

Preportr

The saga of “Toka”



The “Toka” case has not had an epilogue for several years now. Many hearings have failed to take place because in some cases the lawyers and in other cases the defendants were absent. Former PDK MP Azem Sylja is also involved in this case.

He is accused of organizing a criminal group that forged documents of land parcels by selling them. The indictment was filed by a EULEX prosecutor, but now the prosecutor and the trial panel are locals. Azem Sylja has pleaded not guilty to all charges.

Besnik Boletini

Azem Sylja was born on April 5, 1951 in the village of Kishnarekë in the municipality of Drenas. He has a long career as a political activist. He was a political prisoner during the 80s. He is also known as one of the founders and leaders of the People’s Movement of Kosovo (LPK).

After the emergence of the KLA and the establishment of its General Headquarters, Azem Sylja was appointed commander of this headquarter. After the end of the war in June 1999, he was Minister of Defense of the Provisional Government of Kosovo.

Azem Sylja continued his political engagement in the Democratic Party of Kosovo, being part of the leading structures of this party since its establishment. For two terms he was elected MP in the Assembly of Kosovo from among the PDK. But he did not complete his second term. On April 28, 2016 he resigned from the post because he was being investigated as part of an organized crime group.

“As of today, I offer irrevocable resignation from all institutional responsibilities, from being a member of the Assembly of the Republic of Kosovo. The investigation launched against me is unfair, but I want to give space and opportunity to justice to work without influence,” Sylja declared in a press release.

The Special Prosecution of the Republic of Kosovo (SPRK) filed two indictments, one with 17 people and the other with 22 people. The latter, which was filed on October 24, 2016 includes Azem Sylja.

Sylja and 38 other people are charged with criminal offenses: organized crime, money laundering, bribery, aggravated fraud, fraud, misjudgment, abuse of office, legalization of falsified content and tax evasion.

They are accused that in cooperation, through criminal ac-

tivities, they deprived Kosovo of social properties, including falsification of official decisions and documents, fraud and other corrupt actions. Investigations in this case were also conducted in cooperation with the High Prosecutor’s Office for Organized Crime in Belgrade.

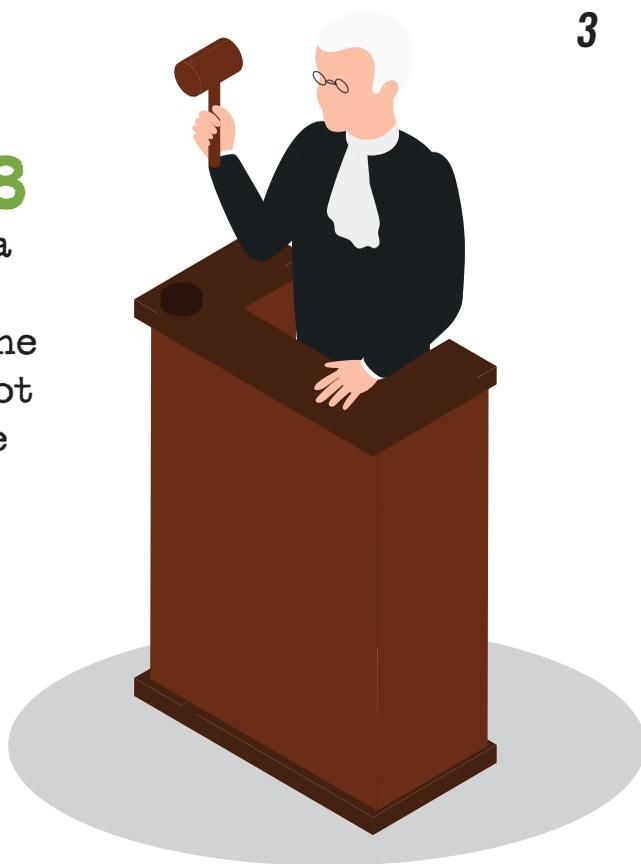
According to the indictment, Azem Sylja was the organizer, supervisor, manager and leader of an organized criminal group that conceived the group’s criminal activities and financed it. Sylja is accused of coordinating criminal activities and maintaining a supervisory role throughout the operation. He appointed other members of the organized criminal group for their special roles within a defined hierarchy and approved or rejected operational proposals from other members of the organized criminal group.

“He gave orders and instructions to other members of the organized criminal group; He requested reports regarding ongoing criminal activities from other members of the group, participated in basic criminal offenses, gave instructions, advise and approval. He secured and received most of the profits from the activities,” is said, among other things, in the indictment. On December 12, 13 and 15, 2016 the initial hearing of this case, known as “Toka” (Land), was held, in which Azem Sylja and others pleaded not guilty of the criminal offenses for which they are charged.

The then presiding judge, Arkadiusz Sedek, after accepting the defense’s objection, rejected them, while on April 4, 2017, he confirmed the indictment in the first instance. Following appeals to the Court of Appeals, the second instance court upheld the indictment on October 26, 2017.

August 24, 2018

the Basic Court in Prishtina released him from house arrest on the grounds that the prosecutor of the case did not request an extension of the security measure.



Between detention, freedom and house arrest

Decisions regarding the security measure against Azem Sylja have been numerous and varied. He has been released from custody several times, but has been remanded in custody, or house arrest. On April 27, 2016 EULEX and Kosovo police raided Azem Sylja's house in Kishnarekë (Drenas). However, they did not find him there. It was later confirmed that he was in Albania. Sylja surrendered three days later at Vërmica border crossing, where he was arrested by police.

On April 30, 2016 Azem Sylja was remanded in custody for one month, which was extended for another three months. But on August 15, 2016 he was released from custody, being assigned to report to the police station once a week as a security measure.

EULEX Judge Jennifer Seal had upheld the defense attorneys' appeals and released Sylja from custody.

"Material evidence as presented by the prosecution does not establish a direct link between Azem Sylja and ongoing activists to obstruct the proceedings," Seal wrote in the decision.

Sylja continued to remain free after the Court of Appeals upheld the decision.

But about three weeks later, Azem Sylja was arrested by EULEX judge Jennifer Seal. The arrest was made on the grounds that he had attempted to influence one of the protected witnesses in the case in which he was charged.

He was remanded in custody on October 6, 2016 after his request for release was rejected by EULEX Judge Seal. Since then, his detention has been extended several times until January 2018.

On January 14, 2018 Azem Sylja was released from custody again. But about two weeks after his release, the Court of Appeals changed his security measure, ordering him to be placed under house arrest. Meanwhile, on August 24, 2018 the Basic Court in Prishtina released him from house arrest on the grounds that the prosecutor of the case did not request an extension of the security measure. The President of the Basic Court in Prishtina, Aferdita Bytyqi stated for Kallxo.com that Sylja has been released because "the prosecution has not made a proposal to extend the measure of house arrest and that there was no longer any security measure".

This happened after the prosecutor Abdurrahim Islami, who represented the case, retired and the case was not assigned to any other prosecutor.

Many sessions failed

Although many hearings were scheduled, EULEX judges were unable to begin this review, as EULEX dropped the case and the case was referred to local institutions.

“Toka” case has had many delays. Many hearings failed to take place because of the absence of lawyers, and in some cases the defendants. Also, some hearings have failed due to the incompleteness of the trial panel.

Regarding the delaying of this case, but raising it as a concern for other cases, Ramush Haradinaj had reacted while he was the Prime Minister of Kosovo. On March 14, 2018 during the session of the Assembly of Kosovo, he stated that the accused have been held for years in court proceedings without an epilogue.

“They are killing Azem Sylja, a man who has been in court for five years. It is more the fault of the judiciary than of that man, or any other person, whoever it may be ... why should it take so long, why can’t an epilogue be given? Corruption and all the evils in this country are fought by making an efficient judiciary that does its job. Either you are guilty, or you are innocent. There is a time limit to provide an answer. It doesn’t matter who he was, or who Azem Sylja is, nor other aspects of his contributions to freedom, but one case cannot go on forever,” said Haradinaj.

However, the main trial of this case was held on February 20, 2018. At this hearing, EULEX Judge Petkov informed the parties that the case would be transferred to be tried by local institutions.

The decision was opposed by Italian prosecutor Danilo Cecarelli, who filed the indictment. He called the decision shameful, adding that it was a failure of EULEX and an inability to administer justice.

“The transfer to the locals is the end of this case and we know why. There has been enough time for the mission to complete this case, as more than 50 sessions have been scheduled. This decision is not a decision of either the prosecution or the judges, we will never know who took this decision, there is no responsibility and accountability,” Cecarelli declared.

Currently in the “Toka” case, the presiding judge is Beqir Kalludra. Members of the Trial Panel are Lutfi Shala and Violeta Namani, while Naim Abazi is the prosecutor of the case.

Even after the transfer of the case to the locals, there were many delays. In 2019 several sessions were

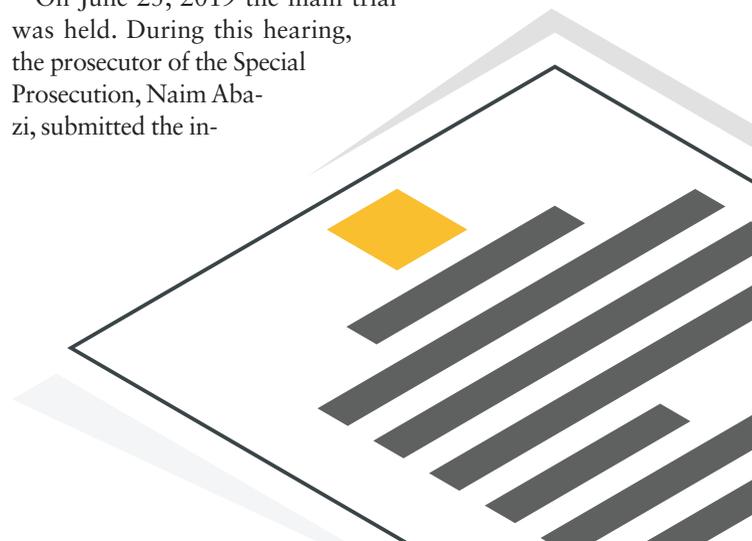
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held. A total of 13 sessions have been scheduled for this year, but six of them have failed to take place. Three hearings were not held due to absence of lawyers, two hearings failed because some of the defendants were absent and one hearing failed to take place because the court did not send orders to bring three defendants to the hearing, who were in custody.

The observers of Çohu have continuously monitored this case and have been present in all the sessions that have been open.

On June 25, 2019 the main trial was held. During this hearing, the prosecutor of the Special Prosecution, Naim Abazi, submitted the in-



In the introductory speech, **prosecutor Naim Abazi** mentioned the names of the protected witnesses, revealing their identities. **This was considered a scandal by the organizations that monitor this case.**

dictment to the trial panel and verbally elaborated it. He said that it would be established that the accused had taken part as a criminal group, and that from the numerous pieces of evidence it would be established that the accused were guilty.

But during this hearing in the introductory speech, prosecutor Naim Abazi mentioned the names of the protected witnesses, revealing their identities. This was considered a scandal by the organizations that monitor this case. When referring to these witnesses in this article, Preportr used the initials A.A. and N.N. to protect their identity.

“In this case, the protected witnesses A.A. will also be heard as well as N.N. Of particular importance is the testimony of A.A., the reliability of whom is indisputable because they have been evaluated by the highest instances of this court,” said prosecutor Abazi. Regarding this issue, Special Prosecution also reacted that day stating that prosecutor Abazi did not disclose any name of the protected witnesses, but the name of the cooperating witness. Moreover, it was requested that “all journalists and the media not publish articles that are not confirmed by the State Prosecutor, which do not reflect the truth about the work of the prosecutorial system.”

But in the material recorded and published by Kallxo.com, it turns out that in this hearing, prosecutor Abazi referred to two witnesses as protected witnesses.

The next hearing was held on September 11, 2019.

This session was moved to the premises of the Basic Court of Gjilan because the courtroom in Prishtina does not have the technical equipment to obtain the testimony of the witness through a video link.

It should be noted that the presiding judge, Beqir Kalludra, closed the hearing selectively, removing the public, the media and some of the civil society observers from the hall, but not the EULEX, OSCE and US embassy observers.

The next hearing held seven days later, was closed for the same reason.

The next court hearing was held on November 20, 2019, where the testimonies of six witnesses were heard before the trial panel.

Witness Habib Cakaj, owner of several parcels in Çaglavica, stated that he had bought them from Arton Vila (described in the indictment as Azem Sylja’s driver) at a price of 326 thousand euros.

In his testimony, he said that after buying this property from Arton Vila, he had problems with a Serbian family, as the former owner of this property, which had also sued him.

“After I got the ownership letter, I took the machines to fix the place of the plot for cars. Two days later, Bransilav Nikolic came with his brothers and neighbors, a total of 20 people, and told me that this land is ours, and why are you here. I told them that if you have evidence that this land is yours, I will immediately leave, they had no evidence other than the words,” said Cakaj.

“The property was under the name of a Serb named Blagojevic, if I’m not mistaken, and I learned this in court, but before I went to court I thought that this property belonged to Shaban Sylja, but he had the authorization and the court official said that everything was fine”

Muharrem Kadriu,
witness

“From the moment I transferred the property in my name until today, I have never used it. As soon as I drafted the investment plan and created the investment funds, the calls started asking where you got this property from and I stopped investing there”

Minister Jusaj,
witness

In this session, however, the other witness, Jeton Govori, stated that in 2007 he had privatized the property of “Ndërmarrja e re Komorani” in Komoran, at a price of 888 thousand euros, where according to him, several other partners were joint bidders.

“When the Privatization Agency of Kosovo announced us as winners of the offer, the residents of the villages of that area were notified and asked us to leave, on the grounds that it was their property,” Govori said.

Witness Muharrem Kadriu was heard at the main trial on December 17, 2019. He stated that from the accused Sh. S (part of the suspected criminal group) had bought property in Llapnasella with an amount of 150 thousand euros.

He added that during that time, he had seen the contact number of Sh.S, in that property, in which it was said that the property was for sale, and he then contacted and met with the accused and they talked about the price.

“The property was under the name of a Serb named Blagojevic, if I’m not mistaken, and I learned this in court, but before I went to court I thought that this property belonged to Shaban Sylja, but he had the authorization and the court official said that everything was fine,” said witness Kadriu.

He said that in the meantime, he had sold the same property to another person. Apparently, he had made a good bargain, selling this property in the amount of 440 thousand euros. Kadriu said that he did not know that this property had ownership problems.

The buyer of this property, Minister Jusaj was also invited as a witness in this hearing. During his testimony, he said that the property was transferred in his name by the already accused lawyer Avni Maxhuni. He said that the verification of the parcel was done in the cadastral office in Gracanica and in the court, and that based on the documentation everything was fine.

“From the moment I transferred the property in my name until today, I have never used it. As soon as I drafted the investment plan and created the investment funds, the calls started asking where you got this property from and I stopped investing there,” witness Jusaj said.

Regarding this case, the prosecutor requested from the pre-trial judge an order for the temporary seizure of 38 plots of land that were allegedly obtained through criminal activities for which this indictment was filed. Most of them in Veternik and Gracanica.

Through the information office of the Special Prosecution of Kosovo, Çohu sent questions to the prosecutor Naim Abazi regarding the progress of this case, as to how complete the indictment was by the EULEX prosecutor, whether there was a change of statements by witnesses from what they stated during the investigative phase and in court hearings, the legality of the recordings made by one of the main witnesses of the case, etc. But even after

waiting for more than a month and constant insistence, we have not received a response.

Document manipulation

According to the indictment, this case includes numerous plots of land, the ownership of which was transferred several decades ago by various individuals to socially-owned enterprises. In the 90s, the legality of several sales contracts that facilitated this transfer of ownership was reviewed by the Municipal Courts. In some cases, decisions have been issued which have annulled previous sales contracts and ordered the return of the confiscated parcels from the socially-owned enterprise (KBI “Kosova Eksport”) to their historical owners.

According to the indictment, the organized criminal group took advantage of the case of individuals who have court decisions restoring their holder for the former land of their family but have not been able to successfully register their property right in the land register.

These individuals are Serbs and some of them left Kosovo due to the 1999 war. This case focuses on land parcels for which the property right was held by three families who, according to the indictment, were targeted by the organized crime group. These families are Stevic, Simic and Vujovic.

This group is accused of having taken the original rulings from Serbian families as well as the original court files on the proceedings which resulted in these court decisions from the archives of the Basic Court in Prishtina and the state archives of Kosovo. The court files were later changed, and the documents were falsified.

“All the documents that refer to the plots of land that were originally returned to the Serbian families have been removed (erased) and replaced with new false documents. The locations of the original documents are unknown,” is said, among other things, in the indictment. It states that these forged documents contain either existing plots and additional plots or have completely replaced them with existing plots with other registered names owned by the plots of “KBI Kosova Eksport”, which had a higher value than the original plots highlighted in the decision.

“The amended court files were later returned to the archives of the Basic Court in Prishtina and to the State Archive of Kosovo,” the indictment reads.

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“Azem Syla – the head of the criminal group”

The indictment in this case describes the group actions of the accused and Azem Syla as the main leader of this group. It should be noted that a large part of the indictment is based on the statements of the cooperating witness A.A., which the prosecutor considers credible.

According to the indictment, this group illegally received from the Municipal Court Archive and the State Archive of Kosovo the original case files and original court decisions and falsified all documents, adding them to the original plots of land.

“Through fraud, they have obtained false and illegal authorizations to take all legal action for some plots of land. They have submitted to the Prishtina Cadastral Directorate a request to transfer ownership of the aforementioned plots of land from social ownership, owned by Stevic family on the basis of forged decisions and authorizations, and have bribed the Chairman of the Cadastral Directorate, Sabedin Haxhiu, to make the transfer quickly and illegally,” is stated in the indictment.

“Azem Syla provided the initial funding for this business and kept a supervisory role over the entire operation. Fahredin Gashi and Ramadan Uka were high-ranking members of this group involved at the level that was directly under Shpresim Uka and Shaban Syla **says the indictment”.**

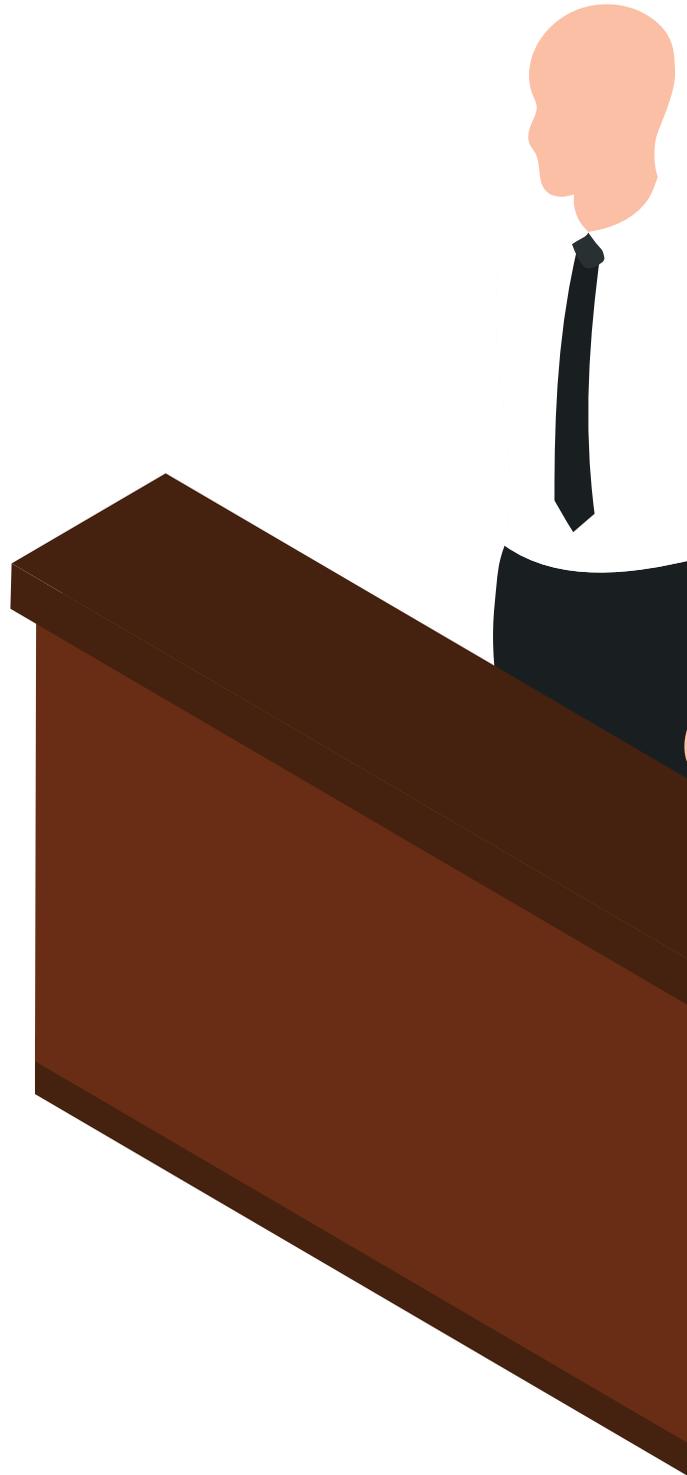
The indictment alleges that this group obtained and fabricated false and illegal authorizations to take all legal action regarding the land parcels mentioned in the falsified court decisions and entered into sales contracts.

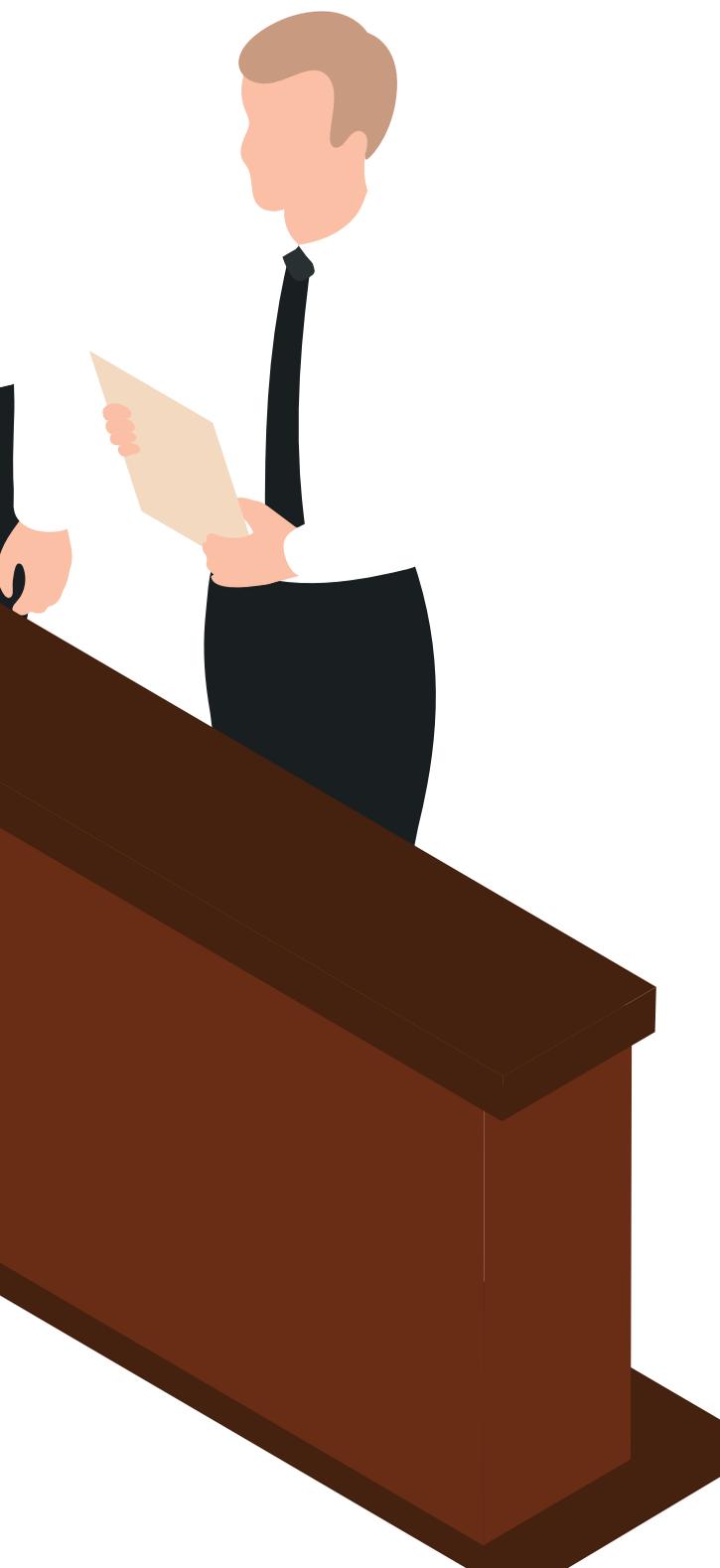
“Apparently authorizations issued by Pavle Vujovic, Miroslav Vujovic, Milica Aleksic, Dragica Stojanovic (who were all deceased at the time) Blazo Vujovic and Zarko Vujovic in favor of Shaban Syla.”

According to the indictment, they incited the KTA (now the KPA) and the Kosovo Cadastral Directorate to transfer the socially owned plots of land in Llapnasella, Preoc and Caglavica, apparently in favor of Stevic family, but in fact in favor of the organized criminal group.

Azem Syla and some of the members of the group are accused of inciting the President of the Municipal Court Nuhi Uka to commit the criminal offense of abuse of official position or authority, unlawful issuance of a court decision and fraud in office. They are also accused of inciting the director of the Cadastral Directorate of Prishtina, Sabedin Haxhiu to commit the criminal offense of abuse of official position or authority and fraud in office.

According to the indictment, Azem Syla gave orders, instructions and approved actions. Meanwhile Shaban Syla and Shpresim Uka organized, directed actions such as the





issuance and transfer of illegal and false authorizations, the signing of sales contracts and the illegal registration of assets in the cadastral office.

“Azem Syla provided the initial funding for this business and kept a supervisory role over the entire operation. Fahredin Gashi and Ramadan Uka were high-ranking members of this group involved at the level that was directly under Shpresim Uka and Shaban Syla.

The indictment alleges that the cooperating witness in this case, A.A. was a member of the group for a long time and knows the members and their activity as a whole.

“He left the group in 2007 but remained in contact with some of the group’s members for a while and returned to Kosovo in 2009. He met some of them. The meetings have been recorded and these records have already been transcribed and used as admissible evidence in previous criminal cases,” is stated in the indictment.

But the indictment describes Azem Syla as cautious in his actions regarding meetings with group members, but also in telephone communications. It states that the regular meetings of the group were held in the pizzeria of witness N.N, in the neighborhood “Bregu i Diellit”, in front of the Technical Faculty.

“Azem Syla would sit in a corner, and from time to time he would invite the members of the group one by one to the table, asking for updates.” This has been confirmed by A.A. N.N. also stated that it was impossible for anyone to sit down with Azem Syla, without being invited. He said that when a person was called to talk to Azem Syla, he would call his driver, handing him the bag and the phones,” is stated in the indictment. According to prosecutor Danilo Cecarelli, these measures have been taken so that no conversation is recorded.

But during the interrogation, Azem Syla stated that he may have frequented this cafe, just as he may have frequented another cafe and may have accidentally met other defendants. He stated that he had never met witness A.A. in this cafe. Syla also stated that he did not talk about business or real estate issues in this cafe.

During the wiretapping of the defendants’ phones, the prosecution described the details of the communications between the members of the group on issues related to the sale and purchase of land. But these wiretaps do not show that Azem Syla was heard talking directly about these issues. But there are some conversations between the members of the group, who mention Syla as the person who makes the final decisions and who charges the other members of the group with specific tasks.

“The EULEX mission was complete because it was ‘Toka’ case that, in my opinion, served to prolong its mission, but the mission to take this case forward was never achieved, because not only the prosecution left it in half, but even they themselves, and unfortunately we were left behind over the years, dragging our feet not because of this court,”

Berisha declared.

“This is clear from a conversation between Arton Vila and Shaban Sylja regarding the request to cancel one of the fraudulent sales on behalf of Arton Vila”

‘A.V.: Once again I received a call from the court. S.S.: Really, and what is it for? A.V.: It’s about canceling the contract. S.S.: Damn, I don’t know why he’s coming to you. A.V.: Please check what is happening, also ‘Daja’ said let Sh.S. deal with this,” is said in the indictment.

Regarding these accusations, during the interrogation on July 8, 2016, Azem Sylja stated that he is innocent of all charges. In the indictment, Sylja is quoted as saying that he has been tried throughout his life, for the people and the state of Kosovo in order to create a state, and that he respects the state and the law. He has stated that he has never been involved in real estate and that there is no document on this.

Besnik Berisha, Azem Sylja’s lawyer in the hearing of June 25, 2019 in his introductory speech stated that EULEX filed this indictment only to extend his mandate.

“The EULEX mission was complete because it was ‘Toka’ case that, in my opinion, served to prolong its mission, but

the mission to take this case forward was never achieved, because not only the prosecution left it in half, but even they themselves, and unfortunately we were left behind over the years, dragging our feet not because of this court,” Berisha declared.

He said it would be proven that the accused had never set up a structured group, did not manage or order or change orders for organizational plans.

Berisha said that the indictment against Sylja is based on the testimony of a witness A.A.

“This cooperating witness, a criminal who always admits to the crime to receive benefits so that he will never be punished, this is A.A. that they want to testify in order to sentence Azem Sylja. The witness in my opinion is a paid mercenary, instructed, trained for years, to mentions the name of Azem Sylja to these people,” said Berisha, among others.

Preportr contacted Besnik Berisha to get a statement regarding the progress of the trial so far and his comments about the indictment against Azem Sylja, but he declined to comment on the case.

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