

BASIC COURT OF PRISHTINË/PRIŠTINA
PKR 11/2017
24 May 2018

Prishtinë 30-05-2018		
Numri i rendit Redni broj	Ora e pranimit Čas prijama	Nënshtetëria Pripadnost

IN THE NAME OF THE PEOPLE

THE BASIC COURT OF PRISHTINË/PRIŠTINA, in the Trial Panel composed of EULEX Judge Franciska FISER, as Presiding Judge, and EULEX Judge Roxana COMSA and Kosovo Judge Rustem BEGOLLI as Panel Members, with the participation of EULEX Legal Officer Asja ZUJO as the Recording Officer, in the criminal case against:

L. I, date of birth . . . place of birth village of Municipality, residing in Prishtinë/Priština, father's name F . . . mother's name . . . personal identification number . . . Kosovo citizen of Kosovo-Albanian nationality, married, with two children, medical doctor, currently in detention;

indicted with:

- **Trafficking in Persons** in violation of Article 139, Paragraph (1) in conjunction with Article 23 of the Criminal Code of Kosovo (hereinafter: CCK); and
- **Organized Crime** in violation of Article 274, Paragraph (3) of the CCK;

and

St. I, date of birth . . . , place of birth Prishtinë/Priština, residing in Prishtinë/Priština, father's name . . . , mother's name . . . personal identification number . . . Kosovo-Albanian nationality, married, with three children, medical doctor, currently not in detention;

indicted with:

- **Grievous Bodily Harm** in violation of Article 154, Paragraph (1), item (2) in conjunction with Article 23 of the CCK;

both accused through the Indictment of the Prosecution Office of the Republic of Kosovo dated 15 October 2010, amended on 22 March 2013 and 17 April 2013;

after having held the Main Trial sessions on 6 July 2017, 15 August 2017, 14, 19, 20, 21, 26, 27, and 28 September 2017, 11, 12, 18, 19, 25, and 26 October 2017, 7, 8, 13, 21, 22, 23, and 29 November 2017, 11, 15, 19, and 20 December 2017, 10, 15 and 17 January 2018, 27 March 2017, 16, 17, 24, 25, and 26 April 2018, and 2 and 22 May 2018.

following the Trial Panel's deliberation and voting held on 23 May 2018;

pursuant to Article 392, Paragraph (1) of the Criminal Procedure Code of Kosovo (hereinafter: CPCK) on 24 May 2018 in a public hearing and in the presence of the Prosecutor, Defendant L..., Defence Counsel, Defendant S..., is Defence Counsel, and the Victims Representative;

renders the following:

J U D G M E N T

I.

Under Count 1 – Trafficking in Persons and Count 2 – Organized Crime

The Defendant L... and GUILTY because:

- A. It is proven beyond a reasonable doubt that the Defendant L... in his capacity as co-owner and manager of the Medicus clinic, and through his personal participation in at least some of the transplant operations as the surgeon or assistant to the surgeon, knowing that the Medicus clinic did not possess a licence for transplantation surgeries and knowing that transplantations are prohibited by the Kosovo Law on Health, in co-perpetration with other known and unknown co-perpetrators from Kosovo and abroad, specifically but not limited to, from Turkey,

Israel and Ukraine, on or about 1 January 2008 through to 4 November 2008, by means of fraud and abuse of position of vulnerability, recruited at least seven persons – donors, by advertising on the internet and then directly contacting them by email or telephone, transported them from foreign countries into Kosovo, transferred them from the Pristina airport to the Medicus clinic, received, harboured and operated on them at the Medicus clinic, with the aim to obtain their organs (kidneys) for the purpose of exploitation, and carried out the removal of their organs (kidneys) and transplanted those organs into recipients, namely:

- On 15 May 2008, Witness [redacted] kidney was removed during an operation at the Medicus clinic. Witness [redacted] migrated from the former Soviet Union to Israel in 2007; she had a son and a disabled daughter; her husband was with his mother who was ill; she had debts and because of her poor knowledge of Hebrew she had difficulties finding a job. She saw an advertisement on buying a kidney in a Russian language newspaper. She called a number that was indicated therein; she was told she would need to make some tests. Then she was contacted by a person called [redacted] who took her to the clinic in Tel Aviv where she made a blood test. [redacted] promised her 15,000 USD in exchange for her kidney and arranged her transport to Pristina. She was met at the Pristina airport by two young men and brought to the Medicus clinic. At the Medicus clinic she signed some documents presented to her and after five days she left the clinic and flew to the Tel Aviv airport where [redacted] gave her 12,000 USD. She never received the rest of the money. At the Medicus clinic a young Turkish man was introduced to her as the person who needed her kidney;

- On 19 June 2008, Witness [redacted] kidney was removed during an operation at the Medicus clinic. Witness [redacted] was born in [redacted] and later on became a resident of [redacted]. In 2008, Witness [redacted] was 20 years old; he did not have a father; his mother was alone and depended financially on him; he had debts at a number of banks; an arrest warrant was issued against him for his debts. He saw an advertisement in a Russian newspaper and he called a number that was indicated therein. Two persons, [redacted] and [redacted], contacted him and promised him 12,000 USD; one of them told him that the operation is not complicated and that it would last half an hour; the other also told him that he would have a small scar and that he would be in the same physical condition after the operation. He was then transported from the Tel Aviv airport to

Istanbul and then to Pristina where he was picked up and brought to the Medicus clinic. In Istanbul, on his way back, he received 7,800 euros as the equivalent of 12,000 USD. He met Witness 1 in the Medicus clinic who was the recipient of his kidney. After his arrival at home his medical state deteriorated following the surgery in Kosovo, due to improper functioning of his remaining kidney and post-surgery complications;

- On 24 July 2008, Witness 2 : kidney was removed during an operation at the Medicus clinic. Witness 2 came from Russia to Israel with the aim to earn some money and then to return back. She left a daughter in Russia; she had to support her and she had debts for the maintenance of the apartment she rented in Israel. She noticed an advertisement in a Russian newspaper for a kidney donor with the promise of a large payment. After she made a phone call, a person called her or she contacted her, offered her 10,000 USD in exchange for her kidney and told her that she should not disclose this information or talk to anyone. She was transported to Istanbul and then to the Pristina airport where she was picked up and brought to the Medicus clinic. She was requested to sign some documents at the Medicus clinic; she met the recipient of her kidney at the Medicus clinic. On her way back a person called her and gave her 8,100 or 8,200 euros which was equivalent to 10,000 USD;

- On 9 September 2008, Witness 3 : kidney was removed during an operation at the Medicus clinic. In 2008, Witness 3 had been facing serious financial distress due to his family situation; he had two children; he had serious problems with providing accommodation for his family; he lived with his mother and his children were staying with his father, he was not able to pay the rent. He found a notice on the internet about kidney donations; it was in the Russian language. After he had sent his telephone number, a person called him and sent him an electronic ticket for a flight to Istanbul. In Istanbul another two persons met him; they told him that after the surgery everything would be ok; they promised him a compensation of 30,000 USD and gave him an electronic ticket for a flight to Pristina. At the Pristina airport he was picked up and brought to the Medicus clinic. In the Medicus clinic he stayed in the same room with a woman who was the recipient of his kidney. A brother of the recipient gave him 1,000 USD personally. He never received any compensation as promised. After the operation Witness 3 had some problems with his health;

- On 21 October 2008, Witness i. kidney was removed during an operation at the Medicus clinic. Witness i. lived in , he divorced his wife in 2005 and stayed alone with his daughter who was born in 2001. His economic situation was very difficult; they did not have enough money to survive; he was unemployed since 2006. He found an advertisement on the internet about the purchase and sale of organs. After he sent a message, a person named called him. Later, another person Γ contacted him and promised him compensation in the amount of 20,000 USD. He was transported through Istanbul to the Pristina airport but he could not enter Kosovo and was sent back to Istanbul. In Istanbul a person was waiting for him; gave him a document – a letter of invitation with the heading of the Medicus clinic and instructed him to fly again to Pristina. When he arrived to the Pristina airport for the second time he was picked up and brought to the Medicus clinic. In the Medicus clinic a young man whom the witness later identified as approached him and asked him to sign some documents explaining in broken Russian that these documents state that he is donating his kidney to his relative. He was staying with the recipient of his kidney in the same room. After the operation he received an envelope with 6,000 USD; he was told that he would only receive the rest of the money if he recruited other kidney “donors”. After he was contacted by the Kazakh police, called him and warned him not to say anything about the operation in Kosovo otherwise he might have problems. He was afraid since had a copy of his passport and therefore he decided to move to another country. Witness still suffers the consequences of the operation; he cannot do physical activities; he must follow a specific diet and has serious concerns about his health;

- On 26 October 2008, Witness kidney was removed during an operation at the Medicus clinic. Witness lived in ; his economic situation was relatively stable at that time; he was able to pay the rent and buy food although he could not save any money. He was in a serious relationship with his girlfriend and when they broke up, it affected him a lot and he became depressed. Also, his father started to have problems with his heart and he wanted to support his father’s medical treatment. On the internet he found a notice in the Russian language that material compensation could be received through kidney transplantation; he wrote an email and then a person named alled him. Later on another person contacted him and offered him 10,000 euros in exchange for his kidney. He was

transported from Minsk to Istanbul where he was told by [redacted] at such an operation was illegal in Turkey and that he would have to travel to another country. He started to have doubts, he was concerned, but [redacted] convinced him that the operation in another country would be fine and without any problems. He was then transported to Pristina. He was picked up at the Pristina airport and brought to the Medicus clinic. He was requested to sign some documents before the operation. In the Medicus clinic he also met and spoke with [redacted] the recipient of his kidney. While staying at the Medicus clinic [redacted] gave him 10,000 USD. When he was back home he contacted [redacted] in order to get the rest of the money. He was promised the rest of the money only after he would recruit other kidney "donors". Finally, he was paid 500 USD for the outstanding debt and was threatened by [redacted] to keep silent or suffer the consequences;

- On 31 October 2008, [redacted] kidney was removed during an operation at the Medicus clinic. [redacted] lived in Turkey; he was approached in Turkey by a man called [redacted] and he was offered 20,000 USD to donate his kidney. [redacted] also told him that he would have his kidney removed in Kosovo since this was not allowed in Turkey but was legal in Kosovo. He was transported to the Pristina airport, where he was picked up and brought to the Medicus clinic. Prior to the operation he signed some documents. He met [redacted] the recipient of his kidney at the Medicus clinic. He never received any money in exchange for his kidney;

Thereby, the Defendant [redacted] committed the criminal offence of **Trafficking in Persons** in violation of Article 139, Paragraph (1) in conjunction with Article 23 of the CCK.

B. Furthermore, it is proven beyond a reasonable doubt that the Defendant [redacted] is a member of an international criminal network which functioned as a structured group, existing for a period of time from at least on or about 1 January 2008 through to 4 November 2008, in his capacity as co-owner and manager of the Medicus clinic, and with his personal participation as the surgeon or assistant to the surgeon in at least some of the transplant operations, in concert with other known and unknown persons from Kosovo and abroad, specifically but not limited to, from

Turkey, Israel and Ukraine, committed the criminal offence of Trafficking in Persons in violation of Article 139, Paragraph (1) in conjunction with Article 23 of the CCK, with a detailed factual description provided under point A.). As a member of same international criminal network which functioned as a structured group, existing for the same time period, from at least on or about 1 January 2008 through to 4 November 2008, in his capacity as co-owner and manager of the Medicus clinic, and with his personal participation as the surgeon or assistant to the surgeon in at least some of the transplant operations, in concert with other known and unknown persons from Kosovo and abroad, specifically but not limited to, from Turkey and Israel, who recruited recipients by contacting them in person or by telephone, organized their transport from foreign countries to the Medicus clinic, received and harboured them at the Medicus clinic, and then together with other known persons from Kosovo and abroad, specifically from Turkey, performed transplant operations in the Medicus clinic, and directly or indirectly obtained a financial or other material benefit including cash payments made directly to the Medicus clinic, and/or to others by the recipients of organs (kidneys) including but not limited to the following cash payments:

- From Witness [redacted] from Israel the amount of 100,000 USD. Witness [redacted] started to have problems with his health in 2000 and then in 2007 his health was rapidly deteriorating. He was told he would have to undergo dialysis. He was contacted by a person named [redacted] who promised to arrange a kidney transplant in Kosovo with doctor [redacted]. He gave 1.000 Shekels to [redacted] the rest he took with him when he boarded the flight from Tel Aviv to Istanbul. [redacted] scheduled a flight from Tel Aviv to Istanbul. At the Istanbul airport another person, [redacted] met him and flew with him from Istanbul to Pristina. At the Pristina airport he was picked up and brought to the Medicus clinic by a young man whom he recognized as a son of the owner of the clinic. On the same day in the evening he was operated on by doctor [redacted]. One or two more doctors and nurses were present. He stayed in the clinic for five to six days after the operation.

- From Witness [redacted] from Israel the amount of 70,000 euros. Witness [redacted] started with dialysis in 2007 and after five months he was told he would need a kidney transplant and that he should wait for two to three years. In 2008, he heard about

and he contacted him. He met with [redacted] and [redacted]. They told him about transplantations in Kosovo and that it would cost 70,000 euros. He paid 70,000 [redacted] and the rest he paid in euros, namely 60,000 euros. He was given a receipt for the payment no. 788 with the heading of the Medicus clinic. He flew from the Ben Gurion Airport to Istanbul; he underwent tests at doctor [redacted] clinic in Istanbul and the next day he flew together with [redacted] to Pristina. After the operation, he stayed at the Medicus clinic for five to six days. He never appeared before the Ethics Committee.

- From Witness [redacted] from Israel the amount of 108,000 USD. Witness [redacted] started having health problems in 1998; in 2007 he started with dialysis; he was registered for a kidney transplant and he was on the list for four years. He went to the [redacted] company based in Tel Aviv that arranged transplantations abroad; he called [redacted] who came to his house and promised to arrange a transplantation in Kosovo for 108,000 USD. He paid in cash to [redacted] partly in dollars, partly in [redacted] in five or six instalments. [redacted] also gave him an invitation letter from the Medius clinic with the instruction to show the letter at the border in Pristina. He flew from the Ben Gurion airport to Istanbul and then to Pristina together with [redacted]. In Istanbul he underwent tests at doctor [redacted] clinic. He was picked up at the Pristina airport and taken to the Medicus clinic. Before the operation he saw doctor [redacted] and at least three other medical staff. He stayed five days at the clinic.

- From Witness [redacted] from Israel the amount of 79,000 euros. Witness [redacted] started to have health problems sometime in 2007 or 2008. In 2008, he was told he would need dialysis and a kidney transplant. He was in contact with [redacted] who told him that a kidney transplant would cost him 79,000 euros. He paid in two instalments; 10,000 Shekels to [redacted] and 69,000 euros were brought in cash to Pristina by his son; concerning the amount of 69,000 euros he received a receipt no. 811 dated 6 July 2008 with the heading of the Medicus clinic, Zona Industriale, Fushe Kosovo. He flew from the Ben Gurion airport to Istanbul together with [redacted]. In Istanbul he had tests done at [redacted] clinic; the next morning he flew to Pristina. He was picked up at the Pristina airport and brought to the Medicus clinic. The next morning he had surgery; he met [redacted] in the clinic; he also saw many medical staff, doctors and

nurses. He signed some documents in the clinic and he never appeared before the Ethics Committee.

- From [redacted] from [redacted] the amount of 25,000 euros. [redacted] was on dialysis for three years; both of his kidneys stopped working; he needed a kidney transplant which was not available in Poland. After searching for possibilities he got an invitation from doctor [redacted] Turkey. He travelled to Istanbul and had tests done at doctor [redacted]'s clinic. After two to three months he was contacted again by [redacted], he travelled again to Istanbul and [redacted] proposed to him to have the transplantation in Kosovo. He received a ticket; a driver took him to the airport. When he arrived to Pristina a car waited for him and took him to the Medicus clinic where he was operated. He stayed at the clinic for ten days. He paid the amount of 25,000 euros in two instalments; 10,000 euros he paid in Istanbul to [redacted] and the rest, 15,000 euros, in Kosovo in the clinic.

- From [redacted] from Canada the amount of 80,000 euros. [redacted] had severe and progressive kidney damage in 2008. He had two options, to commence dialysis or to get a kidney transplant. After searching for possibilities he was put in contact with [redacted] who told him that the surgery would cost 80,000 euros and gave him a list of tests he should do before the surgery. When [redacted] informed him that a donor had been found, he paid 80,000 euros to [redacted]; the witness purchased a ticket to Istanbul where [redacted] met him. The next morning he flew together with [redacted] to Pristina; this travel was paid for by [redacted]. At the Pristina airport a private vehicle took them to the clinic, where he was operated; he stayed for five days in the clinic. Before the surgery he was asked to sign some documents; he also met doctor [redacted] who introduced himself as a surgeon. He never appeared before the Ethics Committee.

- From Witness [redacted] from Israel the amount of 77,000 euros. Witness [redacted] had kidney failure in 2008; he was told he would have to undergo a kidney transplantation or dialysis. The transplantation in Israel was not possible since there was no one to donate a kidney. [redacted] approached him and arranged for transplantation in Kosovo for 77,000 euros. He paid in two parts, he paid 17,000 euros in cash to [redacted], and the remaining 60,000 euros was paid to the bank account of [redacted]. Witness [redacted] later realized that [redacted] was [redacted]. He travelled with [redacted] from Tel Aviv to

Istanbul; in Istanbul he had medical tests done at [redacted] clinic and the next day he flew to Pristina. From the Pristina airport he was brought to the Medicus clinic where he went directly into surgery. He stayed for approximately nine days in the clinic; he never appeared before the Ethics Committee.

- From Witness [redacted] from Israel the amount of 90,000 euros. Witness [redacted] received a kidney transplant in 2003 or 2004; it was [redacted] who performed the surgery and [redacted] who organized it. In 2007 or 2008 he had problems again and was told he would need another transplant. He tried to reach [redacted] again and [redacted] ex-wife told him to contact [redacted]. He paid 30,000 Shekels to [redacted] and 56,000 euros to [redacted]. [redacted] arranged the flight to Istanbul where he met [redacted] and the next morning he flew to Pristina. At the Pristina airport a car was waiting for him and brought him to the clinic. He signed some documents in the clinic. There were four to five persons present during his surgery; he stayed for six days in the clinic.

- From [redacted] from Israel the amount of 90,000 euros. [redacted] was 72 years old in 2008; he was very ill; he had kidney cancer and he had already been on dialysis for two to three years. It was [redacted] who arranged the transplantation in Kosovo; he asked for a payment of 90,000 euros in advance; gave the witness the documents and instructed him in case the witness was asked about the purpose of his visit to Kosovo and made the witness believe that the government of Kosovo encouraged such medical procedures. [redacted] flew together with his son from the Ben Gurion airport to Vienna and then to Pristina. At the Pristina airport a young man met him; he introduced himself as a son of the manager of the clinic and took them to the clinic. When they arrived at the clinic [redacted] was put into a room, a person met him and introduced himself as the manager of the clinic; in the afternoon [redacted] introduced himself to [redacted] as a surgeon. Before the surgery the witness signed some documents; he never appeared before the Ethics Committee.

Thereby, the Defendant L [redacted] committed the criminal offence of **Organized Crime** in violation of Article 274, Paragraph (1) of the CCK in connection with the criminal offence of **Trafficking in Persons** in violation of Article 139, Paragraph (1) of the CCK, committed in co-perpetration under Article 23 of the CCK, thereby re-qualifying the original charge of **Organized Crime** contrary to Article 274, Paragraph (3) of the CCK.

II.

Under Count 7 – Grievous Bodily Harm

The Defendant S [redacted] found GUILTY because:

It is proven beyond a reasonable doubt that the Defendant S [redacted], from at least 15 May 2008 until 31 October 2008, in his capacity as an anaesthesiologist, in co-perpetration with the Defendant L [redacted] the surgeon, and other known and unknown co-perpetrators from Kosovo and abroad, specifically but not limited to, from Turkey, knowingly and willingly participated in at least seven (7) medical procedures and assisted the transplant operations in the Medicus clinic, aware that such medical procedures, namely the removal of organs (kidneys) for the purpose of transplantation, were unlawful under the Kosovo Health Law, and by this permanently and substantially weakened an organ of at least seven persons – donors and inflicted them with a disability of at least 15%, namely:

- Witness [redacted];
- Witness [redacted];
- Witness [redacted];
- Witness P [redacted];
- Witness F [redacted];
- Witness A [redacted];
- Yilmaz A [redacted]

Thereby, the Defendant S [redacted] committed the criminal offence of **Grievous Bodily Harm** in violation of Article 154, Paragraph (1), item (2) in conjunction with Article 23 of the CCK.

III.

THEREFORE, pursuant to the provisions of Article 36, Paragraph (1) Sub-Paragraphs (2) and (3), Article 38, Paragraphs (1) and (2) and Article 39 of the CCK, the court imposes the following sentence:

Li ... ving been convicted of the criminal offence of **Organized Crime** in violation of Article 274, Paragraph (1) of the CCK in connection with the criminal offence of **Trafficking in Persons** in violation of Article 139, Paragraph (1) of the CCK, committed in co-perpetration under Article 23 of the CCK under count 1 and count 2 is **SENTENCED** to seven (7) years and six (6) months of imprisonment and a fine of 8,000 (eight thousand) euros that is to be paid no more than three (3) months from when the judgment becomes final.

IV.

THEREFORE, pursuant to the provisions of Article 36, Paragraph (1) Sub-Paragraph (2) and Article 38, Paragraphs (1) and (2) of the CCK, the court imposes the following sentence:

St ... I having been convicted of the criminal offence of **Grievous Bodily Harm** in violation of Article 154, Paragraph (1), item (2) in conjunction with Article 23 of the CCK under count 7 is **SENTENCED** to one (1) year of imprisonment.

V.

Pursuant to Article 57, Paragraphs (1) and (2) of the CCK Li ... prohibited from exercising the profession of urologist for the period of two (2) years starting from the day the prison sentence has been fully served.

VI.

Pursuant to Article 391, Paragraph (5) of the CPCK, the time spent in detention on remand by Li ... from 4 November 2008 until 3 December 2008, and from 10 January 2017 until the Judgment becomes final shall be credited against the punishment.

VII.

Pursuant to Article 102, Paragraphs (1) and (4) of CPCK L ... hall pay the costs of the proceedings in the amount of 500 (five hundred) euros no later than 30 days from the day this Judgment becomes final.

Pursuant to Article 102, Paragraphs (1) and (4) of CPCPK Srpska Pristina all pay the costs of the proceedings in the amount of 300 (three hundred) euros no later than 30 days from the day this Judgment becomes final.

VIII.

Pursuant to Article 112 of the CPCPK the Injured Parties Vukobratović, Vukobratović, Vukobratović and Vukobratović are instructed that they may pursue their property claims in civil litigation.

IX.

The Ruling on imposed measures for securing the property claims of injured party – protected witness , protected witness , protected witness , protected witness , protected witness , and witness in against the Defendant Lučić dated 8 February 2018 is terminated.

BASIC COURT OF PRISHTINĚ/PRIŠTINA

PKR 11/2017

24 May 2018

Franciska FISER
Presiding Judge

Roxana COMSA
Panel Member

Rrustem BEGOLLI
Panel Member

Asja ZUJO
Recording Clerk

Drafted in English, as an authorised language.