

Preporthr

Problems in handling cases in courts



Preportr has monitored several cases of corruption and organized crime, which are being handled in Kosovo courts.

These are considered high-profile cases of corruption and organized crime. From what we have seen during the monitoring, there are still big problems in handling these cases, the most prominent being the delays, failure to hold the hearings due to absence of defendants, lawyers or other parties, change of prosecutors during the representation of the indictment, etc. Five cases of organized crime and three cases of corruption have been covered by this research

Besa Kalaja

The Kosovo Center for Investigative Journalism Preportr, which operates within Organization Çohu, has monitored five cases over the past year, two of which are organized crime being tried in the Basic Court in Prishtina, and three cases of corruption which are being handled in the basic courts in Gjakova and Peja. These are the cases against Pal Lekaj - former mayor of Gjakova, Haki Rugova, mayor of Istog, former members of the Assembly of Kosovo Ukë Rugova and Azem Sylja, and former mayor of Klina, Sokol Bashota.

In addition to monitoring these five cases, Preportr has produced five profiles, with the indictments initiated against these persons for organized crime and corruption. These profiles have been expanded with other information related to their public and political life, their property and businesses that have been the subject of at least one case handled by the court (the case against Haki Rugova).

These five cases have been selected in order to have a clearer picture of the fact that in one way or another they have had and continue to have a great impact on Kosovo society due to the high public positions they have

held or still hold.

During the one-year monitoring, the findings of different natures have been identified, starting from the most technical legal issues such as delays in the beginning of court hearings, delayed start of hearings, interruption of court hearings and their postponement. These and other monitoring findings continue to be evident in all basic courts of Kosovo. This phenomenon is continuing to cause delays in the judicial processes. Some of the cases against Ukë Rugova and Azem Sylja have been going on for almost 4 years. Sokol Bashota's case lasted 4 years, and now it has returned to retrial. Others took more than two years.

The frequent reasons for the postponements were the absence of the trial panel, the absence of the prosecutor, the accused, the witnesses, etc.

During the monitoring, cases of substitution of prosecutors during the representation of indictments were also identified. Two cases, i.e. one against Ukë Rugova and "Toka" case have been transferred from the prosecutors of the EU Rule of Law Mission (EULEX) to the local prosecutors.



The trial

was postponed four times for absence of lawyers and twice for absence of defendants. One of the hearings started

35 minutes

late and the trial panel did not say what was the reason for the delay.



Long delays

In almost all the cases that have been monitored over the course of a year by the observers of the Çohu! the problems encountered were of the same nature, such as delays in court proceedings, and adjournment of hearings, absence of defendants, prosecutors, judges, lawyers and witnesses. Also in some cases the hearings did not start on time. They would start with a 40-minute delay and sometimes up to an hour late .

Drilon Dobruna, who monitors cases in the Basic Court in Pristina - “Toka” and the case against Ukë Rugova and others, says the problems are huge. He disclosed only some of the data he has identified in these two cases - but the most pronounced are the delays.

“There has been absence of defendants because the court did not send the invitations on time. This happened

in “Toka” case. In this case, the trial panel was changed twice. In one of the hearings, there was a change of the trial panel, where instead of Judge Shashivar Hoti, Judge Fatime Dermaku took his place,” he says. Dermaku replaced Hoti only in this session.

The trial was postponed four times for absence of lawyers and twice for absence of defendants. One of the hearings started 35 minutes late and the trial panel did not say what was the reason for the delay.

Delays in the start of the proceedings, delays in the judicial process are very pronounced, especially in the case of Ukë Rugova. One of the hearings started 40 minutes late, because the prosecutor had another initial hearing, at the same time. The same thing happened in another hearing, but this time because this judge was engaged in another trial.

Case Toka

The judicial process was not carried out because:

Lawyers were absent four times

The accused were absent twice

The invitation was not sent to the accused

The court in this case (Ukë Rugova) had to separate the procedure since for more than a year no hearing had been held. According to the observers findings, the hearings did not take place after the defendants were absent three times, in one case due to absence of one of the judges, and in another case due to absence of the prosecutor.

The observer in the Basic Court in Peja, Artan Sufaj, has found that in the case of Haki Rugova, the last three hearings have failed consecutively after the start of the main hearing, while four other hearings have failed before the initial hearing, making up a total of 7 failed hearings.

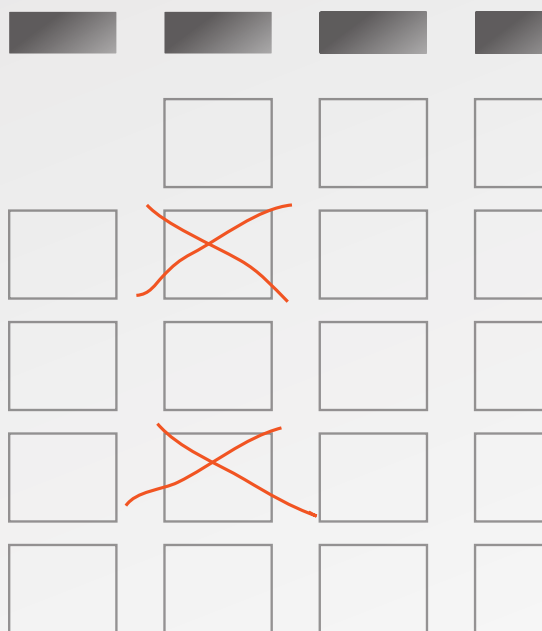
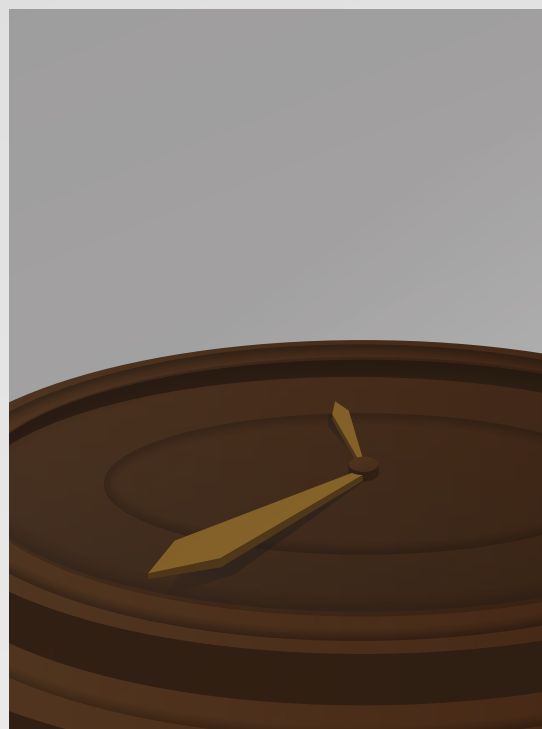
Case against Ukë Rugova

The judicial process was not carried out because:

The accused were absent three times

One of the judges was absent

The prosecutor was absent





Haki Rugova case

The judicial process was not carried out because:

Rugova was absent four times

The lawyer was absent twice

The prosecutor was absent

The hearings in this case have been postponed due to the absence of the parties: four times for the absence of Rugova, the main accused, twice due to absence of the lawyer, once due to absence of the prosecutor .

In the case of Pal Lekaj, the hearings were not held because the prosecutor was absent twice, the witnesses and the lawyer were absent once, while another time Lekaj himself did not appear in court.

In the case of Sokol Bashota, the most serious violation was the apology of the judge to the accused on the day the verdict was announced.

Pal Lekaj case

The judicial process was not carried out:

The prosecutor was absent twice

The witness was absent

One lawyer was absent

Lekaj himself was absent

The presiding judge, Sylë Lokaj, had explained to Bashota the reasons why he came to this decision. In the end of his declaration, Lokaj felt sorry for the verdict, saying: “Here are all evidence... even against you Mr. Enver, so I’m very sorry, what has been done has been done. You have the right to appeal.”

Judge Lokaj was subsequently sanctioned by the Kosovo Judicial Council (KJC). The disciplinary measure against him was imposed after the legal office of KALLXO.com had initiated a request to initiate disciplinary proceedings.

“What I would add is that based on the monitoring data of these cases, there have been violations of the deadlines and the duration of the main trial. According to CPCK, our courts are given a time limit as to how long a hearing should last after the main trial begins. Such a thing has been done so that the review in general and in certain stages in particular does not continue indefinitely without obtaining a deserved conclusion for the case which is being tried and in order to result in efficiency in handling cases in the courts. The KPCC has set a deadline of 90 to 120 days. All three of these cases have been pending in the relevant courts for years – Pal Lekaj, Sokol Bashota and Haki Rugova,” says Sufaj.

Preportr has tried to get answers from all three courts where trials are taking place to see if they have ever addressed these findings not only evidenced by Çohu! but also by other organizations - whether measures have been taken regarding such irregularities. The basic courts in Peja and Gjakova have responded, while the Basic Court in Prishtina, although the request has been repeated several times, did not respond. The request was sent to the Information Office and the president of this court.

The response of the Basic Court in Gjakova was short. The Information Office of this court has said that they do not comment on the cases handled in this court.

“The hearings in question (Pal Lekaj) have been and continue to be open to public and the media, to organizations and every citizen who shows such interest,” is said in their response.

The Basic Court in Peja in their response said that taking into account the situation with Covid 19, the court works with reduced staff. For this reason, according to them, it is now difficult to answer the questions raised by Preportr.

“Taking into account the situation in which we find

ourselves and the fact that the court for more than a month is not taking any procedural action other than addressing issues of urgent nature, at the moment we cannot provide answers to the question posed by you,” is said in the answer.

Problems with prosecutors

In the cases that have been monitored by Çohu!, the observers have noticed that during the process, the indictments against one person or group of persons are represented by several prosecutors. The monitoring carried out by Çohu! has identified substitution of prosecutors in the three monitored cases. Although the indictment was filed by a certain prosecutor, it was represented in court by other prosecutors. In fact, based on the monitoring, we have cases when three different prosecutors have been replaced in the representation of an indictment. This happened in the case of Haki Rugova and “Toka” case.

Although the replacement of prosecutors does not constitute a violation under the Criminal Procedure Code, the observers during the monitoring have noticed that the representation of an indictment by two or three prosecutors has made the indictment being represented unworthily.

In organized crime cases, both indictments were filed by EULEX prosecutors, which have now passed into the hands of local institutions.

In the case of “Toka”, in addition to the transfer of the case from EULEX to the locals, this case has been represented in court by at least two prosecutors. Last year, in two hearings instead of the special prosecutor, Naim Abazi, the indictment in special cases was represented by prosecutors Florie Shamolli and Habibe Salihu.

On the day the indictment was filed by prosecutor Habibe Salihu, she was just present with no action, in which case she did not ask any questions or make any proposals.

Observer Dobruna says that during the monitoring they noticed this as one of the irregularities, since a prosecutor who represents the case only for one hearing is usually unprepared.

“Another reason is the fact that a prosecutor files the indictment and in the middle of the process or even earlier the case is taken by another prosecutor, who is behind the same indictment, and this brings almost no new evidence,” he said.

In the case of Haki Rugova, the case was assigned to prosecutor Agron Matjani, but he did not represent him in all cases. After the investigation was carried out

against him (Matjani) who was later dismissed (Matjani was found dead in his apartment by the end of last year), he was replaced by another prosecutor, also from the Basic Prosecution in Gjakova, Ramiz Buzhala, who represented the case in question only once, and that in the hearing of March. Buzhala has also been sanctioned by the Kosovo Prosecutorial Council, after an investigation broadcast on 'Justice in Kosovo' show, through a video recording, showed how the prosecutor of the Gjakova Prosecutor's Office Ramiz Buzhala, while handling one case had instructed the relative of a victim injured in the workplace that the victim be withdrawn from the criminal prosecution of the owner of a business in order for the latter to get milder sentence. In addition to the publication of this video recording, KALLXO.com has informed the Kosovo Prosecutorial Council in a special letter about the behaviour of prosecutor Buzhala.

In the main trial, the case is being represented by prosecutor Ali Uka.

Bahri Hyseni, chairman of the Kosovo Prosecutorial Council (KPC), regarding the cases that have passed from EULEX to the locals said that such a thing has been very challenging as many cases were inherited from this mission.

"For a long time, the high profile cases have been in the hands of non-local judges and prosecutors, they have been in the hands of internationals of UNMIK, EULEX, and now we are dealing directly with these cases and I hope that in a short period of time we will have managed to create a good basis," says Hyseni.

Eliminate delays

Delays are a big problem and should be eliminated, says the Kosovo Prosecutorial Council (KPC), lawyers and NGOs that monitor the work of the courts.

Bahri Hyseni, head of the KPC, says delays are a major problem.

"In order for justice to have a good effect, the criminal proceedings must end in a reasonable time, at a time when the evidence, when the indictment is still fresh, and the prosecutor is able to remember everything from the indictment," he says.

On the other hand, he understands the courts because, according to him, they are extremely burdened with cases and the delays in various cases cause problems for us, the courts and for those people who seek justice.

Regarding the delays, Florent Spahija, from the Democratic Institute of Kosovo (KDI), says that they occur



due to the large number of parties in courts.

"There may be absence of the parties, of the defendants but I think this cannot be a problem for the court as it can order the police to bring the parties before the court."

According to him, the best thing would be for the courts to avoid the current practice of appointing sessions with few months in between.

"I consider that this practice should be stopped once and for all, the sessions should be scheduled for two weeks in a row, and this should be done because the facts are being forgotten, the judgment is losing its sense because the parties can change the evidence within three months. evidence may affect the witness, etc."

Although the delays in handling corruption and organized crime cases are high, according to Arian Koci, a lawyer who in some of these cases represents the accused, says that Kosovo is not far from the countries of the region. As an example, he mentions the former PM of Croatia, Ivo Sanader, whose case of corruption has been handled for ten years by the courts in Croatia.

"There are no delays only in cases of corruption, but in our country, corruption cases are very complex acts and an expertise is needed both from investigators and prosecutors," he said.

Other findings

IN ADDITION TO THE FINDINGS IN COURTS DURING THE MONITORING OF THE HEARINGS, PREPORTR AND OTHER MEDIA HAVE REPORTED THAT IT IS SUSPECTED THAT SOME OF THE PERSONS WHO WERE PART OF THE REPORTS PRODUCED BY PREPORTR, HAVE VIOLATED THE LAW IN SOME OTHER CASES.

Preportr had found that the company where **Haki Rugova** had shares until 2013 and which is now run by **his brother**, had been favored several times by the **Municipality of Istog**, once after the concrete used to build the Memorial “**Ibrahim Rugova**” in the center of the city came from this company.

Another case was reported by the “**Justice in Kosovo**” show, which shows how in 2013 when **Haki Rugova** was chief executive in the **Municipality of Istog, Ma.Con** had built a seven-floor building on municipal property.

Pal Lekaj was also criticized for giving **Bechtel Enka** 53 million euros for the **Prishtina-Hani i Elezit** highway. For an annex to the contract which was signed with the company carrying out the works on this highway, **Lekaj** accused his predecessor, minister **Lutfi Zharku**. Neither **Lekaj** nor **Zharku** have indicated what it actually took for **Bechtel Enka** to receive additional funds for the highway, except the fact that they were late in payment. According to **Koha Ditore** newspaper, suspicions have been raised against the **Ministry of Infrastructure** in this case.

The reports also looked at the assets of these persons in the **Anti-Corruption Agency (AKK)**. In addition to high public and political positions, two of them, **Pal Lekaj** and **Ukë Rugova**, have declared movable and immovable assets worth **millions of euros**. **Ukë Rugova** and **Haki Rugova** have stated that they had shares in businesses as well.