

IN THE DISTRICT COURT OF PEJA/PEC
Case P.nr.214/11
03 May 2012

IN THE NAME OF THE PEOPLE

The District Court of Peja/Pec, in the trial panel composed of Judge Malcolm Simmons as Presiding Judge and Judges Dariusz Sielicki and Lumturije Muhaxheri as Panel members and Court Recorder Natasa Malesevic, in the criminal case against

1. **B K** , in the village of Peja Municipality, son of father and mother , maiden name , Albanian, citizen of the Republic of Kosova, graduated from secondary school, plumber, of average financial situation, sentenced to 27 years of imprisonment by the Judgment of the District Court of Peja KP.nr. 412/06 dated 19 September 2007, confirmed by the Judgment of the Supreme Court of Kosovo AP.nr.153/2008 dated 12 January 2010 (subject to an appeal in the third instance) and held in detention on remand in this case since 29 March 2012,
2. **D I** , born in the village of Decani Municipality, son of father and mother , maiden name , Albanian, citizen of the Republic of Kosova, of average financial situation, sentenced to 5 years of imprisonment by the Judgment of the District Court of Peja P.nr.329/11 and held in detention on remand in this case since 29 March 2012,
3. **H K** , born in the village of Peja Municipality, son of father and mother , maiden name , Albanian, citizen of the Republic of Kosova, farmer, of average financial situation and held in detention on remand since 17 December 2010,
4. **A N** , born in the village of Decani Municipality, in Peja, son of father and mother , maiden name , Albanian, citizen of the Republic of Kosova, police officer, of average financial

situation and held in detention on remand since 10 October 2010,

5. I. I. , born in the village of Decani Municipality, son of father and mother , maiden name , Albanian, citizen of the Republic of Kosova, graduated from secondary school, insurance agent, of average financial situation and held in detention on remand from 11 October 2010 until 7 April 2011,
6. H. K. , born in son of father and mother , maiden name , married, father of one child, Albanian, citizen of the Republic of Kosova, graduated from secondary school, driver, of average financial situation and held in detention on remand from 15 October 2010 until 7 April 2011,
7. S. G. , born in the village of Decani Municipality, son of father and mother , maiden name , married, father of one child, Albanian, citizen of the Republic of Kosova, graduated from secondary school, of average financial situation and held in detention on remand from 15 October 2010 until 7 April 2011,

charged pursuant to the Indictment of the Special Prosecution Office PPS. Nr. 102/2010 dated 31 March 2011, as amended on 24 April 2012, with the following counts:

- as against B. K. , D. I. , H. K. , A. N. , I. L. H. K. and S. G. under Count 1 with the criminal offence of *Organized Crime* contrary to Article 274 paragraph 1 in conjunction with the criminal offence of *Kidnapping* contrary to Article 159 paragraph 2 of the Criminal Code of Kosovo (hereinafter "the CCK");

- as against B. K. under Count 2.1 with the criminal offence of *Unauthorized Ownership, Control, Possession or Use of Weapons* contrary to Article 328 paragraph 3 of the CCK and under Count 2.2 with the criminal offence of *Attacking an Official Person performing Official Duties* contrary to Article 317 paragraph 1 of the CCK;

- as against D I under Count 3 with the criminal offence of *Unauthorized Ownership, Control, Possession or Use of Weapons* contrary to Article 328 paragraph 2 of the CCK;

- as against H K under Count 4 with the criminal offence of *Unauthorized Ownership, Control, Possession or Use of Weapons* contrary to Article 328 paragraphs 1 and 2 of the CCK;

- as against H K under Count 5 with the criminal offence of *Unauthorized Ownership, Control, Possession or Use of Weapons* contrary to Article 328 paragraph 2 of the CCK;

after holding a public trial on 8, 20, 21, 22, 27 September, 5, 6, 11, 12 October, 8, 29, 30 November, 13 December 2011, 4, 5, 10, 11, 19, 24 January, 22, 28, 29 February, 12 March, 24, 25, 26 April, and 3 May 2012 at which Reshat Millaku appeared for the Prosecution, the Injured Party was present on 20 September 2011, Lawyer Ramë Gashi appeared for the Injured Party, Mahmut Halimi appeared for B K, Gezim Baloku appeared for D I, Orhan Basha appeared for H K, Haxhi Cekaj and Klaus Kirchner appeared for A N, Xhelal Radoniqi appeared for I L, Qerim Metaj appeared for H K and Gezim Kollcaku appeared for S G and at which the defendants were present throughout, after deliberation and voting, on 3 May 2012 announces in public the following

J U D G M E N T

Under Count 1

The defendants B K, D I, H
K, A N, I L, H K, and
S G

Are

GUILTY

Because:

On 21 September 2010, at 06:05 in the village of Gllareva, Klina Municipality, the defendants acting as an organized criminal group, each with pre-assigned roles and with intent to obtain an unlawful material benefit, and by using force and the threat of force armed with hand guns and with an AK47 automatic rifle, kidnapped the injured party, [redacted], as he was driving to work on the road from his home in [redacted] to the main Peja-Pristina road. They forced [redacted] vehicle, a [redacted] " [redacted] ", to stop by crashing one of their vehicles into it thereby blocking his route. They abducted him at gun-point from his car. The defendants put a mask over his head and then forced him into the trunk of one of their vehicles, which was dark red and of an unknown make. During the struggle clothes were torn and he sustained an injury to his left hand. His hands were bound tightly together causing him injury. Throughout the ordeal [redacted] was in fear for his life. The kidnappers drove for 10 minutes on an asphalt road and then entered a graveled road, driving for approximately another hour before transferring to a Jeep-type vehicle. The kidnappers then drove [redacted] to a shepherd's hut in the mountains at Milishevci. This hut was owned by the [redacted] family. While [redacted] was held hostage at the hut the kidnappers took his watch and his ring. One of the kidnappers hit him on the forehead with the barrel of the gun and threatened him that if he lifted his mask he would be shot. [redacted] was held at the Bojkaj hut until 22 September 2010, when the activity of the kidnappers aroused the suspicions of local shepherds. [redacted] was then driven away in a Toyota "4 Runner" vehicle with tinted windows to a location further down the mountain. B [redacted] K [redacted] arrived at this location in a black estate vehicle. [redacted] was then taken in the black estate vehicle to a wooded area where he was kept overnight. The following day, 23 September 2010, [redacted] was driven in a black estate vehicle downhill before being transferred to a Jeep-type vehicle and driven for approximately four hours to an abandoned house in an unknown location where he remained captive. Here, on 4 October 2010 two members of the criminal group made a video recording of [redacted] to show to his family. [redacted] was released in Pristina late in the evening of 30 October 2010, having been held captive for a total period of 40 days.

B [redacted] K [redacted] played a leading role in the criminal group. On the morning of the kidnapping he was in regular mobile

telephone contact with H. K. and S. G. Between 06:15 and 07:26, B. K. sent 9 SMS messages to S. G. and received 16 SMS messages from him. As they drove from Gllareve towards the mountains of Milishevci the handset/SIM card in the possession of S. G. activated the same antennae as the handset/SIM card in the possession of B. K. Between 07:26 and 07:36 B. K. sent 3 SMS messages to H. K. and received 7 SMS messages from him. S. G.'s task was to inform B. K. of the traffic conditions on the road over which would be transported. B. K. on the same morning was also in telephone contact with D. I. At the hut one of the kidnapers handed his own telephone and ordered him to telephone his son to inform him of his having been kidnapped and to warn him not to inform the police.

At the hut on 21 September 2010 and the next day in the wooded area, was guarded by H. K. who was armed with a Kalashnikov automatic rifle.

On 22 September 2010 A. N. used his Toyota "4 Runner" motor vehicle to transport from the Bojkaj hut to another place in the mountains before he was transferred to a wooded area in a black estate vehicle where he spent the night. Thereafter he was taken to the abandoned house. Throughout most of his time at the abandoned house was kept blindfolded.

On 22 September 2010 at 11:31 one of the kidnapers used a mobile telephone he had borrowed from witness D1 to contact I. L. The kidnapper gave I. L. instructions about a rendezvous at the hut.

On 22 September 2010 while at the hut B. K. told a ransom demand would be made.

On 4 October 2010 D. I. and H. K. made the video recording of to support the ransom demand and to show that was still alive.

B. K., D. I., H. K., H. K., I. J. and A. N. were subsequently identified by as members of the kidnapping group. Witness D1 identified H. K. as being present at the Bojkaj hut on 22 September 2010 and also identified A. N. as being the driver of the white

Toyota "4 Runner" vehicle with tinted windows which was used to transport [redacted] from the Bojkaj hut.

During the period 21 - 23 September 2010 B [redacted] K [redacted] was in mobile telephone communication with I [redacted] L [redacted], S [redacted] G [redacted], H [redacted] K [redacted] and D [redacted] I [redacted]. During the same period I [redacted] L [redacted] was in mobile telephone communication with D [redacted] I [redacted]. During the same period H [redacted] K [redacted] was in mobile telephone communication with S [redacted] G [redacted]. Throughout this period these defendants used different SIM cards and switched SIM cards between different mobile telephones in their possession.

On 26 September 2010 at 07:21 B [redacted] K [redacted] made a demand to [redacted] son, [redacted], for payment of a ransom of 3 million Euros. He stated, "If you were thinking to reach a deal, 3 million Euro are needed to release your father. Each mistake will cost you..." The ransom demand was made from the telephone number 049 643 [redacted] using a Nokia 6300 telephone bearing IMEI number 135990246811. This mobile phone was subsequently seized in a search of B [redacted] K [redacted]'s house in the village of T [redacted], Peja Municipality on 17 December 2010. When he made the ransom demand B [redacted] K [redacted] presented himself to [redacted] as 'Mali'. The communication between 'Mali' and [redacted] regarding payment of the ransom occurred during the period 25 September 2010 until 9 October 2010, when [redacted] agreed to pay a ransom of 350.000,00 Euros. It is clear from the SMS communications that the [redacted] family was being observed by the kidnappers during this period. On 29 September, 1 October and on 6 October 2010 B [redacted] K [redacted] specifically threatened [redacted] that if he cooperated with the police or if he did not pay the ransom his father would be killed and his family's business destroyed.

On 9 October 2010 at approximately 22:00, [redacted] left his house in [redacted] driving his brother's [redacted] motor vehicle with a bag containing 350,000 Euros in cash. He was accompanied by his cousin [redacted]. B [redacted] K [redacted] instructed [redacted] by SMS messages about the route to take, how fast to drive and when to stop. It is clear from the telephone metering records that [redacted] was being observed by H [redacted] K [redacted] and S [redacted] G [redacted] when he left home on 9 October 2010 to pay the ransom. When he reached the outskirts of Decan, he was told to turn left near the Market [redacted], to continue driving for a further four kilometers with the indicator on and that when he reached a

certain monument, to open the window of the car and throw the bag containing the money from the vehicle. followed these instructions. However, was followed by the police. When the kidnappers attempted to retrieve the bag containing the money police tried to arrest the kidnappers and there was an exchange of fire. The kidnappers escaped in a Peugeot vehicle. The police recovered the money and returned it to .

A N and I L were arrested on 10 and 11 October 2010 respectively, while H K and S G were both arrested on 15 October 2010. B K, D I and H K remained at large until they were arrested on 1/ December 2010.

On 23 October 2010 the kidnappers contacted informing him that was still alive and that they wished to revive the ransom negotiations. They warned about his continuing to involve the police. B K made further threats to kill .

On 30 October 2010 withdrew from the Nova Ljubljanska Banka the sum of 300.000,00 euros. On 1 November 2010 returned the sum of 70.000,00 Euros to the same bank.

During the evening of 30 October 2010 was released in Prishtina by his kidnappers.

has consistently refused to say if a ransom was paid for the release of his father.

Therefore, B i K, D I, H K, A N, I L, H K and S acting as an organized criminal group committed the criminal offence of *Organized Crime* contrary to Article 274 paragraph 1 in conjunction with the criminal offence of *Kidnapping* contrary to Article 159 paragraph 2 of the Criminal Code of Kosovo.

* * *

Under Count 2.1

The defendant B K

Is

GUILTY

Because:

In a search of his house in the village of [redacted], Municipality of Peja, by Kosovo Police on 17 December 2010 at 06:30, the defendant B [redacted] was found to be in possession of two M75 hand grenades, one "Zastava" M57 hand gun of 7.62mm caliber (serial number C-210484), with 160 rounds of ammunition for this gun, one automatic rifle AK-47 "Zastava" model (serial number 261170) with 172 rounds for the same weapon, and one "Scorpion" automatic weapon with a silencer (serial number 10514) for which he did not possess a weapons authorization card.

Therefore, he committed the criminal offence of *Unauthorized ownership, control, possession or use of weapons* contrary to Article 328 paragraph 3 of the CCK.

Under Count 2.2

Pursuant to Article 390 par. 1 sub-par. 3 of the Kosovo Code of Criminal Procedure (hereinafter "the KCCP"), **the defendant B [redacted] K [redacted]**

Is

ACQUITTED

Because:

There was not enough evidence to prove beyond a reasonable doubt that on 19 October 2010 the defendant, B [redacted] K [redacted] drove a Grand Cherokee jeep-type vehicle with registration number 515-KS-550 at Police Officer [redacted] in such a way as to attack him or to seriously threaten to attack him.

By which he would have committed the criminal offence of *Attacking Official Persons Performing Official Duties* contrary to Article 317 paragraph 1 of the CCK.

* * *

Under Count 3

The defendant D I

Is

GUILTY

Because:

In a search of the house of B and H K I and where D I was residing at the time in the village of Municipality of Peja, by Kosovo Police on 17 December 2010 the defendant, D I was found to be in possession of one "Argentina" model pistol of 9mm caliber together with fourteen rounds of ammunition. The defendant, D I was not in possession of a weapons authorization card at the time.

Therefore, he committed the criminal offence of *Unauthorized ownership, control, possession or use of weapons* contrary to Article 328 paragraph 2 of the CCK.

* * *

Under Count 4

The defendant H K

Is

GUILTY

Because:

While guarding the injured party, at the hut in the Milishevci Mountains on 21, 22 and 23 September 2010 the defendant, H K was in possession of an AK47 assault rifle, a weapon he possessed for the purpose of intimidating . The defendant, H K was not in possession of a weapons authorisation card at the time.

Therefore, he committed the criminal offence of *Unauthorized ownership, control, possession or use of weapons* contrary to Article 328 paragraph 1 of the CCK.

* * *

Under Count 5

The defendant H. K.

Is

GUILTY

Because:

During a search of his house at Number " ", on 15 October 2010 H. K. was in possession of one Magnum 41 pistol (serial number A39X925MOD657) together with two rounds of ammunition for this weapon. The defendant, H. K. was not in possession of a weapons authorisation card for this weapon.

Therefore, he committed the criminal offence of *Unauthorized ownership, control, possession or use of weapons* contrary to Article 328 paragraph 2 of the CCK

* * *

Therefore, pursuant to the provisions of Articles 6, 11; 15, 31, 32, 33, 34 items 1 and 2, Articles 36, 38, 39, par 1 and 2, 54 par 1 and 2 item 7, Articles 64 par 1 and 3, 65 par 1, 71 par 1 and 2, items 2 and 4, 73 par 1, 99 par 1, Articles 274 par. 1 in conjunction with Article 159 par. 2 and 328 par. 1, 2 and 3 of Criminal Code of Kosovo, Articles 99 par 1 and 2, items 1, 2, 3, 4, 6 and 8, 102 par 1, 328 par 1, 385, 387, 391 and 392 of the Kosovo Code of Criminal Procedure, the court imposes the following sentences:

To B. K. ,

- for the criminal offence under Count 1 is sentenced to a term of imprisonment of fifteen (15) years and a fine of 200.000,00 Euros;
- For the criminal offence under Count 2.1 is sentenced to three (3) years of imprisonment;
- Pursuant to article 71 par. 1 and 2 sub par. 2 of CCK, the aggregate punishment is determined as seventeen (17)

years of imprisonment and a fine of 200.000,00 Euros;

To D **I** ,

- for the criminal offence under Count 1 is sentenced to a term of imprisonment of twelve (12) years and a fine of 180.000,00 Euros
- For the criminal offence under Count 3 is sentenced to a term of imprisonment of two (2) years;
- Pursuant to article 71 par. 1 and 2 sub par. 2 of CCK, the aggregate punishment is determined as thirteen (13) years of imprisonment and a fine of 180.000,00 Euros.

To H **K**

- for the criminal offence under Count 1 is sentenced to eleven (11) years of imprisonment and a fine of 150.000,00 Euros
- for the criminal offence under Count 4 is sentenced to two (2) years of imprisonment.
- Pursuant to Article 71 par. 1 and 2 sub-par. 2 of CCK, the aggregate punishment is determined as twelve (12) years of imprisonment and a fine of 150.000,00 Euros.

To A **N**

- for the criminal offence under Count 1 is sentenced to fifteen (15) years of imprisonment and a fine of 150.000,00 Euros

To H **K**

- for the criminal offence under Count 1 is sentenced to ten (10) years of imprisonment and a fine of 150.000,00 Euros
- For the criminal offence under Count 5 is sentenced to a term of imprisonment of one (1) year;
- Pursuant to article 71 par. 1 and 2 sub-par. 2 of CCK, the aggregate punishment is determined as ten (10) years and six (6) months of imprisonment and a fine of 150.000,00 Euros.

To S. G. ,

- for the criminal offence under Count 1 is sentenced to ten (10) years of imprisonment and a fine of 150.000,00 Euros

To I. L.

- for the criminal offence under Count 1 is sentenced to a term of imprisonment of ten (10) years and a fine of 150.000,00 Euros

The time spent in detention on remand by the convicted defendants, B. K. from 29 March 2012 until 03 May 2012, D. I. from 29 March 2012 until 03 May 2012, H. K. from 17 December 2010 until 03 May 2012, A. N. from 10 October 2010 until 03 May 2012, H. K. from 15 October 2010 until 07 April 2011, by S. G. from 15 October 2010 until 07 April 2011 and by the defendant I. L. from 11 October 2010 until 07 April 2011 shall be respectively credited against the punishment imposed upon each of them.

Pursuant to Article 39 of the CCK, the punishment of fine imposed on the defendants shall be paid within three months after this judgment becomes final. If any of the defendant's fails to pay the fine the court shall substitute the fine with imprisonment.

Pursuant to Article 54 par. 1 and 3 sub-par. 7 and Article 60 of the CCK, the accessory punishment of confiscation of the weapons: two M75 hand grenades, one "Zastava" M57 hand gun of 7.62mm caliber (serial number C-210484), with 160 rounds for the same gun, one automatic rifle AK-47 "Zastava" (serial number 261170) with 172 rounds for the same weapon, and one "Scorpion" automatic weapon with a silencer (serial number 10514) is imposed against the convicted defendant B. K. . Further, the telephone NOKIA 6300 IMEI number 135790246811220 (357636784280950) shall be permanently confiscated and be a part of the case file.

Pursuant to Article 54 par. 1 and 3 sub-par. 7 and Article 60 of the CCK, the accessory punishment of confiscation of the weapon: one "Argentina" model pistol of 9mm caliber together with fourteen rounds of ammunition is imposed against the convicted defendant D. I. .

Pursuant to Article 54 par. 1 and 3 sub-par. 7 and Article 60 of the CCK, the TOYOTA 4-runner vehicle, chassis number KZN1850066641, registration plate 03-582-AG, (previously 596-KS-472) the property of A N is hereby confiscated.

Pursuant to Article 54 par. 1 and 3 sub-par. 7 and Article 60 of the CCK, the accessory punishment of confiscation of the weapon: one Magnum 41 pistol (serial number A39X925MOD657) together with two rounds of ammunition, is imposed against the convicted defendant H K

The convicted defendants shall each pay the costs of the proceedings assessed in the sum of €1.000 each together with the Scheduled Amount assessed in the sum of €200 each.

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

DISTRICT COURT OF PEJA/PEC
Dated this 3rd day of May 2012
P.nr.214/11

Court Recorder

Natasa Malesevic

Natasa Malesevic



Presiding Judge

Malcolm Simmons
Malcolm Simmons

LEGAL REMEDY:

Pursuant to Article 400 par. 1 of the KCCP, an appeal must be announced within eight (8) days from the announcement of this verdict and shall be filed with the court of first instance.

Authorized persons may file an appeal in written form against this verdict through the District Court of Peja/Pec to the Supreme Court of Kosovo within fifteen (15) days from the date the copy of the judgment has been served, pursuant to Article 398 Par. 1 of the KCCP.