

Preportr

Phony sales of apartments of the Municipality of Klina



Former Klina mayor, Sokol Bashota, has been sentenced by the Basic Court in Peja to six months in prison and a 1000 euros fine. But the sentence of imprisonment against him will not be executed if he does not commit another criminal offense within a year. The prosecution has accused Bashota and several other officials of the Municipality of Klina that in co-perpetration they have undertaken actions to allocate some apartments to themselves for a rent of 20 euros per month. But because the final lists of beneficiaries have been voted in the Municipal Assembly, the prosecution in the final word has dismissed this point of the indictment, as it has not been able to prove the impact that the defendants have had on the assembly members.

Besnik Boletini

Sokol Bashota was born in March 1966 in the village of Caravik in Klina. He graduated in Albanian Language and Literature at the University of Prishtina. He has a long political career, having been part of the PDK structures since the founding of this party. He has also been a member of the Political Directorate of the General Headquarters of the KLA and Deputy Commander of the General Headquarters.

This has apparently paved the way for him to take leadership positions immediately after the war. Between September 1999 and October 2002 he was minister of labor and social welfare of the then Provisional Government of Kosovo. He was also a member of the Assembly of Kosovo (2003-2007). Apparently, the election race went well for Bashota. He has been mayor of Klina for two full terms. In May this year, he was re-elected head of the PDK branch in this municipality.

But while holding this position, he was accused, among other things, of abusing his official position to take advantage of an apartment owned by the municipality of Klina, for a rent of only 20 euros a month.

According to the indictment of the Special Prosecution of the Republic of Kosovo, filed on August 4, 2016, further represented by the Basic Prosecution of Peja, Sokol Bashota was charged with abuse of office or official authority, an offense which is punishable six months to five years of imprisonment according to the Criminal Code of the Republic of Kosovo.

In four points of the indictment he was charged with failing to report or falsely reporting assets, income, gifts, other material gain, or financial obligations for each year from 2012 to 2015. The offense carries a fine of six

months to five years in prison.

He was also charged with fraud, an offense punishable by a sentence of up to eight years in prison. But this point of the indictment was rejected by the presiding judge Sylë Lokaj in the confirmation phase of the indictment, because there was no well-founded suspicion and sufficient evidence that the accused committed this criminal offense.

The prosecutor of the case, Sahide Gashi, told Preportr that the case in question was accepted by the prosecutors of the Special Prosecution of EULEX in April 2018 after the indictment was filed by that prosecutor, as well as after the initial hearing in the Basic Court in Peja.

She says that together with the case, she has accepted the decision of the court of first instance for partial dismissal of the indictment, specifically the amended and supplemented indictment, which includes the criminal offenses of fraud under Article 426, paragraph 1 and 2, of the Criminal Code for all defendants.

“Against this ruling, I appealed to the Court of Appeals on 19.04.2018, which was rejected by a decision of 17.05.2018 and the first instance decision was confirmed”, says Gashi, among other things.

However, after a marathon of court hearings, the former mayor of Klina was sentenced for only one offense.

Sokol Bashota was found guilty only of non-disclosure or false declaration of assets. At a hearing on May 29 this year, Bashota was sentenced to six months in prison and fined 1000 euros. However, the sentence of imprisonment will not be executed if he does not commit another criminal offense within a year, and he is obliged to pay the fine within 15 days.

Prosecutor Sahide Gashi says she is not at all happy with the sentence and that as soon as she accepts the written verdict, she will appeal to the Court of Appeals. But she is pleased with the fact that the indictment has been confirmed, and that two high-ranking officials have been convicted.

But during the announcement of the verdict, the presiding judge Sylë Lokaj regretted the sentence (which was minimal) which he imposed on the accused. Apparently he had consideration for the accused because of their political positions.

“It’s all evidence. Even for you, Mr. Enver, so I’m very sorry, what has been done has been done. You have the right to appeal”, said Judge Lokaj.

Regarding this statement, Preportr on 26.06.2019 sent questions to the Kosovo Judicial Council (KJC) as to whether any investigative procedure has been initiated against Judge Sylë Lokaj.

The KJC has confirmed that on 01.07.2019 it received a request from the Basic Court of Peja to initiate disciplinary investigations against Judge Lokaj. However, Preportr finds out that the Basic Court of Peja has prepared the request for this case on the day Preportr asked the KJC about this case and sent it to KJC on 27.06.2019.

According to the response from the KJC, when a request for the initiation of disciplinary investigations is accepted, the KJC within 15 days establishes the Investigative Panel, which must complete the investigation within three months.

The Investigative Panel submits the written report to the KJC and the latter appoints the hearing within 30 days after receiving the written report.

“Regarding the concrete case, the KJC makes a decision within two months from the receipt of the report of the Investigative Panel”, is stated in the response of the KJC.

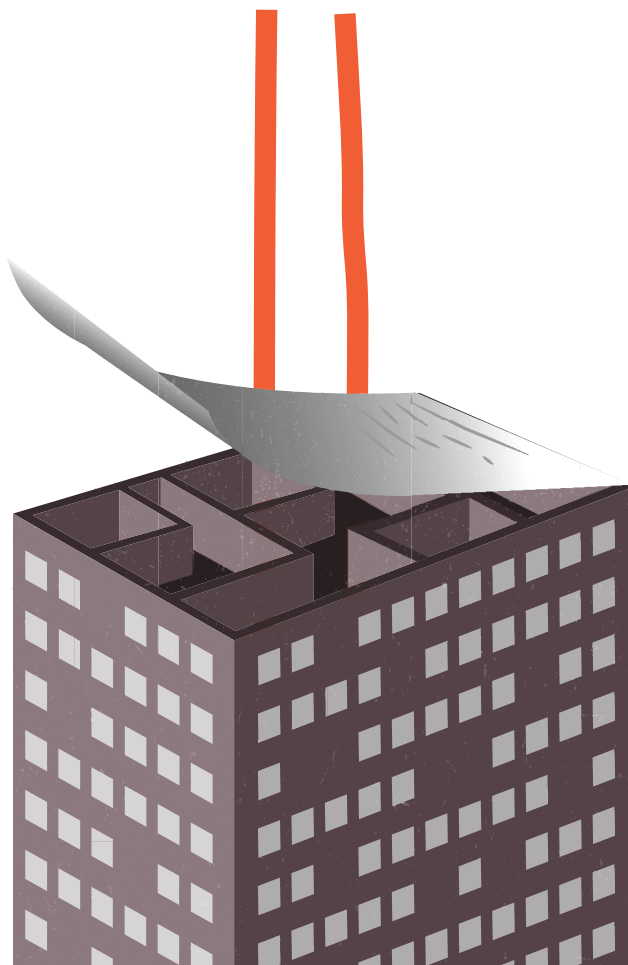
Regarding this issue, Florent Spahija, legal advisor at KDI, says that the court should always be careful not to be or not to show bias between the parties and that the defendants are equal before the trial panel and the court.

“No judge should present his preferences openly and contrary to the rules of procedure for impartiality”, says Spahija.

He says that the action of Judge Lokaj is an action that should not be repeated and that the Kosovo Judicial Council should start an investigation if there is political influence on the judge who declares such things so openly in front of the public.

“The president of the court, on the other hand, should take measures to control and monitor the work of the judge in question in more sensitive and political cases such as this one”, says Spahija.

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Background of the indictment

According to the indictment, Sokol Bashota in the capacity of the mayor of Klina, E.B. in the capacity of municipal assembly member and the deputy mayor of Klina, E. R. in the capacity of director of public services and emergencies, F.G. in the capacity of municipal assembly member, acting in co-operation, have agreed that at least six of the ten apartments owned by the Municipality of Klina be assigned a rental price for themselves and for members of their parties, regardless of whether any objective criteria were met.

They were accused of taking advantage of their official positions and authorizations by exceeding the limits of their authority and failing to perform their official duties, defining and carrying out the administrative procedure for allocating ten apartments of the Municipality of Klina so that they prevail over other applicants, regardless of whether they have met any objective criteria or not, contrary to applicable law.

The acquisition of the municipal apartments for themselves has been preceded by a series of actions by the accused. According to the indictment, on 27.02.2009, Sokol Bashota took the decision to appoint five members of the commission for apartments for rent, responsible for specifying the criteria for the allocation of apartments and assessing the requirements, thus violating the law consciously and intentionally. So he participated in the decision-making during the administrative procedure. Having personal and financial interest as an applicant, according to the Prosecution, was contrary to Article 29 of the Law on Administrative Procedure and Article 59.2 of the Law on Local Government.

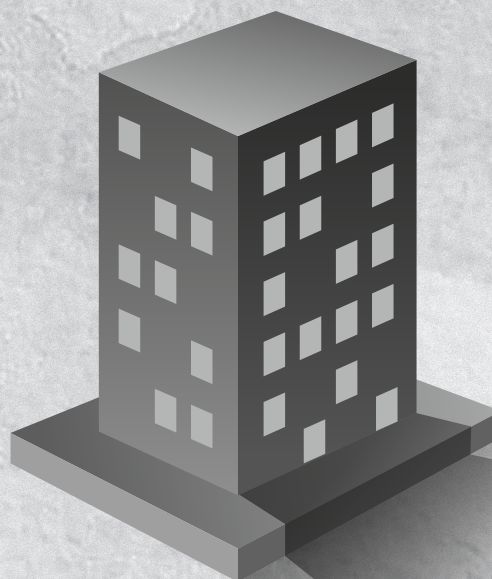
According to the prosecution, Bashota instructed the chairman of the commission P.P. to present at the meeting of the Municipal Assembly on 27.05.2009 a list of ten beneficiaries as disapproved by the defendants, despite their objective rights, thus knowingly and intentionally violating the regulation and the Law on Administrative Procedure and Articles 7 to 11, and in particular Article 11 - paragraphs V and IX of the Law on Prevention of Conflict of Interest in the Exercise of Public Function.

“On 19.09.2009 Sokol Bashota took nine final decisions in the administrative procedure for the granting of apartments for rent, approving the decision of the municipal assembly of Klina dated 27.05.2009 in which ten successful applicants were identified (including themselves), who allegedly had the right to acquire these apartments”, is stated, among other things, in the indictment

According to the indictment, on 17.09.2009 E.R. received one of the final decisions in the administrative



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procedure for the acquisition of apartments for rent, approving the decision of the Municipal Assembly of Klina dated 27.05.2009 in which ten successful applicants were identified, including those who allegedly had the right to acquire these apartments and “in particular took the decision with which an apartment was allocated to Sokol Bashota, violating the law knowingly and intentionally”.

Sokol Bashota in the capacity of the mayor of Klina with each beneficiary had signed lease contracts. But according to the prosecution, for his apartment, the contract was signed by Sokol Bashota as the beneficiary, and by an unidentified person on behalf of the mayor.

Furthermore, other applicants have not been notified at all about the outcome of the competition, as provided by the Law on Administrative Procedure and the regulation on the allocation of apartments. In this way, “Sokol Bashota and E.R. have prevented persons interested in filing a successful complaint, thus pursuing their personal interest (as well as the interest of co-executors) to acquire apartments quickly and easily”, the indictment states.

Through these actions, Sokol Bashota was accused of benefiting from illegal property gain that consisted of a continuous use of an illegally acquired 110 square meters apartment from 12.01.2010 to 24.06.2014.

But the prosecutor of the case, Sahide Gashi, in the hearing held on May 27 of this year, where the final word was given, has given up from criminal prosecution related to abuse of office.

According to Artan Sufaj, monitor Organization ÇOHU!, the prosecutor stated that as long as there was no evidence of manipulation by assembly members to vote in order to grant the said apartments to the defendants, they cannot be held accountable for their decision.

Asked by Preporfr if she knew from the beginning that the main decision was taken by the assembly and whether this fact should be taken into account before raising this

point of the indictment, prosecutor Gashi said that when this case was finally given to her (which was initially given to prosecutor Agron Galani by lot, to be passed on to her later), the case, according to her, had almost forty registrars with evidence, and moreover the main hearing was immediately scheduled where she had to represent the indictment.

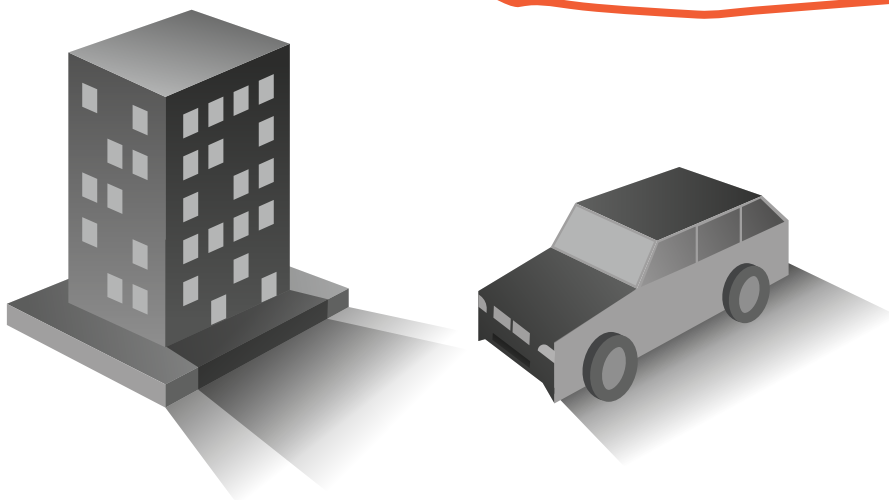
She says it has been a very short period and there has been no objective and subjective chance to remember all the evidence that has been provided during a lengthy investigation. Gashi says that during this time, after analyzing all the evidence one by one, she came across the main evidence, the minutes from the meeting of the assembly members of the Municipal Assembly of Klina, where a decision was made to grant these apartments to the defendants, while on the other hand, no investigation was conducted regarding the influence of the defendants on the assembly members in making such a decision.

“Consequently, I have come to the conclusion that the accused cannot be held criminally liable for abuse of office for a decision taken by a legitimate body and the highest body of local government, i.e. the municipal assembly”, said prosecutor Gashi.

She says that all the elements of the conflict of interest were fulfilled in the actions of the defendants, but even this was a problem since the conflict of interest as a criminal offense entered the Criminal Code only after 2013, while the offense was committed in 2009.

“Therefore, having all these circumstances in mind, in accordance with Article 7 of the CPC, but also other provisions which oblige the prosecutor at any stage of the procedure, if s/he becomes aware of the existence of any exculpatory evidence, which puts in questioning the validity of the indictment, s/he should give up the criminal prosecution, as I did “, said Gashi.

Did not declare



2012

79 square meter
apartment in
Prishtina

Jeep and BMW X5

2013

79 square meter
apartment in
Prishtina

Jeep and BMW X5

Annual income of
3000 euros
from rent

2014

79 square meter
apartment in
Prishtina

Jeep and BMW X5

Annual income of
3000 euros
from rent

2015

79 square meter
apartment in
Prishtina

Jeep and BMW X5

Bashota's false statement

The purpose of allocating these apartments has been to help those citizens who are in a difficult socio-economic situation, i.e. those who do not have a roof over their heads. But apparently those have not been a priority.

According to Article 10 of the regulation on the distributing of these apartments, some of the main eligibility criteria were: Citizens who do not own any apartment or house; those who are unable to resolve the issue of their housing; work experience; contribution to work. Other criteria were the number of family members, the health, social and economic status of the family.

Considering that only applicants who have a great need for housing will benefit from the use of municipal housing, Bashota was accused of providing false information by presenting a grave social situation.

According to the indictment, in his capacity as mayor, he falsely stated in the request submitted on 21.04.2009 that he was living with his wife and three sons in a house with the brothers, which is owned by his father and that part of his residence has only one room, which did not meet the conditions of life. "He did not state that he lived in Pristina with his family in an apartment with an area of 79 square meters and that he was the owner", it is stated in the indictment.

Furthermore, Bashota did not declare his other assets and those of his family members, "in particular a 100 square meters apartment in Prishtina, worth about 100.000 euros, 2 hectares of land in the village of Cervanik worth about 80.000 euros and 0.7 hectares of land in Matiqan-Prishtina in the amount of about 50.000 euros", is stated in the indictment.

In this way, he was accused of deliberately taking advantage of the property that consisted in the illegal distribution and use of an apartment that was owned by the Municipality of Klina for a symbolic rental price of 20 euros per month.

By providing false statements, Sokol Bashota was accused of causing another criminal offense, that of false declaration of assets in the Anti-Corruption Agency (AKK), an offense punishable by a fine and imprisonment of six months to five years.

According to the prosecution, Bashota deliberately did not declare the following data and information for 2012: Ownership of the apartment with an area of 79 square meters in Pristina. Ownership of a Jeep and BMW X5 vehicles purchased on October 5, 2010 worth 65 thousand euros. In addition to this, for 2013 he had not declared



In his request to benefit from the apartment that was owned by the municipality Sokol Bashota stated that he lives with his brothers in conditions that did not meet normal living conditions. But this statement also seems strange due to the fact since 2010, when the publication of property registers began, until 2018, Bashota stated that the brothers give him 20-30 thousand euros each year, depending on his needs.

3000 euros annual income from rent, for the price of at least 250 euros per month, according to the response of the tenants who have lived in the apartment of 79 square meters in Pristina. He did not declare the same for 2014. Also, in 2015 he did not declare the ownership of his apartment and two said vehicles.

Sokol Bashota in the request to benefit from the apartment that was owned by the municipality had stated that he lives with his brothers in conditions that did not meet normal living conditions. But this statement also seems strange due to the fact since 2010, when the publication of property registers began, until 2018, Bashota stated that the brothers give him 20-30 thousand euros each year, depending on his needs.

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Hearing – Lack of preparedness of the prosecution

Five court hearings were held until the verdict was announced. All these hearings were monitored by Organization ÇOHU!

In all hearings Bashota has been defended in silence. In the hearing held on October 18, 2018 witness Agron Bacaj, who was an assembly member in Klina, said that at that time the municipal assembly issued a regulation for the distribution of apartments and that those apartments were not meant for social cases, but for political and administrative staff.

Asked whether there were political agreements between the parties for the distribution of these apartments, he said that there was no political agreement, but there was an agreement for the application of political entities.

Prosecutor Gashi says that from the case file, the members of the commission for the distribution of apartments, in the capacity of defendants, have given completely different statements from those later in the capacity of witnesses to the investigator, whose testimonies have changed even more when given before the prosecutor and in the presence of defense counsels and defendants, as in the main trial.

“This happened to other witnesses, which had to do with the circumstance of the existence of a preliminary agreement between the leaders of the political entities of the Municipality of Klina, that 6 out of 10 apartments were taken for themselves”, says prosecutor Gashi.

According to Organization Çohu! in the hearing of October 19, 2018, after the end of the administration of evidence and since there were no proposals, the prosecutor proposed that the session be postponed for another day so that the parties prepare for the final speech and this proposal was approved. Prosecutor Gashi was not prepared for further review, and consequently the hearing was postponed for more than a month, respectively for December 3.

At the next hearing held on December 3, 2018 it was

decided to conduct a financial expertise to determine the price of apartments. On March 4 2019 financial expert Naim Uka was heard at the hearing.

According to court observer from Çohu!, Uka stated that it was not reasonable to set the real value of the rent of the municipal apartments, which the defendants are accused of having taken after the agreement between them. “No, I did not assess the height of the rent, because I did not see fit for this”, said Uka.

Prosecutor Sahide Gashi stated that she had comments in many respects regarding the expertise compiled by the financial expert Uka. According to court observer, the prosecutor said that the expertise was not done in accordance with the requirements of the prosecution and it was not submitted to her on time, in line with legal procedures.

“Prosecutor Gashi also had comments regarding the exercise of the functions of the representative of the Municipality of Klina, Ali Shala. According to her, he is playing the role of defense counsel for the defendants and not the defense of the Municipality of Klina. This is contrary to his authorizations”, says Sufaj.

Regarding this case, Sokol Bashota’s lawyer Haxhi Millaku told Preportr that the accusations against his client are political and unfounded.

“It is a war against members of the PDK and the people of this party. This persecution of these people, and in this particular case without any basis, only to be part of registers of justice, is the case with Sokol Bashota. My client has nothing to do with those incriminations committed by the patrons of EULEX and followed by the Albanian serviles”, said Millaku.

Prosecutor Sahide Gashi did not want to comment on this statement of lawyer Millaku, but said that the latter also knows that such a thing is not true.

“He had many other cases where I led the procedures and presented indictments of senior officials of all entities and he is closely acquainted with the principles of my work”, said prosecutor Gashi.