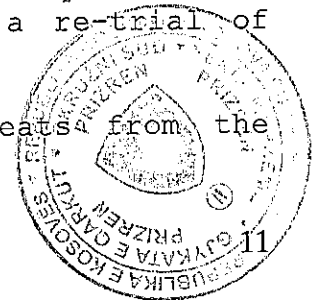
The Court considered the motivation of Agim Zeka to give false testimony. In fact, Agim Zeka had nothing to gain from giving false testimony and everything to lose. Based upon his admissions, Agim Zeka was, following a guilty plea, convicted of an offence under Article 344 of the CCK and sentenced to a term of imprisonment of 12 months.

The **Defendant** testified in his own defence.

It was, in essence, his defence that the evidence of the Alshiqi family, in conspiracy with Agim Zeka, was fabricated in retribution for the fact the Defendant had convicted Besim Alshiqi and Afrim Alshiqi and sentenced them to long prison terms.

Further or in the alternative he averred his prosecution was part of an elaborate scheme to secure a re-trial of Besim Alshiqi and Afrim Alshiqi.

He alleged he had personally received threats from the



Alshiqi family that, he averred, were the result of his panel having convicted Besim Alshiqi and Afrim Alshiqi. He said he did not report any of these threats to the police or to the security staff at the District Court.

He denied that he had received any money from any member of the Alshiqi family, either personally or through an intermediary.

Referring to the Volkswagen Caddy motor vehicle, he stated that his son had purchased this vehicle from Agim Zeka and that his son had paid the purchase price of 3,800 - 3,900 Euros by installments. The Court had previously heard evidence from Agim Zeka that he sold a "VW van" to the Defendants son in 2000. The Court finds these are different vehicles.

The Defendant denied his voice can be heard on any of the CDs upon which the Prosecution relied. The Defendant also denied he is one of the persons depicted in the DVD.

The Court had already heard evidence from Ramadan Alshiqi that he was present at meetings with the Defendant when the DVD and three<sup>19</sup> of the CDs were recorded. Further, the Court heard evidence that Ramadan Alshiqi identified on the DVD and CDs the Defendants voice, his sons' voices and his own voice.

## 2. Documentary Evidence

The Prosecution put in evidence 7 CDs<sup>20</sup> and transcripts thereof comprising the recording of conversations between Vesel Alshiqi and the Defendant. Ramadan Alshiqi was present during several of those meetings.

The Prosecution also put in evidence a DVD<sup>21</sup> of a further meeting between the Defendant and members of the Alshiqi family.

No evidence was put before the Court that conclusively assisted the Court in determining the dates when each meeting was recorded.

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<sup>19</sup> CD's 3, 5 and 7

<sup>20</sup> Exhibit P8

<sup>21</sup> Exhibit P10



The Defendant objected to the admissibility of the audio and video recordings because, he averred, they had been unlawfully recorded.

The CD's and DVD evidence would only be inadmissible if the taking of the recording would be punishable according to the PCCK.

According to Articles 170 and 171 of the PCCK, a recording is unauthorized if either the audio recorded conversation is not addressed to him (Art. 170 Paragraph 1 of the PCCK) or the video recording was done in the personal premises of the recorded person without his consent (Art. 171 Paragraph 1 of the PCCK). Vesel Alshiqi only recorded conversations in which he took part and the video recording was made on the premises of the Alshiqi family. Therefore the recordings are not inadmissible evidence respectively.

Furthermore, the provisions of the PCCK provide legal safeguards for the defendant from the violations of law, procedural omissions, misuse of his or her rights and violations or curtailing of legal rights from official persons during the application of Criminal Procedure. These provisions provide safeguards for the defendant and prohibit the use of evidence that was gathered in violation of formal or material provisions in the criminal procedure. The provisions on inadmissible evidence should be understood in a restrictive manner without allowing any analogy.

The parties may raise the issue of admissibility of evidence after such evidence is submitted to the court and especially during the Confirmation of the Indictment, later this can be done only if the parties argue that they had no previous information on this evidence, whereas the court may raise the issue ex officio whenever such evidence is presented before the court or when there is a doubt on the legality of the evidence (Article 154 Paragraph 2; Article 306 paragraph 3; Article 319 Paragraph 3).

The Court finds the audio and video recordings were lawfully made, they are relevant and therefore admissible in these proceedings.

The Court ordered that all 7 CD's and the DVD be played in Court.



## 2.1 Audio Recordings

All of the CD's upon which the Prosecution relied were played in Court. The quality of the audio play-back of the CD recordings was good.

The Panel was concerned about the accuracy of the transcripts that were admitted into evidence. Therefore, the Panel chose to rely upon the actual audio of the CD's and DVD recordings.

CD 2<sup>22</sup>

*Conversation between Vesel Alshiqi and the Defendant.*

...

**Vesel Alshiqi:**...You know how things went. Agim has spoken to you, but Baca Elez, I have tried to do something for you. I don't know what you think of me but I have tried. Perhaps Agim did not keep his word. I want to say that until now, if you like you can say that Veseli is sneaky, think as you wish but a year ago I told Agim and you also told me that those things have been taken and you said that he is innocent. Just now I don't know what to do. Baca Elez, you have received over 50,000 € before the trial.

...

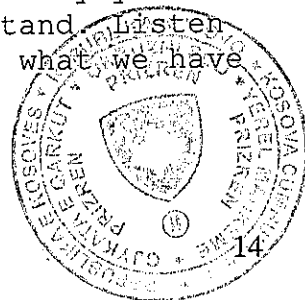
**Defendant:** Let's look for Friday as I have been busy. I have not had time as there were a lot of people at the condolences and had not time for these and other things.

**Defendant:** Look Vesel, I have told you, I could be your servant, I'll tell you in detail how ... (is interrupted by Veseli)

**Vesel Alshiqi:** I'm asking you again, I'm sorry you have had a lot of expenses, do you understand. Listen carefully, you are talking to Veseli. For what we have

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<sup>22</sup> Exhibit P8



talked about I'm trying to say that until 80,000 € approximately I have spent, have given those to you. Listen, 50,000€ are with me. Baca Elez, I would not care even for 10 cent. I know you have had a lot of expenses for your son. Don't misunderstand me, we have gone into this now, don't know if you understand me, I'm a honest person. Freely you can say: 'Vesel don't ask for money anywhere. I don't know if you understand me. Freely you can say: Vesel, I'm your servant and I have reached this point'. On Friday we can meet to clarify things. I'm begging you if you don't do something for me I'm ruined.

**Defendant:** I have told you, will tell you in detail how things are, I could not. We have talked together how things have come here, let me be your servant and don't...

The Court finds that reference to "Agim" is reference to Agim Zeka. The Defendants son had died shortly prior to this conversation. The Defendant refers to his receiving "condolences". There is a discussion regarding money. During this conversation the Defendant says "I could be your servant". That is clear evidence of his intent.

CD 3<sup>23</sup>

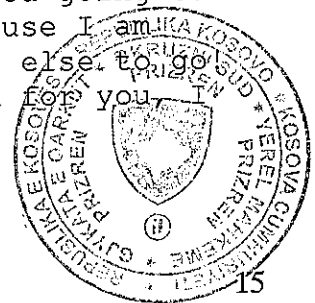
*Conversation between Vesel Alshiqi and the Defendant.*

...

**Vesel Alshiqi:** I arrived on Friday. I just came over to ask you what you have done for me because my situation is completely stuck. First of all, you know how things have developed. Uncle Elez, I am a man who tried hard for you. What are you going to do Uncle Elez? I want to know how long is this going to take. You are aware that on the 28th we have a hearing at the Supreme Court, the Highest Court in Kosovo. I am not going to even look around. What are you going to do Uncle Elez? I want to know it man because I am against the wall now. I don't know where else to go. I want to tell you that I have tried hard for you.

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<sup>23</sup> Exhibit P8



wait for you, and I will keep my word I gave you. Uncle Elez, I tried so hard, I am in trouble man. My family was never faced with such a problem in the past. Man, first, it is my opinion that all bad things have happened to me, have come to me! As far as the case is concerned, as far as everything is concerned I have tried for you. You know very well that I did all I could and used everything I had. You know Uncle Elez, I gave you 80.000 Euros and I told you I will give you another 50.000 the day Uncle Elez tells me "It's done"

**Defendant:** Have you switched your phone off?

...

**Defendant:** I have told you I will be there to the last day... I will do everything possible...

**Vesel Alshiqi:** What do you think Uncle Elez? How late can it be?

**Defendant:** How late? They don't know how long are they going to delay it for either?

**Vesel Alshiqi:** The Supreme Court is saying between 15 days and one month.

**Defendant:** That's right.

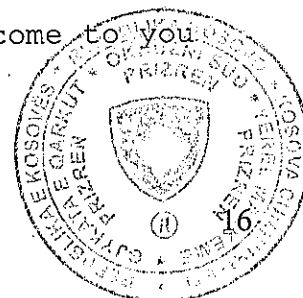
**Vesel Alshiqi:** Until it is sent back too?

**Defendant:** It can happen quicker and it can be delayed a bit too, but is not...

**Vesel Alshiqi:** One month is not a problem. But what do you, Uncle Elez, think until it reaches you for example? It's only an example. It will reach you in two months.

**Defendant:** No, no. I believe The Supreme Court will not delay it for more than a month and then it will come straight to me.

**Vesel Alshiqi:** It means that...! Will it come to you or to the District Court President?



**Defendant:** It will come to me.

**Vesel Alshiqi:** After how long then do you believe the hearing will start? I tell you man, I want to know a bit about few things. You don't have to tell me the exact day.

**Defendant:** I will...It can first happen that...it can be in 15 days, 20 days or a month. Once it is returned to me then it has nothing to...

**Vesel Alshiqi:** What do you think the how is it going to go afterwards, like e hearing type for example?

**Defendant:** Let's not talk about it now.

**Vesel Alshiqi:** Will the guy be released before or after the hearing?

**Defendant:** Not before the hearing...

**Vesel Alshiqi:** It means that there is absolutely no chance at all before everything is completed?

**Defendant:** No.

**Vesel Alshiqi:** What do you think about the crime scene?

**Defendant:** I will check if the will supply us with anything.

**Vesel Alshiqi:** Uncle Elez, I...

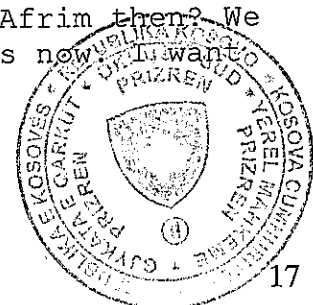
**Defendant:** They are not enough. Let it finish as I say. I have planned everything.

**Vesel Alshiqi:** Will it finish before the end of the year?

**Defendant:** Why not, definitely...

**Vesel Alshiqi:** What do you think about Afrim then? We are talking now; we are in this business now. I want to know what do you think about Afrim?

**Defendant:** I will see...



**Vesel Alshiqi:** So how long will Afrim get then; will it drop lower than 15 for him?

**Defendant:** I dare not do anything now.

**Vesel Alshiqi:** Just to assure you Uncle Elez that it did not happen the way things have evolved. I am a realistic person. I can tell you that if that was the case I would have told you this thing was fixed to me.

**Defendant:** No, no, you are realistic but you cannot be realistic in this a case.

**Vesel Alshiqi:** As far as some things those people have done, they have overturned a lot of things.

**Defendant:** Now, it can also...

**Vesel Alshiqi:** You are not only assuring me but you are also saying that this matter will conclude by the end of the year.

**Defendant:** It must conclude.

**Vesel Alshiqi:** So it is not possible for the Supreme Court to release Besim? I am sorry but...

**Defendant:** They do not practice this.

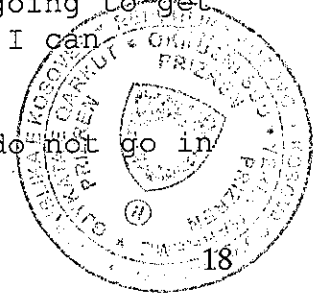
**Vesel Alshiqi:** So you are sure the case will return to you in a month. The latest one month from the 28th, starting from the 28th and then it will come back to you?

**Defendant:** Maybe it can keep it a bit longer but I do not believe they will keep it that long. They follow that practice. It can, it can be kept a bit longer though.

...

**Vesel Alshiqi:** I was convinced that I was going to get Afrim, I mean Besim, released by the 29th. I can assure you that.

**Defendant:** Anything can happen but things do not go in



such a way. It never happened, it never happened that way.

**Vesel Alshiqi:** Ok then Uncle Elez, I am sorry!

**Defendant:** It can also happen and I can get surprised too but they do not do it like that.

...

**Vesel Alshiqi:** Just ask this! I know you cannot ask. You can ask someone about what kind of a guy Afrim was. But this has already happened to me man. I am telling you, you are convinced, that the Supreme Court will return that case to you.

**Defendant:** I have been convinced about it from the beginning and I am 100% sure that it will be returned.

**Vesel Alshiqi:** I am scared Uncle Elez.

**Defendant:** You have nothing to be afraid of!

**Vesel Alshiqi:** What should I do now, go on and tell me? If it is not returned what should I do? What shall run for now? I don't know which way to go.

**Defendant:** Don't worry at all. It will be returned.

...

**Vesel Alshiqi:** He had an Austrian Passport. You also know about some things about the court. I feel like telling you how, even the state secrets are found by their lawyers. But no one was able to get only the phone calls they made to Afrim as I have had no one to help me with something, I can tell you the truth. I am counting on you. Help me man because I am in a crises situation.

**Defendant:** I will tell you all the way to the last day. But to tell you about Afrim like this and like that, it will be reduced a lot. However I cannot say but how much as it is possible not to happen.

**Vesel Alshiqi:** You are the chief of those people.



**Defendant:** Sometimes I can tell them "it cannot go any further" even though they rarely disagree with me. But sometimes they disagree.

**Vesel Alshiqi:** Uncle Elez, help me. I am telling you again that I have the rest of the money in the bank. You can say as you wish.

...

**Vesel Alshiqi:** Wait a bit. No, no! I only have this to say. I do not betray my words. Rest assured that you will get 50.000 Euros from me. If you need it...

**Defendant:** No...

**Vesel Alshiqi:** There is no problem if you need it. I will bring it to you even if you do not help me. I know only one thing man! I want you to help me on this one and finish with it. Enough is enough Uncle Elez.

...

This is again a discussion regarding, inter alia, money. The Defendant informs Vesel Alshiqi that the case is with the Supreme Court and that he expects it to be returned to him.

CD 4<sup>24</sup>

*Conversation between Vesel Alshiqi, Ramadan Alshiqi and the Defendant.*

**Vesel Alshiqi:** "...I just came to ask you what's new"

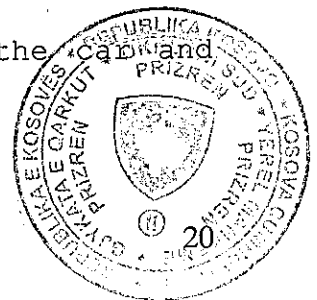
...

**Defendant:** "At the moment when I give up when I see that I can't do anything I'll let you know, there is nothing more to discuss"

**Ramadan Alshiqi:** "...when we brought you the ~~Can~~ and

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<sup>24</sup> Exhibit P8



your son came to pick it up in my garage did he know where that car came from?"

**Defendant:** "We have discussed this already."

**Ramadan Alshiqi:** "...when you took 130,000 Euros to your home...how comes that your sons have not asked you about everything: how did you get the car, how did you get the 130,000 Euros"

...

**Defendant:** I have told you earlier that some things are getting out of my control...I'm doing my best, but sometimes when you try too much you ruin things instead..."

...

**Defendant:** "The very moment that I find out that I cant do anything, I will call you and inform you"

...

**Defendant:** "Look I am telling you as I told you before the day when I will be unable to deal with things I will call you and I'll tell you 'Vesel don't expect nothing more from me, this job is done'"

...

**Vesel Alshiqi:** "...now you are saying there is nothing I can do."

**Defendant:** "No, I am not saying that."

...

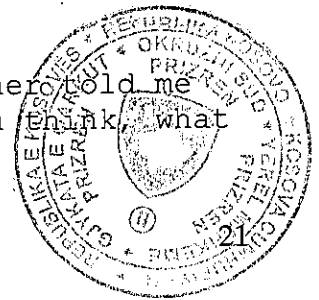
**Defendant:** "...I'll do everything that is in my power what I can't do I can't do"

This is a discussion about, inter alia, money and a car.

CD 5

*Conversation between Vesel Alshiqi and the Defendant.*

**Vesel Alshiqi:** ...what's the news? My father told me that...Man, today there was... What do you think, what



should we do?

**Defendant:** There's nothing yet.

**Vesel Alshiqi:** Hey man, do you know what is happening? I just want to know what's happening. I want to know that, man.

**Defendant:** Nothing yet...

**Vesel Alshiqi:** Tell me!

**Defendant:** You can tell your old man not to come there so...

...

**Defendant:** I am travelling somewhere close to you there.

**Vesel Alshiqi:**... If you call me from wherever you might be, we could meet up closer if you are going to be closer to us.

**Defendant:** I will be there around Friday or Saturday morning.

...

**Vesel Alshiqi:** We can meet up somewhere and talk again and get something done, somewhere in the middle. I can tell you here and now that you have blocked our situation, something like...

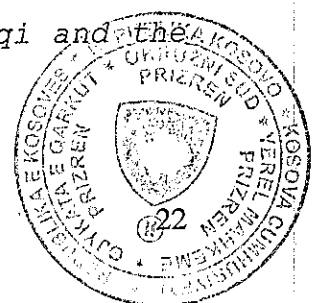
**Defendant:** Ok then, we'll talk later.

This is a discussion about, inter alia, meeting again.

CD 7<sup>25</sup>

Conversation between Vesel Alshiqi, Ramadan Alshiqi and the

<sup>25</sup> Exhibit P8



Defendant.

...

**Vesel Alshiqi:** What do you think Baca Elez, what shall we do, where do we go, in which direction do we run?

**Defendant:** Look Vesel, I have waited, although they have it there, what I have been scared of that has happened, they issued it to the panel that they shouldn't have sent it to. Therefore we don't know what is going to happen, if it returns as I expected they will do it like that, if it doesn't then there are other possibilities, there is a chance that it will go slowly but again, but we won't give up on this issue.

...

**Defendant:** It has return and they will give them once more, the President of Supreme Court returned it once more perhaps to have a look at it.

**Vesel Alshiqi:** This Haxhi Musa, or what was his name?

**Defendant:** Yes.

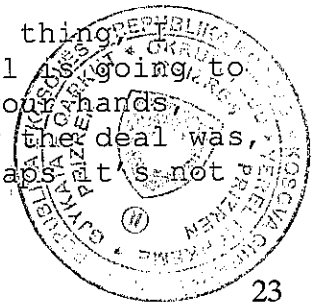
**Vesel Alshiqi:** I don't know. What about the prosecutors, what can prosecutors do over there?

**Defendant:** Nothing at the moment. They have made the appeal and on that verdict that has been made they thought that it was too little and they appealed for that as well.

...

**Defendant:** Let's see what happens over there and then we see what can we do, I am sure, what is happening there because now they have to, they have to come back.

**Vesel Alshiqi:** I am telling you one more thing, believe and I am convinced that the trial is going to return, and it's going to come back on your hands, don't say something because you know how the deal was, because I have been told Baci Elez, perhaps it's not



good to say, perhaps even my dad is doubting you.

**Defendant:** No, no.

...

**Ramadan Alshiqi:** I have given to him 73.000 Euros.

**Defendant:** No, no.

**Ramadan Alshiqi:** I handed them to you, by my hands.

**Defendant:** No, look.

**Ramadan Alshiqi:** Once 53,000 then 20,000. Tell me honestly brother; tell me did you take them so that I can have my own opinion.

**Defendant:** I will tell you that I don't know how much I have taken. I don't know without taking the pen

...

**Defendant:** I am honestly telling you that he tried 100's of times to give me but I didn't take them.

**Ramadan Alshiqi:** Exactly.

**Defendant:** That's what I'm saying, then I can sit down and tell you how much exactly...

...

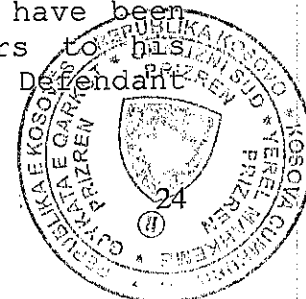
**Ramadan Alshiqi:** ...tell me how much money this man gave to you.

**Defendant:** I will let you know every penny.

...

**Defendant:** You, when, as soon as the papers arrive, I will send you a... I will notify you on the phone.

This is a discussion about, inter alia, money. During this conversation there is further reference to money have been given to the Defendant. Ramadan Alshiqi refers to his having given the Defendant 73,000 Euros. The Defendant



does not deny receiving money. Instead he says "...I don't know how much I have taken..."

During this conversation Ramadan Alshiqi refers to his having given the Defendant 73,000 Euros. However, when he testified on 31 May 2010, referring to Vesel Alshiqi, Ramadan Alshiqi stated

*"He told me that he had given Elez Hoxha 123,000 Euros and he brought a car for him from Austria where he is a citizen. I believe Elez Hoxha is still in the possession of that car, he gave him the car through Agim Zeka."*

The Court finds that, when he testified before the Court, Ramadan Alshiqi was simply trying to 'distance' himself from his own unlawful behaviour.

CD 8<sup>26</sup>

*Conversation between Vesel Alshiqi, Ramadan Alshiqi and the Defendant.*

...

**Defendant:** I told you no matter what I will do everything that I can

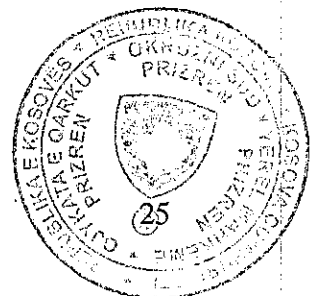
...

**Vesel Alshiqi:** ...I gave you my father is present here 80,000 you already took and I will bring you another 50,000 Euro just release my brothers from the prison...

During this conversation the Defendant says "...I will do everything that I can".

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<sup>26</sup> Exhibit P8



CD 9<sup>27</sup>

*Conversation between Vesel Alshiqi, Naman Alshiqi and the Defendant.*

...

**Defendant:** ...be careful with the conversations...on the phone

**Vesel Alshiqi:** ...Here you have 50,000 Euros more...

...

**Defendant:** Oh look, I will help you and then we'll see when it's all over

...

**Defendant:** I told you that I will do my best till the end...

...

**Naman Alshiqi:** ...you took 80,000 Euros and 50,000 more...

...

**Naman Alshiqi:** Do we have a chance or not?

**Defendant:** I believe yes, and I will do my best until the end.

**Naman Alshiqi:** ...they are total 130,000 Euros. I believe, if you want to do the best...

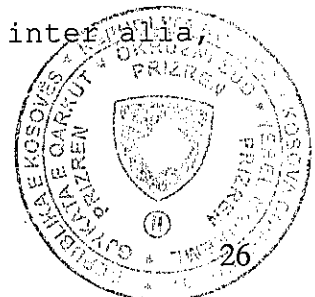
**Vesel Alshiqi:** Finish the job! ...where do we meet then?

**Defendant:** I will tell him

During this conversation the Defendant states, *inter alia*, "I will do my best until the end".

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<sup>27</sup> Exhibit P8



Having regard to the testimony of the witnesses, the content of the conversations, their context and having listened to the voices, the Court finds the Defendants voice is one of the voices recorded.

## 2.2 Video Recording

The quality of the DVD upon which the Prosecution relied<sup>28</sup> was not particularly good. The picture was slightly blurred. The audio was good. The Court finds the DVD depicted the Defendant and Ramadan Alshiqi. Another person was also depicted. That person was previously identified by Ramadan Alshiqi as his son Vesel Alshiqi.

...

**Defendant:** here is the rest of the money

**Ramadan Alshiqi:** is it all

**Defendant:** that's all.

**Vesel Alshiqi:** Bace Elez, have you checked, are they counterfeit, are you sure... Does anyone know that you have taken it, do you believe it

**Defendant:**... they have been taken from the bank, the other ones that have brought me, I don't know anything else ...

*[There follows a conversation regarding counterfeit currency]*

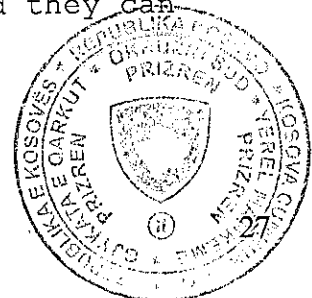
...

**Vesel Alshiqi:** what do you think, shall we try again with something or finish this thing/business with everything

**Defendant:** Look, you have to try, don't hurry these things and don't listen to everybody, be careful as here is a little bit different but abroad they can ruin you.

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<sup>28</sup> Exhibit P10



**Vesel Alshiqi:** What to do? What do you think shall we do an appeal... I'm of the opinion for an agreement, I'm of the agreement because when you could not finish it, that's how that was done and now it's okay but I wanted to say that nobody can know, I don't know if you understand me.

**Defendant:** I have told you when those things are done you could do that request for pardon

...

**Ramadan Alshiqi:** I have paid as much as they have asked

...

**Ramadan Alshiqi:** hang on, I just wanted to ask if you owe us.

**Defendant:** As far as I know, no

**Ramadan Alshiqi:** Think, think, think again, let's meet again, just me and you, whenever you want, and talk if you owe us more money or not

**Defendant:** look, look...

**Ramadan Alshiqi:** Let's not talk much here

**Defendant:** look

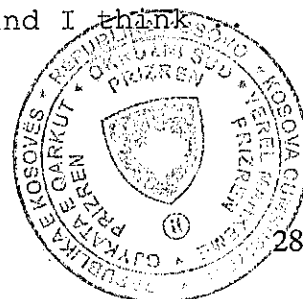
**Ramadan Alshiqi:** Don't say nothing here, just think if you owe us or not

...

**Ramadan Alshiqi:** you have to arrange with them and with us and to calm things down with them and with us ... Think if owe us more or not

**Defendant:** When I think, I'm thinking and I think

...



**Defendant:** and if you have something, when you have something, come directly, ask for me, listen to me, if you cannot find me come again because if you cannot find me you cannot find me, when I'm free I'll see you in my office

**Ramadan Alshiqi:** I'm sorry

**Defendant:** In my office, direct to my office ... don't...

**Ramadan Alshiqi:** in the office no

**Vesel Alshiqi:** in the office, office

**Defendant:** in the office, office

**Ramadan Alshiqi:** in the office, office, that's better

**Defendant:** Inform the guard, I'm there

The Court finds the Defendant is one of the persons depicted in the DVD. The Defendant can be seen handing Ramadan Alshiqi what appears to be a white envelope. It is clear from the subsequent conversation and its context that the Defendant is giving Ramadan Alshiqi an envelope containing money.

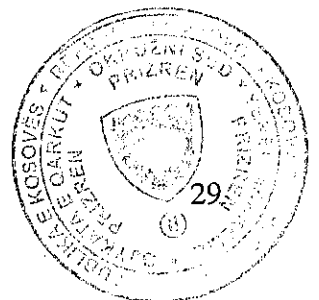
### 2.3 Other Documentary Evidence

The Prosecution put in evidence an undated letter<sup>29</sup> from the Austrian Insurance company Wiener Stadtische Versicherung AG which confirmed a motor vehicle insurance policy had been issued by the said company to Vesel Alshiqi for the period 5 April 2005 - 5 April 2006. The motor vehicle the subject of the policy was a Volkswagen Caddy chassis number WV1ZZZ9KZWR502284 bearing Austrian vehicle registration plates L - 140CX.

The Prosecution also put in evidence an UNMIK Kosovo

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<sup>29</sup> Exhibit P6



Vehicle Information System registration document<sup>30</sup> that confirmed the same Volkswagen Caddy motor vehicle was registered on 24 June 2005 in the name of Armend Hoxha.

The Family Card dated 2 May 2002<sup>31</sup> issued by Prishtina Municipality confirms that Armend Hoxha is the Defendants son.

The Court put in evidence a document entitled 'Process Upon Assessment of Goods' dated 12 July 2010 from the Customs Service of the Republic of Kosovo<sup>32</sup>. This document confirmed the value of a Volkswagen Caddy motor vehicle manufactured in 1997 as per the Catalogue 01/2006 was valued, for Customs purposes, in the sum of 1,200 Euros.

### 3. Summary

Article 343 (1) of the PCCK provides

*An official person who solicits or accepts a gift or some other benefit for himself, herself or another person or who accepts a promise of a gift or some other benefit to perform within the scope of his or her authority an official or other act which he or she should not perform or to fail to perform an official or other act which he or she should or could have performed shall be punished by imprisonment of six months to five years.*

There was no dispute the Defendant was the Presiding Judge in the trial of Afrim Alshiqi and Besim Alshiqi in case number 54/05 before the District Court of Prishtina. Both men were charged with murder.

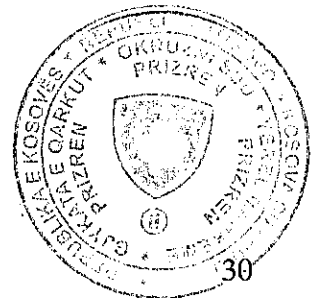
By reason of his being a Judge of the District Court of Pristina the Court finds the Defendant was an 'official person' within the meaning of Article 343 of the Provisional Criminal Code of Kosovo.

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<sup>30</sup> Exhibit P7

<sup>31</sup> Exhibit P12

<sup>32</sup> Exhibit C1



There was no dispute Afrim Alshiqi and Besim Alshiqi were convicted on 10 March 2006 and given long prison terms. That Judgement was upheld by the Supreme Court in its Ruling dated 28 September 2006<sup>33</sup>. Requests for Protection of Legality filed by both Afrim Alshiqi and Besim Alshiqi were dismissed<sup>34</sup>

The most compelling evidence in this case could have been given by Vesel Alshiqi. However, he did not testify. Instead, the Prosecution called Officer Prochazka to testify about what he had been told by Vesel Alshiqi.

Officer Prochazka testified that he interviewed Vesel Alshiqi and Ramadan Alshiqi. Vesel Alshiqi had been approached by Agim Zeka who had offered to act as intermediary between him and the Defendant.

Vesel Alshiqi told Officer Prochazka that he had given money to the Defendant directly and through Agim Zeka. He further testified about a Volkswagen Caddy motor vehicle registration number 488 - KS - 189 that Vesel Alshiqi said he had given to the Defendant.

Officer Prochazka testified that Vesel Alshiqi stated he had given 130,000 Euros to the Defendant, including the motor vehicle.

Officer Prochazka testified that Vesel Alshiqi informed him that the money and motor vehicle were intended as a bribe to secure the release of Afrim Alshiqi and Besim Alshiqi.

Officer Prochazka testified about his investigation regarding the Volkswagen Caddy motor vehicle. Those enquiries revealed that vehicle was registered in the name of the Defendants son.

The testimony of Officer Prochazka was based upon hearsay evidence. The substance of his testimony was based upon what he said he had been told by Vesel Alshiqi.

On 16 May 2008<sup>35</sup> and 10 June 2008<sup>36</sup> Ramadan Alshiqi listened to the CD recordings<sup>37</sup> of conversations with the Defendant.

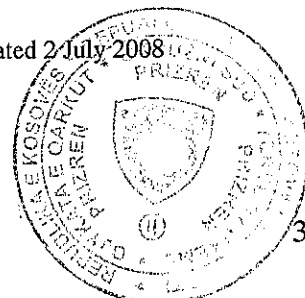
<sup>33</sup> A.P. number 215/06

<sup>34</sup> P. kl. Number 23/2007 dated 9 October 2007 and P. kl. Number 1/2008 dated 2 July 2008

<sup>35</sup> Exhibit P3

<sup>36</sup> Exhibit P5

<sup>37</sup> CDs 2, 3, 4, 5, 7, 8 and 9



He identified the Defendants voice, his own voice and those of his sons, Vesel Alshiqi and Naman Alshiqi. He gave the same testimony at the first main hearing. Ramadan Alshiqi also testified about the DVD evidence upon which the Prosecution relied.

It is clear Ramadan Alshiqi played a more central role in bribing the Defendant than the one he would have the Court believe. In so doing, Ramadan Alshiqi was attempting to conceal his own unlawful conduct. Rather than giving direct, first-hand, testimony Ramadan Alshiqi testified before the Court that his evidence was, in several important material respects, based upon what he says he was told by Vesel Alshiqi.

The evidence relating to the amount of money the Prosecution alleged the Defendant received and the evidence upon which the Prosecution relied in this regard created particular difficulty for the Court.

Various amounts were referred to during the recorded conversations. That evidence is hearsay. The sum of the amounts mentioned is also contradictory. It was the Prosecution case the Defendant accepted bribes in the sum of 123,000 Euros and a motor vehicle. However, during one conversation Ramadan Alshiqi refers to the Defendant having accepted 130,000 Euros and the car<sup>38</sup>. When he testified before the court at the first main trial Ramadan Alshiqi referred to the Defendant having accepted 123,000 Euros and a car.

Article 157 (1) of the CPCK provides that a court shall not find the accused guilty based solely, or to a decisive extent, on testimony or other evidence which could not be challenged by the defendant or defence counsel through questioning during some stage of the criminal proceedings.

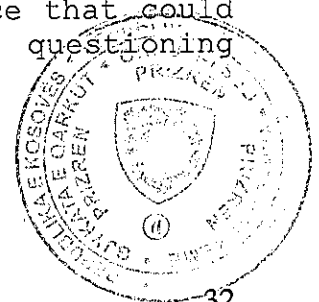
The Supreme Court of Kosovo<sup>39</sup> has rightly cautioned against giving undue weight to hearsay.

In reaching its verdict, the Court has not relied to a decisive extent, on oral or documentary evidence that could not be challenged by the Defendant through questioning during some stage of the criminal proceedings.

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<sup>38</sup> CD4

<sup>39</sup> AP-KZ. No. 368/2009 Danil Nokaj



The only direct evidence the Court heard regarding the amount of money the Defendant received was given by Agim Zeka.

Agim Zeka testified that he was approached by Vesel Alshiqi who asked him to act as intermediary in the latters dealings with the Defendant.

Agim Zeka testified that he had received from Vesel Alshiqi cash in the amount of 53,000 Euro's and a Volkswagen Caddy Motor Vehicle.

Agim Zeka testified that he gave the 53,000 Euros to the Defendant in installments. He could not remember the dates but said he gave some of the money to the Defendant prior to giving the Defendants son the motor vehicle. He said the Defendants son collected the vehicle from him.

It is clear on the face of the evidence that Vesel Alshiqi insured the Volkswagen Caddy motor vehicle for the period 5 April 2005 - 5 April 2006<sup>40</sup> On 25 June 2005 the very same motor vehicle was registered in the name of the Defendants son.

The Defendant averred his son had bought a vehicle from Agim Zeka. The Court heard testimony from Agim Zeka that the Defendants son had bought a vehicle from him in 2000. The vehicle in issue in this case is a different vehicle.

Although it was the Defendants son who registered the said vehicle in his name the Court finds that it was the Defendant who solicited the vehicle for his son.

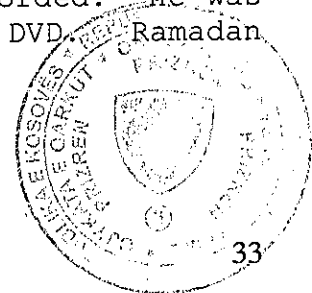
The Defendant denied he had received any money from any member of the Alshiqi family, either personally or through an intermediary. The Court did not accept his testimony in that regard.

The Defendant denied his was one of the voices recorded on the CDs or that he was one of the persons depicted in the DVD. The Court heard evidence from Ramadan Alshiqi that he was present when several<sup>41</sup> of the CDs were recorded. He was also present at the meeting depicted in the DVD. Ramadan

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<sup>40</sup> Exhibit P6

<sup>41</sup> CD's 3, 5 and 7



Alshiqi testified about his having identified voices on the CDs including his own, the Defendants and those of his sons'. In the circumstances the Court found it was not necessary to obtain expert evidence of voice analysis.

The Court finds it is the Defendants voice on each of the seven CDs and DVD upon which the Prosecution relied and to which reference is made herein.

The recorded conversations between the Defendant and members of the Alshiqi family reveal an increasing frustration at what is perceived as the Defendants impotence in finding a solution to the plight of the Alshiqi brothers. The frustration appears to culminate in the DVD when the Defendant can be seen handing an envelope to Ramadan Alshiqi. It is clear from the audio recording that the Defendant is giving money to Ramadan Alshiqi.

Ramadan Alshiqi testified that the envelope contained approximately 59,000 or 61,000 Euros. He could not recall precisely. The Court finds the Defendant was returning bribe money.

The Court finds the Defendant received from Vesel Alshiqi through Agim Zeka cash in the total sum of 53,000 Euros and a Volkswagen Caddy motor vehicle. The approximate value of that vehicle for Customs purposes was 1,200 Euros.

The Court finds the Defendant received further sums from the Alshiqi family but the Prosecution has not proved the precise amount. The Court finds the Defendant returned to the Alshiqi family cash in the sum of 59,000 or 61,000 Euros.

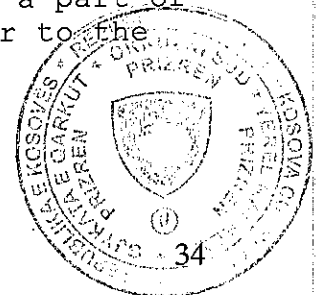
Although the evidence is unclear about the precise dates the Defendant received money from the Alshiqi family, the Court finds based upon the UNMIK Kosovo Vehicle Information System registration document<sup>42</sup> that the Volkswagen Caddy motor vehicle was registered in the name of Armend Hoxha<sup>43</sup> on 24 June 2005. That was before the date of Judgment in the case of Afrim and Besim Alshiqi<sup>44</sup>.

Agim Zeka testified that he gave to the Defendant a part of the money he had received from Vesel Alshiqi prior to the

<sup>42</sup> Exhibit P7

<sup>43</sup> Exhibit P7

<sup>44</sup> Judgement was given on 10 March 2006



Defendants son collecting the Volkswagen Caddy.

The Volkswagen Caddy was registered in the name of the Defendants son on 24 June 2005. As a matter of logic it follows that Agim Zeka gave the Defendant some of the money before the date of Judgment<sup>45</sup>

It appears to the Court circumstances conspired against the Defendant and prevented his manipulating the outcome of the first trial as he had intended.

However, the Defendant clearly expected the Supreme Court to return the case to him for retrial.

The Defendant averred that the evidence of the Alshiqi family in conspiracy with Agim Zeka was fabricated and simply a retribution for the fact the Defendant had convicted Besim Alshiqi and Afrim Alshiqi and sentenced them to long prison terms.

Further or in the alternative the Defendant averred his prosecution was part of an elaborate scheme to secure a retrial of Besim Alshiqi and Afrim Alshiqi.

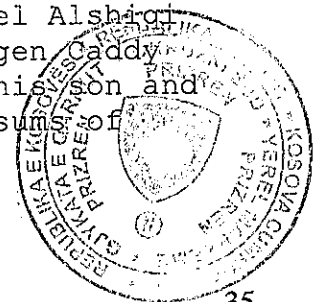
The Defendant alleged he had personally received threats from the Alshiqi family that, he averred, were the result of his panel having convicted Besim Alshiqi and Afrim Alshiqi. He said he did not report any of these threats to the police or the security staff at the District Court. If the Defendant had genuinely received threats from members of the Alshiqi family he would have reported it to the authorities.

The averments upon which the Defendant relied in support of his defence and to which we have referred are rejected by the Court. His defence was a fabrication concocted to conceal the fact and extent of his unlawful conduct.

The Court finds that the Defendant, while a Judge of the District Court Pristina and therefore an Official Person within the meaning of Article 343 of the PCCK, with the intermediation of Agim Zeka, accepted from Vesel Alshiqi money in the sum of 53,000 Euros and a Volkswagen Caddy motor vehicle, which vehicle he solicited for his son and that he did accept from Vesel Alshiqi further sum of

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<sup>45</sup> 10 March 2006



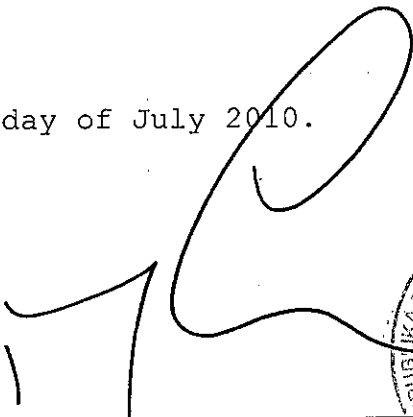
money, all with the intention that he would perform within the scope of his official authority an official or other act which he should not have performed or to fail to perform an official or other act which he should have performed, specifically the acquittal of Afrim Alshiqi and/or Besim Alshiqi who were each charged with murder or, were they convicted, the imposition of a disproportionately lenient sentence. At a subsequent meeting attended by Vesel Alshiqi and Ramadan Alshiqi, at the latter's home, the Defendant gave Ramadan Alshiqi an envelope containing cash in the sum of approximately 59,000 Euros or 61,000 Euros being the return of a part of the bribe money the Defendant had received from Vesel Alshiqi.

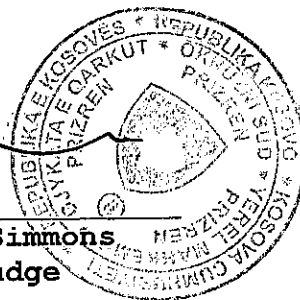
Justice and equal treatment before the law are fundamental principles at the heart of any democratic society. We repose in those who hold judicial office the trust and confidence of the people to protect individual rights and freedoms. Judges are often all that stand between a free, fair and democratic society and tyranny. When judges are corrupt the scales of justice are tipped in favour of the criminal. Innocent voices go unheard, the guilty act with impunity and the very fabric of society disintegrates.

Having regard to all the circumstances of this case we are satisfied the sentence is reasonable and proportionate.

For the reasons stated herein we hereby render this Judgment.

Dated this 14 day of July 2010.

  
Judge Malcolm Simmons  
Presiding Judge



Christine N. \_\_\_\_\_  
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.

