

Basic Court of Prishtinë/Priština

Case no PKR 375/14

1 February 2018

The judgments published may not be final and may be subject to an appeal according to the applicable law.

In the name of the people

The Basic Court of Prishtinë/Priština in the trial panel composed of:

EULEX Judge Anna Adamska - Gallant as the presiding trial judge,

Judge Suzana Qerkini and EULEX Judge Vladimir Mikula as panel members,

assisted by EULEX Legal Officer Murlan Prizreni acting as the recording clerk

in the criminal case against the accused:

N.K., father's name..., born on...in..., citizen of the Republic of Kosovo and of Bosnia and Herzegovina,

charged under the Indictment PPS No. 42/13 filed with the Court by EULEX Prosecutor of the Special Prosecution Office of the Republic of Kosovo, Andrew Hughes on 07 July 2013 with:

- a) two counts of Organized Crime, in violation of Article 274 of the Kosovo Criminal Code of 2003 (hereinafter: the CCK) - Counts 1 and 3;
- b) one count of Aggravated Murder, in violation of Article 147 of the CCK- Count 2;

- c) four counts of Unauthorized Possession with Intent to Distribute, Distribution or Sale; and/or Export/Import of Dangerous Narcotic Drugs in violation of Article 229 Paragraphs 1,2, and 3 of the CCK- Counts 4,5, 6 and 7;
- d) one count of Unauthorized Possession with Intent to Distribute, Distribution or Sale; and/or Export/Import of Dangerous Narcotic Drugs in violation of Article 228 Paragraphs 1,2, and 3 of the CCK- Count 8;
- e) one count of Unauthorized Production and Processing of Dangerous Narcotic Drugs and Psychotropic Substances in violation of Article 230 of the CCK – Count 9;

after the main trial held in public, in the presence of EULEX Prosecutor Andrew Hughes, Accused N.K. and his Defence Counsel B.B.;

on the days: 03, 30 and 31 May 2017, 01, 02, 27 and 28 June 2017, 29 and 31 July 2017, 01, 02 and 03 August 2017, 11, 12, 13, 14 and 15 September 2017, 02, 03, 04, 05, 06 and 30 October 2017, 01 and 18 November 2017, 18, 19, 29, 30 and 31 January 2018,

after the trial panel's deliberation and voting held on 31 January 2018,

in the presence of EULEX Prosecutor Andrew Hughes, Accused N.K. and his Defence Counsel B.B.,

pursuant to Article 359 of the Criminal Procedure Code of the Republic of Kosovo (hereinafter: the CPC) pronounces in public the following:

JUDGMENT

- I. N.K. is hereby found guilty of the following criminal act which was the subject of Count 8 of the indictment: in July/August 2003 in Sarajevo, Bosnia and Herzegovina, acting without authority and jointly for the purpose of the committing the offence with the man denominated in these proceedings as K2 and with three other not identified men he put into circulation 25 kg of a substance that constituted a particularly dangerous narcotic, namely heroin, in such a way that he commissioned K2 to drive the vehicle Volkswagen Caddy to Austria with 25 kg of the said substance concealed in the purposefully altered roof, which substance was afterwards collected by not identified men upon K2's arrival to Austria,
- and this act, pursuant to Article 3 Paragraph 2 of the CCK, is hereby classified as a criminal offence under Article 245 Paragraphs 1 and 2 of the Criminal Code of the Socialist Federal Republic of Yugoslavia (hereinafter: CCSFRY) in its wording as entered into force on 1 July 1977 whereas all these provisions were retained in force by Paragraph 1.1 (b) of the United Nations Interim Administration Mission in Kosovo Regulation 1999/24 of 12 December 1999,
- and for this crime, pursuant to Article 245 Paragraph 2 of the CCSFRY he is hereby sentenced to 6 (six) years of imprisonment;
- II. Pursuant to Article 364 Paragraph 1 Subparagraph 1.3 of the CPC N.K. is hereby acquitted of the following criminal charges:

- a) the charge under Count 1 of the Indictment, classified as Organized Crime under Article 274, paragraphs 1,3, and 7 of the CCK and described in the following way:

“N.K., in co-perpetration with 12 identified persons and others, did organize, establish, supervise, manage and/or direct this Structured and Organized Criminal Group or, did actively participate in this Organized Criminal Group, knowing that his participation will contribute to the commission of the serious crime of Aggravated Murder against rival gangster boss R.D., to obtain, directly or indirectly, a financial or other material benefit”,

that was allegedly committed in 2006 - 2007, in Sarajevo, Bosnia and Herzegovina;

- b) the charge described under Count 2 of the Indictment, classified as Aggravated Murder, under Article 147 Paragraphs 3 and/or 5 of the CCK and described in the following way:

“N.K., through a Structured and Organized Criminal Group as stated in Count 1, did organize the assassination of R.D., and consequently deprive the victim of his life in a cruel or deceitful way; and/or did deprive R.D. of his life while acting ruthlessly and violently; and/or did deprive R.D. of his life for the purpose of obtaining a material benefit”, allegedly committed in 2007, in Sarajevo, Bosnia and Herzegovina;

- c) the charge described under Count 3 of the Indictment, classified as Organized Crime under Article 274, paragraphs 1,3, and 7 of the CCK, and described in the following way:

“N.K., in co-perpetration with K1, K2, K3, and 6 identified persons, and others did organize, establish, supervise, manage and/or direct this Organized Criminal Group in the commission of Five Counts of Unauthorized Possession with intent to Sell or Distribute Dangerous Narcotic Drugs; Five Counts of the Sale of Dangerous Narcotic Drugs; and/or Five Counts of the Export/Import of Dangerous Narcotic Drugs and one Count of Unauthorized Production and Processing of Dangerous Narcotic Drugs between Turkey and European countries”,

allegedly committed from at least 2000 through 2012, in Holland, the Balkan and Turkey;

- d)** the charge described under Count 4 of the Indictment classified as Unauthorized Purchase, Possession, Distribution or Sale of Dangerous Narcotic Drugs and Psychotropic Substances in violation of Article 229 Paragraphs 1, 2 and 3 of the CCK, and described in the following way:

“N.K., in co-perpetration with other, including members of his Organized Criminal Group as listed in Count 3 did, without authorization, with the intent to sell or distribute; transport or deliver, and/or, export/import substances declared by law to be dangerous narcotic drugs, namely 50 kilograms of heroin, and N.K. committed the crime while acting as a member of the aforementioned group”,

allegedly committed in February 2003 in Rozaje, Montenegro;

- e)** the charge described under Count 5 of the Indictment which was classified as Unauthorized Purchase, Possession, Distribution or Sale of Dangerous

Narcotic Drugs and Psychotropic Substances in violation of Article 229 Paragraphs 1, 2 and 3 of the CCK and described in the following way:

“N.K., in co-perpetration with others including members of the Organized Criminal Group listed in Count 3, did, without authorization, possess with the intent to sell or distribute; transport or deliver; and/or, export/import substances declared by law to be dangerous narcotic drugs, namely 50,000 Ecstasy tablets, and N.K. committed this crime acting as a member of the aforementioned group”,

allegedly committed in early 2003, while the place of commission of the said actions was not specified in the Indictment although it was indicated that the drugs were transferred from Bosnia to Turkey;

- f) the charge described under Count 6 of the Indictment classified as Unauthorized Purchase, Possession, Distribution or Sale of Dangerous Narcotic Drugs and Psychotropic Substances in violation of Article 229 Paragraphs 1, 2 and 3 of the CCK and described in the following way:

“N.K., in co-perpetration with others including members of the Organized Criminal Group listed in Count 3, did, without authorization, possess with the intent to sell or distribute; transport or deliver; and/or, export/import substances declared by law to be dangerous narcotic drugs, namely 100,000 Ecstasy tablets, and N.K. committed this crime acting as a member of the aforementioned group”,

whereas the place and time of commission of the said actions were not specified in the Indictment although it was indicated that the pills were transported in 2003 from Sarajevo, Bosnia to Turkey;

- g)** the charge described under Count 7 of the Indictment which was classified in the Indictment as Unauthorized Purchase, Possession, Distribution or Sale of Dangerous Narcotic Drugs and Psychotropic Substances in violation of Article 229 Paragraphs 1, 2 and 3 of the CCK; that was described in the following way:

“N.K., in co-perpetration with others including members of the Organized Criminal Group listed in Count 3, did, without authorization, possess with the intent to sell or distribute; transport or deliver; and/or, export/import substances declared by law to be dangerous narcotic drugs, namely 25 kilograms of Heroin from Turkey to Bosnia and Herzegovina, and the Defendant N.K. did commit this crime while acting as a member of the aforementioned group,

whereas the time of commission of the said actions were not specified in the Indictment;

- f)** the charge described under Count 9 of the Indictment which was classified in the Indictment as Unauthorized Production and Processing of Dangerous Narcotic Drugs and Psychotropic Substances in violation of Article 230 Paragraphs d 1, 2 and 3 of the CCK, that was described in the following way:

“N.K., in co-perpetration with others, including members of the Organized Criminal Group listed in Count 3, did, without authorization, cultivate,

produce, process, extract or prepare substances declared to be dangerous narcotic drugs with the intent to sell, distribute or offer them for sale, sell or process with the intent to sell, distribute or offer for sale, and/or sell or supply equipment or materials with the knowledge that they have been used or they will be used for the unlawful cultivation, production or processing or trafficking of any substance or preparation declared to be dangerous narcotic drugs, namely approximately 2.5 tons of acetic anhydride acid, and N.K. committed this crime while acting as member of the aforementioned group”, which was allegedly committed in the Summer 2003 in Sarajevo, Bosnia and Hercegovina,

because it was not proven that N.K. committed the said actions;

- III. Pursuant to Article 50 Paragraph 1 of the CCSFRY the period of deprivation of liberty of N.K. from 13 May 2013 until 27 June 2017 shall be credited for the punishment of imprisonment imposed on him;
- IV. Pursuant to Article 453 Paragraph 3 of the CPCRK, the cost of the criminal proceedings shall be partially reimbursed by N.K. in a scheduled amount of Euro 5000 (five thousand) while any remaining cost of the criminal proceedings shall be paid from the budgetary resources.

EULEX Judge Anna Adamska - Gallant

Presiding Trial Judge

EULEX Judge Vladimir Mikula

Judge Suzana Qerkini

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Reasoning

Part 1 Procedural history

1.1. Investigation

1. On 19 September 2012, an order to conduct an investigation against the Defendant N.K. was issued by the Prosecutor's Office of Bosnia and Herzegovina because of a grounded suspicion that N.K. was involved in the organized illicit international traffic in narcotic drugs and in the organization of the murder of R.D.
2. On 18 September 2012, detention on remand was ordered against N.K. and other by the Court of Bosnia and Herzegovina, because there was a grounded suspicion they committed the aforementioned activities and the court concluded that the Defendant fled; and undertook other activities in order to avoid criminal prosecution in Bosnia and Herzegovina. On the same day, an order for the issuance of an international arrest warrant against the Defendant was issued.
3. The Defendant was arrested on 6 May 2013 by Kosovo Police in Pristina, based on an international arrest warrant issued by the Bosnian authorities. Because of a lack of an extradition agreement between Kosovo and Bosnia and Herzegovina, N.K. was released from Kosovo Police custody on 7 May 2013.
4. On 7 May 2013, the Special Prosecution Office of Kosovo (SPRK) issued a decision on initiation of investigation for the same criminal offences as listed in the international arrest warrant issued by the Bosnian authorities (three charges: organized crime related with drug trafficking, murder of R.D. and drug trafficking in the period 2006 - 2009). It resulted in the arrest and subsequently

detention in remand of Defendant N.K. based on the ruling issued by the EULEX judge.

5. On 18 September 2013, the SPRK Prosecutor expanded the investigation by changing the factual allegations to cover activities connected with drug trafficking in the period starting from 1998 until “the present”.

1.2. Indictment

N.K. was accused with the following criminal offences:

Count 1: Organized Crime, contrary to Article 274, paragraphs (1), (3) and (7) CCK, because the Defendant, N.K., in co-perpetration (pursuant Article 23 CCK) with others, did organize, establish, supervise, manage and/or direct this Structured and Organized Criminal Group (OCG) or, did actively participate in this OCG, knowing that his participation will contribute to the commission of the serious crime of Aggravated Murder against rival gangster boss R.D., to obtain, directly or indirectly, a financial or other material benefit;

The allegations supporting this count were summarized in the Indictment in the following way:

In 2006, Defendant N.K. attended a number of meetings with F.R., Ek.L., M.A.G, S.S., N.O. and possibly others in Sarajevo, Bosnia and Herzegovina. The participants of these meetings formed an Organized and Structured Criminal Group to plan the murder of rival gangster boss R.D. As a result of these organized meetings, Defendant N.K. offered and accepted the responsibility to identify and hire the killers that were to execute the murder of R.D. Well-

established assassin S.R. and his close friend and associate N.V. from Serbia, were hired by Defendant N.K. and members of his Organized Criminal Group to track and kill R.D. On 27 June 2007, in Sarajevo, at about 23:30 hrs, S.R, with the assistance of N.V., did shoot R.D. multiple times using different firearms and thereby murder him. Upon returning back to his parents' home in [village in Serbia], S.R. and his accomplice N.V. were paid at least 100,000 EUR by N.K. and his Organized Criminal Group ("OCG"). Apart from the cruel and violent way this assassination was perpetrated and which Defendant N.K. either knew in advance or at least took recklessly into account, he and his Organized Criminal Group also gained an economic benefit by eliminating rival gangster boss R.D., who was interfering with the international drug trafficking network that Defendant N.K. had established in Sarajevo and throughout the region by giving the Bosnian law enforcement authorities information regarding Defendant N.K.'s criminal activities. The murder was furthermore executed in revenge for the killing of S.L., for which the Defendant and his OCG were holding R.D. responsible.

Count 2: Aggravated Murder, contrary to Article 147, paragraphs (3) and/or (5) CCK, because Defendant N.K., through a Structured and Organized Criminal Group as stated in Count 1, did organize the assassination of R.D., and consequently deprive the victim of his life in a cruel or deceitful way (paragraph 3); and/or did deprive R.D. of his life while acting ruthlessly and violently (paragraph 5); and/or did deprive R.D. of his life for the purpose of obtaining a material benefit (paragraph 7); and/or did deprive R.D. of his life because of unscrupulous revenge or other base motives (paragraph 9);

The allegations supporting this count were summarized in the Indictment in the following way:

In 2006, Defendant N.K., through his Structured and Organized Criminal Group in Sarajevo, Bosnia and Herzegovina, ordered and hired S.R. and N.V. from Serbia, to murder rival gangster boss R.D., who was interfering with Defendant N.K.'s organized drug trafficking operation in Sarajevo and region-wide by repeatedly denouncing these activities publicly. On 27 June 2007, at about 23:30 hrs, S.V. shot at victim R.D. approximately 27 times from an automatic Heckler & Koch firearm and subsequently several additional times at the head of R.D. to make sure he was dead. Defendant N.K. and his OCG then paid S.R. and N.V. at least 100,000 EUR for the murder. The murder was also ordered and executed, amongst other reasons, in revenge for the death of S.L.

Count 3: Organized Crime, contrary to Article 274, paragraphs(1), (3) and (7) CCK, because Defendant, N.K., in co-perpetration (pursuant Article 23 CCK) with others, did organize, establish, supervise, manage and/or direct this Organized Criminal Group in the commission of Five Counts of Unauthorized Possession with intent to Sell or Distribute Dangerous Narcotic Drugs; Five Counts of the Sale of Dangerous Narcotic Drugs: and/or Five Counts of the Export/Import of Dangerous Narcotic Drugs and one Count of Unauthorized Production and Processing of Dangerous Narcotic Drugs between Turkey and European Countries.

The allegations supporting this count were summarized in the Indictment in the following way:

From at least 2000 through 2012, N.K., as the head and director of his extensive Structured and Organized Criminal Group that included K1 (drug manager and mixer for N.K.), K2 (directed shipments between Turkey, the Balkan region, and Holland), K3 (drug distributor in Belgrade/Serbia), L.K. (distribution manager of drugs to Serbia and other European countries), M.H. (driver and bodyguard), S.A. (driver), Z.B. (auto mechanic, creating hidden car compartments for drugs), H.K. (contact in Turkey), I.K. (contact in Turkey), A.Ka. (coordinator of drug shipments) and others, managed and directed the purchase, preparation, transport, sale and distribution, of large amounts of Heroin, Ecstasy, Speed, and other drugs, as well as drug precursors such as acetic anhydride acid, through a well-established organized criminal network. Defendant N.K. coordinated through the aforementioned individuals and many others the import/export of tons of these dangerous and illegal drugs in hidden car compartments such as specially modified chambers in gas tanks, hollowed-out furniture, false bottom trucks, fruits, clothing/textile and by using other methods. Through well-coordinated drug trafficking routes, large shipments of Ecstasy pills were picked up in Holland and transported to Bosnia and Herzegovina and Kosovo, where they were repackaged and transported onwards to Istanbul/Turkey where the Ecstasy was exchanged for Heroin and other drugs. The drugs received in Istanbul were then transported back through Bosnia and Herzegovina and Kosovo and then delivered and sold to dealers and distributors throughout Europe.

Count 4: Unauthorized Possession with Intent to Distribute; Distribution or Sale; and/or Export/Import of Dangerous Narcotic Drugs, contrary to Article 229, paragraphs (1), (2), and (3) CCK, because Defendant, N.K., in co-perpetration

(pursuant Article 23 CCK) with other, including members of his OCG as listed in Count 3 did, without authorization, pursuant paragraph (1), possess with the intent to sell or distribute; pursuant paragraph (2), sell, transport or deliver, and/or, pursuant paragraph (3), export /import substances declared by law to be dangerous narcotic drugs, namely 50 kilograms of Heroin, and the Defendant committed the crime while acting as a member of the aforementioned group, pursuant paragraph (4.1).

The allegations supporting this count were summarized in the Indictment in the following way:

Approximately in February 2003, N.K. repeatedly approached K2, and asked him to transport Heroin for him to England. K2 eventually did fly to Turkey, picked up 50 kilograms of “White Heroin” from a person called H.K., hid them in two large clothing packages and arranged them to be transported to Tuzla in Bosnia and Herzegovina. K2’s driver, S.A., then transported the “White Heroin” from Tuzla to Sarajevo in order to deliver the packages, as instructed by H.K., to a person called A.Ka. Shortly thereafter, K2 was asked by A.Ka. to come himself to Sarajevo, where K2 met A.Ka. and Defendant N.K., who informed K2 that the 50 kilograms of “White Heroin” K2 had just delivered from Turkey belonged to him.

Count 5: Unauthorized Possession with Intent to Distribute; Distribution or Sale, and/or Export/Import of Dangerous Narcotic Drugs, contrary to Article 229, paragraphs (1), (2) and (3) CCK, because Defendant N.K., in co-perpetration (pursuant Article 23 CCK) with others including members of the OCG listed in Count 3, did, without authorization, pursuant to paragraph (1), possess with the intent to sell or distribute; pursuant to paragraph (2), sell, transport or deliver;

and/or, pursuant to paragraph (3), export/import substances declared by law to be dangerous narcotic drugs, namely 50,000 Ecstasy tablets, and the Defendant committed this crime acting as a member of the aforementioned group, pursuant paragraph (4.1).

The allegations supporting this count were summarized in the Indictment in the following way:

Having completed the transport of 50 kilograms of drugs for the Organized Criminal Network of Defendant N.K., K2 agreed in early 2003 through Defendant N.K.'s associate A.Ka., to coordinate the transportation of 50,000 Ecstasy-tablets to Turkey. K2's driver, S.A., transferred the drugs from Bosnia to Turkey in a hidden tank reservoir compartment built-in by mechanic Z.B.

Count 6: Unauthorized Possession with Intent to Distribute; Distribution or Sale; and/or Export/Import of Dangerous Narcotic Drugs, contrary to Article 229 paragraphs (1), (2), and (3) CCK, because Defendant N.K., in co-perpetration (pursuant Article 23 CCK) with others, including members of the OCG listed in Count 3, did, without authorization, pursuant to paragraph (1), possess with the intent to sell or distribute; pursuant to paragraph (2), sell, transport or deliver; and/or, pursuant paragraph (3), export/import substances declared by law to be dangerous narcotic drugs, namely 100,000 Ecstasy tablets, and the Defendant N.K. committed this crime acting as a member of the aforementioned group, pursuant paragraph (4.1).

The allegations supporting this count were summarized in the Indictment in the following way:

K2 arranged for the transportation of another 100,000 Ecstasy tablets on behalf of Defendant N.K. to Turkey. To secure this deal, K2 signed over his wife's apartment to K1 on behalf of Defendant N.K. before receiving the 100,000 pills for delivery to Turkey. Attorney A.Pr. prepared the promissory note that was signed by the parties. Following the giving of this guarantee, Defendant N.K. arrived with his men and 100,000 Ecstasy tablets at a garage in Sarajevo where K2 had the gas tank of his Mercedes altered by mechanic Z.B., building a special separate compartment to store the drugs. Under the supervision of Defendant N.K. the Ecstasy is loaded into K2's Mercedes and subsequently transported to Turkey by K2's trusted driver S.A.

Count 7: Unauthorized Possession with Intent to Distribute; Distribution or Sale; and/or Export/Import of Dangerous Narcotic Drugs, contrary to Article 229, paragraphs (1), (2), and (3) CCK, because Defendant N.K., in co-perpetration (pursuant Article 23 CCK) with others, including members of the OCG listed in Count 3, did, without authorization, pursuant to paragraph (1), possess with the intent to sell or distribute; pursuant to paragraph (2), sell, transport or deliver, and/or, pursuant to paragraph (3), export/import substances declared by law to be dangerous narcotic drugs, namely 25 kilograms of Heroin from Turkey to Bosnia and Herzegovina, and the Defendant N.K. did commit this crime while acting as a member of the aforementioned group, pursuant paragraph (4.1).

The allegations supporting this count were summarized in the Indictment in the following way:

After delivering the 100,000 Ecstasy tablets to Turkey, the altered gas tank of K2's Mercedes that had carried the Ecstasy tablets was filled up at the direction of

N.K. and his OCG with 25 kilograms of Heroin. This Heroin was then transported again by S.A. from Turkey to Tuzla/Bosnia and Herzegovina.

Count 8: Unauthorized Possession with Intent to Distribute; Distribution or Sale; and/or Export/Import of Dangerous Narcotic Drugs, contrary to Article 228 paragraphs (1), (2), and (3) CCK, because Defendant N.K., in co-perpetration (pursuant Article 23 CCK) with others, including members of the OCG listed in Count 3, did, without authorization, pursuant to paragraph (1), possess with the intent to sell or distribute; pursuant to paragraph (2), sell, transport or deliver, and/or pursuant to paragraph (3), export/import substances declared by law to be dangerous narcotic drugs, namely, a shipment of Heroin, estimated to be more than 25 kilograms, and the Defendant N.K. did commit this crime while acting as a member of the aforementioned group, pursuant paragraph (4.1).

The allegations supporting this count were summarized in the Indictment in the following way:

In summer 2003, K2 agreed to drive to Austria in a particular VW Caddy vehicle to pick up a large truck tarpaulin there for Defendant N.K. While K2 suspected there were drugs in the VW Caddy, his mechanic was unable to find any. After driving the car to Austria, K2 sees drugs being taken out of the lining of the interior roof of the car in square shaped packages, wrapped up by light scotch tape. K2 described this shipment as “a much bigger quantity than the one I have transported from Turkey” (the earlier shipment contained 25 kilograms of Heroin). When asked by K2, two Albanian men present at the scene confirmed that the packages contained Heroin. When K2 later asked N.K. back in Sarajevo regarding

the Heroin stashed in the VW Caddy's roof, N.K. confirmed that he had arranged for this drug transfer.

Count 9: Unauthorized Production and Processing of Dangerous Narcotic Drugs, contrary to Article 230, paragraphs (1), (2) and (3) CCK, because Defendant N.K., in co-perpetration (pursuant Article 23 CCK) with others, including members of the OCG listed in Count 3, did, without authorization, pursuant to paragraph (1), cultivate, produce, process, extract or prepare substances declared to be dangerous narcotic drugs with the intent to sell, distribute or offer them for sale shall; pursuant to paragraph (2), sell or process an analogue [as defined under paragraph (6)] with the intent to sell, distribute or offer for sale, and/or, pursuant to paragraph (3), sells or supplies equipment or materials with the knowledge that they have been used or they will be used for the unlawful cultivation, production or processing or trafficking of any substance or preparation declared to be dangerous narcotic drugs, namely approximately 2.5 tons of acetic anhydride acid, and Defendant did commit this crime while acting as member of the aforementioned group, pursuant paragraph (4.1).

The allegations supporting this count were summarized in the Indictment in the following way:

After K2 brought the aforementioned truck tarpaulin from Austria to Sarajevo where Defendant N.K. supervised the process of transferring over 2 tons of acetic anhydride acid from a large number of blue barrels through a white tube into hidden pockets built into the tarpaulin which had been set up to cover a truck. Not knowing what substance was pumped into the hidden tarpaulin pockets, K2 burned his hand when touching the acid. This acid is used for the process of

“washing” Heroin in order to enhance its level of purity, finally becoming so-called “White Heroin,” a significantly more concentrated form of the drug. The acid-loaded tarpaulin was then transported to a location unknown to K2, most probably, however, to Turkey.

The above given quotation consists of acronyms of the names of the unindicted co-perpetrators that were originally mentioned in full. The reasons for redaction of the indictment will be elaborated in details in a further part of the judgment.

1.2.1. Confirmation of the indictment

6. The initial hearing in this case was held on 14 July 2014 before Malcolm Simmons acting in capacity of presiding trial judge. Instead of scheduling the second hearing the defence was given an opportunity to file request to dismiss the indictment and objection against the evidence.
7. On 14 August 2014 objections to evidence were filed on behalf of the Accused. No request to dismiss the indictment was filed.
8. With the ruling issued on 10 September 2014, the Presiding Trial Judge rejected as unfounded the Defence’s objection to evidence. The appeal against this ruling was filed by the Defence on 17 September 2014.
9. On 17 October 2014, the Court of Appeals rejected as unfounded the appeal of the Defence and the ruling of the Basic Court was affirmed.

1.2.2. The issue of unindicted co-perpetrators

10. On 02 September 2014, a legal counsel of one of the un-indicted co-perpetrators, F.R., filed *Request for extraordinary legal remedy to strike out the inclusion of him in the indictment against N.K.* Counsel argued that F.R. had never been

heard in this case, neither in a capacity of a witness, nor of a defendant and that his right to a fair trial and presumption of innocence were violated as he was not given an opportunity to be heard and to present his stance with regard to the evidence supporting the Prosecutor's allegations.

11. Counsel requested the Court to:
 - strike any reference to his client from the indictment issued against Mr. N.K.;
 - issue a public clarification that his client is not a suspect or defendant in this case; and
 - order the Prosecutor to investigate whether the process in this case has been subverted through the provision of false or misleading evidence, and in so doing, to alert all witnesses to the contents of Article 392 of the CCK.
12. The SPRK Prosecutor responded to the request in the submission dated 09 September 2014. He argued that the request was inadmissible due to the lack of standing as F.R. was not a party of the criminal proceedings. The Prosecutor moved that the Court rejected the requests pointing out that in his opinion; it was an established practice of courts in Kosovo to include the names of unindicted co – conspirators in indictments.
13. On 02 December 2014 a closed hearing was held to determine the application of the Counsel for F.R. The Defence Counsel for N.K. supported it, while the Prosecutor requested its
14. On 04 December 2014. the Presiding Trial Judge Anna Adamska - Gallant ruled that the presentation, citation, and publication of the counts against the defendant

N.K. shall be done both in the spoken and written forms without indication of the names of the persons that appear as unindicted co-conspirators mentioned in the description of the counts in the indictment.

15. In the reasoning of the said ruling the Presiding Trial Judge indicated that the practice of naming unindicted co-perpetrators contradicted violated fundamental principles of European Convention on the Protection of Human Rights and Fundamental Freedoms.

1.3. Procedural aspects of the main trial

1.3.1. Applicable procedural law

16. The criminal proceeding against N.K. was initiated on 12 May 2013. Therefore, pursuant to Article 539 of the Criminal Procedure Code of the Republic of Kosovo (CPC), it was conducted in accordance with this statute.

1.3.2. Jurisdiction of the Basic Court of Pristina

17. All the counts of the indictment referred to criminal offences which were allegedly committed outside of the territory of Kosovo. However, as results from Article 115 (3) of the Criminal Code of the Republic of Kosovo (CCK), the criminal law of Kosovo apply to any person who is a national of the Republic of Kosovo if such person commits a criminal offence outside the territory of the Republic of Kosovo and if this act is also punishable at the place of its commission.
18. The Trial Panel took judicial notice that all the crimes that N.K. was charged with were punishable at the places of their alleged commission, that N.K. is a

citizen of Kosovo, that his place of residence was outside Kosovo, and that he was apprehended by Kosovo Police in Pristina

19. As a general rule provided by Article 11 Paragraph 1 of *the Law on Courts*, Law No. 03/L-199, the jurisdiction to adjudicate all criminal offences at first instance belongs to the Basic Court.
20. Pursuant to Article 32 Paragraph 3 of the CPC if neither the place of commission of a criminal offence nor the place of permanent or current residence of the defendant is known or if both are outside the territory of Kosovo, the court within whose territory the defendant was apprehended or has surrendered himself or herself to the authorities shall have jurisdiction., Therefore the Basic Court of Pristina was competent to hear the case in the first instance.

1.3.3. Composition of the panel

21. The case was investigated by Special Prosecution Office of Kosovo, therefore according to Article 3.1 of the Law No. 03/L-053 on Jurisdiction Case Selection and Case Allocation of EULEX Judges and Prosecutors in Kosovo EULEX judges have competence and jurisdiction over this case.
22. The Kosovo Judicial Council decided that due to the sensitivity of the case it should be decided by the panel composed of majority of EULEX judges, with the EULEX judge presiding.

1.3.4. Change of the Trial Panel

23. On 11 April 2017, the composition of the Trial Panel was changed and EULEX judge Mariola Pasnik was replaced by EULEX judge Vladimir Mikula.

Therefore, in accordance with Article 311 (1) of the CPC it was necessary to start the main trial from the beginning. However, having heard the parties, the Trial Panel decided not to examine witnesses. In case of the majority of the testimonies the parties agreed to consider them as read, while it was necessary to hear the audio recording of the statements given by witnesses K1 and K2.

1.3.5. Duration of the main trial

24. The main trial commenced on 16 January 2015. However, as it has been mentioned above due to the change of the panel it was necessary to start it again.
25. The first session of the main trial in the new composition of the panel took place on 03 May 2018. The case was heard during 24 trial days. The main trial was concluded on 31 January 2018.
26. Because of the significant length of testimonies of witnesses for the prosecution, the duration of the main trial exceeded the period of 120 calendar days prescribed in Article 314 Paragraph 1.2 of the CPCRK. In principle, all adjournments ordered by the trial panel did not exceed 30 days and were always reasoned by indication of procedural actions to be taken during the next court session. It happened once that the adjournment was longer than 30 days (November 2017 – January 2018) but it did not exceed three months. Therefore there was no need to start the trial from the beginning.
27. The parties did not raise objections to the duration of the trial. Therefore, pursuant to Article 382 Paragraph 4 of the CPCRK it has been presumed that they waived the right to challenge this matter.

1.3.6. Presence of the parties

28. The EULEX Prosecutor of the Special Prosecution Office in Kosovo, Andrew Hughes, the Accused and his Defense counsel B.B. were present during all trial days. During the session held on 28 June 2017, lawyer Al.K., properly replaced counsel B.B.
29. The injured party E.D. was not involved in the case during the investigation, and gave no statement in the capacity of a witness. She was duly informed about the trial, her respective procedural rights, and that the main trial may be conducted in her absence. She appeared in the courtroom only in capacity of a witness and she did not exercise her rights of a party during the trial.

1.3.7. Publicity of the main trial

30. In principle, the trial was held in open court. Media were allowed to follow and record the course of the proceedings.
31. There were the following exceptions to the public character of the trial which occurred only during the sessions held before the change of the panel:
 - a. 15, 16 and 17 September 2015 when witness K6 testified on the grounds of protection of his private interest;
 - b. 14, 15, 27 and 28 October 2015 when witness K3 testified on the grounds of protection of his private interest;
 - c. 11 November 2015 when witness Doctor B.Dj. testified on circumstances related with the medical assistance he provided for I.B.;

- d. Partially 14, 15, 16 December 2015 when witness K1 was scheduled to testify;
- e. 13 and 18 January 2016 when witness A.S. testified on the grounds of protection of her private interest;
- f. 27 January 2016 – the session was closed when the motion of E.P. to exclude the public from the main trial was discussed;
- g. 23, 24 and 25 February 2016 – the session was closed to the public when J.Sh., V.T. and Y.T., doctors from the High Security Prison in Podujevo, and R.S., a head of the High Security Prison in Podujevo;
- h. 31 October 2016 – the session was closed to the public when intercepted conversations of F.R. were discussed;
- i. 11 November 2016 – the session was closed to the public when K1 testified about alleged attempt to exercise influence on him by the Defence;
- j. 24 January 2017 – the session was closed when K1 was testifying about alleged threats received from the prosecutors in Bosnia and Herzegovina;
- k. 27 January 2017 – the session was closed when the witness R.L. was instructed to use an acronym for witness K2;
- l. 16 February 2017 – the session was closed when the issue of detention on remand was discussed;
- m. 16 March 2017 – the session was closed when K2 described the discussions he had with the international prosecutor.

1.3.8. Methods of recording – verbatim /audio recording

32. According to the decision of the Presiding Judge, based on Article 315 Paragraphs 2 and 5 of the CPC the record of the proceedings was made verbatim in writing. Time used for translation allowed court recorders to accurately capture and write down all words spoken in the courtroom.
33. Accuracy of the written record was controlled by the Presiding Judge in real time. The computer screen displaying the record was placed in front of her. This manner of recording made use of other recording methods redundant as it appeared unlikely to achieve any better accuracy of the semantic content of the record.
34. All the sessions starting from 28 April 2015 were also audio-recorded what additionally guaranteed the accuracy of the minutes. In case when doubts occurred as to the content of testimony given by witness, the written minutes were compared with the audio recording. Such method of verification was used to verify the accuracy of the minutes taken during the main trial sessions.
35. Audio recording of the examination of K1 and K2 before the Court was played back after the main trial recommenced due to the change of the panel. On this occasion it was also possible to confirm that the minutes taken verbatim were very detailed and accurate.
36. The parties were served the copies of the audio-recordings.

1.3.9. Interpretation

37. Based on Article 16 of the *Law on Jurisdiction and competencies of EULEX Judges and Prosecutors in Kosovo* the language used in the court proceedings was English.
38. Interpreters translated the court proceedings and all court documents relevant to the trial from English into Albanian and vice-versa. Due to the fact that majority of evidence was originally produced in Bosnian/Serbian language, a lot of documents had to be translated from and into these languages.
39. The working languages of the trial sessions were Serbian, Albanian and English. In the majority of instances witnesses and the defendant testified in Serbian language which was consecutively translated into English. Additionally, simultaneous Albanian translation was provided. Only during several initial sessions triple consecutive translation was provided: English, Serbian and Albanian, but such a way of proceedings was extremely ineffective and it significantly slowed down the trial. Therefore, with the consent of the parties, the Panel decided to proceed only with English – Serbian (or English – Albanian) consecutive translation.
40. The speakers were asked by the Presiding Judge to make intervals in their utterance, usually every 1 to 3 minutes and as a principle at the end of complete thought, and then the interpreter rendered what was said into the target language. This method allowed parties to control the accuracy of interpretation of all evidence taken in the courtroom. On some occasions the parties raised objections

to the quality of translation. All the objections were immediately given consideration by the trial panel and the clarification was put in the record.

41. Closing arguments of the parties and the announcement of the enacting clause of the judgment were translated simultaneously into English, Albanian, and Serbian.

1.3.10. Use of video – link

Rationale

42. Majority of the witnesses in this case lived outside of Kosovo. Therefore, the most effective and speedy way to hear them was to use videoconference because otherwise it would not be possible for them to come and testify before the court in Kosovo.
43. Additionally, in case of two protected witnesses K1 and K3 the use of video conference was justified by the necessity to ensure their safety. Their presence in the court room could have created too big risk, not only for the witnesses themselves, but also for other persons involved in this trial. While deciding upon this, the Court assessed the right to public trial, the right to defense, and equality of arms, but also the personal rights of the witnesses to the personal safety. The rights of the defence weighed against the rights of the witnesses and their safety, and the duty of the state to do justice. The Court recognized the right to confront the witnesses. Although it is an important component of a fair trial, it is not an absolute right since the safety and well-being of witnesses must be preserved.

Equipment

44. Due to the technical capacity of the video link all the participants of the proceedings were able to engage in the direct and cross examination of witnesses and were able to introduce evidence in the same way that it would take place in the court room.
45. The equipment used for videoconference allowed the panel and the parties in the courtroom to see the witness sitting in the remote location from the waist upwards. The witness was able to see the person interrogating him with the camera zoomed on the face an upper part of the body of the person asking questions. Two-way audio communication in real time was maintained between witnesses and persons in the courtroom. The sound was synchronized with the image. There was a 54 - inch screen installed in the courtroom for the parties and for the panel. The screen was placed with its back facing the public so the public could not see the interrogated person but could only hear her.
46. It happened on several occasions that the video link was interrupted or the image was frozen. In such situation the video link was re-established. In few exceptional instances it happened that the examination was continued only with the sound. However, it lasted very short. Besides, other international courts allowed to hear a witness without showing his face, what of course must be properly balanced with the right of the defendant to effective defence, what also covers the right to challenge the witness.

Assistance in the remote location

47. The presence of judges (in case of video links with courts from Bosnia and Herzegovina, Serbia and Croatia) and members of a court staff in the remote location in Kosovo guaranteed correct identity of the witness, and his or her freedom to speak without duress or unlawful instructions. No such occurrence was reported by any of the assisting persons. The role of judges and legal officers was also to confirm the identity of the witness and to present the witness with an exhibit used in evidence if needed.
48. It happened that judges in the courts from foreign jurisdictions left the court room during the session for a short time, but even then a judicial officer was present with the witness what guaranteed a proper course of examination.

Objection of the Defence

49. While the Defence did not contest the fact that majority of witnesses must have been heard via video link because of their place of residence outside of Kosovo, he strongly opposed the Prosecutor's motion filed during the main trial session to hear witnesses K1 and K3 from the remote location. The Defence claimed that the Accused would be deprived of his right to challenge directly witnesses who testified against him, and as a result his right to a fair trial would not be respected.
50. With the order dated 14 October 2015, the Presiding Trial Judge decided that witnesses shall testify by means of video-conference.

1.3.11. Severance and rejoinder

51. At the final stage of the main trial, with the ruling issued on 03 October 2017, the Court decided to sever the case which consisted of two separate sets of counts: the first one related with the murder of R.D. (counts 1 and 2) and the second – drug charges (counts 3 – 9). All the evidence related with the murder charges (count 1 and 2 of the Indictment) was already presented, while there was still evidence to be produced in reference to the drug charges. On the day when it was decided to sever the case, there was still an expert opinion to be delivered, and some other relevant evidence which was disclosed to the Defence by the Prosecution only in the last days must have been translated and considered.
52. The severance of the case enabled the Accused to give his testimony in relation to his alleged involvement in the murder of R.D. Otherwise it would not be possible because the Code requires that the Accused testifies only when all the evidence was presented. According to Article 394 (1.9) of the CPC examination of the accused that pleaded not guilty and was examined before the presentation of evidence was completed constitutes a substantial violation of the criminal procedure which must be taken by the Court of Appeals *ex officio* (Art. 394 (1.1) of the CPC).
53. Thanks to severance of the case, no session days as scheduled were lost what would be inevitable if the proceedings for both groups of charges were conducted jointly. This reason was of particular importance in this case where due to the circumstances out of control the Panel, the parties and the Defence Counsel it was necessary to restart the trial from the beginning when it was almost concluded.

54. With the ruling issued on 31 January 2018, both cases were re-joint for joint proceedings and to render one judgement after the examination of the defendant on the drug charges was finished and before the parties presented their closing statements.

1.3.12. Impediments to the fair trial

55. There were several serious impediments to fair trial that took place during the 1st instance proceedings. They were reported by the Defence Counsel or observed by the Trial Panel ex officio. All of them were given due consideration by the Trial Panel. None of them has had an impact on the impartiality of any of the judges. The impediments that might constitute criminal offence were duly reported for further investigation. In particular there were following impediments:

Publication of the Indictment

56. The Indictment was published in the media on the same day when it was filed with the Court. The whole document with the detailed reasoning where the factual allegations and evidence to support them were presented became accessible to any person interested in the case, including potential witnesses.
57. The Trial Panel found publication of the indictment as a violation of the applicable law which provides that the indictment is served only to the parties. It may violate right to privacy of persons mentioned in the indictment, including the defendant who is protected by the presumption of innocence. Further, it might affect the fairness of evidentiary proceedings and hamper the truth because potential witnesses in the case might learn from it what the evidence was and

adapt their testimonies to allegations of the prosecutor. It could also discourage some persons to give evidence in favour of the Defendant. The impact of publication of the Indictment will be elaborated in further part of this judgment.

58. It became apparent during the trial that some of witnesses who testified in this case could have based their knowledge on what they read in the media. It was particularly visible in case of witnesses K4, K5, K6, and I.B. who started testifying about alleged involvement of N.K. into the murder of R.D. long after the indictment against him was published.

Ongoing investigation

59. The Prosecutor filed the Indictment in this case after the investigation which lasted only one year and two month, i.e. eight months before the prescribed period of time elapsed (Article 159 of the CPC). Up to that moment the investigation should be completed, all evidence collected and the case should be ready to be proceeded by the court. At that moment the Prosecutor should disclose all the collected evidence to the Defence to enable proper preparation to the main trial.
60. The Indictment was filed although the Prosecutor still awaited responses to requests for international legal assistance which were sent to many countries, not only in a region. A significant number of evidentiary motions were filed by the Prosecutor only during the main trial. Moreover, after filing the indictment the Prosecutor continued investigative actions.
61. As a result, not all the evidence was disclosed to the Defence and the Court when the indictment was filed, what is clearly prescribed in Article 244 of the CPC.

Further, it affected negatively the duration of this trial because in many cases it was necessary to wait for missing evidence. As a consequence, the right to a fair trial of the Accused was at risk because it was particularly difficult to prepare properly his defence.

62. It must be stressed out that the Court made an effort to enable the Accused to prepare his defence properly despite the above mentioned breach of his right to be presented with evidence against him at the very beginning of the trial.
63. During the whole main trial, the Court presented a stance that a criminal proceeding under Criminal Procedure Code of Kosovo should have 4 distinct stages which cannot overlap each other. The Prosecutor was allowed to conduct investigative actions during the investigation stage, while during the main trial he was obliged to file motions to present new evidence. Final decision whether to admit or prevent the evidence belonged to the Court.
64. On several occasions, it happened that responses to the international legal assistance requests sent already during the investigation were received only during the main trial. Then the Prosecutor was allowed to disclose this evidence and not file a motion to admit new piece of evidence.

Interference with the judicial decision on relocation of N.K.

65. On 20 June 2015 the President of EULEX Judges suspended the panel's decision on transfer of the defendant from the solitary confinement in the High Security Prison to the detention facility with a regular regime and proper medical assistance. The criminal procedure does not give the President of EULEX Judges any competence to act in the case. His action constituted not only an explicit

interference with judicial independence, but it could also constitute a criminal offence of the abuse of official position provided in the Criminal Code of Kosovo. His intervention was widely reported by local media as scandalous.

Obstruction of the trial by P.B.

66. On 25 February 2016, during the main trial session the Head of EULEX Strengthening Division, along with a group of other staff members of the Strengthening Division, failed to obey the final court order excluding the public from the courtroom. The Trial Panel took judicial notice that this incident was reported by Kosovo media. The case was referred by Trial Panel for investigation as in the opinion of the Presiding Judge there was a grounded suspicion that the offence of *Contempt of Court* took place.

Coaching of witnesses:

67. It was observed in the course of the proceedings before the Court that some witnesses were subjected by the Prosecutor to the practice called “coaching” which is also referred to as “witness proofing” or “witness familiarisation”. It was noted in case of at least several of them, and it is sufficient to mention: S.T., K3 and K1.¹ It was discovered during witness’ examination that the Prosecutor met with them and discussed the content of their testimony before they appeared in the court. However, the meetings and their content was not disclosed to the Defence and to the Court.

68. Although the practice of witness proofing appears to be accepted by international tribunals, it seems also to be an established practice that the prosecution notifies

¹ Particularly visible 20.04.2016, witness K1;

the other parties and the court about the intent to do so. Moreover, the scope of preparing the witness for the testimony is defined in the way that risk of prejudice is limited. The Prosecutor in the case obviously failed to observe the practice. On many occasions during the main trial, the Prosecutor was instructed not to meet with his witnesses. The Court finds that the witness should give his or her own evidence, possibly uninfluenced by what anyone else has said, whether in formal discussions or informal conversations. The rule reduces, indeed hopefully avoids any possibility, that one witness may adapt his evidence in the light of what anyone else said, and equally, avoids any unfounded perception that he may have done so. However, the defence was aware of the proofing and had an opportunity to challenge effectively the witnesses' credibility during the cross-examination.

Promise to grant witness K2 "full immunity"

69. Only at the final stage of the examination of K1, it was found that the Prosecutor promised this witness to grant him immunity with relation to all facts that might be revealed in his statement. The promise was made verbally and the scope of the "immunity" seemed to the Court not to be clearly defined. The Prosecutor explained that he proceeded in this way because he wanted to convince the witness K1 to testify. Anyway, it obviously violated the rules of criminal procedure as it hold out the prospect of an advantage not envisaged by law which is explicitly prohibited by Article 257 Paragraph 4.3 of the CPC.
70. The testimony given by the witness before the Prosecutor who gave him unlawful promise was declared as inadmissible. K1 testimonies given during the main trial before the immunity were used to verify his credibility. The Court did

not declare them as inadmissible because K1 was properly instructed by the Presiding Judge about his rights and obligations. It was not possible to ignore the fact that during his first testimonies K1 still believed that his immunity was covering all criminal offences which he committed.

71. Despite all these impediments, the Trial Panel did its best to guarantee that the right of the Accused to a fair trial was fully respected.

Part 2 Evidentiary proceedings

2.1. General remark

72. Majority of the evidence presented in this case was related with the murder charges.
73. The Prosecutor initially indicated that he wanted to hear 172 witnesses. After the sessions held with the Presiding Judge in purpose to prepare the trial to be conducted in the speedy and effective way, he withdrew from his motion to hear significant part of proposed witnesses. Some of them, especially the ones which were indicated in the indictment as unindicted co – perpetrators were later heard as witnesses proposed by the Defence.

2.2. Order of presentation of the evidence

74. In principle, the Prosecutor's case shall be presented first before the Defence's case. However, it was not always possible or reasonable to keep the order that witnesses of the prosecutor were heard before the ones proposed by the Defence what is an ideal solution suggested in Article 331 (1) of the CPC.

75. First of all, there were two sets of charges (the murder related and drugs related) what justified to proceed first with the evidence referring to each case separately. Secondly, on many occasions it was necessary to act in a flexible way because due to a wide international cooperation in this case it was necessary to coordinate the schedules not only within the trial panel but also with agendas of judges from other countries. When deciding on the schedule of the sessions and the order of the evidence, The Court also took into account that the Accused stayed for a long time in detention. Therefore, all efforts were taken to ensure that the trial was conducted as speedy as possible.

2.2. Evidentiary proceedings after the change of the composition of the Trial Panel

76. As it was mentioned above, the Court decided not to repeat the examination of witnesses who testified in this case before the change of the panel. The minutes of the sessions when they gave their testimonies were considered as read, while audio – recording of witnesses K1 and K2 was played back. The list of the minutes considered as read is attached to this judgment.²

77. On the session held on 03 May 2016, upon the consent of the parties the indictment was considered as read. The Accused pleaded “not guilty” to all the accounts of the indictment. The opening statements of the Prosecutor and the Defence Counsel were also considered as read.

78. At the final stage of this trial, the Parties and the Defence were served with 4 lists of documentary and material evidence which was admitted in this case. They are attached to this judgment.

² Annex 1

2.3. Evidentiary motions of the Parties

79. The Parties used their right to file motions for new evidence almost until the end of the main trial and majority of them was accepted by the Court. In this part of the judgment are presented only these motions which were not elaborated in the part of the judgment related with specific factual findings.

80. The Court rejected the following motions:

- the Defence's motion dated 15 October 2015 to attach emails between K3 and EULEX prosecutors prevented as inappropriate (Article 258 (2.3) of the CPC) to serve the purpose as the circumstances of contacts between the witness and EULEX officers can be verified in more proper ways via examination of witnesses;³
- the Prosecutor's motion dated 16 November 2016 to admit transcript of intercepted phone calls between S.T. and E.D. prevented as inadmissible because there is no court order for covert measures or surveillance (Article 97 of the CPC);
- the Prosecutor's motions dated 01 December 2016 to hear lawyer V.V. and the investigator I.C. in capacity of a witness and to admit documents related to them on the circumstances of their cooperation with the Defence in this case. The Court found that these witnesses fall within the category of privileged witnesses under article 126 (1.2) of the CPC. Due to the very specific circumstances of this case, the Defence Counsel, to perform

³ 20.10.2015

effectively his obligations towards the client, had the right to appoint lawyers competent to act in other jurisdictions;⁴

- the Prosecutor's motions dated 01 December 2016 to admit transcripts of conversation held with F.R. by a police officer held on 6 November 1993. The Court found this piece of evidence as intrinsically unreliable, as the source of this evidence is unclear. The analysis of this transcript leads to the conclusion that it was not the examination of the witness. (Article 259 (2) of the CPC);⁵
- The Defence's motion dated 12 September 2017 to hear 19 witnesses (persons mentioned in the notebook) and to summon K2 again for additional examination as filed to prolong the proceedings (Article 258 (2.4) of the CPC. The defence was aware of the existence of the notebook since 2015, and already then the defence could have proposed as witnesses the people who are mentioned in this notebook;⁶
- The Defence' motion dated 14 September 2017 to hear K.K. and A.B. on the circumstances of relation between N.K. and K2 because the Court assessed that this motion was filed to prolong the proceedings (Article 258 (2.4) of the CPC). The Defence was aware of the existence of these witnesses at least since a year before the motion was filed;⁷
- The Defence's motion dated 14 October 2017 to admit the minutes of H.Me., M.Ha. and H.Mu. testimonies in the trial of K2, the Court decided

⁴ 27.02.2017

⁵ 27.02.2017

⁶ 13.09.2017

⁷ 03.10.2017

to prevent this evidence from being taken in accordance with Article 258 paragraph 2.1 of the CPC because taking it to supplement other evidence, is unnecessary especially that these witnesses were testifying before this Court and there is sufficient material to assess their credibility;⁸

- The Prosecutor's motion to admit documents related with the power of authorization given to the defence counsel M.Ko.: Power of Attorney dated 23/10/2012, submission of defence counsel M.Ko. dated 13/11/ 2012, PoA dated 28/11/2012, a confirmation of seizure of objects dated 12/09/2012, as the Court found this piece of evidence as irrelevant (Article 258 (2.2) of the CPC) to prove the elements of the crimes which the Accused was charged with.

81. With the motion dated 15 December 2017, the Defence objected admissibility of some evidence filed by the Prosecution. During the session held on 18 January 2018, the court decided that operational information from Bosnia and Herzegovina contained in binder 12 is not admissible because it was not collected in accordance with the evidentiary principles provided by the applicable law. Materials gathered by intelligence constitute *per se* only the source of information about potential evidence.

82. After deliberation, the Court decided that the following pieces of evidence contested by the Defence are inadmissible:

- OCIU Evidence Examination Report – Computer Examination⁹,
- OCIU Evidence Examination Report – Mobile Phones and SIM cards¹⁰,

⁸ 03.10.2017

⁹ Binder 10, p. 14 – 18

- OCIU Evidence Examination Report – Initial Evidence Analysis of SMS messages¹¹

as they are in violation of Articles 249 (1.2) and 257 (2) of the CPC because they do not meet the requirements of Articles 138 and 147 of the CPC because they do not include: the question material to either the guilt or innocence of the defendant (Article 138 (1.2) of the CPC), the expert's specialized training or experience (Article 138 (1.3) of the CPC), an explanation that the analytical practices are generally accepted within the expert's field or has a scientific or technical basis (Article 138 (1.6) of the CPC), a conclusion with the expert's opinion (Article 138 (1.7) of the CPC) and the steps taken by the authorized police officer or other expert in keeping with the most current practices in the field of computer forensics to reliably and accurately accomplish the search (Article 147 (4.5) of the CPC);

- OCIU N.K. Financial Asset Overview Report¹²,
- OCIU Report on Montenegro Assets¹³,
- OCIU Suspicious Financial Transaction Overview Report¹⁴,
- OCIU Financial Analysis Report¹⁵

because they were obtained without an order for financial analysis which is required in accordance with Article 137 of the CPC; additionally, they do not meet requirements provided in Articles 138 of the CPC as they do not

¹⁰ Binder 10, p. 19-20

¹¹ Binder 10, p. 103-108

¹² Binder 11, p. 243 – 250

¹³ Binder 11, p. 251 – 341

¹⁴ Binder 11, p. 342 – 353/1

¹⁵ Binder 11, p. 353/2 - 388

include: the question material to either the guilt or innocence of the defendant (Article 138 (1.2) of the CPC), the expert's specialized training or experience (Article 138 (1.3) of the CPC), an explanation that the analytical practices are generally accepted within the expert's field or has a scientific or technical basis (Article 138 (1.6) of the CPC).

2.4. Witnesses – specific problems

83. A significant number of witnesses testified before the Court. Detailed analysis and assessment of their testimonies will be presented in the further part of the judgment while below only some specific issues will be mentioned.

2.4.1. Protected witnesses

84. There were five protected witnesses in this case: K1, K2, K3, K4 and K5 who received this status already during the investigation. Decision on protection of the witness K6 was issued at the main trial stage upon the Prosecutor's request¹⁶. The identity of all witnesses was known to the Accused and his Defence. Witnesses K1 and K3 testified from the remote location in Kosovo, while K4, K5 and K6 testified in the court. K2 testified from the court in Bosnia and Herzegovina.

2.4.2. Witnesses who refused to testify or finalize their examination

85. There were two witnesses in this case who refused to testify:

- a) M.L., summoned for 28 April 2015;
- b) E.P., summoned for 27 January 2016.

¹⁶ Ruling dated 15.09.2015

Both witnesses were to testify from the Court of Bosnia and Herzegovina in Sarajevo. As they stayed outside of the jurisdiction of the court of Kosovo, it was not allowed to apply against them any measure to force them to testify.

86. The Defence requested to hear in a capacity of witness Prosecutor Oleg Cavka, however he rejected on the basis that prosecutors should not be heard on circumstances of cases which they worked on.¹⁷
87. Testimony of J.C. was interrupted by the witness after several questions posed during direct-examination. The witness claimed that he had mental problems. His testimony was not used to make factual findings.
88. Witness M.U. did not allow for finalizing his examination because in the course of cross-examination he announced that he was not going to answer any more questions. Before this situation, he interrupted his testimony two times¹⁸. When it happened for the third time, the Defence requested to declare his statement as inadmissible, while the Prosecutor proposed to summon the witness again.¹⁹ The Court found no grounds to declare his statement as inadmissible and decided that not to summon M.U. again. The Defence had a possibility to challenge the witness, and behaviour of this witness was taken into account while assessing his credibility and veracity of his testimony.
89. Despite taken efforts it was not possible to effectively summon witnesses: I.S. and N.V. From the information obtained from Bosnian authorities, the place of their stay was not known to them.

¹⁷ Defence's motion – 27.10.2015.

¹⁸ 15.04.2016; 18.07.2016,

¹⁹ 18.07.2016

2.4.3. Right of the witness to stand with a legal counsel

90. Witnesses B.L.²⁰, M.U.²¹ and A.E.²² testified in the presence of their counsels. The law does not prohibit such practice, but the Court finds that the right to appoint a legal counsel by a witness can be in the interests of justice. In circumstances where a witness's testimony may be self-incriminating, this possibility is of particular importance. Counsels were instructed that they might stand next to the client and counsel when it is appropriate or inappropriate to answer a question. If so advised by Counsel, the witness may invoke the right against self-incrimination.

2.4.4. Hostile witnesses

91. During the trial, it happened twice that the Prosecutor wanted to use the concept of “hostile witness”. For the first time, it happened during the examination of F.R., who was heard as the Prosecutor’s witness despite his conviction about the involvement of this witness into the murder of R.D. F.R. did not support the Prosecutor’s case with his testimony, therefore the Prosecutor wanted to challenge his credibility. The Defence strongly opposed and underlined that it would be unfair towards this witness, who had not been heard during the investigation and had no possibility to defend himself against allegations against him.²³

92. For the second time, the Prosecutor wanted to file a motion to declare K1 a hostile witness. It happened during his examination after the issue of the

²⁰ 16.05.2016

²¹ 18.03, 04 and 15.04 2016, 18.07.2016

²² 17.05.2016

²³ 18.11.2016, p. 18

immunity, when the Prosecutor realized that his witness significantly changed his testimony.²⁴

93. The Court found reasonable to use *in extenso* the explanation of the concept of a hostile witness which was applied in the case P 58/14 before the Basic Court of Mitrovica.²⁵

The concept is widely known in the common law jurisdictions where the adversarial system is in force. If the witness denies what he told to the party that sponsored him before the trial, if he contradicts the thesis the he was supposed to support by his testimony before the open court, then he showed hostility to the party's case. Usually the party that sponsored the witness is supposed to perform direct examination. There are very serious limitations that are imposed on a party doing direct examination. It is because the evidence presented during the direct examination serves as a direct basis for finding the facts by the trial panel. Therefore it is important that the witness testifies what he knows spontaneously without being led. That means no leading or suggestive questions are allowed. Kosovo lawmakers in its Article 334 Paragraph 4 allows to use the previous witness statement only to refresh his memory, so if the witness says "I don't remember the fact", his previous story on that fact can be read out at the court but what is read cannot be used as direct evidence. Only the witness's answers after his memory is refreshed can be used as evidence. (...)

²⁴ 07.11.2016

²⁵ Judgment of the Basic Court of Mitrovica in the case P. 58/14 issued on 27 May 2015, p. 20 - 22

If witness not only does not remember the facts but he presents them in the different way that in pre-trial stage, refreshing of his memory is not allowed. It puts the party that sponsored the witness in a situation that the witness credibility cannot be impeached or challenged in any way. This constitutes a violation of the principle of equality of arms because the evidence is presented and the party cannot fight against it. This is the gap that is not regulated by the Kosovo law, and we find it as not complying with the European Convention of Human Rights, namely with the article 6 which invokes the concept of fair trial. The concept of fair trial covers also the principle of equality of arms. In terms of European law, equality of arms involves giving each part the reasonable possibility to present its cause, in those conditions that will not put this part in disadvantage against its opponent. Constitution of Kosovo in its Article 22 provides for direct applicability of the European Convention of Human Rights. This is our duty to comply with the standards of the Convention. Therefore we find the concept of hostile witness to be the best solution.

A hostile witness is the one that denies what he said before. After the witness is declared hostile the sponsoring party can examine him without the limitations set for examination in chief. But such examination cannot be used for fact finding as direct evidence. It can be used only to impeach the statements that could otherwise be considered as a basis for the facts to be established by the court. Whatever is given by the witness as answer to a leading question, confrontation with previous statement, or confrontation with any other piece of

evidence which is not supposed to be used in direct examination cannot be used as direct evidence. It may serve only for impeachment of witness credibility.”

94. The Presiding Judge instructed the Prosecutor that as a consequence of declaring a witness hostile he would be examined without limitations that are applied during direct examination in relation to asking leading questions and to the use of pre-trial statements. However, the witness’s previous statement would not be used as direct evidence. The Prosecutor finally withdrew the motion to declare K1 a hostile witness.

2.4.5. Co-operative witnesses

95. The Prosecutor filed applications for declaring K1 and K2 as a co-operative witness, respectively, on 10 August 2016 and on 21 February 2017. Having held the close sessions on 11 August 2016 and 22 February 2017, the orders were issued to declare K1²⁶ and K2²⁷ co-operative witnesses in the case against the defendant N.K. The witnesses were given the immunity which scope was determined in the following way:

- 1) The prohibition on the initiation of criminal proceedings against suspects K1 and K2 and on the imposition of the punishment is ordered for the criminal offences described in Counts 3 – 9 of the Indictment against N.K.;
- 2) Witness K1 and K2 are to cooperate by giving complete, true and accurate testimony on the activities of the criminal group allegedly organized and managed by N.K. which operated in a period from at least 2000 through

²⁶ Ruling dated 11 August 2016

²⁷ Ruling dated 22 February 2017

2012 and dealt with the purchase, preparation, transport, sale and distribution of large amounts of heroin, ecstasy, speed and other drugs, as well as drug precursors such as acetic anhydride acid, through a well-established organized criminal network, and included K1 (drug manager and mixer for N.K.), K2 (directed shipments between Turkey, the Balkan region, and Holland), K3 (drug distributor in Belgrade/Serbia), L.K. (distribution manager of drugs to Serbia and other European countries), M.H. (driver and bodyguard), S.A. (driver), Z.B. (auto mechanic, creating hidden car compartments for drugs), H.K. (contact in Turkey), I.K. (contact in Turkey), A.K. (coordinator of drug shipments) and many others.

- 3) This order may be revoked by the review panel upon the application by the state prosecutor if it is established that the testimony of K1 and K2 as the co - operative witness was false in any relevant part or that he omitted to state the complete truth.

96. During the main trial session held on 07 November 2016, the Court decided to treat K3 as *de facto* co – operative witness as he met all the requirements as provided in Article 235 of the CPC. K3 is a person whom the prosecutor suspects that he committed criminal offences mentioned above (Article 19 (1.3) of the CPC). He is expected to give evidence in court which is likely to provide information which will lead to the finding of the truth in criminal proceedings (Article 235 (1.1) of the CPC), he has voluntarily agreed to testify truthfully in court (Article 235 (1.3) of the CPC), which might lead to a successful prosecution of other perpetrators of the criminal offences listed above (Article

235 (1.5) of the CPC). Furthermore, he is expected to give evidence in court which is to be truthful and complete (Article 235 (1.5) of the CPC).

97. Taking into account the content of the testimonies given by K3, the Court considered that it was not necessary to summon him again.
98. As a consequence, according to Article 262 (4) of the CPC, the court shall not find any person guilty based solely on the evidence of testimony given by a cooperative witness.

2.4.6. Examination of the witnesses

99. As a principle, leading questions on direct examination were not allowed by the presiding judge. The only exceptions were permitted when recollection of facts by the witness was obviously exhausted, when there was a need to focus the witness's attention on a particular matter, or when the question touched upon a matter being obviously of common knowledge.
100. Suggestive and repetitive questions were also not allowed at this stage.
101. During cross-examination, leading questions were allowed. Parties had the right not only to ask questions but also to elicit the testimony. Scope of cross-examination was determined by topics covered on the direct examination, repeating favorable facts and bringing out new information related to them. It was aimed on test the perception, memory and credibility of the witness.
102. Badgering a witness as well as misquotation of previous statements were not permitted during all examination.

Questioning by judges

103. The panel participated actively in the questioning of the witnesses at various stages of examination. However, the parties were always given an opportunity to challenge the answers given by the witness in response to the judge's question. The panel based its activity in questioning on the conclusion that Article 7 Paragraph 1 of the CPCRK obliges judges to seek an objective truth. Therefore, a meticulous clarification of all factual matters that appear to the judges to be unclear was necessary. Article 299 Paragraph 1 of the CPCRK entitles the judges to pose questions to any witness but it does not indicate any particular stage of examination. It appears that the code does not impose any limitations in relation to the time of interrogation by judges.

Use of previous statements

104. One of the crucial principles of the criminal procedure in Kosovo is that factual findings shall be based on the evidence presented directly before the court. The law is very strict as it comes to the possibility and purpose of using of the previous testimony of the witness (Articles: 123 and 337 of the CPC)
105. The Prosecutor presented a number of testimonies given by witnesses in the course of various proceedings, also given before judicial authorities of other countries. Upon consent of the parties, significant part of them was considered as read in accordance with Article 338 of the CPC. When the testimonies were used, a proper indication was done in the minutes of the main trial session when it took place.

106. During direct examination, the party who proposed the witness was allowed to refresh his or her memory with admissible evidence, including the previous statement in case when a witness could not recall the facts (Article 333 (4) of the CPC).
107. In the course of cross-examination, the parties were allowed to confront the witness with the contradicting evidence, including their own previous testimony. (Articles 334 (1) and 337 (5) of the CPC).

Written judgment

108. Due to the complexity of the case, the Court found reasonable to present in details in the judgment only the evidence relevant for factual findings. This approach is justified by the fact that the voluminous body of the evidence was assessed and considered by the Court; however its significant part was not of high relevance for the case.

2.5. Kingpin list

109. The Prosecutor provided documents indicating that N.K. was designated by the US President as a kingpin in accordance with *The Foreign Narcotics Kingpin Designation Act* (the "Kingpin Act") which targets, on a worldwide basis, significant foreign narcotics traffickers, their organizations, and operatives. The relevance of this evidence for the proceedings in this case is limited only to confirming the fact that the Accused was placed on the list of kingpins but it cannot be used to prove his involvement into drug trafficking.

Part. 3 Factual findings as to the murder charges

3.1. Murder charges - facts not contested

110. On 27 June 2007, at 23:28 hrs, an anonymous person informed the duty officer at the Sarajevo Police operational centre by phone that an unspecified person had fired several shots in Odobasina Street No.1.

Police officers were sent to the scene. They found R.D., who was shot dead in front of the building at [street]. The body was lying at the foot of the outside staircase that led to the apartment. R.D. was shot multiple times throughout his body and several 9mm shell casings, 9mm and 0.357 bullet fragments were retrieved by police investigators. It was established that two different guns were used for this murder, one firing 0.357 Magnum calibre ammunition and an automatic 9mm Heckler & Koch firearm. Apart from the bullet casings and fragments, a silencer was found under a parked vehicle parked at [street]. The silencer found was designed for an automatic Heckler & Koch weapon, model MP5.

The autopsy revealed 10 bullet wounds to the victim's body. Death was determined as violent and being a consequence of sudden bleeding.²⁸

111. The parties did not contest the above mentioned facts. The issue to be established in this case was whether it was N.K. in cooperation with other people who

²⁸Binder 5 from the investigation: Inspection of murder scene of R.D. Delalic, p. 1 – 19; Report on crime scene survey, p. 47 – 55; Emergency Clinic Sarajevo – Case Protocol, p. 80/2-80/3; Murder Scene Photo documentation, p. 80/4-80/84; Autopsy Report, p. 81 – 96; Expertise of traces of fire weapon, p. 97 – 118; Expertise of transparent adhesive lifter, p. 133 138; Expertise on firearm evidence, p. 139 – 146; p. 147 – 152. P. 153 – 160, p. 161 – 171, p. 172 – 186, p. 201 - 210; ballistic expertise with addendum p. 187 – 194, p. 195 - 200; findings of biological faculty in Belgrade, p. 211-232; DNA reports 233 – 238, 239 – 242; 243-246; 247 – 250; 251-234; Information by Forensic Center of BiH Federation Ministry of Interior, p. 255; OCIU Photo Report No. 12/20140214/6816; Photographic Documentation of scene in Bosnia –Investigation Report, p. 26 – 285 and translations – p. 286 - 410

allegedly formed the organized criminal group who planned, organized and paid for the murder of R.D.

3.2. General remark

112. After meticulous assessment of all pieces of evidence presented at the main trial the Court came to conclusion that it has not been proven that N.K. in cooperation with other persons had formed the organized criminal group which planned, organized and paid for the murder of R.D.
113. The testimony of S.T. was an essential piece of evidence that the Prosecution based its allegations contained in Counts 1 and 2 of the indictment on.
114. She testified in this trial for several days. It allowed the Court not only to hear her version of the events which led to the murder of R.D. and occurred after it, but also to observe her behaviour, way of speaking and her reactions to different questions, sometimes emotional especially to questions which she did not like.
115. Despite being asked of numerous and distant in time details S.T. testified as she knew answers to all questions. It almost never happened that she did not know or did not remember a fact or circumstance. Her answers usually were very long and detailed. It gave an impression of her tendency to fill gaps in the memory by making up facts. For this reason her claims appeared as not spontaneous which obviously led to doubts as to her sincerity. Moreover, whenever her story was getting weak or doubtful, she adapted it to the development of the examination.
116. S.T. never exercised her right not to answer a question which could have exposed her to disgrace. However, whenever asked about facts that could present her in bad light she consistently avoided giving clear answers or she denied that

she knew or heard about a specific fact. She claimed not to remember circumstances which did not support or could contradict her version of events.

117. Such a tendency was particularly visible when the witness was asked about criminal activity of her husband.²⁹ It must be noted that Z.T. was sentenced with the final judgment of the Constitutional Court of Bosnia and Herzegovina for 40 years imprisonment for murders, abduction and drug trafficking.³⁰ When asked about the judgment she claimed that she did not know it, and did not read it. Despite this declared lack of knowledge S.T. expressed opinion that the case against her husband was fabricated³¹ in order to prevent him, among the others, from talking about the murder of R.D. being ordered by F.R. and N.K.³² She was accusing judges and prosecutors involved in the case against her husband.³³
118. S.T. seemed to be extremely interested about F.R. She admitted that she had her resources to track him down. She claimed that she knew everything about him since her life depended on it.³⁴
119. As a result of examination it became visible that S.T. had a clear motive to take a revenge on F.R. who allegedly cooperated with N.K. in the murder plot. She admitted that she expected that such a powerful person like F.R. would help her to prevent imprisonment of Z.T. but he refused to do so. The Court came to conclusion that she presented false accusations against him as of retaliation. She

²⁹ 20.04.2015, p. 3 -7, 13 – 15, 21; 14.05.2015, p. 12

³⁰ Binder "MLA Response from Bosnia and Hercegovina": 1st inst. Judgment against Z.T. et alia, dated 28.11.13; Judgments of the Court of Appeals against Z.T. et alia, dated 25.04.14 and 16.04.15

³¹ 21.04.2015, p. 11

³² 21.04.2015, p. 8

³³ 12.05.2015, p. 21 - 22

³⁴ 22.04.2015, p. 7

presented alleged involvement of N.K. and other persons in order to strengthen her allegations.

120. S.T. clearly presented interest in the conviction of N.K. as it would bring negative consequences for F.R.

121. The Court came to conclusion that the facts presented in the indictment with the relation to the alleged plot to murder R.D. were convincingly contradicted during the main trial. The facts were based exclusively on S.T.'s statement. As the result of the evidentiary proceedings during the main trial the credibility of the statement was denied.

3.3. S.T.'s special position in "AVAZ" company

According to the Indictment:

Witness S.T., a long time employed journalist at the newspaper publishing company AVAZ and the TV station owned by F.R., had developed a close working relationship with F.R. who used to involve her in important decisions regarding his media empire. Since she was among the few journalists working for him that had university education and spoke fluent English, F.R. asked her to assist him during important meetings with international and local business partners and politicians.

122. S.T. claimed that she had a special position within AVAZ, not only professionally as a journalist and a translator, but also as a right hand of F.R.³⁵

123. This "special position" allegedly explained her presence at various important meetings because F.R. trusted her, and he also later discussed with her about

³⁵ 12.05.2015, p. 15

what was said. Allegedly for this reason she was also present at the meetings when the murder of R.D. was discussed and planned.

124. However, numerous facts that S.T. presented with relation to her “special position” in “AVAZ” were denied during the trial which contributed to the doubts on her veracity.
125. The Court found that starting from December 2001 S.T. worked for “AVAZ”, the media company which was owned by F.R.³⁶ Initially, she translated articles from English into Bosnian which were published in various AVAZ editions. After some time, she started to write articles on her own which were published in the magazine “Express”, in its part called “Black Chronicle” which was about criminal activities in Bosnia and Herzegovina.³⁷ In 2004 she also had a TV program.³⁸ She was editor of this show that was called *Kontragarda*.³⁹
126. The above facts were also confirmed by F.R.⁴⁰
127. It was not proven that S.T. was the only employee in “AVAZ” who could speak English and therefore she was to participate in meetings of F.R. with high political representatives, ambassadors, high and other important relevant persons for Bosnia and Herzegovina as well as with foreign businessmen, as she stated.⁴¹
128. According to F.R., there were three groups of interpreters in the AVAZ Company – translating articles, writing articles in English and translating official documents, contracts, etc. In 2001, there were 20-30 people with knowledge of

³⁶ 16.03.2015, p.5; of 20.04.2015, p. 3; the employment contract but dated 15 June 2004, 16.03.2015 p. 8-9; 20.04.2015, p. 33; 18.05.2015, p. 8 - employment booklet, journalist identification cards

³⁷ 16.03.2015; p. 9-10

³⁸ minutes of 16.03.2015, p.6, 21

³⁹ 12.05.2015, p. 4

⁴⁰ 28.10.2016, p. 4 - 5

⁴¹ 16.03.2015, p. 13; pictures from meetings shown to her

English, at least 7 people were working on translation of Avaz Weekly into English, including S.NI.⁴² They started to publish Avaz Weekly in English already in 1997 but it is seized after few years (2-4).⁴³ **S.Ni.** said that “AVAZ weekly” was published in English in 1998-1999. It did not last long because it was not cost – effective. S.T. did not work for this magazine.⁴⁴

129. During cross examination, **S.T.** was confronted with the editions of Dnevni Avaz in English from 1997.⁴⁵ According to her, articles in English were just copy–paste. One or 2 years before she left, there was a huge ceremony to announce Avaz in English.⁴⁶ The edition from 1997 it was perhaps only a trial version in English. She said that she “guaranteed with her life” that Avaz was not published in English.⁴⁷

130. **F.R.** testified also testified that S.Nu. was his translator during official meetings. Besides, most of embassies sent their own interpreters. On this occasion F.R. showed many pictures with officials and S.Ni. but without S.T. She never translated during official meetings due to lack of knowledge and competence.⁴⁸

131. **S.Nu.** confirmed that he spoke English; he learnt it during his vocational training in the US. It was in 1999 – 2000, lasted 14 months. It was sponsored by *Voice of America*.⁴⁹ He was responsible for international contacts in AVAZ. He was the only person to do this; for sure it was not S.T.⁵⁰ When he was abroad, nobody

⁴² 27.10.2016, p. 33 - 34

⁴³ 27.10.2016, p. 34 and copies of the first pages of Dnevni Avaz in English

⁴⁴ 09.12.2016, p. 15

⁴⁵ 21.04.2015, p. 22-24

⁴⁶ 21.04.2015, p. 23-24

⁴⁷ 21.04.2015, p. 24

⁴⁸ 28.10.2016, p. 7 -8

⁴⁹ 09.12.2016, p. 4

⁵⁰ 09.12.2016, p. 9

replaced him in this function of an interpreter. Foreigners used to come with their own interpreters.⁵¹ His testimony convincingly contradicted S.T.'s claims and her truthfulness.

132. It was visible that S.T. had a tendency to brag about her qualifications, skills, potentials, contacts and exceptional position. For example, she showed to the Court her picture with W.P., a High Representative in Bosnia in order to prove her good relations with him. In the course of examination she admitted that it was taken coincidentally when she was a master of ceremony during anniversary of "AVAZ".⁵² This last fact was also confirmed by F.R.⁵³
133. The Court did not find as reliable the statement of **K6** who claimed that interpretations were done mostly by S.T. He admitted there was also S.Ni., but he was used rarely for this.⁵⁴ As a driver working in AVAZ he could not have knowledge who translated during the meetings where he was not present. Further, it was proven in a course of the proceedings that he stayed in good relations with S.T. during this trial, so there are serious grounds to believe that he was just repeating this what S.T. told him.
134. When confronted with the evidence that there were other people working in AVAZ who knew English S.T. admitted that fact. However, she still claimed that their English was not good.⁵⁵ Later she withdrew from such a categorical statement. She said that she could not know if F.R. used other persons',

⁵¹ 09.12.2016, p. 15

⁵² 22.04.2015, p. 12 - 13

⁵³ 28.10.2016, p. 8 - 9

⁵⁴ 15.09.2015, p. 20;

⁵⁵ 20.04.2015, p. 33, 22.04.2015, p. 11

including S.Nu., service. This issue is an example of her tendency to adapt her testimony to the evidence that she was confronted with.⁵⁶

3.4. The influence on S.T.'s writing

135. It was not proven that N.K. and F.R. influenced S.T. to write or not to write about some people and/or in a specific way. Both of them denied it. She was not consistent in her testimony because when she was shown many articles which she wrote about these specific persons whom it was to be forbidden to write, she admitted that she did it regardless the instructions.⁵⁷ She changed her mind again during cross-examination when she said that F.R. was not comfortable to approach her editor in chief to ask him about specific articles.⁵⁸ In this way she also contradicted her previous statement that no one dared to oppose F.R.⁵⁹ This inconsistency made her statement unreliable in this part which contributed to general assessment of the whole testimony.

136. It was not proven that, according to S.T., all articles to be published in daily newspaper Avaz were to be checked by F.R. and later also by him together with N.K.⁶⁰

Summary of the relevant evidence

137. Her statements were denied by **F.R.** who said that he did not control the content of articles published in his magazines and newspapers. He underlined that since 2001 he was mainly dealing with investments and construction of buildings.⁶¹

⁵⁶ 21.04.2015, p. 24 – 25; 22.04.2015, p. 12

⁵⁷ 16.03,2015; p. 21, 14.05.2015, p. 10-11, 14.05.2015, p. 12, 18.03. 2015, p. 20 - 22

⁵⁸ 21.04.2015, p. 4

⁵⁹ 16.03,2015; p. 21

⁶⁰ 16.03.2015, p. 11

⁶¹ 28.10.2016, p. 3

138. He also explained that he never heard that any person who S.T. wrote about called her. He did not read her articles. He did not read tabloids. She never complained to him that she was under pressure. He did not know if N.K. called her. Only once it happened that she came to him and told that she received threats from Da.E.⁶² F.R. never instructed S.T. not to write about N.K. He never gave her any instructions.⁶³
139. Furthermore, a reasonable person would not believe that somebody holding a high political position and involved in business on a quite big scale (which can be proven at least by the fact that the Company AVAZ constructed two huge buildings in Sarajevo – Hotel Radon Plaza and Twisted Tower) would have time to read materials to be published in a black chronicle of one of his tabloids.

3.5. Relations between S.T. and F.R.

140. It was proven that S.T. often met with F.R.⁶⁴ However, there is no evidence that she became his right hand and was involved in matters which required a great deal of his trust.⁶⁵
141. This fact of quite a close relation between S.T. and F.R. results also from his testimony despite his attempts to convince that it was not so unusual because he claimed to have good relations with all his 500 – 600 employees.⁶⁶ However, the Court finds not possible to have relation at the same level with such a huge number of people.

⁶² 28.10.2016, p. 19

⁶³ 28.10.2016, p. 21

⁶⁴ 16.03.2015; P. 10

⁶⁵ 16.03.2015, p. 13, 18.03, p.13 - 14

⁶⁶ 28.10.2016, p. 10, 11 - 12

Summary of the relevant evidence

142. **F.R.** testified that he met S.T. in the rotating restaurant maybe once or twice during the whole period when she worked for the company⁶⁷ and on these occasions they were sitting in private.⁶⁸ He admitted also that she came to his private office dozens of times, at least. He explained that he invited these employees with whom he had good, friendly relations and S.T. belonged to this group. On these occasions she was mainly complaining about the conflict she had with her colleagues and that her texts were not published.⁶⁹ She also told him about her private problems, but he did not want to share it in public.⁷⁰
143. He started to have good relations with S.T. year/year and half after she started working for AVAZ.⁷¹ He had her private phone number, but as he used of have of other journalists. On numerous occasions, he sent her sms messages.⁷²
144. He never talked with S.T. about his business matters. She did not have a special status in AVAZ. They did not have special private relations.⁷³

3.6. First meeting of N.K. and S.T.

145. It was not proven that it was F.R. who introduced S.T. and N.K. and presented her as his right hand. Further, it was not proven that he later warned her that N.K. was a very dangerous man, even involved in criminal activities, including murders. It was denied by F.R. and N.K. Besides, such finding would stay in

⁶⁷ 28.10.2016, p. 10

⁶⁸ 28.10.2016, p. 15

⁶⁹ 28.10.2016, p. 11

⁷⁰ 28.10.2016, p. 12

⁷¹ 28.10.2016, p. 12

⁷² 28.10.2016, p. 13

⁷³ 31.10.2016, p. 44-45

contradiction with S.T.'s assessment of F.R. as a very careful and even paranoid person.⁷⁴

146. Additionally, S.T. withdrew from this statement during cross-examination, as she said that it was only the most probable that F.R. introduced her with N.K.⁷⁵ During further examination she admitted that she did not remember when she met N.K. for the first time.⁷⁶

Summary of the relevant evidence

147. **F.R.** did not exclude that he could have introduced N.K. to S.T. or they introduced each other in front of him.⁷⁷ It is possible that he introduced her also to other people.⁷⁸
148. **N.K.** testified that he knew S.T. already before this situation when F.R. introduced them to each other. He met her in 2003 or 2004 in Sarajevo in a coffee bar Barsa, owned by one of his friends S.P. This bar was frequented by journalists, actors, celebrities, and S.T. was coming there. S.P. introduced them. Upon her request, which he followed he did not tell F.R. that they knew each other.⁷⁹

3.7. The acquaintance between N.K. N.O., F.R., S.S., Ek.L., M.A.G. and S.T.

149. It was proven that N.K., N.O., F.R., S.S., Ek.L., M.A.G., and S.T. knew each other, however they were not a group of close friends as the Prosecution claimed based on S.T.'s statement. Her statement was contradicted by testimonies of

⁷⁴ 16.03.2015; p. 18

⁷⁵ 18.05.2015, p. 40

⁷⁶ 12.05.2015, p. 28

⁷⁷ 28.10.2016, p. 9

⁷⁸ 28.10.2016, p. 13

⁷⁹ 04.10.2017, p. 9

N.O., F.R., S.S., Ek.L., M.A.G. and N.K. statement which complied with each other and did not consist of discrepancies.

Summary of the relevant evidence

150. From the statements of N.K. and F.R it results that they met for the first time probably in 2004 or 2005. According to **N.K.**, it took place in his hotel, because F.R. had his villa in vicinity of it. He sometimes came over for coffee.⁸⁰
151. **F.R.** was not able to connect the first meeting with N.K. with any specific event.⁸¹ They met between 2005 and 2006. N.K. was on the list of business partners of AVAZ. He did not remember where the meeting took place, whether it was in Radon Plaza or Casa Grande or a third place.⁸² Later he mentioned that it was possible that he met N.K. already in 2001. He justified this inconsistency with the fact that he was meeting with many people.⁸³
152. According to F.R., he came in contact with N.K. not more than couple of times.⁸⁴ All meetings with N.K. were accidental or spontaneous.⁸⁵ F.R. confirmed that he met N.K. once in Casa Grande which was located in vicinity of his house which he sold later.⁸⁶ After a moment, he admitted that he was there twice.⁸⁷
153. Further he testified that N.K. was coming to hotel Radon Plaza to a restaurant, bowling. It was not a problem to approach him as a businessman, shake his hands, etc.⁸⁸ F.R. saw him there at least several times, including the

⁸⁰ 04.10.2017, p. 7, 27.10.2016, p. 23

⁸¹ 27.10.2016, p. 20

⁸² 27.10.2016, p. 18-19

⁸³ 27.10.2016, p. 19

⁸⁴ 27.10.2016, p. 28

⁸⁵ 27.10.2016, p. 20, 24

⁸⁶ 27.10.2016, p. 23

⁸⁷ 27.10.2016, p. 24

⁸⁸ 27.10.2016, p. 23

rotating restaurant.⁸⁹ He never met N.K. in his office.⁹⁰ He never received money from him for his election campaign.⁹¹ Their relations were correct, they were acquaintances. They addressed each other by “you”.⁹²

154. In 2005 or 2006, F.R. was informed by R.G. about some controversies around N.K. and that it would be wise for him to cease contacts with him. He followed his advice, however it could have happened that occasionally he shook hands with N.K.⁹³ F.R. did not ask R.G. about the reasons. He treated it as a diplomatic advice.⁹⁴ R.G. did not give any details.⁹⁵
155. **N.O.** and **F.R.** testimonies about the circumstances how they met mutually comply.
156. According to **N.O.**, they knew each other since 2006, after he returned from The Hague and in this period he was in the centre of interest of the media, also of TV Alfa.⁹⁶ **F.R.** confirmed that he met N.O. probably after his acquittal in The Hague. He did not remember the circumstances. When N.O. was at trial, AVAZ supported his children financially.⁹⁷
157. **N.O.** confirmed that he used to come to Radon Plaza, but not to see with F.R. He was close with the leader of the party of Democratic Action, who was a rival of F.R. In 2014, N.O. was running the presidential campaign of A.I., direct

⁸⁹ 27.10.2016, p. 24

⁹⁰ 27.10.2016, p. 25

⁹¹ 31.10.2016, p. 13

⁹² 27.10.2016, p. 28

⁹³ 27.10.2016, p. 28 - 29

⁹⁴ 27.10.2016, p. 29

⁹⁵ 31.10.2016, p. 41

⁹⁶ 22.07.2016, p. 29-30

⁹⁷ 28.10.2016, p. 20

competitor of F.R.⁹⁸ **F.R.** did not exclude that N.O. came also to the rotating restaurant.⁹⁹

158. As results from credible and mutually complimentary statements of **N.K.** and **N.O.**, they met at the end of 2006, after the latter returned from The Hague. N.O. told N.K. about the time he spent with some Albanians from Kosovo in the prison and transferred to him a message from them.¹⁰⁰ He asked N.K. if he could assist him in accommodation until he would receive an apartment from the state. N.K. agreed.¹⁰¹ As a result, N.O. moved to Casa Grande at the end of 2006/beginning 2007. He stayed there for a year – year and a half. When he lived there he met N.K. almost every day for coffee.¹⁰²
159. **M.A.G.** and **N.K.** confirmed that they knew each other from 1998-1999, however they did not stay in touch at least since 2005 because of some tensions between them. They presented different reasons about this split up, however the Court found proven that it took place.
160. **M.A.G.** testified that he knew N.K. since 1999, 2000 or 2001. He was not sure about the dates because he was long time in prison. It was a friendly relationship, without any business involvement.¹⁰³ It finished because N.K. did not like his sense of humour and the fact that M.A.G. was spreading gossips. They stopped communication in 2003 because of jokes on women.¹⁰⁴ He did not have any contacts with N.K. in 2006 or 2007.¹⁰⁵

⁹⁸ 28.10.2016, p. 15; 31.10.2016, p. 22

⁹⁹ 28.10.2016, p. 26

¹⁰⁰ 22.07.2016, p. 26

¹⁰¹ 04.10.2017, p. 6-7, 22.07.2016, p. 26

¹⁰² 22.07.2016, p. 26 - 27

¹⁰³ 06.12.2016, p. 14, 18

¹⁰⁴ 06.12.2016, p. 15, 36

¹⁰⁵ 06.12.2016, p. 27

161. **N.K.** said that he met M.A.G. in 1998, in Bosnia. In 2001 or 2002, he was a godfather on his wedding. They had good relations but their relations became colder in 2003 after the shooting in “Holiday Inn” took place with Z.T. N.K. blamed him for getting him know with Z.T.¹⁰⁶ After 2005 he stopped to have any contacts with M.A.G. because of some disagreements about ladies, because he is a person who liked to talk. M.A.G. was still socializing with N.K.’s sons and friends of my sons, because he was younger and did go to discotheques.¹⁰⁷
162. **F.R.** did not know M.A.G., he heard about him only from the media.¹⁰⁸
163. **Ek.L.** testified that he knew M.A.G. “from the town”. They never had coffee together, they had nothing in common.¹⁰⁹
164. **M.A.G.** did not know F.R. and N.O.¹¹⁰
165. **N.O.** and **Ek.L.** were consistent that they knew each other that since 1995. They were acquaintances. Besides they met in the Equestrian Club. They were both in its managerial board.¹¹¹
166. **Ek.L.** testified that he met N.O. in 2006 when he returned from The Hague. He used to meet him, but very rarely. Sometimes he met him in café “Va.”, but there were many people around. They were not friends.¹¹² It happened that they met each other, but they were always in a company of other people.¹¹³ He met him

¹⁰⁶ 05.10.2017, p. 2-4, 06.10.2017, p. 17 - 18

¹⁰⁷ 06.10.2017, p. 16

¹⁰⁸ 28.10.2016, p. 20

¹⁰⁹ 19.07.2016, p. 17

¹¹⁰ 06.12.2016, p. 27

¹¹¹ 22.07.2016, p. 29

¹¹² 19.07.2016, p. 16

¹¹³ 19.07.2016, p. 33

also in the horse club, he was president of it. In principle he did not remember who was there.¹¹⁴

167. **F.R.** knew Ek.L. for 25-27 years. They both were journalists, they were close friends, and sometimes they met very often, sometimes quite rarely. They met with each other in Radon plaza, in its various parts, including the rotating restaurant. Ek.L. was coming there also with his business partners and associates. Besides, in a certain time he was also a head of SPD party therefore they were meeting in the rotating restaurant quite often. He also came to his office.¹¹⁵ On many occasions they were meeting in the rotating restaurant.¹¹⁶ They also visited each other at their apartments; F.R. met him in his office. Such character of their relation was confirmed by Ek.L.¹¹⁷

168. **Ek.L.** testified that he knew N.K. since 1987 when he was working as a journalist and wanted to make an interview with M.B., the biggest political dissident in Kosovo. He got in touch with him through N.K. who had a boutique in the same building as their editorial office. Then they did not have any contacts almost for 10 years due to the war in Bosnia and Kosovo. In 2001, N.K. returned to Sarajevo and they continued their acquaintance. They did not have any business together; they never talked about R.D.¹¹⁸ He did not remember if he met N.K. in the rotating restaurant.¹¹⁹

¹¹⁴ 19.07.2016, p. 33

¹¹⁵ 28.10.2016, p. 21-22

¹¹⁶ 19.07.2016, p. 15

¹¹⁷ 19.07.2016, p. 15, 25-26, 35, 37

¹¹⁸ 19.07.2016, p. 25 - 26

¹¹⁹ 19.07.2016, p. 35

169. **N.O.** knew **S.S.** from before the war. He was one for the founders of the SDA party together with the president A.I.¹²⁰ It could have happened that he met S.S. in presence of S.T., and it was on the occasion when F.R. was buying cars from N.K.¹²¹
170. **F.R.** confirmed that he knew **S.S.** He met him in the office of A.I. They met sometimes, but f.e. with 7-8 years break and then they were hanging around more often for a month.¹²²
171. **Ek.L.** knew **S.S.** They knew each other since 2002, 2003 or 2004; they met because of their involvement in politics. They had often coffee together.¹²³
172. **S.S.** testified that he knew N.K., they met 5 or 6 years after the war, they were introduced by a common friend "I." from Istanbul. Their friendship deepened after N.O., whom he knew as a war hero, came from The Hague and started to live in Casa Grande.¹²⁴ They did not have any business together.¹²⁵ He knew R.D. whom he met before the war. They had fair relations, no business together, and no conflict.¹²⁶ He knew also F.R. since 1994. They relations were moody, sometimes better, sometimes worse. Currently, they are in the best relations. They do not have any business together.¹²⁷ His relations with Ek.L. were the best; they see each other almost every day, especially last five, six years.¹²⁸

¹²⁰ 22.07.2016, p. 30

¹²¹ 22.07.2016, p. 31

¹²² 28.10.2016, p. 26

¹²³ 19.07.2016, p. 17

¹²⁴ 07.12.2016, p. 3

¹²⁵ 07.12.2016, p. 5

¹²⁶ 07.12.2016, p. 4-5

¹²⁷ 07.12.2016, p. 5

¹²⁸ 07.12.2016, p. 5-6

173. **N.O.** confirmed that he knew S.T. who interviewed him shortly after his return from The Hague. Afterwards, he met her on several occasions; they used to have coffee together with her and other journalists. He also met with other journalists.¹²⁹
174. **Ek.L.** confirmed that he knew S.T. He met her as a journalist working in Express, most probably before 2006. He did not have a close relation with her; he never had coffee with her nor called her. They had a common picture taken during the party on anniversary of AVAZ.¹³⁰ He underlined that it meant nothing because during his career as a journalist, he took thousands of pictures with women.¹³¹
175. **M.A.G.** confirmed that he knew S.T., she was on his wedding. They were in excellent relations.¹³² This friendship lasted till events in Turkey when he met there with R.D. because she knew that he would talk about this everywhere.¹³³ He admitted that he could not refrain from gossiping.¹³⁴
176. **S.S.** confirmed that he knew S.T. from AVAZ. Maybe they met in 2006 or 2007 when the hotel Radon Plaza was opened; he often came to the rotating restaurant. He did not remember who introduced them to each other.¹³⁵ He did not have important meetings with S.T. The most important one was when he gave an interview to her. They were not friends. He could have had coffee with her, but

¹²⁹ 22.07.2016, p. 29-30

¹³⁰ 19.07.2016, p. 18, 20

¹³¹ 19.07.2016, p. 34

¹³² 06.12.2016, p. 19

¹³³ 06.12.2016, p. 20

¹³⁴ 06.12.2016, p. 23

¹³⁵ 07.12.2016, p. 6

no dinners, etc. He did not meet her in a company of other people. All their meetings were by chance.¹³⁶

177. **F.R.** confirmed that S.L. was his best man during his wedding in sieged Sarajevo. There were only witnesses present on this ceremony.¹³⁷ S.L. was F.R.'s best man accidentally, due to the hard circumstances in Sarajevo.¹³⁸

178. He was not present at the wedding of S.L. He knew that he was married twice but he did not remember names of his wives. Later he found that B.L. was his wife.¹³⁹

179. **N.O.** knew S.L.; they were not friends, just acquaintances. When he came from The Hague, everybody wanted to have coffee with him.¹⁴⁰

3.8. Meetings of the “group of friends” in public places

According to the indictment:

S.T. testified that as F.R.'s trusted assistant she was personally present during several meetings held in a restaurant on the 15th floor of the 'Avaz' Building where the execution of R.D. was planned. Among the participants of these meetings were apart from F.R., S.T. and Defendant N.K. also Ek.L., Sarajevo business man S.S. and N.O., Bosnian commander defending the Srebrenica enclave during the war.

180. The Court found not proven that N.K., N.O., F.R., S.S., Ek.L. and S.T. met as such a group of people in the Rotating Restaurant of Radom Plaza.

¹³⁶ 07.12.2016, p. 7

¹³⁷ 28.10.2016, p. 22

¹³⁸ 28.10.2016, p. 23

¹³⁹ 31.10.2016, p. 6

¹⁴⁰ 22.07.2016, p. 33

181. This main evidence to support this claim was a testimony of S.T. which was to be supported by the statements of K6 and S.C. The Court assessed this evidence as unreliable.
182. The testimonies of mentioned witnesses contradict statements of N.K., N.O., F.R., S.S. and Ek.L. consequently denied that they ever sat all together with S.T. in the rotating restaurant and they justified it in a convincing way.
183. Furthermore, the Court assessed testimony of K6 as not reliable because of visible contradictions in its content. Initially, when he was asked how F.R. was protected in the rotating restaurant, he said that they did not have to escort him there, but they just called the waiter and asked him if F.R. was there. They were monitoring him from downstairs by video surveillance.¹⁴¹ Only later, when he realized that it was necessary to support the story of S.T., he testified that he was present there during alleged meetings of F.R. with the mentioned people.¹⁴² Additionally, when he stayed in the office of protection of F.R., he could not have seen people in the restaurant through the video surveillance because it was established that it was not installed in this part where guests were sitting.
184. Another indication that K6 was not telling the truth is the fact that he changes his testimony as to the number and character of alleged meetings of F.R., N.K., N.O., S.S. and S.T. in the rotating restaurant¹⁴³ Initially he claimed that he remembered at least 10 of them in such a composition; N.K. was coming with Ek.L.,¹⁴⁴ S.T. was sitting and talking with them. F.R. was to run these

¹⁴¹ 15.09.2015, p. 22;

¹⁴² 15.09.2015, p. 24;

¹⁴³ 15.09.2015, p. 23;

¹⁴⁴ 16.09.2015, p. 32;

meetings¹⁴⁵ later, he changed his mind as to the assessment of the character of meetings between N.K. and F.R. because he underlined that N.K. was only a guest of F.R., he was coming there very rarely.¹⁴⁶ According to him, these were friendly meetings.¹⁴⁷ In the course of his further testimony, K6 presented another version as to the relations between them. This time he said that that S.T., N.K. and S.S. were soldiers of F.R.¹⁴⁸ In this way he contradicted his previous assessment that it was only a friendly relation.

185. Testimony of S.C., a waiter from the rotating restaurant, did not serve the purpose to confirm the existence of the group of people regularly meeting in this place as described by S.T.

186. First of all, during the direct examination he admitted that he saw all these people, but never together as a group. He saw F.R. often with Ek.L.¹⁴⁹ He saw them often, but not all together.¹⁵⁰ He thinks that he saw F.R., N.K. and Ek.L. only once. He did not remember when this situation took place but it was close to the beginning of his work there. It could be half a year or a year after he started working there.¹⁵¹ His memory was refreshed with his previous statement where he said that “they were all sitting in the same company and in this company was F.R.”. When asked about it, he did not confirm this part of his statement.¹⁵²

¹⁴⁵ 15.09.2015, p. 28; 33; 16.09.2015, p. 4;

¹⁴⁶ 16.09.2015, p. 31;

¹⁴⁷ 16.09.2015, p. 35

¹⁴⁸ 16.09.2015, p. 37

¹⁴⁹ 18.07.2016, p. 6-7

¹⁵⁰ 18.07.2016, p. 14-15

¹⁵¹ 18.07.2016, p. 8

¹⁵² 18.07.2016, p. 15

187. Besides, S.C. started working in the rotating restaurant in May/June 2007 and began serving F.R. only few months later.¹⁵³ As a result he could not have observed any meetings before the death of R.D. The witness was also clear that he never heard any conversations between them.

Summary of the relevant evidence

188. When questioned about alleged meetings of “the group of friends” in the rotating restaurant, **N.K.** answered that from the moment when he found that S.T. was together with Z.T., what took place at least in 2005, he had never had coffee with her, or in private, neither in the presence of others.¹⁵⁴

189. **N.O.** denied that he ever met with S.T., F.R., N.K., S.S. and Ek.L. in the rotating restaurant.¹⁵⁵ When asked about the Prosecutor’s allegations that they were meeting in the rotating restaurant and planning how to murder R.D. he said that it was a pure lie.¹⁵⁶ According to him, S.T. was trying to divert investigation into another direction. He testified in Z.T.’s trial on circumstances when Z.T. tried to kill him and N.K. during the wedding of N.K.’s son which was organized in Radon Plaza.¹⁵⁷

190. **F.R.** claimed that he never met with S.T., N.K., N.O., Ek.L. and S.S. in the rotating restaurant. He never spoke with them about R.D.¹⁵⁸

191. He confirmed that he had a video surveillance in his office in Radon Plaza, while parts available for guests (except public spaces) were free from it. There was no

¹⁵³ 18.07.2016, p. 5, 9

¹⁵⁴ 04.10.2017, p. 16

¹⁵⁵ 22.07.2016, p. 31

¹⁵⁶ 22.07.2016, p. 32

¹⁵⁷ 22.07.2016, p. 38

¹⁵⁸ 28.10.2016, p. 26

video surveillance in the part of the rotating restaurant where guests were sitting.¹⁵⁹ He had access to all rooms and areas in the hotel by using a master key card.¹⁶⁰ In his office he had a device which was used to distract or block interception.¹⁶¹

192. On 16 May 2015, the Court rejected the Defence's motion to admit the manual how to use interception device, as unnecessary because the matter to be proven was of common knowledge (Article 258 (1.2.1) of the CPC).¹⁶²

193. F.R. visited the rotating restaurant whenever he had time. He went there twice, three times per week. He met there mainly with his business partners.¹⁶³ It was easier for him to have coffee in his office or to go to journalists on 11th floor.¹⁶⁴ The rotating restaurant was usually very busy. Until 10.00 in the morning, breakfast for hotel guests was served there.¹⁶⁵

194. **EK.L.** testified that they used to pass each other with S.T. in the rotating restaurant, where he often came for coffee. They just greeted each other. It never happened that they sat there together.¹⁶⁶ He stated that he never sat in a company of S.L., N.O., N.K., F.R., S.T. and S.S. He admitted that he could have coffee with S.S. and F.R. in the rotating restaurant.¹⁶⁷

195. **S.S.** testified that he met in the rotating restaurant with EK.L., sometimes with F.R., maybe once or twice with N.O., and sometimes with other people.¹⁶⁸ He

¹⁵⁹ 27.10.2016, p. 27

¹⁶⁰ 31.10.2016, p. 39

¹⁶¹ 31.10.2016, p. 39 - 40

¹⁶² 16.05.2015, p. 10

¹⁶³ 27.10.2016, p. 30

¹⁶⁴ 28.10.2016, p. 15

¹⁶⁵ 31.10.2016, p. 39

¹⁶⁶ 19.07.2016, p. 20-21

¹⁶⁷ 19.07.2016, p. 21

¹⁶⁸ 07.12.2016, p. 6

rather did not meet in the restaurant with N.K., but maybe in the coffee shop or the bowling area.¹⁶⁹ He did not meet with S.T. in the rotating restaurant. She was not important enough to sit with them.¹⁷⁰

196. There was never a meeting in which S.T., F.R., N.K., N.O., S.S. and Ek.L. would participate.¹⁷¹ He denied that he ever participated in any meeting when the murder of R.D. was discussed.¹⁷²

197. When **S.T.** was explaining why F.R. wanted her to be present during the meeting where the plan to murder R.D. was to be discussed (during cross-examination), she said that he was an obsessed and paranoid person. In case of a separation or conflict with N.K., F.R. needed to have someone beside him in case N.K. would accuse him of murder or something else. At that time S.T. was much respected, so she would provide him an alibi if by chance N.K. or people around him would decide to accuse him. She admitted that F.R. never said it to her, but it was obvious.¹⁷³

198. Also **K6** described F.R. as a very frightened person, paranoid, hypochondriac. Therefore, he was often interfering with the job done by security officers, he had fear.¹⁷⁴

3.9. Motives to kill R.D.

199. The Prosecutor presented in the indictment several different motives why this alleged group indicated by S.T. was determined to kill R.D.:

¹⁶⁹ 07.12.2016, p. 6

¹⁷⁰ 07.12.2016, p. 7

¹⁷¹ 07.12.2016, p. 7

¹⁷² 07.12.2016, p. 7

¹⁷³ 18.05.2015, p. 33 - 34

¹⁷⁴ 15.09.2015, p. 21;

- R.D. as a fighter against drugs interfering into drug operation of N.K.;
- R.D. as a rival gangster;
- Private motives of F.R.;
- Incident in Turkey in 2003 between M.A.G. and R.D.;
- Revenge for the death of S.L.

200. All these alleged motives will be analysed in details in the light of the evidence produced during the main trial.

3.9.1. R.D. as a fighter against drugs or a rival gangster

According to the indictment:

R.D. was a gangster boss in Sarajevo, Bosnia and Herzegovina, who got into conflicts with Defendant N.K. and his OCG for a number of reasons. Most importantly, he was publicly denouncing Defendant N.K.'s drug operations and he even "constantly cooperated with the police, prosecutors, and were talking about their jobs. By this he endangered F.R. and N.K...."

Moreover, R.D. used the recent war events to publicly discredit other crime groups, led by criminals of other ethnicities such as for example the group led by Da.E., even though organised crime in Bosnia and Herzegovina always functioned well also between ethnicities hostile to each other during the war. As this risked to hurt the business interests of these groups, they had to react.

201. The Prosecutor's attitude to R.D. was at least not consequent. Once, he presented him as a war hero, religious and moral man, while on the other time R.D. was shown as a gangster boss involved in drug business.

202. The Prosecutor did not provide the evidence that N.K. was involved in organized crime connected with drug trafficking (what will be elaborated in details in the further part of this judgment). However, it is still necessary to address this specific allegation as to the motive behind the death of R.D.
203. The Court found not proven that the reason for the murder of R.D. was alleged competition between him and N.K.'s criminal organized group. If it is presumed that his competition resulted from the alleged involvement of R.D. in drug trafficking, the Prosecutor did not present a single piece of evidence to prove that it was the case.
204. On the other hand, it was also not proven that R.D. was a fighter against drugs, and as such he was transmitting to the police and media information about drug routes, planned deliveries and people involved.
205. Based on the testimony of **E.D.**¹⁷⁵, **A.P.**¹⁷⁶ and **A.S.**¹⁷⁷ it can be concluded that R.D. was in principle against drugs, but he did not do anything to fight against it. The Court finds their testimonies in this regard as truthful because these people, especially women, were close to him so they must have known R.D.'s stance on drugs. On the other hand, it was visible that they did not exaggerate in their testimonies in this part by an attempt to present him in a better light.

Summary of the relevant evidence

206. **S.T.** testified that R.D. always used his contacts with journalists to accuse N.K. and F.R. for dealing with drugs. He also reported the routes for drugs¹⁷⁸. She

¹⁷⁵ 11.12.2015, p. 28, 35

¹⁷⁶ 28.10.2015, p. 13

¹⁷⁷ 18.01.2016, p. 8 - 9

¹⁷⁸ ZT, 16.06.2015, p. 34; 18.03.2015, p. 20

knew it from other journalists and police officers. When asked about the names, she did not want to disclose them because she claimed that she talked with them as a journalist.¹⁷⁹

207. During cross-examination, she testified that this alleged reporting by R.D. was not effective because N.K. always got a message before and was able to change the routes. However, R.D. was talking around in the media about drug business of N.K., and it was published everywhere except Avaz. Once again, when asked about specific information, she was not able to indicate when it was published and in what media.¹⁸⁰

208. **K1** testified that he heard many stories because “N.K. was telling that R.D. was telling the stories about him that he came to Bosnia to deal with drugs, to poison people and that he could not perform his business in Bosnia”. R.D. was publishing some stories in newspapers. N.K. was commenting that he was making false stories.¹⁸¹

209. The statements of both witnesses S.T. and K1 are not substantiated and they are based on rumours. None of them was able to provide any details to corroborate this information or to indicate the source of it.

210. The Prosecutor did not present any reliable evidence to support his claim that R.D. undertook any actions to fight with drugs and this motivated N.K. to organize a murder of him. Furthermore, if it had been the reason to do so, it would have been performed rather with a group dealing with drug trafficking and not with a “group of good friends” (as called by S.T.) who met in the rotating

¹⁷⁹ 18.03.2015, p. 8, 20

¹⁸⁰ 13.05.2015, p. 36

¹⁸¹ 09.11.2016, p. 17

restaurant of Radon Plaza in Sarajevo. On the other hand, according to S.T. this alleged reporting by R.D. did not cause any harm what additionally undermines it as a reason for the murder. One can put a rethorical question - why would anybody bother with killing then?

3.9.2. Private motives of F.R.

According to the indictment:

Defendant N.K. 's business partner and political protector in Sarajevo, F.R. hated R.D. for a number of personal reasons. F.R. 's wife had been in a relationship with R.D. during the war, before she got married to F.R. – a circumstance which R.D. used to brag about. R.D. also publically announced that he was in possession of documents proving F.R. 's collaboration with the enemy during the war, as well as his intrigues against other leaders in war-time Sarajevo.

211. The Prosecutor did not prove the existence of private motives of F.R. which could have justified his antagonism or hostility towards R.D.

212. It was proven that F.R. and R.D. knew each other. This fact was confirmed by **F.R.** who described in details his contacts with R.D. whom he met probably in 1992.¹⁸² Since 1993 they did not meet again.¹⁸³ None of members of his family knew or had contacts with R.D.¹⁸⁴ They did not meet each other to have coffee together.¹⁸⁵

¹⁸² 27.10.2016, p. 7

¹⁸³ 28.10.2016, p. 21, 30

¹⁸⁴ 28.10.2016, p. 21

¹⁸⁵ 28.10.2016, p. 51

213. F.R. claimed that he was not afraid of R.D.; he did not have any conflict with him.¹⁸⁶ They were in good relations, and during the war it meant that they were members of the same army. It had different meaning than during peace time.¹⁸⁷ Everybody called him R.D.¹⁸⁸
214. It was proven that there were business relations between the companies of F.R. and N.K. Both of them admitted it in their statements and described specific business transactions.

Summary of the relevant evidence

215. **N.K.** testified that his company named “Casa Grande” had business relations with the company of F.R. as it bought advertisements in his newspapers. Additionally, N.K. bought a house from F.R.’s company. It was an exchange of a real estate between AVAZ and N.K. concluded on 17 September 2004.¹⁸⁹ He also sold some armoured vehicles imported from the US to AVAZ Company.¹⁹⁰ Contracts for vehicles were concluded on 09 June 2003 and 18 April 2005. Armoured vehicles were used to drive F.R. and very important guests of his hotel.¹⁹¹
216. **F.R.** described business relation between AVAZ and company of N.K. in the same way as presented by N.K.¹⁹² He did not negotiate personally with N.K. the sale of the cars, it was done by a competent director.¹⁹³

¹⁸⁶ 28.10.2016, p. 29, 31.10.2016, p. 34

¹⁸⁷ 28.10.2016, p. 30

¹⁸⁸ 31.10.2016, p. 35

¹⁸⁹ 27.10.2016, p. 21 and contract of the exchange of the real estate

¹⁹⁰ 04.10.2017, p. 7 - 8

¹⁹¹ 27.10.2016, p. 20 – 21 and contracts of sale of AUDI; 27.10.2016, p. 21 and contract of the exchange of the real estate

¹⁹² 27.10.2016, p. 22

¹⁹³ 27.10.2016, p. 23

217. The Court finds that this business relation, proven to exist to a moderate degree in comparison with the scale of the business activity of F.R. cannot justify in any way that N.K. would be ready to accept alleged motives of F.R. as justifying his involvement in the murder of R.D.
218. The Prosecutor did not present any reliable evidence to support his allegation that F.R. was “a political protector” of N.K. This claim is based only on statements of a kind that “the whole Sarajevo knew”.
219. As to the alleged relation between F.R.’s wife and R.D., it must be said that the Prosecutor once again based his claims only on gossips and rumours which this Court finds as inappropriate and unprofessional behaviour. During the investigation, the Prosecutor did not take any attempt to verify these allegations. This issue, touching very personal sphere of people who were not parties of these proceedings, was mentioned by S.T.¹⁹⁴ and K1 who claimed that he heard about it from R.D.¹⁹⁵ What was specific, during the cross-examination S.T. said that she did not believe that it was a motive for killing R.D.¹⁹⁶
220. The Court finds not proven that the relation of this kind between R.D. and the mentioned person existed, therefore as a consequence there is no ground to accept that it was a motive to kill R.D.

3.9.2.1. Documents about F.R.’s role during the war

According to the Indictment

¹⁹⁴ 18.03.2015, p. 10 – 11; 23.06.2015, p. 11

¹⁹⁵ 09.11.2016, p. 34, 35

¹⁹⁶ 13.05.2015, p. 25

R.D. had documents about F.R. with which he blackmailed him. He showed S.T. a lot of documents in Sarajevo regarding F.R.'s role during the war, however he did not allow her to read them carefully.

221. The Court finds not proven that R.D. possessed documents of the alleged collaboration of F.R. which could have constitute a motive of his murder. These allegations against F.R. had been known to the public in Bosnia already since 2002, there were articles published about it and they were presented in the book of F.M.¹⁹⁷ There is no evidence that these documents contained something extraordinary which had been not known before. They were not secret as they were already in possession of several people (including journalists). This motive is a pure speculation of the Prosecution based on the false testimony of S.T.

222. The relevance of the books of F.M. admitted as evidence is limited to confirm the fact that already in 2002 the information about alleged collaboration of F.R. with the enemy was publicly known.

223. The Court noted that S.T., the crucial witness of the Prosecution, was very inconsequent with her statements. At the beginning of her testimony, she was clear and confident that R.D. possessed documents extremely harmful for F.R. which had not been known to the public before, and their disclosure would cause unrepairable damage for him, including termination of his political career. In the course of examination she started to soften her stance, especially after she was confronted with the evidence (such as an extract from the book of F.M. and article from *Slobodna Bosnia*) which showed that the information of alleged collaboration of F.R. with Serbian authorities had been published already in

¹⁹⁷ F.Mu.; „Argumenti i Sjecanja o Ratu”, 2002 – extracts

2002. In this situation she used her usual tactic of adapting her testimonies to the development of the questions, and she said that admittedly she did not know about it. Even the fact that she published on her Facebook wall the cover of the book of F.M. did not mean that she read it before.

224. In her testimonies, S.T. showed once again her need to impress with her possibilities and importance. She initially underlined that she was the first one to use in the media the nickname “Sç.”. When she was confronted with the article from *Slobodna Bosnia* from 2002 when it had been already mentioned, she said that she wrote about this topic in more details. When asked about them, once again she was not able to give an example of this more detailed information. Finally, she claimed that it was her article published on Facebook, which was copied and published afterwards by the newspaper without indicating her name. It is a notorious fact, which also can be easily checked on the internet that Facebook website was launched only in 2004.¹⁹⁸

225. A moment later, she admitted she started to speak about this alleged collaboration of F.R. with the enemy only after the arrest of her husband (2010).

226. S.T. also tried to convince the Court that the documents allegedly shown to her by R.D. were so secret that she was the only person who had a chance to see them. Later, she changed her mind and added that the documents were given also to other journalists and one lawyer in Sarajevo. As always, she did not want to give the names to substantiate her claims.

227. A completely different version of the events, contradicting with the one of S.T., was presented by **K1** who spoke about the documents which R.D. used for

¹⁹⁸ <https://en.wikipedia.org/wiki/Facebook>

blackmailing F.R. There is no other evidence to support the version of K1. Additionally, A.P. was clear that R.D. was a discreet person, and despite of being close with him, he did not hear about any secret documents.

228. The Court assessed as credible the statement of F.R., supported by the documents filed by him, that allegations against him of collaboration with Serbian forces were known long time before.

Summary of the relevant evidence

229. **S.T.** testified that R.D. possessed documents related to the war in Bosnia and Herzegovina, according to which F.R. was cooperating with the enemy, under a coded name “Sç.”. The documents showed also that F.R. with another person tried to antagonize R.D. against a general during the war in Bosnia and Herzegovina and provoke him to react.¹⁹⁹ According to S.T. this was the source of hostility between F.R. and R.D.²⁰⁰

230. She testified that F.R. was afraid that one day R.D. would use these documents to blackmail him what would cause huge damage to him and his reputation.²⁰¹ The reputation of F.R. would be damaged if disclosed that he had cooperated with intelligence.²⁰²

231. She claimed that she was shown these documents long time before the death of R.D. She believed that she was the first person to speak about them publicly.

¹⁹⁹ 17.03,2015; p.16 - 18; 13.05.2015, p. 16 - 17

²⁰⁰ 17.03,2015; p.18

²⁰¹ 17.03,2015; p.18

²⁰² 14.05.2015, p. 23 – 25

Only afterwards, other journalists started to search for this, and there were publications about them, including the book.²⁰³

232. Later S.T. added that these documents were also in possession of one of Sarajevo lawyers. As usual, she did not want to give his name because he would not confirm it. This lawyer was initially involved in her husband's trial.²⁰⁴

233. Initially, she did not limit the scope of documents possessed by the lawyer. Later, she said that he had only the ones related with cooperation with an enemy which did not contain information related to the attempt to take over the power in Bosnia. She was shown these documents by the lawyers. She did not know if other people possessed copies of them.²⁰⁵

234. When cross-examined, S.T. admitted that she was not the first to mention the coded name "Sç.", but she was the one who started to talk about his alleged cooperation with the enemy.²⁰⁶ Later she explained that she was the one to publish some additional details, however she failed to present what specifically they were.²⁰⁷

235. Further, she withdrew also from her statement that she saw these documents for the first time only when R.D. showed it to her. She admitted that she may have seen them already in the Ministry of Internal Affairs where she used to work, but then she did not care about it because she did not know F.R. She confirmed that R.D. was giving the documents to some other journalists, despite her claim that they were to be so secret. As usual, she did not want to give the names of these

²⁰³ 13.05.2015, p. 17

²⁰⁴ 14.05.2015, p. 6 - 7

²⁰⁵ 14.05.2015, p. 20-21

²⁰⁶ 13.05.2015, p. 18 - 19

²⁰⁷ 13.05.2015, p. 21

- journalists. It was to be written in majority of media²⁰⁸. When asked why R.D. gave these documents to others, but not to her, she explained that he decided only to show them to her because she was working for F.R.²⁰⁹
236. S.T. admitted that already in 2002 the magazine *Slobodna Bosnia* wrote about “Sç.”. Once again, she underlined that she was the one to talk in more details.²¹⁰ Confronted with the articles, she did not remember if she read them.²¹¹ Asked about these details which she was to disclose, she denied saying like this. After a moment she declared that in *Slobodna Bosnia* it was her article, which she published on her Facebook account, but her initials could not have been published there as she was not an employee of this newspaper.²¹²
237. She admitted that she started to speak about these documents only after the arrest of her husband. The nickname “Sç.” was published long time before.²¹³
238. She confirmed that she knew the book of F.M. where the suspicions of cooperation of F.R. were also elaborated, but she claimed that she did not read it. She admitted that she published its cover page on her Facebook account. However, she only took a glance and she noticed that there were the same documents as the one shown to her by R.D. and some additional ones.²¹⁴
239. Another version in relation to the documents allegedly possessed by R.D. was presented by **K1**. He testified that he heard from R.D. that he was threatened by F.R. and N.K. because he possessed the document which stated that F.R. was

²⁰⁸ 13.05.2015, p. 20 - 21

²⁰⁹ 13.05.2015, p. 21

²¹⁰ 13.05.2015, p. 24

²¹¹ 14.05.2015, p. 4 - 5

²¹² 14.05.2015, p. 6

²¹³ 13.05.2015, p. 21

²¹⁴ 13.05.2015, p. 22-23

employed by Serbian Secret Service. On several occasions, K1 saw a several - page - document which R.D. used for blackmailing F.R. because he demanded 50.000 euro in exchange for it.²¹⁵ K1 saw it perhaps two months before his assassination.²¹⁶

240. K1 claimed that F.R. demanded from R.D. not to show that document anymore, not to publish it, and not to tell that he was a traitor and that he was working against Bosnia during the war. It was accompanied by threats, but K1 did not specify exactly of what kind. He claimed that everybody knew about collaboration of F.R.²¹⁷

241. According to K1, 2-3 months before his death, F.R. stopped paying R.D. Each time he paid him 50.000 euro. He used to pay him many times. K1 knew it from R.D., S1, S2 (sons of R.D.'s sister), from A.P.²¹⁸ R.D. was telling everybody about this (including about taking money from F.R.) and showing this document, despite the fact that F.R. paid him.²¹⁹ A moment later K1 contradicted himself by saying that R.D. started showing this document only when F.R. stopped paying him. It was 3-4 months before the death.²²⁰

242. **A.P.**, during his cross-examination, testified that R.D. was a very silent person, and “one would need plier in order to pull words out of his mouth”. A.P. did not know if he had any secret documents.²²¹

²¹⁵ 09.11.2016, p. 18

²¹⁶ 09.11.2016, p. 18

²¹⁷ 09.11.2016, p. 22-23

²¹⁸ 09.11.2016, p. 23 - 24

²¹⁹ 09.11.2016, p. 24

²²⁰ 09.11.2016, p. 25

²²¹ 08.12.2015, p. 31

243. In his testimony, **F.R.** addressed allegations that he was a collaborator of the Serbian secret service. He underlined that as the Minister of Internal Affairs he went through a vetting procedure, also because he needed to have an access to secret information. Further, there was a judgment in the case which he filed against F.M. where he was found guilty of slander.²²²

244. It must be underlined that it was not the object of this trial to establish what F.R. was doing during the war in Bosnia. Therefore the Court rejected the following Prosecutor's evidentiary motions which were aimed to prove whether F.R. collaborated with the enemy:

- filed on 23 February 2015, and repeated on 18 March 2015 to hear F.M. and H.Si., decided 30 July 2015;
- filed on 06 May 2015 to admit as evidence minutes of the examination of R.D. and reports mentioned in the book of F.M., decided on 18 May 2015.

245. On the other hand, the testimony of these persons, if admitted, would make necessary to hear many other witnesses who could possess knowledge about activities of F.R. during the war. The Court notes that according to the indictment, the fact to be proven was whether documents allegedly possessed by R.D. could have been as harmful for F.R. as they could have constituted the reason to kill R.D.

²²² 27.10.2016, p. 10 and documents filed during this session: the judgement of the court of 2nd instance in Sarajevo, of 21st March 2014, no. 65 0 P 045003, the judgement of the court of 1st instance in Sarajevo, of 08th September 2010, no. 65 0 P 045003, NATO Security Clearance Certificate dated 11.04.2013 with the decision; 31.10.2016, p. 42

3.9.3. Incident in Turkey

According to the indictment:

Due to her previous employment with the Ministry of Interior, S.T. also had good connections with the Sarajevo Police and F.R. therefore put her in charge of the crime-chronicles for his 'Dnevni Avaz' newspaper. In this capacity, S.T. was conducting an interview with R.D. in Turkey that was published in 2006, when she witnessed a conflict erupting between R.D. and another Sarajevo underworld boss, M.A.G., who in turn sought the help of N.K. to fight R.D. S.T. was present when R.D. received a phone call from N.K., threatening he would "send you the Kurds, who will kill you within an hour". K1, who at the time was one of N.K.'s drug trafficking managers, was aware of this conflict, remembering that "even in Turkey there was a conflict between them, when N.K. organized his people to beat up R.D."

246. The Court finds proven that at the end of December 2003 S.T. came to Istanbul to meet with R.D., who was there at large, and to make with him an interview.

247. As it was already presented above, it was not proven that S.T. published her articles in Dnevni Avaz. There is also no evidence that she was responsible of the black chronicle published in this newspaper. S.T.'s claims in this part are not corroborated by any piece of evidence and were denied by F.R. and S.Ni.

248. It was also proven that in the same time M.A.G. came there with his brother A.A.G., I.Sp., M.S. and A.P. They arranged in advance the meeting with R.D. After the arrival they had a friendly meeting with R.D. in a café bar where they agreed to meet later in the restaurant Bosnia.

249. These findings result from mutually corroborating testimonies of S.T., E.D., M.A.G. and A.P. The Court did not believe S.T. that it was very difficult to arrange the meeting with R.D., as it contradicts with other evidence and she herself withdrew from this statement.

Summary of the relevant evidence

250. **S.T.** testified that she conducted the interview with R.D. probably in 2003 when he was a fugitive in Turkey because of the suspicion that he killed a Serbian wedding guest just before the war in Bosnia.²²³ She underlined that it was extremely difficult to get in touch with him because no one knew where he was hiding; the interview with him was to be very exclusive.²²⁴ A friend of his (F.H.P.²²⁵) approached her to do an interview with him without telling her where he was.²²⁶

251. During cross examination, she said that only authorities did not know where he was staying, whereas the criminals were talking and knew about it.²²⁷ When asked about this contradiction, she explained that when she said “nobody”, she meant only police authorities.²²⁸

252. S.T. came to Istanbul on 21 December 2003²²⁹, in the airport she answered the public phone and was told to go to a restaurant. There she met R.D. who introduced himself to her.²³⁰ She was to come back two days later but there was a conflict between M.A.G. and R.D. During cross-examination she said that when

²²³ 17.03,2015; p.3-4; Amir Pasic 27.10.2015, p.23

²²⁴ 17.03,2015; p.4

²²⁵ 17.03,2015; p.15

²²⁶ 17.03,2015; p.4

²²⁷ 12.05.2015, p. 28

²²⁸ 12.05.2015, p. 30

²²⁹ 17.03,2015; p.5; confirmed by the stamps in her passport, p. 7

²³⁰ 17.03,2015; p.4

she saw R.D. for the first time his face was completely unfamiliar to him.²³¹ She did not know him, even despite the fact that they were neighbours.²³² She was confronted with her article published on 08 January 2004 in *Express* where she wrote, that he looked different than how he was remembered. Then she explained that she knew him only from pictures.²³³

253. On the second day after the arrival she met with R.D. to make an interview about the life of a fugitive from Bosnia.²³⁴

254. According to **A.P.**, **M.A.G.** told him that they would go to Istanbul for some shopping. The following people participated in the trip: A.P., M.A.G., his brother A.A.G., I.Sp., and M.S. They travelled around 25-26 December 2003, probably early in the morning. They were staying three days in a hotel.²³⁵ They prolonged their stay for one day because of the development of the situation.²³⁶

255. The version of A.P. is supported by **M.A.G.** who said that they travelled to Turkey to “fool around”. He took A.P. with him because he was funny. They went there only for three days, M.A.G. paid for this trip.²³⁷ **A.P.** testified that did not remember who paid for the trip to Istanbul.²³⁸

256. **A.P.** testified that on the very first day after their arrival to Istanbul, around 7-8 pm., they met with R.D. who picked them up in the street.²³⁹ He welcomed them warmly. Initially they spent some time in a shopping mall “Galleria”. They were

²³¹ 12.05.2015, p. 27

²³² 16.05.2015, p. 39

²³³ 16.05.2015, p. 6

²³⁴ 17.03,2015; p.6

²³⁵ 27.10.2015, p. 21 -22

²³⁶ 27.10.2015, p. 33

²³⁷ 06.12.2016, p. 18

²³⁸ 08.12.2015, p. 13

²³⁹ 28.10.2015, p. 22

sitting in a café.²⁴⁰ Later they went to the restaurant Bosnia.²⁴¹ R.D. was at large then.²⁴²

257. **M.A.G.** testified that he went to meet R.D. because he was good to his brother and then he was at large what was always difficult. It was easy to arrange this meeting, his friend got in touch with wife of R.D.²⁴³

258. **A.P.**, when cross examined, admitted that already before travelling to Istanbul, they already knew that they would meet R.D. there. They arranged for this before travelling.²⁴⁴

259. According to **E.D.**, they spoke with R.D.'s friend to get in touch with him in Turkey. R.D. knew where they would stay.²⁴⁵

260. From the statements of M.A.G., A.P. and E.D. clearly results that it was not a big challenge to organize a meeting with R.D. in Turkey. Therefore, the Court did not find as credible the testimonies of S.T. in this part.

261. According to **A.P.**, during this meeting M.A.G. and his brother started to spread rumours about R.D.'s friend and R.D. did not feel comfortable because of it.²⁴⁶ They were talking in a negative context about a person called "B.", who had a discotheque "Aqua" in Sarajevo. They said nothing of great concern, but R.D.

²⁴⁰ 27.10.2015, p. 22 - 23

²⁴¹ 27.10.2015, p. 35

²⁴² 27.10.2015, p. 23; E.D., 11.12.2015, p. 6

²⁴³ 06.12.2016, p. 18

²⁴⁴ 08.12.2015, p. 28

²⁴⁵ 11.12.2015, p. 32

²⁴⁶ 27.10.2015, p.22, 23

minded this a bit.²⁴⁷ The meeting lasted 1,5-2 hours.²⁴⁸ Then they left this place.²⁴⁹

262. **M.A.G.**, when cross-examined, denied that he talked with R.D. about the discotheque Aqua. He was not interested in it at all, because the premise was ruined. He did not know the owner of this place.²⁵⁰

Events in restaurant Bosnia

263. The Court found proven that M.A.G., A.P. and his friends met with R.D. in the Restaurant Bosnia in Istanbul. This meeting was planned before. S.T. was also present when they met with R.D. The situation got tense because they teased R.D., therefore M.A.G. with his companions left. The issue of taking over the restaurant “Aqua” had not been discussed.

264. These findings are based upon corroborating evidence coming from A.P., M.A.G. and E.D. supported by testimonies of Al.H. in the part related to the restaurant Aqua. S.T. confirmed the fact of the meeting however the Court did not find truthful her claim that the meeting between R.D. and others was not arranged before. The same conclusion refers to her claims that the question of taking over the Restaurant Aqua was discussed – there was no evidence to support her statement and it contradicted with the testimonies of other witnesses.

265. E.D. was not a direct witness of the events and her testimony is limited to this what she heard from her husband. Her relation was in accordance with the

²⁴⁷ 27.10.2015, p. 24

²⁴⁸ 27.10.2015, p. 23

²⁴⁹ 27.10.2015, p. 25

²⁵⁰ 07.12.2016, p. 16

testimony of participants of the events, therefore the Court assessed it as reliable piece of evidence.

Summary of the relevant evidence

266. According to **A.P.**, after they left the café in the shopping mall, R.D. took all of them to the restaurant Bosnia, where live music was being played. It was already late, around 22.00 – 23.00.²⁵¹
267. A.P. saw S.T. with R.D. in the restaurant Bosnia for the first time. When they came there, she was sitting at another table waiting.²⁵² She was alone. She knew her from Sarajevo, but he did not have contacts with her.²⁵³
268. The spreading of rumours continued. A.P. felt that the situation was getting tense, therefore at one moment he said that he had a headache and he decided to return to the hotel. Therefore, he, M.A.G. and A.A.G. left, while I.Sp. and M.S. stayed. R.D. took them to the hotel by car.²⁵⁴ They had a relaxed conversation in the car.²⁵⁵ They did not stay in the restaurant more than 20 minutes.²⁵⁶
269. When I.Sp. and M.A.G. returned, they told that they humiliated R.D. They were talking that they expected revenge from his side. Next day they went for shopping.²⁵⁷
270. **M.A.G.** described the events in a different way. He said that they met with R.D. in the restaurant. S.T. was there, what surprised them. Then they met in another restaurant, S.T. was not there. They went to the hotel to sleep. On the next day

²⁵¹ 27.10.2015, p. 226

²⁵² 28.10.2015, p. 17

²⁵³ 28.10.2015, p. 24

²⁵⁴ 27.10.2015, p. 27

²⁵⁵ 28.10.2015, p. 25

²⁵⁶ 28.10.2015, p. 23

²⁵⁷ 27.10.2015, p. 28

they went for shopping, without R.D. He did not meet him again. He did not have any conflict with him, there were only stories in the media.²⁵⁸

271. M.A.G. saw S.T. only once in Istanbul, in the restaurant. He thinks that R.D. and S.T. were there first. They stayed there 1-2 hours. They were chatting about general things, S.T. did not sit together with them.²⁵⁹

272. They agreed to meet later in another place, a night club. He went with companions to the hotel to change, R.D. went his way, and then they met again. S.T. did not come there.²⁶⁰ He categorically denied that he met R.D. again after this last meeting in the restaurant. It was just a friendly meeting.²⁶¹

273. **S.T.** testified that she and R.D. were sitting in the restaurant Bosnia when suddenly M.A.G. came with some of his friends. They greeted R.D. and asked him to sit with them.²⁶² She knew some of them but she did not know their names. S.T. and R.D. were surprised with their arrival.²⁶³

274. The meeting lasted at least five or ten minutes in a friendly manner, and afterwards M.A.G. mentioned taking over the discotheque “Aqua” and then the fight started. It lasted altogether 15 to 20 minutes.²⁶⁴ She heard them quarrelling and R.D. saying “*I will never allow you to do that*”.²⁶⁵ M.A.G. told R.D. that he came to find him and to talk about “Aqua” discotheque and the hotel in

²⁵⁸ 06.12.2016, p. 20-21

²⁵⁹ 06.12.2016, p. 22

²⁶⁰ 06.12.2016, p. 23

²⁶¹ 06.12.2016, p. 24

²⁶² 17.03,2015; p.6

²⁶³ 17.03,2015; p.7

²⁶⁴ 17.03,2015; p.10

²⁶⁵ 17.03,2015; p.7

Sarajevo.²⁶⁶ It was also agreed with N.K.²⁶⁷ R.D. refused and he said that he sold it already to B.Ka.²⁶⁸

275. **S.T.** testified that after the argument R.D. left to their hotel. There was nobody else in the restaurant.²⁶⁹

276. **E.D.** learnt about this what happened in Turkey from R.D. who told her about these events after he returned. According to her, M.A.G. and few other people, including I.Sp. and A.P., went to Turkey where they saw with R.D. They met in the restaurant where they discussed for a while, and then M.A.G. started saying ugly things about the people who were very important to R.D. It was known that M.A.G. like to speak behind the people's back, which R.D. disliked, and he was furious about that. Because of this R.D. got upset and he left.²⁷⁰

277. **Al.H.** testified that he did not hear about any conflict in reference to Discotheque Aqua. It was constructed initially by R.D. and later sold to B.Ka.²⁷¹

Next day – calling N.K.

278. The Court found not proven that M.A.G. called N.K., and the latter one promised to send Kurds to help him in the situation with R.D.

279. First of all, S.T., who claimed that she heard the phone conversation between N.K. and R.D., was not sure if he was the one to talk. She mentioned N.K. but in

²⁶⁶ 17.03,2015; p.8

²⁶⁷ 17.03,2015; p.9

²⁶⁸ 17.03,2015; p.9

²⁶⁹ 17.03,2015; p.8

²⁷⁰ 11.12.2015, p. 7

²⁷¹ 18.03.2016, p. 12

the same time she made a reservation by saying “whoever was on the other side” of the phone.²⁷²

280. When she was asked to explain why she believed that it was N.K. who was talking, she said that it was obvious for her. However, she was not able to give any justification for her conviction. She added that it was a well-known fact that M.A.G. and N.K. were working together. Once again she referred to some rumours, which were not substantiated by any reliable piece of evidence. In this context, it must be underlined that both N.K. and M.A.G. denied that they had any business together, and since 2003 their relations significantly worsened. Except of rumours, the Prosecutor did not present the evidence to prove the opposite.
281. S.T. used also the argument that it was obvious that the [first name of N.K.] could not be related to anyone else but N.K. because this name was very rare in her country. The Court cannot follow this logic as it is a pure speculation. Even in this case there was another [first name of N.K.] heard in a capacity of the witness.
282. Additionally, she was not consequent as to the content of this conversation. Initially, she said that N.K. said on the phone that they paid Kurds; a moment later she changed her version and testified that it was M.A.G. who paid with [first name of N.K.]’s money. At the very end of her testimony, S.T. mentioned a phone conversation between R.D. and M.A.G. when the latter was to say that he was going to give to Kurds 100.000 euro paid by N.K. for his assassination.

²⁷² 17.03,2015; p.10 - 11

283. Testimony of A.P. also does not constitute reliable evidence to support the finding that any of conversations described by S.T. occurred. Admittedly, he mentioned a phone conversation between N.K. and M.A.G. but in a different context.
284. The credibility of the statement of S.T. is further weakened by the testimony of E.D. who did not mention that she was told there was a conversation between R.D. himself and N.K. If such a conversation had occurred, R.D. would tell her about it, rather than repeating what he heard from others.
285. On the other hand, the statement of E.D. does not support the allegation that N.K. talked with M.A.G. on the phone. This part her testimony is based on a rumour (she heard from R.D. who heard from others) and therefore it is intrinsically unreliable.

Summary of relevant evidence

286. **S.T.** testified that when they were driving with R.D., he called many friends in order to get the phone number of the people who were with M.A.G. and his phone number as well.²⁷³
287. According to her, N.K., or as she said “*whoever was on the other side*”, called R.D. and told “Look, do not play with us. I can send you the Kurds in one hour and they can liquidate you and they will”.²⁷⁴ R.D. answered “*Listen to me, [first name of N.K.], I do not give a (...) about you and your Kurds. Send a thousand of them if you want and do not play with me*”. Then he got very upset and angry. In the meantime R.D. found out in which hotel M.A.G. was staying

²⁷³ 17.03,2015; p.10

²⁷⁴ 17.03,2015; p.10 - 11

and then he phoned “a person called A.P.” telling him “*Just cough on the phone if M.A.G. is in the room*”.²⁷⁵

288. When cross-examined S.T. explained that it was obvious for her that R.D. was speaking with N.K. Besides, it was a well-known fact that M.A.G. and N.K. were working together and it was obvious that the name N.K. could not be related to anyone else but him because the name N.K. was a very rare name in their country.²⁷⁶ In that moment she did not know N.K. She was introduced to him only about a year later.²⁷⁷

289. During cross-examination, S.T. said that N.K. said on the phone that they paid Kurds, but later she corrected herself by saying that it was M.A.G. who paid for it with N.K.’s money.²⁷⁸

290. At the very end of her testimony, S.T. testified that M.A.G. said during a phone conversation with R.D. “N.K. paid the Kurds 100.000 euro to kill you. I am going to give them the money and they will assassinate you”. It was still in Istanbul. She only recollected it then. She did not provide any convincing explanation why it happened so late.²⁷⁹

291. During cross-examination she admitted that she heard about another N.K. who was the owner of [N. Company]. According to her, N.K. changed his name from Kj., and he knows why. It is the same person.²⁸⁰

²⁷⁵ 17.03,2015; p. 11

²⁷⁶ 12.05.2015, p. 29

²⁷⁷ 17.03,2015; p.12 - 13

²⁷⁸ 18.05.2015, p. 37

²⁷⁹ 18.05.2015, p. 42

²⁸⁰ 12.05.2015, p. 30

292. **A.P.** testified that he did not hear from N.K. saying “go to Asian part of Turkey, and talk to the person to kill R.D.”. He heard it only from M.A.G.²⁸¹
293. **E.D.** testified that R.D. mentioned the name of N.K. in this context that M.A.G. called N.K. to help him, and then Albanians came.²⁸² She knew about this from R.D., who heard it from I.Sp. and A.P.²⁸³

Events in the hotel

294. On the basis of the testimonies of S.T., A.P. and E.D., the Court finds proven that there was an argument between R.D. and M.A.G. in the hotel in Istanbul.
295. There is only witness A.P. who described what was happening inside the hotel room. His testimony is not supported by other piece of evidence therefore the Court found unproven the specific events in the hotel room.
296. The Court found as unreliable the testimony of M.A.G. who denied that any conflict occurred in Istanbul because it contradicts statements of other witnesses which were assessed in this part as credible.

Summary of the evidence

297. According to **A.P.**, on the following day in the evening, when they came back to the hotel from shopping, just before the entry to the hotel, M.A.G. was informed by a phone that a grenade/bomb was thrown on his house in Sarajevo.²⁸⁴ Shortly after them R.D. came.²⁸⁵

²⁸¹ 10.11.2015, p. 27

²⁸² 11.12.2015, p.9

²⁸³ 11.12.2015, p. 11

²⁸⁴ 27.10.2015, p. 28; 28.10.2015, p. 26

²⁸⁵ 27.10.2015, p. 28

298. The whole situation happened in the hotel room. A.A.G. said that somebody threw the bomb, and R.D. asked “*what if it was me who threw a bomb?*” R.D. hit A.A.G. with his palm in his face, saying “*you are revengeful, is it?*”, then M.A.G. and A.A.G. ran away. Meanwhile, M.A.G. phoned N.K. They were not armed.²⁸⁶
299. M.A.G. escaped to the fire stairs where A.P. found him 20 minutes later, after R.D. left.²⁸⁷ A.P. and I.Sp. calmed down R.D. and took him out of the room.²⁸⁸ They did not see R.D. till the end of their stay in Turkey.²⁸⁹
300. He also mentioned the situation when they were coming back from hotel Zagreb to their hotel, R.D. hit A.A.G. with a car. It took place about 20-30 m from their hotel. They took A.A.G. to hospital but injuries were not serious so he was released.²⁹⁰
301. According to **S.T.**, when they came to the hotel where M.A.G. and his friends were staying, R.D. got out of the car and ran into the hotel. Later he came back by the emergency exit. The whole situation lasted at least 15 minutes or 20 minutes, the most of this time R.D. was staying in the hotel. He came out running down the stairs. A.A.G., was running in his underwear around, trying to escape but he came directly towards R.D.’s car, so R.D. hit him with his car.²⁹¹

²⁸⁶ 27.10.2015, p. 28-29

²⁸⁷ 27.10.2015, p. 29, 30

²⁸⁸ 27.10.2015, p. 30

²⁸⁹ 27.10.2015, p. 31

²⁹⁰ 27.10.2015, p. 32, 28.10.2015, p. 26

²⁹¹ 17.03,2015; p.12

302. In the car R.D. told her that he had beaten up M.A.G. who managed to escape through the hole for a laundry duct and the whole hotel could hear him calling for help, he made fun of it, he was asking for help²⁹²
303. **E.D.** heard from R.D. about the argument in the hotel and hitting A.A.G. with the car.²⁹³
304. **M.A.G.** denied that he had any conflict or fight with R.D.²⁹⁴ S.T. was lying about it, because he was spreading rumours about her in Sarajevo. After the events in Turkey she attacked him intensively in the media.²⁹⁵

Kurds in Istanbul

305. There is no reliable evidence to confirm that Kurds were involved in any way in the situation with in Turkey.
306. The only witness who was to participate in these events was A.P. His testimony in this regard is not consistent and in many parts is illogical. The course of events presented by him is also impossible, and it was not corroborated by other evidence.
307. First of all, it is visible that A.P. was mixing elements of different events, without respect for time and place. Initially, he described the event which allegedly took place in the hotel where the argument between R.D. and M.A.G. occurred. This situation was to take place after the meeting in the restaurant during which R.D. was provoked. In the course of his examination, he developed

²⁹² 17.03,2015; p.12

²⁹³ 11.12.2015, p. 8

²⁹⁴ 06.12.2016, p. 25

²⁹⁵ 06.12.2016, p. 25

the story significantly, because from his testimony resulted that the situation in the hotel was to take place already when the Kurds were involved.

308. Secondly, his version is impossible from the objective reasons. According to him, M.A.G. was to travel to engage Kurds to a place close to the Syrian border. He was not able to specify exactly where. However, it is a notorious fact that Turkey is a big country. There is about 1000 km from Istanbul to the Syrian border. On the other hand, M.A.G. with friends stayed in Turkey only 3-4 days. Therefore, it was impossible for M.A.G. to go there and return within such a short time.

309. Having considered the above, the Court finds proven that there was a conflict situation between M.A.G. and R.D. in Istanbul. There is no convincing evidence that N.K. was in any way connected with the events in Istanbul. Even S.T. was not sure if it was him speaking and threatening R.D. Further, from the consistent testimonies of M.A.G. and N.K. results that their relations became much colder starting from 2003. Therefore, there are no grounds to believe that M.A.G. would ask N.K. for help.

310. Therefore, there is no evidence to prove that the situation in Istanbul which took place in 2003 was a motive to kill R.D. four years later.

Summary of the evidence

311. According to **A.P.**, N.K. sent M.A.G. to the Asian part of Turkey where the murder of R.D. was paid for.²⁹⁶ A.P. knew it from M.A.G. who told him “Guto (this is how he called N.K.) had paid to me and there is no commander

²⁹⁶ 27.10.2015, p. 31

anymore”.²⁹⁷ He did not hear from N.K. saying “go to Asian part of Turkey, and talk to the person to kill R.D.”.²⁹⁸

312. A.P. did not know precisely how much was paid, but approximately 200.000-250.000 convertible marks.²⁹⁹ M.A.G. told him about this after they returned to Sarajevo.³⁰⁰ Later, A.P. corrected himself and explained that he heard about the amount from R.D.³⁰¹ A.P. did not know who received the money.³⁰²
313. When cross-examined, A.P. said that M.A.G. went to the Asian part of Turkey on his own, and contacted some people over there.³⁰³ It happened during the same trip to Turkey. M.A.G. went there alone, on the next day early in the morning after the events in the hotel. He returned in the evening hours and then he met with A.P. and his brother in Hotel Zagreb in Turkey.³⁰⁴
314. This situation when R.D. hit A.A.G. with a car was about 2-4 hours before the meeting with Kurds.³⁰⁵ M.A.G. was mad and called N.K. who told him to go to a specific building. There were around 30-40 people with guns, who came to kill R.D.³⁰⁶ In cross-examination, he added that except of Kurds, there was also a person from Sandjak.³⁰⁷ He was told later by M.A.G. and R.D. that these people

²⁹⁷ 27.10.2015, p. 31

²⁹⁸ 10.11.2015, p. 27

²⁹⁹ 27.10.2015, p. 37

³⁰⁰ 27.10.2015, p. 37

³⁰¹ 27.10.2015, p. 38

³⁰² 28.10.2015, p. 12

³⁰³ 10.11.2015, p. 23

³⁰⁴ 27.10.2015, p.32

³⁰⁵ 27.10.2015, p. 35

³⁰⁶ 27.10.2015, p. 32

³⁰⁷ 10.11.2015, p. 38; 40-41

around were Kurds.³⁰⁸ When cross- examined, A.P. testified that this meeting took place in a kind of restaurant on the top of the building.³⁰⁹

315. During this situation, M.A.G. called R.D., he talked with him while he was advised by “the main Kurd”. He proposed meeting for reconciliation. They agreed to meet in front of the hotel where R.D. stayed, however R.D. was suspicious.³¹⁰ R.D. said that it was not him who threw the bomb.³¹¹

316. When M.A.G., A.P. and others came in the vicinity of the hotel, there were 5-8 vehicles already.³¹² The leader of these Kurds dispersed them around; they were waiting for R.D. to come.³¹³ A.P. did not remember if these people were uniformed. He guaranteed that he saw at least 10 people in this group armed, they had scorpions, Heckler & Koch, handguns and Uzi.³¹⁴ During cross-examination he said that it looked like a real army.³¹⁵ However, he admitted that the weapon was hidden.³¹⁶

317. Kurds stayed with them, they guarded them and on the next day they took them to the airport. He did not know where they came from.³¹⁷ They came back to Sarajevo on 30 December.³¹⁸

318. Only then, when they arrived in the vicinity of the hotel, R.D. called M.A.G. and said that he wanted to speak with I.Sp. and A.P. R.D. asked I.Sp. via the phone

³⁰⁸ 10.11.2015, p. 29

³⁰⁹ 10.11.2015, p. 30-31, 37

³¹⁰ 27.10.2015, p. 32, 28.10.2015, p. 27

³¹¹ 27.10.2015, p. 333-34; 28.10.2015, p. 27

³¹² 27.10.2015, p. 36

³¹³ 27.10.2015, p. 32

³¹⁴ 27.10.2015, p. 33

³¹⁵ 10.11.2015, p. 29

³¹⁶ 10.11.2015, p. 30

³¹⁷ 27.10.2015, p. 36

³¹⁸ 27.10.2015, p. 37

to give him a sign with a cough if it was a trap, I.Sp. coughed and said to R.D. “what is the matter, why don’t you reconcile?”³¹⁹

319. A.P. went before M.A.G. into the room, and he managed to tell I.Sp. that it was a trap.³²⁰ Then M.A.G. took the phone and started cursing and swearing. He said “I will kill you” and this kind of stuff.³²¹

320. Afterwards, R.D. was a topic almost every day because they were frightened of him.³²²

321. A.P. admitted that he did not say that they were the same Kurds as the ones from the Asian part of Turkey. He did not see any money given to them for the murder of R.D. He saw neither N.K. nor his sons, nor their associates talking with them.³²³

322. According to A.P., when R.D. returned from Istanbul to Bosnia the conflict between him and M.A.G. became more serious. R.D. was hiding around the city. He returned in December or October 2004, then he got arrested and spent 5 months in detention. After he was released the conflict became really tense.³²⁴

323. **M.A.G.** claimed that he did not meet Kurds in Istanbul, did not have any weapon, and did not talk about any premises. According to him, these questions were put under influence of S.T. and A.P.³²⁵

324. According to **M.U.**, R.D. told him that he had a conflict there with M.A.G. who made an attempt to kill him and hired some Kurds for it. There was a fight in the

³¹⁹ 27.10.2015, p. 34

³²⁰ 10.11.2015, p. 29

³²¹ 27.10.2015, p. 36

³²² 27.10.2015, p. 38

³²³ 10.11.2015, p. 41-42

³²⁴ 27.10.2015, p. 40

³²⁵ 06.12.2016, p. 37

street in front of the hotel. M.U. does not know any details, he was not present there. However, R.D. did not mention N.K. in relation to this event.³²⁶

325. There were also some other witnesses who testified about the situation with Kurds which became one of the stories which “whole Sarajevo knew”. Their testimonies as to this part the Court assessed as intrinsically unreliable because they do not come from direct participants of the events, but were based in rumours. Nevertheless, the Court finds reasonable to quote them to show what kind of evidence was used in this case.

326. **K1** claimed that he learnt about the situation in Turkey from R.D. who told him about it after his return. He also heard about it from M.A.G. who said about it during the meeting with Z.T.³²⁷

327. It must be mentioned that **M.A.G.** denied that he knew K1. He heard the name, that he was a witness. He never saw or visited him.³²⁸

328. When asked how he knew about the conflict between N.K. and R.D., **K1** said that M.A.G. travelled to Turkey, and R.D. went there to find out from where they were taking drugs. R.D. did not tell K1 what he found.³²⁹ K1 did not know if it was 2002 or 2003.³³⁰

329. According to K1, M.A.G. went to Turkey to look for R.D. because he heard that he went there. K1’s memory was refreshed with his statement from 17.03.2016 when he said “*When N.K. found out about that [that R.D. went there to find out from whom they were taking drugs], he sent M.A.G. and Kurds to Turkey, and I*

³²⁶ 18.03.2016, p. 10

³²⁷ 09.11.2016, p. 8

³²⁸ 06.12.2016, p. 27

³²⁹ 09.11.2016, p. 6

³³⁰ 09.11.2016, p. 7, 09.11.2016, p. 10

don't know what they wanted to do, to attack or to murder R.D. in Turkey.” He confirmed this statement.³³¹

330. The testimony of K1 has no evidentiary value, however it shows determination of this witness to support his story that N.K. and R.D. were opponents because of drugs. It shows that K1 had no knowledge about the event which led to the death of R.D., because it is in contradiction to other evidence from which it clearly resulted that R.D. escaped to Turkey because of ongoing criminal investigations against him and did not go there because of his intent to find the drug routes.

Return from Turkey

331. The Court found proven that after the events in Turkey there was an ongoing tension between R.D. and M.A.G. On the other hand, A.P. got closed with R.D. what was confirmed by other witnesses.
332. The testimony of A.P. also shows that he had a tendency to blame N.K. for many events, including the death of his friend T.T., even despite there is no evidence to support his allegations. Therefore, his testimonies must be treated very carefully.

Summary of the relevant evidence

333. **A.P.** remembered the date when they travelled to Turkey because he connected it with the murder of T.T. They celebrated New Year already in Bosnia.³³²
334. In this period they were friends with M.A.G., but A.P. already then respected more R.D.³³³ During cross-examination he explained that he was socializing with M.A.G. and his company since 2001. He underlined that, he was always R.D.’s

³³¹ 17.03.2015; p.14; 17.03.2016 p. 9

³³² 28.10.2015, p. 22

³³³ 28.10.2015, p. 12

friend.³³⁴ They were war commanders, while M.A.G. was a contrabandist.³³⁵

335. They returned from Istanbul on 30 December. A.P. had contact with M.A.G. until 18 January 2004 when his best friend T.T. was killed.³³⁶ A.P. blamed M.A.G. for the murder of T.T., therefore he finished any contacts with him.³³⁷

336. Immediately after the death of T.T., A.P. reported the events in Turkey to the police.³³⁸ Z.T. was arrested for the murder of T.T. but A.P. knew it was N.K.³³⁹

337. Z.T. admitted that he was sentenced for the explosion in his apartment where T.T. was killed, and his relative B.I. was injured, including he got blinded.³⁴⁰

338. **E.D.** confirmed that R.D. was in very good relations with T.T. because his wife was E.D.'s best friend.³⁴¹ They were informed about his death when they were on winter holidays in Turkey. The explosive device was placed under his car.³⁴² According to R.D. it was Z.T. who did it.³⁴³

339. After the death of T.T. A.P. became close with R.D. because they had problems with the same people.³⁴⁴ He stopped any contacts with M.A.G. He did not have any contacts with N.K.³⁴⁵

³³⁴ 10.11.2015, p. 34

³³⁵ 08.12.2015, p. 15

³³⁶ 27.10.2015, p. 37

³³⁷ 27.10.2015, p. 38-39

³³⁸ 27.10.2015, p. 39

³³⁹ 27.10.2015, p. 39; 08.12.2015, p. 18 - 19

³⁴⁰ 19.06.2015, p. 4

³⁴¹ E.D., 11.12.2015; p. 13

³⁴² 11.12.2015; p. 13

³⁴³ 11.12.2015; p. 13

³⁴⁴ 28.10.2015, p. 11

³⁴⁵ 10.11.2015, p. 25

3.9.4. Revenge for S.L. 's death

According to the Indictment:

R.D. was also believed to have been involved in the murder of S.L. who was F.R. 's godfather and so S.L. 's brother Ek.L. plotted with F.R., Defendant N.K. and others to seek revenge. The plan to kill R.D. had been developing for months, but the murder of S.L. accelerated the execution of this plan.

340. It was not contested by the parties that on 24 April 2007, around 22.45 in Sarajevo, café Oscar, M.C., exceeding the limits of necessary self-defence in order to avert an immediate and unlawful attack, he deprived the life of the now deceased S.L. It occurred during the verbal conflict between S.L. and M.U. when S.L. pulled out a gun and pointed at M.U. During the fight between both of them, M.C. fired from a close distance a missile into the right temple of S.L. and escaped, while S.L. passed away.³⁴⁶

341. M.C. was sentenced for this criminal offence with the final judgment for 7 years of imprisonment issued by the Higher Court of Uzice.³⁴⁷

342. The Court accepted the findings of the Court of Uzice referring to this event. Therefore, in the further part of the judgment, it is necessary to concentrate only whether this situation could have constituted a motive for N.K. and others to kill R.D.

343. The Court found that there was no convincing evidence that the murder of S.L. was a motive to kill R.D. or at least speeded it up. First of all, the Prosecutor did not prove that Ek.L. was so close to S.L. to feel obliged to take revenge for his

³⁴⁶ Judgment of the Higher Court of Uzice, dated 04.11.2010, main trial binder 16, d. 8

³⁴⁷ Op.cit.

death. Secondly, the murderer of S.L. was known from the very beginning and he was convicted for this murder. Thirdly, witnesses Z.T. and K1 who claimed that they heard L.'s family discussing about the revenge for this death did not mention in this context N.K., but other members of L.'s family.

344. Further, it was not proven that after the death of S.L. there were meetings of S.T., N.K., F.R., N.O., S.S. and Ek.L. As it was mentioned above, it was not proven that such gatherings took place at all. Such claim is also not supported by the testimonies of K6 who claimed that this happened, because his testimonies the Court assesses as unreliable. It was already explained that there were no grounds to believe that he was present in the rotating restaurant at all when F.R. had meetings there. Additionally, K6's testimonies referring to the alleged events after the death of S.L. are inconsistent internally. Such assessment results from the analysis of the time frame when he was to see N.K. He claimed that he saw him for the first time in Casa Grande in 2007 and in Radon Plaza only several months later. It did not fit the chronology of events, taking into account that S.L. was killed in April 2007.

Summary of the evidence

345. **A.S.** testified that she was with R.D., M.U. and another person – “M.” probably - in a coffee shop when S.L. was shot.³⁴⁸ She admitted that after the death of S.L. R.D. felt more afraid, however he was cautious and nervous already before and after the murder of S.L.³⁴⁹

³⁴⁸ 13.01.2016, p. 14 -15

³⁴⁹ 18.01.2016, p. 29, 35

346. During cross-examination she testified that R.D. was arrested in connection with the death of S.L.³⁵⁰ A.S. did not know if he had a conflict with S.L.'s family. She only knew that everybody speculated that R.D. had something to do with this death.³⁵¹ He did not mention S.L. as enemies.³⁵²
347. **A.P.** testified that after the murder of S.L. – Ek.L. and N.K. joined against him and R.D. A.P. knew it because, according to him, they all were connected with F.R. He admitted that he did not have evidence for it, and he based his knowledge on the interview of “G.”.³⁵³ N.K. and Ek.L. went after A.P. and R.D. because S.L. and Ek.L. were related. R.D. was present in the restaurant when S.L. was killed.³⁵⁴ M.C. was a bodyguard of R.D. for 15 days.³⁵⁵ R.D. was there by accident, he had nothing to do with this murder. This person was killed spontaneously, it was nonsense.³⁵⁶
348. **Al.H.**, a friend of R.D., testified that they did not talk to each other about the L. family. Only M.U. said that he was afraid of revenge. R.D. always claimed that it was an unfortunate event.³⁵⁷ Al.H. admitted that people pointed at R.D. as a murderer, because his weapon was used to kill S.L.³⁵⁸ Interestingly, in the G. trial Al.H. did not mention S.L. at all in the context of the death of R.D. When asked about this, he explained that he did not find it relevant. He did not know why he did not mention it earlier.³⁵⁹

³⁵⁰ 18.01.2016, p. 27

³⁵¹ 18.01.2016, p. 28

³⁵² 18.01.2016, p. 29

³⁵³ 28.10.2015, p. 20-21; 27.11.2015, p. 22

³⁵⁴ 28.10.2015, p. 21

³⁵⁵ 27.11.2015, p. 44

³⁵⁶ 27.11.2015, p. 5

³⁵⁷ 27.01.2016, p. 21

³⁵⁸ 27.01.2016, p. 28, 29.01.2016, p. 4

³⁵⁹ 22.02.2016, p. 9 – 10

349. **S.T.** testified that F.R. and S.L. were the best men to each other.³⁶⁰ According to her, F.R. as Albanian believed in blood feud.³⁶¹ She testified that people who participated in meetings to plan the murder of R.D. were blaming him for the death of S.L. The idea to kill R.D. was speeded up after this murder.³⁶² During the cross-examination she claimed that the murder of S.L. was just a trigger to speed up the murder of R.D.³⁶³ She claimed that she never mentioned it as a motive to kill R.D., and it was only defence counsel of N.K. who suggested so.³⁶⁴
350. During cross-examination, she explained that F.R., N.K., N.O., Ek.L. and S.S. were blaming R.D. as the initiator of the murder of S.L. She testified that they said that R.D. deliberately brought S.L. to this place where he was murdered. They also claimed that R.D. gave the gun to M.C. by which S.L. was murdered.³⁶⁵ S.L.'s family criticized R.D. that he did not prevent the murder of S.L.³⁶⁶
351. **K6** claimed that the meetings of the alleged group took place more intensively after the death of S.L. He heard that they were speaking about it, but did not hear any details. He heard the names: S.L., R.D., and "Vo.", nothing more.³⁶⁷ After the death of S.L., in a period of two-three months, there were many meetings when they spoke about this murder. One time, K6 heard that most probably Ek.L. said that "*we cannot put with him anymore*" and prior to this they spoke about the murder. On this occasion K6 was sitting with his back towards them, in

³⁶⁰ 16.03.2015; p. 15; also the picture shown

³⁶¹ 18.03.2015, p. 21; 18.05.2015, p. 18

³⁶² 18.03.2015, p. 7

³⁶³ 13.05.2015, p. 27

³⁶⁴ 13.05.2015, p. 28

³⁶⁵ 22.04.2015, p. 21

³⁶⁶ 16.05.2015, p. 18

³⁶⁷ 15.09.2015, p. 36, 37;

the restaurant. Present were: F.R., N.K., Ek.L., S.S. and S.T. He did not hear anything more. This meeting was before the death of R.D.³⁶⁸ During cross-examination, he said that he was not sitting, but standing behind the bar. He was sure that it was Ek.L. who said these words. The [last name of R.D.] was not used, just [the first name of R.D.], Commander, Interceptor, “C.”, “Vo.” etc. N.O. most probably was not present then.³⁶⁹

352. In the context of the testimony of K6, it must be also mentioned that he testified that he knew N.K.³⁷⁰ He saw him for the first time in hotel Casa Grande in 2007, when F.R. told him to take him there. He did not remember exactly when it was.³⁷¹ He testified that after this situation he saw N.K. on many occasions in hotel Radon Plaza, more than 10 times.³⁷² When asked how long after this first time in Casa Grande he saw N.K. in Radon Plaza, he said that it was several months later.³⁷³

353. **Z.T.**, in his cross examination, also claimed that the murder of S.L. only speeded up the death of R.D.³⁷⁴ He based his knowledge on what he heard not only from his wife, but also from somebody else. He was not able to indicate this person who told him about it.³⁷⁵

354. Z.T. testified that 2-3 days after the murder of S.L., he was sitting with Ek.L., Es.L. and the lawyer D.B. in their restaurant “Va.”. They were blaming R.D. for the death of S.L. He avoided giving a clear answer if F.R. was there. Initially, he

³⁶⁸ 15.09.2015, p. 39;

³⁶⁹ 16.09.2015, p. 33

³⁷⁰ 15.09.2015, p. 15;

³⁷¹ 15.09.2015, p. 15 - 16;

³⁷² 15.09.2015, p. 17;

³⁷³ 15.09.2015, p. 17;

³⁷⁴ 19.06.2015, p. 29

³⁷⁵ 19.06.2015, p. 28 – 29

said that F.R. told that they needed to retaliate or take revenge for this death. Later he said that he heard it only from the L. brothers.³⁷⁶ In the course of further testimony, Z.T. testified that he was talking with F.R. about this murder approximately in 2008, already after R.D. murder.³⁷⁷

355. When asked about this meeting during the cross-examination, Z.T. said that the L. brothers were speaking about beating up S.L. by R.D. several years ago. They commented that if they had reacted properly then, the murder of S.L. would not have happened. At that moment, they did not talk how to organize the murder of R.D. They knew that S.L. was killed by M.C., but they believed that he was only secondary. R.D. was present at the crime scene therefore they marked him as a main perpetrator.³⁷⁸ The L. brothers, D.B., N.K., and F.R. were blaming R.D. for this death because the man who killed him was in his company.³⁷⁹

356. Z.T. also testified that he personally participated in two meetings when the issue of murder of R.D. was discussed. During the first one, just after the murder of L., a general discussion took place about his life, his death and a mistake that beating up years ago was not revenged. During this meeting the name of R.D. occurred as a person who was responsible for the death of L.³⁸⁰ During the second meeting in presence of members of L. family: Ek.L., Es.L. and a waiter N.D., D.B. asked Z.T. on behalf of N.K. to find somebody to

³⁷⁶ Z.T., 16.06.2015, p. 26 – 27; 19.06.2015, p. 8-9

³⁷⁷ Z.T., 16.06.2015, p. 27

³⁷⁸ 22.06.2015, p. 14

³⁷⁹ 16.06.2015, p. 29

³⁸⁰ 22.06.2015, p. 11-12

liquidate R.D. N.K. was not present. The offer was not connected with money.³⁸¹

F.R. was once on the meeting, while N.K. was not.³⁸²

357. According to Z.T., S.T. did not know that he was meeting with them.³⁸³

However, during cross-examination he was not sure if he told her that he was offered to find assassins. Perhaps he did it, and it was before the murder.³⁸⁴

358. **Ek.L.** testified that he could have met Z.T. two-three times, but he never socialized with him. He came once to his café “Va.” but they never sat at one table. He asked Z.T.’s lawyer not to bring him to this place, because there was always information in the media, that he was involved in criminal activity.³⁸⁵

359. According to **M.U.**, there were meetings after the death of S.L. which took place in “Va.” and “Re.” where many people came. He did not know what they were discussing.³⁸⁶ His memory was refreshed with his previous statement from 29 June 2007 and he confirmed that Ed.L. gave an oath that he would revenge the death of S.L.³⁸⁷

360. M.U. also said that R.D. on several occasions told him that L. family wanted to take revenge for the death of S.L. Initially, R.D. did not take these threats seriously, because it was not his fault. Later, he changed his approach because he also started to be threatened. It was the reasons why he began wearing a bullet

³⁸¹ 22.06.2015, p. 13

³⁸² 19.06.2015, p. 9

³⁸³ 19.06.2015, p. 9

³⁸⁴ 23.06.2015, p. 4

³⁸⁵ 19.07.2016, p. 22

³⁸⁶ 04.04.2016, p. 10

³⁸⁷ 04.04.2016, p. 11

proof vest. He also had two weapons with him. He learnt that somebody paid 250.000 euro for his murder.³⁸⁸

361. Also **K1** claimed that he had knowledge about the death of S.L. He said that he used to see Ek.L. numerous times in the rotating restaurant and also in his business premises.³⁸⁹ K1 even said that he was in very good relations with him. After the death of S.L. he went to his coffee bar with his lawyer D.B. K1 tried to make an impression that he knew Ek.L. very well,³⁹⁰ however when asked directly, he said that he never spoke directly with him.³⁹¹ Whenever K1 came to his premises, he heard that Ek.L. was angry at R.D., and Ek.L.'s family said that they would take revenge for the death of S.L. As far as he remembered, Ek.L. did not share his speculations with him.³⁹² K1 did not remember if he talked with F.R. about the death of S.L.³⁹³

362. There is no piece of evidence to confirm that K1 knew Ek.L. and F.R. Therefore, the Court finds that his testimony in this part is completely unreliable and that it was produced with the aim to strengthen his value as a witness. However, it further undermined his credibility.

363. **Ek.L.** testified that he has one brother Esh.L., another brother was killed during the war. S.L. was only his cousin, they were third in kin.³⁹⁴ There were many L. families in Sarajevo, about 45.³⁹⁵ He had solid relations with S.L. but they were not very close because they had different life styles. S.L. and R.D. were

³⁸⁸ 04.04.2016, p. 12

³⁸⁹ 09.11.2016, p. 12

³⁹⁰ 09.11.2016, p. 36-37

³⁹¹ 09.11.2016, p. 38

³⁹² 09.11.2016, p. 38

³⁹³ 09.11.2016, p. 39

³⁹⁴ 19.07.2016, p. 11-12

³⁹⁵ 19.07.2016, p. 29

similar; they spent a lot of time together in bars.³⁹⁶ During cross-examination, he admitted that he knew that S.L. was known to the authorities, there was information in the media, but he did not know what he dealt with because they were not close.³⁹⁷

364. Ek.L. did not know if S.L. was F.R.'s friend. He saw them very rarely together. Ek.L. was only on the first wedding of S.L. He knew that his second wife's name was B.L. He heard that for some time she worked for AVAZ, but did not know when exactly.³⁹⁸

365. He did not know the details of S.L.'s death. He only heard stories which were going around about this event.³⁹⁹ Their family knew that S.L. was killed by M.C. and that he was convicted for this. There was nobody else blamed by the family.⁴⁰⁰ As far as he knew, R.D. tried to help S.L., and he organized transport to hospital for him. He admitted that he and R.D. were friends at least for some time.⁴⁰¹ Ek.L. knew R.D. personally, he visited him at home, and he knew his wife and children.⁴⁰²

366. He denied having any knowledge about the threats from various members of L. family towards M.U.⁴⁰³

367. Ek.L. testified that he did not have any motive to kill R.D.⁴⁰⁴ They were not friends with R.D., but they greeted each other any time they saw.⁴⁰⁵ He denied that he asked Z.T. to kill R.D.⁴⁰⁶

³⁹⁶ 19.07.2016, p. 13

³⁹⁷ 06.12.2016, p. 4

³⁹⁸ 06.12.2016, p. 9-10

³⁹⁹ 06.12.2016, p. 4

⁴⁰⁰ 19.07.2016, p. 12

⁴⁰¹ 19.07.2016, p. 12-13

⁴⁰² 19.07.2016, p. 12

⁴⁰³ 06.12.2016, p. 6-7

368. He called S.T. a pathological liar. In his opinion she testified against him because she was taking revenge on F.R. that he did not support her. She said in front of other witnesses that anybody who was close with F.R. should pay the price. He underlined that he simply did not have another response. She did not hide her hatred in her blogs, and posts. He denied any involvement in the murder or R.D.⁴⁰⁷
369. **F.R.** explained that S.L. was his best man during his wedding in sieged Sarajevo. There were only witnesses present on his wedding.⁴⁰⁸ S.L. was F.R.'s best man accidentally, due to the hard circumstances in Sarajevo.⁴⁰⁹ F.R. was not present at the wedding of S.L. He knew that he was married twice but he did not remember names of his wives. Later, he found that B.L. was his wife.⁴¹⁰ Ek.L. introduced them to each other one year before or during the war. F.R. did not have close relations with him, it could have happened that sometimes they met by chance and drank coffee together.⁴¹¹
370. F.R. testified that Ek.L. and S.L. had the same name but they were not blood related.⁴¹²
371. F.R. testified that after the death of S.L., there was no meeting with N.K., N.O, S.T. and Ek.L.⁴¹³ It happened that he talked with Ek.L. about the murder of S.L., why M.C. killed him. It was clear from the beginning who was the murderer. He

⁴⁰⁴ 19.07.2016, p. 25

⁴⁰⁵ 19.07.2016, p. 40

⁴⁰⁶ 19.07.2016, p. 222

⁴⁰⁷ 19.07.2016, p. 23-24

⁴⁰⁸ 28.10.2016, p. 22

⁴⁰⁹ 28.10.2016, p. 23

⁴¹⁰ 31.10.2016, p. 6

⁴¹¹ 28.10.2016, p. 23

⁴¹² 28.10.2016, p. 23

⁴¹³ 28.10.2016, p. 29

knew it happened before the murder of R.D.⁴¹⁴ They did not speak about the revenge for the death of S.L. The murderer was known; F.R. had respect for the law. Ek.L. did not want to do it.⁴¹⁵

372. F.R. denied that he knew K1.⁴¹⁶ He underlined that he was a millionaire and he did not have to get money from any criminals.⁴¹⁷

373. E.D. testified that R.D. was friends with L. family. They did not blame him for the death of S.L.⁴¹⁸

3.9.5. Other motives

374. **Al.H.** during his examination conducted by the police shortly after the death of R.D. testified about possible reasons why somebody killed him. On this occasion he mentioned:

- a conflict that happened in coffee bar “Boh.” where R.D.’s people and his security entered in a conflict with M.Me. and Z.T.;
- not good relations with N.K. and with M.A.G.;
- R.D.’s participation in arson the trucks which arrived from Turkey from the company ‘Textil Cosa nuglu’.⁴¹⁹
- a conflict between “Am.” and R.D.;⁴²⁰
- a conflict with N.Sp., whom he suspected that it was the one who threw a bomb on his house⁴²¹ what took place two-three months before the death;

⁴¹⁴ 31.10.2016, p. 4-5

⁴¹⁵ 31.10.2016, p. 18

⁴¹⁶ 31.10.2016, p. 31

⁴¹⁷ 31.10.2016, p. 31

⁴¹⁸ 11.12.2015, p. 43

⁴¹⁹ 29.01.2016, p. 16

⁴²⁰ 29.01.2016, p. 17

- a fired conflict in front of the club Bohemi Amar Shliva.⁴²²

3.10. Threats and phone calls between R.D. and N.K.'s men

375. According to the Prosecutor, another way to prove that there was a deep conflict between N.K. and R.D. was a phone conversation between the latter and Al.Ku., a man working for N.K.
376. The Court found proven that in 2005 / 2006 there was a conversation between R.D. and A.Ku. where they arranged a meeting to settle a conflict between them. It results from the statements of E.D., A.P., Al.H. and N.K. Testimonies of K1 were assessed as unreliable because there is no other evidence that he knew R.D.
377. The content of this conversation and the fact that Al.Ku. was working for N.K. is not sufficient to prove that the latter was involved in it. From the evidence presented it results that it was a situation just between Al.Ku. and R.D.
378. On 06 May 2015, The Prosecutor filed a motion to admit recording of the conversation between R.D. and Al.Ku. from YouTube to prove the existence and content of this conversation. This motion was rejected on 13 October 2015 as intrinsically unreliable because in case of recordings published on YouTube its source and authenticity cannot be verified (Article 259 (2) of the CPC). The same motion was repeated on 29 October 2015, and was rejected again on 10 November 2015.
379. On 04 April 2017 the Prosecutor filed the motion to admit the intercepted conversation between R.D. and Al.Ku.; however he did not provide the court

⁴²¹ 29.01.2016, p. 19

⁴²² 22.02.2016, p. 21

order to indicate that it was obtained legally. The motion was repeated again on 26 October 2017, this time with the proper warrant. However, at this stage the Court found that it became unnecessary, because the fact of conflict between people of R.D. on one side and of N.K. on the other side was proven (Article 258 (2.1) of the CPC).

380. It must be also underlined that in the light of the collected evidence it was established that there was a conflict between R.D. and Al.Ku.

381. The Court also rejected Prosecutor's motion, filed on 06 May 2015, to hear as a witness V.S, a journalist who wrote the article about R.D. and his conflict with N.K. on the grounds that it is not an appropriate evidence to prove this circumstance (Article 258 (1.2.3) of the CPC). As a journalist, she did not possess direct knowledge about the relation between these persons and she could only transfer what she heard from other people.

Summary of the evidence

382. **A.P.** testified that it was at the end of 2005 or 2006 when he and R.D. called Al.Ku. The purpose of this call was to arrange the meeting outside the city to settle the issues between them. This conversation was intercepted.⁴²³ No agreement was reached.⁴²⁴ A.P. added that this phone call was before the reconciliation between N.K. and R.D.⁴²⁵

383. The existence of the phone conversations between R.D. and Al.Ku. was confirmed by **E.D.** She heard about it from R.D. who told her that Al.Ku. called him. During this conversation R.D. warned that he knew that M.A.G.'s people

⁴²³ 28.10.2015, p. 3, 4

⁴²⁴ 28.10.2015, p. 5

⁴²⁵ 08.12.2015, p. 21

were following him, while Al.Ku. denied it. He suggested that Al.Ku. and M.A.G.'s people should meet somewhere and settle the accounts. After this conversation R.D. called Al.Ku. again and they arranged a meeting in a place without people in order not to hurt someone innocent.⁴²⁶ She learnt about this conversation from R.D., but she also heard it on YouTube. She did not connect this conversation with N.K.⁴²⁷

384. According to **Al.H.**, immediately after R.D. found out that price on his head was made, he entered into contact with Al.Ku. This phone conversation was recorded and one can find it on YouTube. R.D. considered that Al.Ku. was a close friend of N.K.⁴²⁸ Later, he contradicted himself because he testified that he learnt about this conversation later, when it was published on YouTube, but even during this conversation they did not know that they were Albanians. They were just calling people in order to find who that was.⁴²⁹

385. **M.U.** testified that R.D. knew Al.Ku. who was in good relations with N.K. It happened once that they spoke with R.D. about Al.Ku. R.D. told about a phone conversation which he had with Al.Ku. He asked him why he was following him, to which he replied that they were not following him, and R.D. told him “let us go somewhere outside Sarajevo to a field, I can come on my own, and we can shoot on each other, and let’s not have any innocent victims in the street of Sarajevo.”⁴³⁰

⁴²⁶ 11.12.2015, p. 24

⁴²⁷ 11.12.2015, p. 24

⁴²⁸ 27.01.2016, p. 24

⁴²⁹ 27.01.2016, p. 26

⁴³⁰ 04.04.2016, p. 16 - 17

386. **K1** also testified about this phone call from R.D., and it was also published on *YouTube* where he listened to it.⁴³¹ However, it was already mentioned before that the Court finds no evidence which would confirm that K1 knew R.D.

387. **N.K.** confirmed that he knew Al.Ku. who worked for the security of his hotel. He admitted that Al.Ku. had some problems with R.D. which were related with some clubs and discotheques. N.K. had nothing to do with it.⁴³²

3.11. Reconciliation between N.K. and R.D.

388. On the basis of the evidence heard during the trial, the Court established that there was an effective reconciliation between R.D. and N.K. All the witnesses who had knowledge about this event testified about the same circumstances (it took place in café “Ak.”, was facilitated by a common friend from Zagreb – “L.” [nickname for L.K.], the truce was only between R.D. and N.K., M.A.G. was not involved in it).

389. The difference between the witnesses refers to the assessment of the reconciliation, whether it was “true” or “false”. The most sceptical one was A.P. who underlined that he did not believe in this reconciliation at all. However, it must be underlined that it is only his opinion, which is not supported by other evidence. Furthermore, this witness significantly changed his testimony comparing to the one given in 2009 when he had no doubts that there was effective reconciliation between N.K. and R.D. When asked about this discrepancy, he explained that he did not say then that it was false reconciliation because nobody asked him about this. Such explanation cannot be treated as

⁴³¹ 09.11.2016, p. 21 - 22

⁴³² 05.10.2017, p. 20

reliable, because he was asked about this neither in the trial against N.K., and he said in this way spontaneously, on his own initiative.

390. Similar change of presented versions of events can be observed in testimonies of Al.H., who testified in the present case that the reconciliation was not valid, while in the trial against M.A.G. he had no doubts that the truce was effective. When asked about the reasons of such change he said that then it was A.P. who was to tell all the details of this reconciliation.
391. The Court assessed that the change of versions by these witnesses resulted from their intention to have somebody finally punished for the death of R.D. When they failed to reach this goal in the trial against M.A.G., they adapted their versions and testified in a way which was to be inculpatory for N.K. However, as it was mentioned above, the Court found proven in the light of other evidence that the reconciliation between R.D. and N.K. was effective.

Summary of the evidence

392. When asked about the reconciliation, **N.K.** said that once Al.Ku. beat A.P. in the Discotheque “Bicakcic” and because of that there was a bomb thrown on his hotel. N.K. got seriously concerned because he heard that R.D.’s people threw the bomb. He asked his friend from Zagreb, L.K. – “L.” [nickname for L.K.], to enter into the contact with R.D. to discuss it because they never had misunderstandings. The meeting took place in “Ak.”, at the end of 2005 or beginning of 2006. They sat there, had a coffee, sat for quite a while and R.D. said: *“I am glad that we had the chance to sit down and one would see that both of us had nothing against each other, I will look with these guys not to enter into more quarrels and what I have with M.A.G., it is my thing”*. They greeted each

other and since then they never had bad words. After the accident they saw only once and they never had any misunderstandings.⁴³³

393. According to **A.P.**, there was an attempt to reconcile between R.D. and N.K., organized through their common friend from Zagreb, called “L.”. It took place in Sarajevo.⁴³⁴ A.P. claimed it was a false reconciliation, he told R.D. about this, he said that he knew it, but he would feel every move they made.⁴³⁵ A.P. did not want to go there. After it happened, he told R.D. that he did not believe in it, and R.D. said the same.⁴³⁶

394. A.P. was confronted with his statement in the trial against M.A.G. when he told that he learnt from R.D. that there was reconciliation between him and N.K. He did not remember saying this, or perhaps somebody changed his testimony.⁴³⁷

395. He was also confronted with the minutes of the examination held on 9th of June 2008, by the prosecutor Prosecutor Oleg Cavka where he said: *“I found out from both of them in that occasion R.D. did reconciled with N.K., but he did not reconcile with M.A.G. (...) I know that N.K. insisted for M.A.G. to be included as well in this reconciliation, but nothing came out of it”*. A.P. confirmed that it was true but he underlined that R.D. never trusted N.K. and he repeated it hundreds times that N.K. wanted to kill him.⁴³⁸

396. A.P. was also confronted with his other statement, given in front of the Prosecutor Prosecutor Oleg Cavka, on 30th of January 2009. Then he said *“when*

⁴³³ 05.102017, p. 20

⁴³⁴ 28.10.2015, p. 27

⁴³⁵ 28.10.2015, p. 27

⁴³⁶ 08.12.2015, p. 36

⁴³⁷ 28.10.2015, p. 32

⁴³⁸ 28.10.2015, p. 35; p. 204 of the post indictment binder, volume 11

R.D. came back in Sarajevo in 2004, he was in conflict with N.K.; however this conflict soon disappeared after they had sat down together on the table, with the mediation of L.K. from Zagreb, who was known with his name "L." [nickname for L.K.]. M.A.G. wanted to make peace with R.D. as well, but R.D. did not want that because he did not trust him, because M.A.G. was the vindictive". When confronted with it, A.P. said that nobody asked before him whether the reconciliation was false. He only said it to Prosecutor Oleg Cavka internally. He said it but somebody did not record it.⁴³⁹

397. A.P. clarified that according to him this reconciliation was false because there were threats, a bomb was thrown and R.D. suspected that it was N.K. In revenge, they committed an assault on his hotel and J.C., called "Bo.", was involved in it.⁴⁴⁰ This attack took place in 2005 or 2006. Since then A.P. did not have contacts with J.C. who permanently wanted to be close to R.D. never trusted him.⁴⁴¹

398. **E.D.** also knew about the reconciliation which according to her happened a half a year before the death of R.D., but she did not know exactly when. Their friend from Zagreb, "L." [nickname for L.K.] came, and he said that they agreed that they should reconcile and make everything well.⁴⁴² This meeting probably took place at N.K.'s place, or a business premise but she did not ask where.⁴⁴³

399. She testified that when R.D. returned from this meeting, he seemed to be in a good mood. She asked him, and he said that the meeting and reconciliation went

⁴³⁹ 28.10.2015, p. 35-36; p. 251 of the post indictment binder, volume 11

⁴⁴⁰ 27.11.2015, p. 15 - 16

⁴⁴¹ 27.11.2015, p. 19 - 20

⁴⁴² 11.12.2015, p. 19

⁴⁴³ 11.12.2015, p. 20

well, and that they had a good chat. They came to a good agreement. R.D. did not tell her the details, but she saw that he was very satisfied, and she was very happy because of that.⁴⁴⁴ She underlined that her husband did not trust anybody.⁴⁴⁵

400. **Al.H.** knew that there was to be a truce between N.K. and R.D. organized in Zagreb by their common friend “L.” [nickname for L.K.], but he did not know if it took place.⁴⁴⁶ Despite this lack of knowledge he claimed that the truce was not valid because R.D. did not have faith in N.K. and N.K. did not have faith in R.D.⁴⁴⁷ Later he admitted that he heard about this truce from R.D. and A.P. He did not know when it took place, but it occurred in “Ak.”. He thinks it was a year or a year before the death of R.D.⁴⁴⁸

401. During cross-examination, Al.H. confirmed that he testified in the G. trial that there was a valid truce between N.K. and R.D., which took place in “Ak.”. N.K. gave his *Besa*. Afterwards, R.D. called N.K. after his son was wounded in a car accident. Ed. told Al.H. that he was present on the meeting when reconciliation between N.K. and R.D. took place.⁴⁴⁹ He claimed that then he did not mention that the truce was not valid because A.P. was also a witness and as the one who participated in the truce he should have explained it.⁴⁵⁰ He did not say that the truce was not valid because he did not want to expose himself for danger.⁴⁵¹ He was clear, that the truce took place.⁴⁵² In the trial against N.K. he said that he did

⁴⁴⁴ 11.12.2015, p. 20

⁴⁴⁵ 11.12.2015, p. 53

⁴⁴⁶ 27.01.2016, p. 10

⁴⁴⁷ 27.01.2016, p. 11

⁴⁴⁸ 27.01.2016, p. 23

⁴⁴⁹ 29.01.2016, p. 19-20

⁴⁵⁰ 22.02.2016, p. 13

⁴⁵¹ 22.02.2016, p. 14

⁴⁵² 22.02.2016, p. 14

not know if the truce took place because he was not present there. He was neither present in Turkey, and he could not believe R.D. that N.K. wanted to kill him.⁴⁵³

He claimed that even after reconciliation R.D. was speaking about N.K. as his enemy.⁴⁵⁴

402. When asked about the change of the version as to the truce between N.K. and R.D., he said that he did not follow this trial; he came as a witness without any pressure.⁴⁵⁵

403. In the G. trial Al.H. said that shortly after the reconciliation between R.D. and N.K., R.D. interrupted relations with Z.T. Z.T. was angry at R.D., they quarrelled, he did not know what about. Al.H. was a boy then, 24 years what according to him was very little for the street.⁴⁵⁶

404. Al.H. was informed about the reconciliation between N.K. and R.D. Since then he never heard about any incident between two of them. He even heard a phone conversation between R.D. and N.K. after the son of the first one was injured.⁴⁵⁷

405. **M.U.** testified that he heard from R.D. that he met with N.K. in a coffee shop in Hrasno and they discussed.⁴⁵⁸ He heard that “L.” [nickname for L.K.], a friend of R.D. from Zagreb, organized this meeting between R.D. and N.K. in a café; there were negotiations between both of them. His memory was refreshed with the statement given on 30 July 2007. He did not remember what the outcome of this meeting was so once again he was refreshed with his previous statement - “N.K.

⁴⁵³ 22.02.2016, p. 14

⁴⁵⁴ 22.02.2016, p. 26

⁴⁵⁵ 22.02.2016, p. 14

⁴⁵⁶ 22.02.2016, p. 19

⁴⁵⁷ 22.02.2016, p. 31

⁴⁵⁸ 18.03.2016, p. 14

gave his word that he is not going to touch R.D., and that he is not going to fight with him anymore and R.D. gave his word that he is not going to touch him.” He confirmed then that it was agreed that the confrontation between two of them shall stop.⁴⁵⁹ He underlined that R.D. entered into truce with N.K.; however he never made a truce with M.A.G.⁴⁶⁰

406. **N.O.** knew from N.K. that they met with R.D. in a café “Ak.”, had coffee together, and explained everything to each other, that they did not have any conflict. It was before N.K. met N.O. (2006).⁴⁶¹

407. The reconciliation between N.K. and R.D. in reference to the conflict in Istanbul was also confirmed by **S.T.** during her cross-examination. She did not know when it happened, but “L.” [nickname for L.K.] was involved in it. There was a meeting which took place at Jehorina Mountain where they reconciled. She heard about this from F.R., N.K., “L.” [nickname for L.K.] and R.D. It was after her trip to Istanbul. According to her, N.K. did not believe too much in it.⁴⁶²

3.12. Attempted murder of A.P.

408. The Prosecutor tried to connect N.K. also with the attempted murder of A.P. to prove in this way that there was an ongoing violent conflict between N.K. and R.D.⁴⁶³

409. The Prosecutor did not present any reliable evidence to support his case that N.K. was connected with this event. The testimony of S.T. is intrinsically

⁴⁵⁹ 18.03.2016, p. 16

⁴⁶⁰ 04.04.2016, p. 17

⁴⁶¹ 22.07.2016, p. 27

⁴⁶² 18.05.2015, p. 28 -29

⁴⁶³ 19.03.2015, p. 8

unreliable as she referred to this what she heard from other persons and read in the media. A.P. based his conviction just on his beliefs.

Summary of the relevant evidence

410. **A.P.** testified that 12 days before the murder of R.D. there was an attempt to kill him. He was shot by L.By. and the man called “Tj.”⁴⁶⁴ According to him, L.By. and “Tj.” belonged to a group of M.A.G.⁴⁶⁵
411. During cross-examination, A.P. was confronted with his statement from the trial against M.A.G. where he said: “*R.D. told me (...) not to tell anything to anyone, and that “Zu.” was behind this, that he offered 50.000 Euro for me and 250.000 Euro for him.*” When asked about this testimony, he explained that “Zu.” it was M.A.G. but he claimed that he did not recall if he said so. He underlined that he believed that N.K. was behind everything.⁴⁶⁶ A.P. was convinced that N.K. was involved in his attempted murder because they were in war with him, and M.A.G. would not have been able to think about going into conflict with anybody.⁴⁶⁷ According to him, N.K. was behind the curtains. Albanians were attempting to kill A.P., and N.K. was persuading them to do it. He knew that they were in war with N.K.⁴⁶⁸
412. According to **S.T.**, it was N.K. who brought L.By. who shot A.P.⁴⁶⁹ When cross-examined she admitted that her knowledge about involvement of N.K. in this

⁴⁶⁴ 28.10.2015, p. 7-8

⁴⁶⁵ 27.11.2015, p. 17

⁴⁶⁶ 28.10.2015, p. 34

⁴⁶⁷ 28.10.2015, p. 9-10

⁴⁶⁸ 10.11.2015, p. 24 – 25

⁴⁶⁹ 19.03.2015, p. 8

case is based on her conversation with Prosecutor Oleg Cavka and what she read in the media. It was a proven fact that L.By. and N.K. were friends.⁴⁷⁰

413. **A.S.** testified that she and R.D. visited A.P. in a hospital. Then R.D. told that he had information that money was paid to kill also him. He never told who paid for this.⁴⁷¹ During cross-examination she testified also that A.P. and R.D. were discussing this attempted murder. In its context they mentioned a nickname “Sv.” – for L.By. She never heard that he was a friend of [the family name of M.A.G.] brothers.⁴⁷²

3.13. Preparations to the murder

According to the indictment:

Having volunteered to identify and hire the assassins in Serbia, N.K. personally travelled to Serbia in order to hand over the money to a middle-man who was to forward it to the assassins once the job had been completed. Returning from Serbia, S.T. was personally present when N.K. informed the other members of the organized criminal group that he had handed over the money to a person nicknamed M.J.K. in order for two well-known Serbian hit men, M.M. and S.R. to be hired to murder R.D.

While N.K. is said to have provided further logistical support to the hit squad, other members of his OCG took over other preparatory tasks, such as identifying a convenient location to execute R.D. in Sarajevo. This task was entrusted to N.O. who arranged for the tracking of R.D. and who would receive notice once the target would come to an apartment located on Odobasina Street in the centre of Sarajevo, where he

⁴⁷⁰ 13.05.2015, p. 26

⁴⁷¹ 13.01.2016, p. 18-19; 18.01.2016, p. 31

⁴⁷² 18.01.2016, p. 17

temporarily lived. In anticipation of the murder, N.K. left Bosnia, trying to create an alibi for himself by spending time at the seaside in Montenegro.

414. The Court found not proven that the meetings to discuss the plan to murder R.D. in a composition of people as described by S.T. took place. The plan which was allegedly agreed by N.K. and “the group” was only presented by S.T. in her testimony. According to her, they agreed on persons to be hired to execute the killing, on the others who were supposed to facilitate contact with them, on the arrangements for their stay in Sarajevo, and on the persons who were tasked to follow R.D.⁴⁷³ However, there is no evidence to support her claims. The other witness testifying on these circumstances, it is Z.T., her husband, however he only repeated this what he learnt from his wife and on many occasions their versions contradicted with each other. S.T. did not confirm his version about alleged plans to murder R.D. which were to be discussed during the meetings with Ek.L.’s family.

415. **Z.T.** testified differently as he said that L. brothers told him that N.K. asked one of the lawyers to ask Z.T. if he had somebody to kill R.D. He told them that they should find somebody else. He did not indicate that he talked personally with N.K.⁴⁷⁴ while according to S.T., N.K. told it to him in person. When Z.T. was asked about this contradiction, he said that maybe she transferred this thought base on this what he told her.⁴⁷⁵ He did not want to answer the question if he told his wife about these meetings.⁴⁷⁶

⁴⁷³ 18.03.2015, p. 22, 24, 25, 26, 29, 19.03.2015, p. 3 – 4, 7, 13.05.2015, p. 29; 14.05.2015, p. 38

⁴⁷⁴ 16.06.2015, p. 30;

⁴⁷⁵ 19.06.2015, p. 9

⁴⁷⁶ 22.06.2015, p. 13

416. **S.T.** also claimed that after couple of meetings when the plan of murder R.D. was discussed, she told Z.T. about it. He advised her to leave this job.⁴⁷⁷ It was denied by **Z.T.** who confirmed that he talked with her about these meetings, but he accepted as inevitable for her to participate in them because she was a right hand of F.R. Additionally, when she told him about this for the first time, he did not find it significant because he already knew about the plans to murder R.D. According to him, she was very surprised and excited about this.⁴⁷⁸

3.14. Testimonies of K4 and K5

417. The Prosecutor presented witnesses K5 and K4 to support his claims that S.R. was hired by N.K. and the “group” to kill R.D. They were parents of S.R., an assassin, who died at 23 when placing an explosive after the car. The death of their son made K4 and K5 to testify about alleged criminal offences committed by people whom they blamed for it. Except of S.T., K4 and K5 were crucial Prosecution’s witnesses for the murder charge. Therefore the Court finds necessary to indicate some elements from their statements where their credibility was challenged.

418. Their testimonies are full of contradictions and discrepancies. They were changing their versions, added new elements and withdrew from the things which they said before. In the course of their examination it was visible that they were very proud of their son and they were in a sense determined to convince the Court that it was him who killed R.D.

⁴⁷⁷ 23.03.2015, p. 22

⁴⁷⁸ 16.06.2015, p. 36 - 37

419. According to **K5**, his wife K4 did not know about the plan to kill R.D.⁴⁷⁹ She never participated in such conversations; perhaps she overheard something when serving coffee.⁴⁸⁰
420. K5 was sure that S.R. killed R.D., he also confirmed that he was the one who filled the gun.⁴⁸¹
421. K5 confirmed that S.R. was convicted for robberies in Split and of Cargo Centre. He committed it with Da.E. and Z.T. It was quite visible that K5 avoided admitting that Z.T. was a direct perpetrator of it; however this fact indicated that they knew each other.⁴⁸²
422. K5 was proud when admitting that he was always involved in criminal activities.⁴⁸³ He described the details of his own involvement in criminal groups. He dealt then with murders, extortions and robberies.⁴⁸⁴ Members of this group were visiting them even after the death of S.R., called K4 as “mummy” and K5 as “daddy”. They knew all the details of their activities.⁴⁸⁵
423. K5 claimed that he had a picture of S.R. and N.K. together and promised to bring it to the Court. Later, he changed his mind said that from many pictures he had it was the only one to be lost.⁴⁸⁶ When asked again about it during the next session, he said that he did not bring it finally, what he explained that when everything is

⁴⁷⁹ 29.07.2015, p. 17

⁴⁸⁰ 30.07.2015, p. 21

⁴⁸¹ 30.09.2015, p. 21

⁴⁸² 30.07.2015, p. 40

⁴⁸³ 30.07.2015, p. 44

⁴⁸⁴ 29.09.2015, p. 21-23

⁴⁸⁵ 29.09.2015, p. 8 - 9

⁴⁸⁶ 30.07.2015, p. 44

finalized by EULEX he would bring it. Later, he said he found it, but he was not able to explain why he did not bring it. He said he did not dare to do it.⁴⁸⁷

424. K5 testified also that he possessed the weapon which was used to kill R.D.⁴⁸⁸

425. K5 confirmed that when he went to testify for the first time in Belgrade in the trial against so called Sabac group which he blamed for the death of S.R., he did not tell about the murder of R.D. because defence counsels of M.Os. and others were present. Only when he came to Sarajevo and met with the Prosecutor Dubravko Campara, he found out about the Lu. case. **He talked to SIPA and then he found that N.K. was made “33rd accomplice in this murder”.**⁴⁸⁹ In this way he confirmed that before he had had no knowledge about the alleged involvement of N.K. in this case.

426. When he testified in Belgrade, he was asked about N.K. and R.D., but not about L.B.C., “Pr.”, M.J.K. and other somebody else.⁴⁹⁰

427. K5 admitted that if they would not kill S.R., then this trial would not even exist.⁴⁹¹ He promised to his late son that these people would be revenged.⁴⁹² According to him, it was L.B.C. to be blamed for the death of his son, N.K. should distance from him.⁴⁹³ His main enemies were: L.B.C., M.Os., N.V., “Sa.”, B.M. and I.M.K. In his opinion N.V., M.J.K. and other shall be convicted.⁴⁹⁴

⁴⁸⁷ 29.09.2015, p. 4

⁴⁸⁸ 30.07.2015, p. 45

⁴⁸⁹ 29.09.2015, p. 15

⁴⁹⁰ 29.09.2015, p. 42

⁴⁹¹ 29.07.2015, p. 15, 23, 33

⁴⁹² 29.09.2015, p. 34

⁴⁹³ 29.09.2015, p. 35

⁴⁹⁴ 29.09.2015, p. 36; 30.09.2015, p. 27

428. K5 was very proud of his son. According to him, it was sufficient to give him a picture of a person to be killed and he would find him or her.⁴⁹⁵ Murders committed by S.R. were paid by different people.⁴⁹⁶
429. K5 considered L.B.C. as his biggest enemy. He said that there is another woman who would appear and he thinks that “not even Saint Peter will save L.B.C.”⁴⁹⁷ It must be underlined that when he said so, the Court did not decide to summon I.B. yet, she was not on the list of the witnesses in the indictment as she was proposed to be heard only in May 2015. This statement indicates that witnesses in this case were in touch with each other, despite claiming that they did not know each other.
430. K5 saw L.B.C. for the last time when he went to prison because of his wife. He knew that it was connected with harassment of his wife and obstructing official person. He knew it from I.B. He met with her already after he testified in Kosovo. A moment later he explained that he did not speak with her, just saw when the police seized the car in Sulcin. He was convinced that she would come to testify in Kosovo.⁴⁹⁸
431. He was also to speak about testifying in Kosovo with one of police officers protecting L.B.C. At the end, he said that he did not speak with anybody about his statement in Kosovo, and added that what he said today it was funny.⁴⁹⁹
432. He watched testimonies of N.K., Z.T. from the Z.’s trial. He watched them by chance. He only watched about the threat on the wedding.⁵⁰⁰

⁴⁹⁵ 29.09.2015, p. 25

⁴⁹⁶ 29.09.2015, p. 32

⁴⁹⁷ 29.09.2015, p. 36

⁴⁹⁸ 29.09.2015, p. 36 - 37

⁴⁹⁹ 29.09.2015, p. 38

433. When the cross examination was almost finished, K5 said to the defence:

B.B.: No further questions

K5: You know what my revenge is.

B.B.: What is your revenge because I don't know?

K5: The best would be blood for blood.

B.B.: Blood for blood to N.K.?

K5: No.

B.B.: Blood for blood to L.B.C.?

K5: It depends as the extent of his involvement.

B.B.: Blood for blood to M.J.K.?

K5: No.

B.B.: Blood for blood for M.Os.?

K5: Yes.

B.B.: So this is your revenge.

K5: And there are two persons from Bosnia but they are from Republika Srpska, one is B.M., but he is in Bosnia and the trial is to commence.

B.B.: And this is your revenge for the death of your son, is this correct?

K5: Not this court, I told what I would do.⁵⁰¹

⁵⁰⁰ 30.09.2015, p. 50 - 51

⁵⁰¹ 30.09.2015, p. 54 - 55

434. **K4's** statement was based mainly on what she heard from other persons. Additionally, she had a lot of information from different trials.
435. She claimed that M.Os. frequently visited the house, also his brother B.Os., B.S., N.K. and sometimes B.J. They were talking about criminal activities and she heard them.⁵⁰² Later she said that also M.J.K. visited them.⁵⁰³ She contradicted herself later because she said that she did not know if N.K. visited them.⁵⁰⁴
436. Her testimonies about N.K. were very inconsistent. Initially she claimed that she heard about him for the first time S.R.'s arrival from Sarajevo.⁵⁰⁵ Then she testified that she saw the name of N.K. only once in the media when he was arrested.⁵⁰⁶ After the murder she heard this name many times. Whenever there was discussion, then often these discussions took place after the murder, and after the commission of this criminal offense very often. His name was mentioned by M.Os. and they learned some information about N.K. from him, as he felt himself free to speak in front of them, that he dealt with drugs, that he was full of money, that he had a property in Montenegro, Bosnia and Kosovo, that he had a strong ties in Bosnia, and that he was protected.⁵⁰⁷
437. She saw the name of N.K. in the newspapers left by police officers who protected them. She saw only the headline; she did not read the article.⁵⁰⁸
438. K4 also testified that she learnt about the conflict between N.K. and R.D. from M.Os. Her son did not know it.⁵⁰⁹ They discussed not only once, but every single

⁵⁰² 30.06.2015, p. 4

⁵⁰³ 27.07.2015, p. 31

⁵⁰⁴ 30.06.2015, p. 10

⁵⁰⁵ 30.06.2015, p. 7

⁵⁰⁶ 30.06.2015, p. 9

⁵⁰⁷ 30.06.2015, p. 10

⁵⁰⁸ 27.07.2015, p. 27

⁵⁰⁹ 29.06.2015, p. 22

time they met. They started talking about this after the murder. To the question why they were talking so often about this, she answered that the most probably because N.K. was a drug trafficker and R.D. was an obstacle for him. She heard the name N.K. often from M.Os.⁵¹⁰

439. During cross-examination K4 was confronted with the statement given on 24 September 2014, p. 3. To the question “*What exactly M.Os. said? Who ordered the murder, how did it come that M.Os. had anything to do with it?*” she answered: “*He did not mention the person who ordered the murder at all and maybe I did not hear in the meantime I was preparing coffee. I do not know...*” She confirmed that she said this and explained that they were waiting for the proceedings to commence to tell the whole story. It was K5 to mention N.K.⁵¹¹

440. Then she was confronted with her statement that S.R. told her about who ordered the murder of R.D. She was asked a question in a leading way “*Since your son is talking about the conflict between N.K. and R.D. did your son mention in any way who ordered the murder of R.D.?*”, and answered “*At that point, when I was...maybe he told to my husband and them and I went away...when they came... to make the coffee, after they were talking so I did not come back to ask that*”. She confirmed saying this and explained once again that she left details to be said later.⁵¹²

441. It must be underlined that despite being asked in a leading way, K4 did not mention N.K. as the one behind the murder of R.D.

⁵¹⁰ 28.07.2015, p. 9 - 10

⁵¹¹ 28.07.2015, p. 21-22; 34

⁵¹² 28.07.2015, p. 39

442. Charges against N.K. were widely discussed by friends of S.R. and K5. Then she said that it was information as any other. It was the name like the others, meant nothing to them.⁵¹³ They discussed about him when he got arrested, but they gave a statement a long time before it. She never testified in Serbia about N.K. She was asked if she knew about other murders committed by her son, and she said about the one of R.D.⁵¹⁴ Then she did not mention N.K. For the first time, she mentioned his name in front of the Prosecutor of BiH.⁵¹⁵
443. When she testified in Serbia she said that she could not tell the whole truth because there were some people still at liberty. She was not sufficiently ready to tell the whole truth because she was not clear even with herself whether she would be able to talk about these things and she was afraid for her family.⁵¹⁶
444. She did not mention the name of N.K. to the Serbian prosecutor, and everything she said only in Kosovo, because they did not have trust in Serbian Prosecution and the Court. She was confronted with her testimony given in front of Serbian Prosecutor when she answered that except of M.Os., M.J.K., M.M. and N.V. nobody else was involved in the murder of R.D. She claimed that she answered like this because they did not feel safe.⁵¹⁷ It must be underlined that during that testimony she did not remain silent but she clearly said “no, there were no other people”.⁵¹⁸
445. She claimed that she was afraid of the group of M.Os., but she decided to testify against them. She was more afraid of N.K. because it was known that they were

⁵¹³ 27.07.2015, p. 28

⁵¹⁴ 27.07.2015, p. 29

⁵¹⁵ 27.07.2015, p. 34, 41

⁵¹⁶ 28.07.2015, p. 16 - 17

⁵¹⁷ 27.07.2015, p. 34

⁵¹⁸ 27.07.2015, p. 35

more vengeance longing people because of Albanian nationality. She was never approached by N.K.⁵¹⁹ She was more afraid of N.K. because M.Os. before being arrested told her that they did not forget things, especially betray. He referred to N.K. and his group.⁵²⁰

446. She was not able to explain how it happened that finally she mentioned the name of N.K. in relation to the murder of R.D. She said that she simply changed her mind for many reasons, among which it was involvement of M.Os. in the death of her son.⁵²¹

447. She blamed for the death of her son M.Os. and I.M.K.⁵²² She also blamed B.Os. and M.M. She would not be surprised if L.B.C. would be involved. She did not know about N.K.⁵²³ She did not exclude that N.K. could have been involved in the death of her son.⁵²⁴

448. S.R. was hiding until 2008 because of the attempted murder of D.Z.⁵²⁵ He was at large year and a half. The attempted murder was committed in 2006, and then in 2008 till November he was arrested.⁵²⁶

449. To the statement of the defence that it was not her son who killed R.D. she stated that it was him for sure, however her knowledge is based only on what she heard. On this occasion she was talking about other murders which were for sure not committed by her son.⁵²⁷

⁵¹⁹ 30.06.2015, p. 20

⁵²⁰ 30.06.2015, p. 21

⁵²¹ 28.07.2015, p.17

⁵²² 30.06.2015, p. 14

⁵²³ 27.07.2015, p. 31

⁵²⁴ 28.07.2015, p. 18

⁵²⁵ 27.07.2015, p. 13

⁵²⁶ 27.07.2015, p. 21

⁵²⁷ 27.07.2015, p. 30

450. The most relevant information about N.K. she learnt from M.Os. She said there was one friend who came to them after N.K. arrest with whom they talked. She did not want to give his or her name. The whole city knew that S.R. committed this murder, especially from M.Os. who was bragging around.⁵²⁸ She remembered that they were visited by somebody who talked with them about the trial in Bosnia but she did not know what it was about. She did not want to tell the name. A moment later she admitted that it was connected with the trial against Z.T.⁵²⁹
451. During the whole testimony before the Court she did not mention the conflict between L.B.C. and R.D. about which she spoke during the testimony given on 24 September 2014. She explained it by saying that maybe it just slipped from her memory. She did not know much about this, only that they had problems since a long time ago.⁵³⁰ She heard about this conflict from S.R. who knew about it from M.Os.⁵³¹ During her testimony in September 2014 she said that R.D. and L.B.C. wanted to kill each other.⁵³²
452. She said that murder of R.D. was not important for her because they did not know who he was.⁵³³ After the death of her son she was desperate that others would be sentences, and the whole truth would come out.⁵³⁴
453. According to her, the testimony from September 2014 it was just in a nutshell, despite of the fact that it had more than 30 pages.⁵³⁵ She did not know if she was

⁵²⁸ 27.07.2015, p. 42

⁵²⁹ 27.07.2015, p. 33

⁵³⁰ 28.07.2015, p. 25

⁵³¹ 28.07.2015, p.36

⁵³² 28.07.2015, p.37

⁵³³ 28.07.2015, p. 30

⁵³⁴ 28.07.2015, p. 31

⁵³⁵ 28.07.2015, p.37

afraid then, she was not sure if she knew that N.K. was arrested. Earlier she admitted that she saw in the media that he was arrested.⁵³⁶ She did not use name N.K. init. She only limited herself to N.V. and M.Os.⁵³⁷

454. K4 admitted that she decided to report what she knew about the whole group after S.R. was murdered. Then K5 decided to tell everything.⁵³⁸ She reported the details of the murder of R.D. in 2010.⁵³⁹ K5 believed that S.R. made a lot for the group, a lot of favours, and at the end they murdered his son. K5 and K4 did not do anything for them.⁵⁴⁰

455. **K5** informed about the involvement of his son in R.D.'s murder a little later after the death of his son. He was very vague in his response, started talking about the Split robbery and his testimony in Croatia.⁵⁴¹ He decided to report it, because he wanted all of them to be arrested. Nobody could pay for his son death.⁵⁴²

456. In the cross-examination, K4 explained that they both with K5 decided to go and testify after the death of S.R.⁵⁴³ They were discussing about this. K5 was more aware of everything; she pulled the breaks to protect her and their family. She was not willing to, K5 testified first. She was the one to decide to disclose the name of N.K.⁵⁴⁴

457. **K5** claimed that he decided himself to testify, and he did not talk with his wife about this because he was the one to make decisions. Later he told about this to

⁵³⁶ 28.07.2015, p. 410

⁵³⁷ 28.07.2015, p. 42

⁵³⁸ 29.06.2015, p. 17, 27.07.2015, p. 22

⁵³⁹ 29.06.2015, p. 18

⁵⁴⁰ 28.07.2015, p. 28

⁵⁴¹ 30.07.2015, p. 4

⁵⁴² 30.07.2015, p. 6

⁵⁴³ 27.07.2015, p. 39

⁵⁴⁴ 28.07.2015, p. 18-19

his wife but only when police came to take his passport and to take him to testify in Croatia. She was a little afraid of this situation.⁵⁴⁵

Conclusion

458. From the testimonies of K4 and K5 results that they were informed about the alleged involvement of N.K. in the murder of R.D. only when they started testifying in Bosnia and Herzegovina. Many details were transferred to them by officer of SIPA. When they testified in Belgrade in the trial against so called Sabac group, they already spoke about the murder of R.D. and people who allegedly committed it, but they did not mention N.K. in this context.

459. The explanation of K4 that she was afraid to mention N.K. in Belgrade, the Court finds as unreasonable. In that moment, she had no knowledge of the alleged activities of N.K.; she even said that he was completely irrelevant for her. On the other hand, she decided to testify against people whom she blamed for the death of her son, so according to her it must have been definitely more risky.

Negotiations with the assassins

460. According to K5, M.Os. and L.B.C. approached S.R. to propose him a murder R.D. Negotiations were short. Moment later, K5 said that only M.Os. came. He underlined that he was present during the whole negotiations.⁵⁴⁶

461. Taking into account all the contradictions in the testimony of K5, which will be presented in details below, and the fact that it is not supported by other pieces of

⁵⁴⁵ 30.07.2015, p. 9

⁵⁴⁶ 29.07.2015, p.5

evidence, the Court assessed his version of events as unreliable and as such it cannot be a basis to establish facts in the case.

Summary of the relevant evidence

462. During cross-examination, K5 was confronted with his statement given on 29 August 2012 when he said that few days before the murder of R.D., M.Os. and M.J.K. (not L.B.C.) offered his son to commit this murder. He did not uphold this, saying that only M.Os. came. During further questions he said that it was true that M.Os. and M.J.K. came, but not for ne only for fishing.⁵⁴⁷
463. K5 testified that during the first meeting only patriotic reasons to kill R.D. were mentioned.⁵⁴⁸ There was also a conflict between N.K. and R.D. because he was an obstacle for them.⁵⁴⁹ However later he said, that during this meeting when the S.R. was offered to kill R.D. he did not know anything about the involvement of N.K. and M.A.G.; their names were mentioned only when the murder was done.⁵⁵⁰ In this way K5 contradicted himself as earlier he said that these two names were mentioned immediately during the first meeting.⁵⁵¹ He learnt about this from M.J.K., N.V., M.M., B.Os., actually he did not know from whom exactly.⁵⁵² During the first meeting there was no discussion about the money.⁵⁵³

⁵⁴⁷ 30.09.2015, p. 48

⁵⁴⁸ 30.07.2015, p. 12

⁵⁴⁹ 29.07.2015, p. 4, p. 12

⁵⁵⁰ 30.07.2015, p. 14

⁵⁵¹ 30.07.2015, p. 14, p.15

⁵⁵² 30.07.2015, p. 15

⁵⁵³ 30.07.2015, p. 14

464. According to K5, M.OS. mentioned that it was M.A.G. and N.K. who wanted to kill R.D., there were also many others involved, but K5 was sure only about these two.⁵⁵⁴
465. K5 testified that he accepted the offer given to his son to kill R.D. because he was a great patriot and at for him it was an act of patriotism to kill a person who apparently had caused war in Bosnia.⁵⁵⁵ During cross-examination, K5 withdrew from this statement and he said it was absolutely irrelevant whether he approved the murder of R.D., however he underlined again that it was done as an act of patriotism. A moment later, he said that he did not approve anything, and unfortunately it was done.⁵⁵⁶ He did not approve the murder.⁵⁵⁷
466. According to K5, R.D. was a ruler of BIH and Sarajevo, and N.K. and his group were not able to do whatever they wanted. In this group there were a lot of Albanians.⁵⁵⁸ Everything started with N.K. and M.A.G., he was not sure if it was him or one of his brothers. Only after the murder his son told him that in the group there were L.B.C., called by him “Sur.”, M.Os., M.J.K., N.V., M.M. and S.R. His son also told him that it was not from patriotic reasons, and that N.K. and M.A.G. were standing behind the murder.⁵⁵⁹
467. K5 testified that also F.R. was a member of a group but not the one that planned to murder R.D. He was a member of an entire group; he was their father, of the

⁵⁵⁴ 29.07.2015, p. 8

⁵⁵⁵ 29.07.2015, p. 15

⁵⁵⁶ 29.09.2015, p. 9-10

⁵⁵⁷ 29.09.2015, p. 16

⁵⁵⁸ 29.07.2015, p. 10

⁵⁵⁹ 29.07.2015, p. 13

entire Bosnian clan who was working for the state. When asked how he knew this, he said that he knew many things.⁵⁶⁰

468. According to K5, they wanted to kill R.D. because he was too strong for them in physical sense, he was courageous, good in shooting and he was not involved with police, of course he owned casinos and used to deal with drugs, they were afraid from him.⁵⁶¹ K5 mentioned also F.R., but he did not know exactly what his role was. He did not want to explain immediately why he used this name; he wanted to leave it at the end. According to K5, he was also a member of the group.⁵⁶²

469. During cross-examination, K5 changed his mind again and he said that he was not present when L.B.C. asked M.Os. to find assassins, but he was present when M.Os. came to ask S.R. on his behalf. This happened rather quickly before S.R. went to Sarajevo, about a week. On the next day M.Os. brought Heckler and Koch.⁵⁶³

470. K5 presented a different version of the events during the further course of cross-examination. He said then that S.R. told him that he met L.B.C. and N.K. in Budva when N.K. asked L.B.C. to find assassins of R.D. He did not remember how long before the murder it took place.⁵⁶⁴ When asked why he did not mention the meeting in Budva before, he said that nobody asked him about it. However, M.Os. was still a middle man because other participants were needed, like N.V.

⁵⁶⁰ 29.07.2015, p. 18-19

⁵⁶¹ 29.07.2015, p. 8

⁵⁶² 29.07.2015, p. 9

⁵⁶³ 29.09.2015, p. 43

⁵⁶⁴ 30.09.2015, p. 36-37

and M.M.⁵⁶⁵ When asked again about the role of his son during the meeting in Budva, K5 answered twice “ask N.K.”.⁵⁶⁶

471. When cross-examined, K5 was also not consequent as to the position of his son. He claimed that S.R. was too young to speak with people 20 years older than him.⁵⁶⁷ On the other hand, he underlined that his son did not need anybody to help him, because he did not care about the money and he could do anything he wanted.⁵⁶⁸
472. It was visible for the Court that K5 was permanently changing his version of events. He was not sure who came to offer S.R. to kill R.D. He changed his mind as to the moment when he learnt who the people ordering the murder were. K5 also contradicted with the version of S.T. by involving into this M.A.G. who according to her had nothing to do with the murder of R.D.
473. K5 mentioned involvement of N.K. for the first time only in Sarajevo; he did not mention it when testified in Belgrade.⁵⁶⁹ During cross-examination he denied that he mentioned only M.J.K., when testifying in Belgrade, as the one who ordered the murder of R.D. He admitted that it was possible that he even did not mention M.Os. and others as everything was done in presence of their lawyers.⁵⁷⁰ He admitted that he did not mention F.R. when testified in Bosnia. He mentioned him in Serbia, but he did not know when and not as a perpetrator in this case. He did not want to give the reasons.⁵⁷¹

⁵⁶⁵ 30.09.2015, p. 37

⁵⁶⁶ 30.09.2015, p. 38-39

⁵⁶⁷ 30.09.2015, p. 37

⁵⁶⁸ 30.09.2015, p. 38

⁵⁶⁹ 30.07.2015, p. 37

⁵⁷⁰ 29,09,2015, p. 27

⁵⁷¹ 30.09.2015, p. 13

3.15. Testimonies of M.J.K., M.Os., B.Os.

474. According to the Prosecutor, M.J.K. and M.Os. were deeply involved in the murder of R.D. B.Os. allegedly was present during the meetings at K5 and K4's place where the murder of R.D. was discussed and paid.
475. As it was mentioned above, the Court assessed testimonies of K4 and K5 as untruthful and unreliable also in the light of statements of M.J.K., M.Os. and B.OS. which will be shortly presented below., The Court found the statements of M.J.K., M.Os. and B.Os. as reliable; the witnesses presented in details their relations with K4 and K5 and addressed their allegations. The Prosecutor did not present convincing and credible evidence to prove that they were involved in the events related with the death of R.D. This it true that their names were mentioned by witnesses S.T., I.B., K5 and K4; however the veracity of their statements was effectively challenged.

Summary of the evidence

476. **M.J.K.** was not heard during the investigation, neither by Bosnian prosecutor, nor by EULEX one. He testified only when he was summoned by the Court.
477. M.J.K. stated that he had nothing to do with the murder of R.D.⁵⁷²
478. He denied knowing F.R., M.A.G., N.O., S.S., and N.V.⁵⁷³ He did not know B.H., E.Ah.⁵⁷⁴ He saw S.R. twice in his life. He never socialized with him.⁵⁷⁵ He did not know S.T.; he knew that she was Bosnian from Sarajevo from the media. He

⁵⁷² 15.03.2017, p. 11

⁵⁷³ 15.03.2017, p. 4 - 5

⁵⁷⁴ 15.03.2017, p. 6

⁵⁷⁵ 15.03.2017, p. 5 - 6

did not know Z.T.⁵⁷⁶ He did not recognize N.K., he never met him. He heard about him from the media.⁵⁷⁷

479. He knew M.Os. with a nickname “Bl.” or “Zu.”.⁵⁷⁸ During cross-examination, he clarified that he met M.Os. and his brother at the wedding in Nis.⁵⁷⁹

480. **M.Os.** confirmed that he knew M.J.K. for a long time; they were from the same town.⁵⁸⁰ During cross-examination he clarified that he knew M.J.K. from 2003 or 2004.⁵⁸¹ He confirmed that they were on the same wedding in Nis.⁵⁸²

481. M.J.K. knew L.B.C.; he met him in 2009-2010 in Sabac in a restaurant. He met him 3-5 times; L.B.C. was accompanied by police who protected him. Once, M.J.K. saw his wife.⁵⁸³

482. He had no business with L.B.C. and M.Os.⁵⁸⁴ He did not travel with M.Os., and last time in Sarajevo he was in 2004-2005.⁵⁸⁵

483. He knew K5 from the town, but he did not have any contacts with him. According to him, K5 lives like a pirate without water and electricity, whole town knows it. He did not know K4, “god forbids”.⁵⁸⁶

484. When M.J.K. read in the media that he was involved in the indictment in relation to the murder of R.D. he asked his lawyer to get in touch with the Prosecutor Dubravko Campara to give a statement. The hearing was scheduled but it was

⁵⁷⁶ 15.03.2017, p. 14-15

⁵⁷⁷ 15.03.2017, p. 10

⁵⁷⁸ 15.03.2017, p. 6, 7

⁵⁷⁹ 15.03.2017, p. 16

⁵⁸⁰ 26.09.2016, p. 11

⁵⁸¹ 10.10.2016, p. 22

⁵⁸² 10.10.2016, p. 19

⁵⁸³ 15.03.2017, p. 7-8, 12

⁵⁸⁴ 15.03.2017, p. 8

⁵⁸⁵ 15.03.2017, p. 9

⁵⁸⁶ 15.03.2017, p. 11 - 12

cancelled by the prosecutor when he and his lawyer were on their way to Sarajevo. He was never summoned him again.⁵⁸⁷

485. **M.OS.** denied all allegations of K4 and K5.⁵⁸⁸

486. He testified that he was approached twice by the prosecutors from Bosnia. On the first occasion he testified and he said that he had nothing to do with the murder of R.D. During the second contact, the Prosecutor Dubravko Campara offered him assistance in cases against him in Serbia for the testimony against N.K. and - as he described – “the former minister for security in Bosnia”. The most probably he was heard in April 2013, while he was offered assistance about 6 months later.⁵⁸⁹

487. He was sentenced for 10 years of imprisonment for incitement to murder, however when he was testifying before the court in Kosovo, the judgment was still not final.⁵⁹⁰

488. M.Os. denied knowing N.K. He could have heard about him from the media, however the most probably he got aware of him during his interviews with Bosnian prosecutors.⁵⁹¹

489. He confirmed that he knew S.R. and his parents, however superficially. He confirmed that he was few times in their house.⁵⁹² He did not spend much time with S.R.⁵⁹³

⁵⁸⁷ 15.03.2017, p. 10 - 11

⁵⁸⁸ 10.10.2016, p. 24 - 31

⁵⁸⁹ 26.09.2016, p. 7 - 8

⁵⁹⁰ 26.09.2016, p. 8

⁵⁹¹ 26.09.2016, p. 8

⁵⁹² 26.09.2016, p. 8-9

⁵⁹³ 26.09.2016, p. 14

490. He met S.R. for the first time at the end of 2006 on the discotheque in a bar on Sava River. In March or April 2007, S.R. was wounded in Sabac, he had some problems so he contacted with M.Os. on this occasion S.R. asked M.Os. to help him with visa and residence permit. He referred to M.Os. because he was travelling a lot.⁵⁹⁴ On this occasion M.Os. visited him in a hospital.⁵⁹⁵ Later, they also met on the wedding in Nis.⁵⁹⁶
491. During cross-examination M.Os. explained that probably the reason why S.R. asked him to help with the documents was the fact that he knew that M.Os. was in England and in the Emirates.⁵⁹⁷
492. On 1st May 2008, M.Os. visited S.R. at home.⁵⁹⁸ On this occasion, S.R. was angry at him because he did not manage to arrange documents for him. He was accusing M.Os. that he was playing around with him.⁵⁹⁹
493. He came once again to the house of S.R. upon his call. Then S.R. was in detention. His parents told M.Os. that S.R. wanted M.Os. to visit him in prison. He came there, and S.R. once again talked about the documents. It was in April or May 2008.⁶⁰⁰ After this situation, he was once again at S.R. place.⁶⁰¹
494. M.Os. claimed that he avoided meetings with S.R. On the other hand, he explained that it was not possible just to refuse “such a man”, because already then he was known in the city as a person involved in criminal activities.⁶⁰²

⁵⁹⁴ 26.09.2016, p. 15 - 16

⁵⁹⁵ 26.09.2016, p. 16

⁵⁹⁶ 26.09.2016, p. 16

⁵⁹⁷ 10.10.2016, p. 10

⁵⁹⁸ 26.09.2016, p. 16

⁵⁹⁹ 26.09.2016, p. 18

⁶⁰⁰ 26.09.2016, p. 18-19

⁶⁰¹ 26.09.2016, p. 19

⁶⁰² 26.09.2016, p. 16-17

They talked mainly about the documents.⁶⁰³ He did not want to assist him with the documents, but he did not dare to refuse him openly.⁶⁰⁴ M.Os. learnt that S.R. was a professional assassin only later from the media.⁶⁰⁵

495. He saw S.R. last time in Sabac, at the end of 2008 when he was released from detention. They met in an apartment where S.R.'s sister used to live.⁶⁰⁶

496. When asked for clarification whether his previous contacts with S.R. were in 2007 when he was in a hospital, and then the following contact with this family was only during the baptism, M.Os. denied it. He explained that he met with S.R. on several occasion in the town, in a café bar where S.R. was coming after he heard that M.Os. was there. According to him, it was up to 5 times. They were talking only about the documents; M.Os. was repeating that he was trying but it was not easy.⁶⁰⁷ It was the only topic of their conversations.⁶⁰⁸

497. It became visible that M.Os. was trying to hide before the Court his contacts with S.R., and only pressed with questions he confirmed that there were definitely more meetings than he claimed at the beginning of his examination. However, this finding is not sufficient to corroborate versions of K4 and K5.

498. M.Os. testified that his brother's name was not "Bg.", as K4 and K5 testified, but B.Os. and he had a nickname "Bz.", "Bk."⁶⁰⁹ He never went with his brother to S.R.'s house. He believed that his brother was never there.⁶¹⁰

⁶⁰³ 26.09.2016, p. 17

⁶⁰⁴ 10.10.2016, p. 12

⁶⁰⁵ 26.09.2016, p. 17

⁶⁰⁶ 26.09.2016, p. 19

⁶⁰⁷ 10.10.2016, p. 14

⁶⁰⁸ 10.10.2016, p. 15

⁶⁰⁹ 26.09.2016, p. 12

⁶¹⁰ 26.09.2016, p. 19-20

499. He learnt about the death of R.D. from the media. When it happened he may have commented it in any way, but he did not talk about this murder with anybody, including S.R. and his parents.⁶¹¹
500. M.Os. never discussed with S.R. his activities, did not know any details.⁶¹² He confirmed that he saw S.R. maybe twice with M.M. Later, they met with M.M. after their arrest in the central prison.⁶¹³ He never sold a car to S.R., nor bought it from him. He did not give him a car. He did not receive an armoured vehicle.⁶¹⁴
501. M.Os. denied any involvement in criminal activities with S.R. He explained that he spent six years and three months in detention based on false accusations of K4 and K5. They accused him that he was an organizer of a criminal association and that he ordered five assassinations committed by their son and by themselves. They accused him also that he dealt with drugs, organized a robbery and few more offences which were not so grave. They did it in order to racketeer him because they blamed him for the death of their son. The reason for this was that did not arrange the documents for S.R. with which he could leave the country.⁶¹⁵
502. K4 and K5 blamed him for the death of S.R. In 2009, they demanded from him initially 200.000 euro, and later 100.000 euro. They threatened him that if he would not pay, they would fabricate many things against him. They never mentioned to him the murder of R.D.⁶¹⁶ Only during the main trial, they said that he contacted S.R. with somebody who ordered the murder of R.D.⁶¹⁷ On the

⁶¹¹ 26.09.2016, p. 14

⁶¹² 26.09.2016, p. 17

⁶¹³ 26.09.2016, p. 18

⁶¹⁴ 26.09.2016, p. 22

⁶¹⁵ 26.09.2016, p. 21

⁶¹⁶ 26.09.2016, p. 20

⁶¹⁷ 26.09.2016, p. 21-22

basis of this information, no investigation was initiated against him and his brother.⁶¹⁸

503. M.Os. claimed that in the period 2006-2007 he was only once in Bosnia and Herzegovina, in Etno village close to Bjelina.⁶¹⁹

504. The brother of M.Os. was mentioned on many occasions by K4 and K5, and they called him “Bg.”. However his full name is **B.Os.**⁶²⁰ The fact that they did not know a proper name of a person whom they allegedly knew very well and who visited them on many occasions in their house, additionally undermines the credibility of their testimonies.

505. B.Os. confirmed that he knew M.J.K. from Sabac but denied that they had any closer relation. In the same way he knew S.R. He never visited him. He did not have any relations with L.B.C. Once he saw I.B. in a restaurant in Sabac.⁶²¹ He did not know N.V. He learnt about M.M. during the trial of his brother.⁶²²

506. He knew S.R.’s family, once they were invited for celebration of christening; it was on the 1st May, they were around. This family wanted from M.Os. to help S.R. to get visa to the United Emirates. It was the only occasion when he saw their family⁶²³. He saw S.R. maybe two more times, once in Sabac, second time in Nis.⁶²⁴ M.Os. did not have Audi.⁶²⁵

⁶¹⁸ 26.09.2016, p. 22

⁶¹⁹ 10.10.2016, p.24

⁶²⁰ 15.03.2017, p. 20; 26.09.2016, p. 10-12

⁶²¹ 15.03.2017, p. 18-19

⁶²² 15.03.2017, p. 20

⁶²³ 15.03.2017, p. 19

⁶²⁴ 15.03.2017, p. 19-20

⁶²⁵ 15.03.2017, p. 22

507. He met K4, K5 and their son in law. They were racketeering M.Os. for 100.000 euro, otherwise they told him that they would falsely accuse him.⁶²⁶ S.R.'s family was accused or racketeering, demanding money from different people for not testifying falsely against them.⁶²⁷
508. He did not testify in Serbia and Bosnia. He heard about the murder of R.D. from the media. He knew that R.D.'s name was mentioned in a context of the war in Bosnia and when he was killed.⁶²⁸
509. B.OS. and M.Os. did not have anything to do with the murder of R.D. They did not get any money for it. He never visited the house of S.R.⁶²⁹ He never visited I.B.⁶³⁰ He did not know S.T., Z.T., and N.K.⁶³¹
510. According to B.Os., people were testifying against them to extort money. I.B. did it to harm her husband.⁶³²

3.16. Amount to be paid for the murder

According to the Indictment:

*During these meetings, N.K. and the other members of this organized criminal group agreed that contract killers from Serbia should be hired for this murder and that a sum of 200,000 KM (Bosnian currency, equivalent to approx. 100,000 Euro) should be paid.*⁶³³

⁶²⁶ 15.03.2017, p. 21

⁶²⁷ 15.03.2017, p. 22

⁶²⁸ 15.03.2017, p. 20

⁶²⁹ 15.03.2017, p. 21

⁶³⁰ 15.03.2017, p. 23

⁶³¹ 15.03.2017, p. 22

⁶³² 15.03.2017, p. 23

⁶³³ S.T., 23.05.2013, p.3 [Binder 3, p.378].

511. The Court found that there is no reliable evidence to prove that it was agreed among N.K. and other persons to pay a specific sum of money for the murder of R.D. As it was mentioned above it was not proven that N.K. and other people mentioned by S.T. ever met in such composition to discuss this issue. The crucial witnesses testifying about this event are S.T. and Z.T., two persons deeply interested in the outcome of the case. The knowledge of Z.T. is based on this what he heard from his wife. Her testimony is not supported by other piece of evidence. Furthermore, she visibly changed her testimony comparing to the ones which she gave in 2011. This fact additionally undermined the credibility of this witness.

512. The testimony of the witness K1 as to this circumstance was found as unreliable and pure fabrication. His version is not supported by other piece of evidence and contradicts even the statement of S.T. in reference to crucial elements. First of all, he indicated that M.A.G. was involved while S.T. was consequent that he did not participate in it. Secondly, he did not mention Ek.L. as the one who brought his part of money, while according to S.T. he was also to pay for it. Thirdly, S.T. never mentioned K1 as present at least around while the group discussed the issue.

Summary of the relevant evidence

513. According to **S.T.**, N.K. told that the assassins wanted 100.000 euro. He informed the group about it during the meeting in the rotating restaurant. All of them were present, but she was not sure if S.S. was with them on that occasion.

634

⁶³⁴ 18.03.2015, p. 28

514. During cross-examination she was confronted with her testimony given on 18 March 2011, when she said that the assassins wanted 200.000 KM. When asked about this discrepancy S.T. explained that she was telling all the time about euro, while the police and prosecution were talking about KM. To support her stance, she underlined that convertible marks cannot be used in Serbia so she assumed that this was the reason why they started talking about euro.
515. The amount of money to be paid for the murder was confirmed by **Z.T.** who heard about this from his wife. He said about 200.000, but he was not sure if it was euro or KM. When this question was discussed in the rotating restaurant, N.K., F.R., L. brothers and N.O. were present, but Z.T. did not know if the latter was involved in it.⁶³⁵ He heard about this meeting on the very same day, it was about 10 days before the murder.⁶³⁶
516. The other witness who testified about the sum of money agreed to be paid for the murder of R.D. was **K1**. According to him, he and R.K. were present in Radon Plaza, in the rotating restaurant. On this occasion, K1 overheard a conversation when it was agreed that the amount of 200.000 euro for the assassination will be paid half/half by F.R. and N.K. The following persons were present during this meeting: N.K., F.R., M.A.G., S.T. and he did not know who else.⁶³⁷ They were sitting at the table next to them; perhaps there was one meter between them. This conversation was 2-3 months before the death.⁶³⁸ It was in the afternoon.⁶³⁹ N.K. said that the murder was agreed with L.B.C., K1 did not remember who told

⁶³⁵ 17.06.2015, p. 16

⁶³⁶ 17.06.2015, p. 16

⁶³⁷ 09.11.2016, p. 31

⁶³⁸ 09.11.2016, p. 31

⁶³⁹ 09.11.2016, p. 33

about the sum to be paid.⁶⁴⁰ He did not remember what F.R. and M.A.G. said. It was difficult to hear because they were speaking quietly.⁶⁴¹

3.17. Collection of money

According to the Indictment:

About a month before the murder, S.T. attended a meeting in a rotating restaurant in the 'Radon Plaza' Hotel where N.K. and other members of the "group" were present. N.K. brought a smaller black suitcase that he put on the table behind his back and said that he and N.O. brought the money for the murder of R.D. and that the others should add their share. Ek.L. then took off a small black 'Samsonite' bag from his shoulder and gave it to N.K. who took out a large amount of money from the bag, putting it into his suitcase. F.R. took money out of a green PVC bag and gave it to N.K. who added also this money to his suitcase.

517. This is another event which was described exclusively by **S.T.**⁶⁴² There is no reliable piece of evidence to support claims of S.T. Besides, her version that the money for the murder was collected in a public place, available for other people, including guests of the hotel, is completely unreasonable. It must be underlined that on many occasions she claimed that F.R. was "a paranoiac person", who was afraid of everything, of being intercepted. Therefore, it was not possible to believe that he would conduct such operation in this way, instead of keeping it secret and hidden; especially that he could have done it in his own office or private apartment which was at his disposal.

⁶⁴⁰ 09.11.2016, p. 33

⁶⁴¹ 09.11.2016, p. 34

⁶⁴² 18.03.2015, p. 18, 26 -29, 13.05.2015, p. 31

3.18. Taking money for the assassins

According to the indictment:

Having volunteered to identify and hire the assassins in Serbia, N.K. personally travelled to Serbia in order to hand over the money to a middle-man who was to forward it to the assassins once the job had been completed. Returning from Serbia, S.T. was personally present when N.K. informed the other members of the organized criminal group that he had handed over the money to a person nicknamed M.J.K. in order for two well-known Serbian hit men, M.M. and S.R. to be hired to murder R.D.

518. The only witness to support the claim of the Prosecutor was **S.T.**⁶⁴³ Interestingly, **Z.T.** testified did not know how the money was given to assassins but according to him, M.L. should know it. He only knew that money was given to N.K. He did not want to speculate about the others, he knows about these two because they were trying to kill R.D. using Kurds.⁶⁴⁴
519. There is no convincing evidence that the payment for the murder of R.D. was performed as described by S.T. and people mentioned by her. None of the witnesses who testified about this had a direct knowledge; they only referred to some rumours or their own beliefs.

3.19. Before the murder – S.R.

520. According to **K5 and K4**, S.R. was wounded in an ambush in Sabac around 09 - 10 April 2007, and stayed in a hospital for 15 – 17 days where he went through

⁶⁴³ 18.03.2015, p. 26; 14.05.2015, p. 41

⁶⁴⁴ 17.06.2015, p. 16

the surgery.⁶⁴⁵ Then he returned home, he was exhausted, receiving infusions. He had some injuries of the belly. He spent about month at home.⁶⁴⁶

521. During cross-examination, **K4** testified that after S.R. left the hospital and before the murder, he travelled to Bosnia 3-4 times. She knew that the murder of R.D. was committed in June.⁶⁴⁷

522. **K4** testified that despite the injuries S.R. was in full health when he went to Sarajevo to commit a murder of R.D.⁶⁴⁸ He travelled there alone, and then in Bosnia M.Os. provided him with everything. There was already N.V. who lived there.⁶⁴⁹ A.Ku. arranged a flat for him, as usual.⁶⁵⁰

523. **K5** described that S.R. and N.V. transported the weapon with a boat across Drina. M.M. used a car, because he did not have a criminal record and he could cross the border legally. N.V. did many jobs before with S.V.; he was his person of confidence.⁶⁵¹ M.M. was waiting for them with a car on the other side of the.⁶⁵² M.M. was in Sarajevo as a partner of S.R., he was responsible for logistics.⁶⁵³

524. **M.M.** confirmed that he knew S.R. but he denied any involvement in the murder of R.D. In June 2007 he was in Serbia. In that period he was involved in the trial

⁶⁴⁵ 29.07.2015, p. 40

⁶⁴⁶ 27.07.2015, p. 13-19

⁶⁴⁷ 27.07.2015, p. 25

⁶⁴⁸ 28.07.2015, p. 15

⁶⁴⁹ 29.06.2015, p. 23

⁶⁵⁰ 29.06.2015, p. 7

⁶⁵¹ 29.07.2015, p. 17

⁶⁵² 29.07.2015, p. 20

⁶⁵³ 29.07.2015, p. 3

before the special court in Serbia.⁶⁵⁴ He testified that he never travelled with S.R. to Sarajevo because he did not have his personal documents.⁶⁵⁵

Conclusion

525. The Court found proven that S.R. in April 2007 was severely wounded in an ambush and because of it he stayed in hospital. This fact results not only from the statement of K4 and K5 but is also supported by the documentary evidence from the hospital in Sabac where S.R. stayed several days. The Court assessed also as reliable the testimony of K4 who described a poor state of S.R. after this injury.
526. It was also proven that M.M. and S.R. knew each other and it happened that they performed some criminal activities together.
527. There is no evidence to corroborate the version of K5 how S.R. travelled to Sarajevo in May/ June 2007. It is not supported by other evidence; M.M. denied his involvement in this case. Additionally, K4 and K5 presented contradicting versions as to who was involved in organizing of this trip, what additionally undermines their credibility.
528. There are also doubts whether S.R. went to Sarajevo at all, what will be presented below.

⁶⁵⁴ 18.05.2016, p. 30

⁶⁵⁵ 18.05.2016, p. 32; 19.05.2016, p. 19, 23

3.20. Assassins in Sarajevo

According to the indictment

In addition to S.R. and M.M., a third person was hired for this assassination. This person was N.V., aka 'C.', closely connected to the S.R.'s family. (...)

The persons hired by N.K. and other members of the organized criminal group arrived in Sarajevo shortly before the murder. N.K. had arranged accommodations for them through middle-man B.H., renting a flat in Aziz Secirbegovic Street for the hit team.

529. The Prosecutor did not present convincing evidence to establish whether at all S.R. came to Sarajevo to commit the murder of R.D. The witnesses mentioned above, besides S.T. and Z.T., presented different versions of events, getting into contradictions not only with each other, but also internally. The good example is K5 who testified once that S.R. was welcomed in Sarajevo by N.K., and on the other occasion he mentioned only M.A.G., who according to S.T. was not involved at all. He was also presenting different time frame as to his arrival. Once, K5 was saying that it was several days before, while on the other occasion he said that it was just a day before the murder.

530. On the other hand, S.T. was also not consequent in her version especially as to the moment where she found the names of the assassins. If she had been present when these names were discussed, she would not have been afraid or worried for her safety because of alleged arrival of M.M. and S.R. to Sarajevo. Once again, she underlined her credibility.

531. The Court found that the testimony of K1 as to his knowledge about the murder of R.D. was fabricated by him to strengthen its evidentiary value and his own relevance. This part of his statement referring to his acquaintance with S.R. is another argument to support such critical assessment. He described him as a man of 35-36 years in 2007, while S.R. was only 22 years old. Such a discrepancy in the assessment of an age of a person cannot be reasonably justified particularly that later K1 said that in 2002-2003 when he saw S.R. for the first time he was very young. This perception of S.R. is also by the statements of K4 and K5 who described their son as an assassin with a baby face.

Summary of the relevant evidence

532. **S.T.** testified that she saw M.M. and S.R. twice before the murder. First, she saw M.M. 25-20 days before the murder when she was on a walk with her husband, near the house of R.D. He was on a scooter, cleaning his helmet. When they came home she searched for his picture in internet, and then she was sure that it was him.⁶⁵⁶

533. **Z.T.** confirmed that they saw M.M. in such circumstances. He did not know him personally but he recognized him immediately, he was riding a blue motorbike owned by Da.E., and he was a member of his group. He knew his face from newspapers. He recognized this motorbike and that is why he recognized him, he also saw M.M.'s pictures.⁶⁵⁷ Only in cross-examination Z.T. admitted that he knew him personally.⁶⁵⁸

⁶⁵⁶ 19.03.2015, p. 9

⁶⁵⁷ 17.06.2015, p. 10 - 11

⁶⁵⁸ 22.06.2015, p. 20

534. **S.T.** testified that she saw S.R. in Radon Plaza in front of the elevator. It was within a month prior to the murder of R.D.⁶⁵⁹ For the second time, she saw M.M. and S.R. in the restaurant Magarac, opposite the building where they were accommodated.⁶⁶⁰ **Z.T.** claimed that he was with her.⁶⁶¹
535. In the moment when she saw them, **S.T.** was not aware that they were hired to kill R.D. She told F.R. that she had seen M.M. because she was concerned that he came after her because she wrote articles related to him. F.R. that this man was not here because of her, and he added these were the guys who had come because of R.D.⁶⁶² She did not tell him that she saw also S.R. When she saw him it was already clear that they were going to be assassins.⁶⁶³
536. In the course of cross-examination, she testified that she was present when it was decided that S.R. and M.M. were to be hired to kill R.D.⁶⁶⁴ She was not able to answer the question how long before the murder she knew the names of the assassins.⁶⁶⁵
537. **Z.T.** testified that he learnt the names of murderers only after the death of R.D. He got this information from Sabac, U.A. who told that people from Sabac committed this murder. According to him it was S.R. and Da.E.⁶⁶⁶ During cross-examination he admitted that Da.E. was testifying against him in his trial.⁶⁶⁷ He

⁶⁵⁹ 19.03.2015, p. 9 - 10

⁶⁶⁰ 19.03.2015, p. 10

⁶⁶¹ 17.06.2015, p. 10; 23.06.2015, p. 56

⁶⁶² 19.03.2015, p. 11, 13.05.2015, p. 36 - 37

⁶⁶³ 19.03.2015, p. 11

⁶⁶⁴ 19.03.2015, p. 10

⁶⁶⁵ 13.05.2015, p.39

⁶⁶⁶ 17.06.2016, p. 9

⁶⁶⁷ 22.06.2015, p. 21

admitted in his cross-examination that there were allegations in media that it was his man, M.L., who killed R.D. According to him, it was all fabricated by F.R.⁶⁶⁸

538. **K5** denied that S.R. was ever in Avaz or another building of any newspaper, even in Serbia.⁶⁶⁹ According to him, in cross-examination, he came to Sarajevo to kill R.D. only 2 days before the murder.⁶⁷⁰ During these days, they changed three apartments.⁶⁷¹ Later, K5 did not exclude that S.R. came to Sarajevo even on the day of the murder.⁶⁷² He did not know who was waiting for them in Sarajevo but it was not a taxi driver. He did not meet anybody else there.⁶⁷³
539. K5 was confronted with his earlier testimony given in Belgrade, where he also said that M.A.G. was waiting for them. He confirmed that it was in this way; however he thought that the defence asked him about L.B.C. and M.Os.⁶⁷⁴ Probably others, who paid for the murder, were waiting for him.⁶⁷⁵ He was sure that M.A.G. was waiting.⁶⁷⁶
540. K5 was also confronted with his statement given on 24 September 2014, when heard by EULEX prosecutor, K5 said that S.R. was welcomed by N.K. after he arrived to Sarajevo to kill R.D. K5 said that he did not remember saying this.⁶⁷⁷ He remembered that he said that he had a picture of N.K. and S.R. taken on the

⁶⁶⁸ 22.06.2015, p. 29

⁶⁶⁹ 30.06.2015, p. 35

⁶⁷⁰ 30.09.2015, p. 29 - 30

⁶⁷¹ 30.09.2015, p. 31

⁶⁷² 30.09.2015, p. 32

⁶⁷³ 30.09.2015, p. 33

⁶⁷⁴ 30.09.2015, p. 33

⁶⁷⁵ 30.09.2015, p. 34

⁶⁷⁶ 30.09.2015, p. 34

⁶⁷⁷ 30.09.2015, p. 35

same day when S.R. came to Sarajevo. He claimed that he had many pictures of N.K. and S.R.⁶⁷⁸

541. Also **K1** testified that he saw S.R. twice in Sarajevo. However he connected it with a period when Z.T. was trying to kill R.D. which was at the end of 2006-beginning 2007 when S.R. was living the apartment of A.Ku. When asked about the description of S.R., K1 said that he was tall, handsome and about 35-36 years old.⁶⁷⁹ During his examination on the next day, K1 claimed that he knew S.R. from Serbia since 2002-2003 and in this period he was very young.⁶⁸⁰

542. **M.M.** testified that he never travelled with S.R. to Sarajevo because he did not have his personal documents.⁶⁸¹

543. When M.M. was testifying in this trial he was in prison, deprived of liberty since 14 October 2009, found guilty of the burglary. He testified that he did not know N.K. He did not know R.D., only heard about him.⁶⁸² He did not know Z.T.⁶⁸³ M.M. did not know A.V., only heard about him. He did not know S.Ro., E.S. He knew Da.E., but never discussed the murder of R.D. with him.⁶⁸⁴

3.21. Warning of R.D.

544. The analysis of the testimonies given by the witnesses leads to a conclusion that S.T. warned R.D. that so called “Albanian mafia” was preparing his murder. Such finding is supported by her testimony corroborated by statements of other witnesses in this case. The most relevant witness in this part was Al.H. who

⁶⁷⁸ 30.09.2015, p. 35

⁶⁷⁹ 09.11.2016, p. 45-46

⁶⁸⁰ 10.11.2016, p. 45-46

⁶⁸¹ 18.05.2016, p. 32

⁶⁸² 18.05.2016, p. 29

⁶⁸³ 18.05.2016, p. 34

⁶⁸⁴ 18.05.2016, p. 40

testified about the warnings from S.T. already shortly after the death of R.D. These testimonies also show that S.T. did not give names of people who were planning the death of R.D.

545. The collected evidence confirmed that R.D. received warnings from different sources.

Summary of the evidence

546. **S.T.** testified that she warned R.D. twice. She was afraid to tell him that who was preparing to kill him, because it was possible that R.D. would report it to the police what would expose her for danger. If N.K. and others would find out that she told this, they would “kill her as a rabbit”.⁶⁸⁵

547. She claimed that she warned R.D. in agreement with her husband after the money was given. She described in details the circumstances in which she informed R.D. about the planned murder.⁶⁸⁶ She did it twice, second time already after the assassins were in Sarajevo when she met R.D. at the “Markale shop”. Once again she advised him to calm down because he was constantly telling to the press things against F.R. and N.K., and they would come to him.⁶⁸⁷

548. During cross-examination S.T. testified that it was R.D. who told her that F.R. and N.K. were planning to kill him. He got information from Belgrade. In this way, she contradicted herself.⁶⁸⁸

549. **Z.T.** testified that in his opinion S.T. warned R.D.⁶⁸⁹ Later, during cross examination, he had no doubts that they both warned him but he did not know

⁶⁸⁵ 18.03.2015, p. 30

⁶⁸⁶ 18.03.2015, p. 30

⁶⁸⁷ 18.03.2015, p. 21, 31, 19.03.2015, p. 11

⁶⁸⁸ 16.05.2015, p. 19

who did it first.⁶⁹⁰ He also claimed that he warned R.D. after he was told by L. brothers to search for assassins.⁶⁹¹ During cross-examination, he clarified that he warned R.D. after he saw M.M. in the city.⁶⁹² Only then he added that he told R.D. that N.K. and F.R. were behind the plan to kill him. He did not tell him names of murderers because he did not know them. S.T. did not tell him these names, because neither she knew them.⁶⁹³ He warned him because he was in good relations with him and he did not want to enter into conflict with any of them.⁶⁹⁴

550. **E.D.** testified that S.T. was a long-time friend of her husband. According to her, S.T. did not inform her husband that the murder was being planned. If she had done it, her husband would have told her because it was not only his safety but also of the whole family. If she had informed them, A.P. would not have been wounded and R.D. - killed.⁶⁹⁵

551. **A.P.** testified that they received information from S.T. that F.R. and N.K. were going to kill R.D. She came on approximately 20 occasions and told it to R.D.; A.P. was present on 10 occasions. It was before and after the murder of S.L.⁶⁹⁶ Later he clarified that he saw S.T. 20-30 times, and she warned R.D. 2-3 times.⁶⁹⁷ He never heard it in person, he was only told by R.D. but he never said that he heard it from S.T. It was obvious for A.P. that it was her. Once he said

⁶⁸⁹ 16.06.2015, p. 37

⁶⁹⁰ 19.06.2015, p. 36; 23.06.2015, p. 5

⁶⁹¹ 16.06.2016, p. 33 - 34

⁶⁹² 19.06.2015, p. 28; 22.06.2015, p. 13

⁶⁹³ 22.06.2015, p. 5

⁶⁹⁴ 23.06.2015, p. 10

⁶⁹⁵ 11.12.2015, p. 48

⁶⁹⁶ 27.11.2015, p. 11-12;

⁶⁹⁷ 27.11.2015, p. 11

that F.R. was preparing something against him; the second time – “they have paid for my murder”.⁶⁹⁸

552. **Al.H.** testified that after the murder of S.L., R.D. was warned by S.T. This conversation took place near a kiosk in Grbavica neighbourhood. Al.H. did not hear this conversation but R.D. said that she had some information that someone wanted to kill him. He did not believe her saying that.⁶⁹⁹ R.D. did not indicate who was planning to kill him.⁷⁰⁰ Two days later near Sarajevo supermarket, in the summer lounge of the café shop, S.T. was sitting together with her mother. She stopped R.D. again, and she literally said to him that she was in the hotel ‘Casa Grande’ and that she heard that an agreement was made about his murder. R.D. did not take this seriously even then because she was a journalist and because she was a female, and he considered that she could not have known that. Then R.D. told Al.H. that Albanian mafia planned to kill him. He did not tell who belonged to Albanian mafia.⁷⁰¹ S.T. did not indicate any names of persons involved in preparing the murder of R.D.⁷⁰²

553. Al.H. also testified that three or four days before his death, R.D. was called by his friend D.Z. who clearly told him that the people came to kill both of them. D.Z. said that he would go into hiding, and he also asked R.D. to do the same.⁷⁰³

554. Al.H. was confronted with his previous testimony where he did not mention warning by D.Z. He explained that he did it because of his personal safety. It was

⁶⁹⁸ 08.12.2015, p.29

⁶⁹⁹ 27.01.2016, p. 12, 13

⁷⁰⁰ 27.01.2016, p. 13

⁷⁰¹ 27.01.2016, p. 12, 13

⁷⁰² 29.01.2016, p. 8

⁷⁰³ 27.01.2016, p. 12

dangerous to speak about some people, including D.Z. He told the police about all these warnings.⁷⁰⁴

555. When he was examined shortly after the death of R.D., he told the police about the warnings of S.T. Police was then more interested in M.A.G. He did not read his statement, he just signed it. He mentioned the conflict between R.D. and N.K. He also mentioned that R.D. had a conflict with N.Sp. R.D. thought that he could have thrown a bomb on his house. He also mentioned that R.D. was not in good terms with Z.T.⁷⁰⁵

556. He admitted that he did not mention warnings received from S.T. in the G. trial because they were instructed by Prosecutor Oleg Cavka that they should stick only to M.A.G. Before entering the courtroom he was given his previous statement and told to stick to them.⁷⁰⁶

557. He claimed that the fact that S.T. warned R.D. became relevant only during the trial against N.K. Before, he did not find this information important because he did not have appreciation for this person and he thought that she did not tell the truth. R.D. did not trust her. He only trusted D.Z.'s warning. AL.H. told about this to the police.⁷⁰⁷

558. If he had not been instructed by Prosecutor Cavka, it would not mean that he would testify about S.T. and D.Z.⁷⁰⁸ AL.H. did not tell that S.T. warned R.D. because "the trial here was being held against M.A.G., and all the facts related to him that were known to us we presented them. S.T. did not say "listen, I was

⁷⁰⁴ 22.02.2016, p. 15 - 16

⁷⁰⁵ 29.01.2016, p. 15 – 16

⁷⁰⁶ 22.02.2016, p. 3-4

⁷⁰⁷ 22.02.2016, p. 5

⁷⁰⁸ 22.02.2016, p. 6

with M.A.G. and he said that he will kill you”, but S.T. said that she was in the hotel Casa Grande and Albanians are preparing to kill you.”⁷⁰⁹

559. Additionally, he did not mention S.T. in the G. trial because it was against M.A.G. He did not want to have problems with Z.T. and therefore he did not mention S.T. Besides he thought that her warning was false information because when S.T. informed R.D. that she was in Casa Grande Hotel, that she was giving false information to R.D. and that she deliberately wanted to put him in trouble in order for him to react against N.K. She wanted to provoke R.D. against N.K.⁷¹⁰ Al.H. believes, even now, that S.T. falsely warned R.D. to provoke him. He did not know why but he underlined that she was a journalist and Z.T.’s wife.⁷¹¹ She wanted to provoke R.D. because he was feisty, reacted quickly, and before she warned him A.P. was wounded.⁷¹²
560. **M.U.** testified that after the death of S.L., R.D. started to receive threats from numerous sides. He also learnt that somebody paid 250.000 euro for his death.⁷¹³

3.22. R.D. just before the murder

561. The collected evidence supports the Court’s finding that shortly before the death R.D. received threats and information that his murder was being prepared. However, in the light of the testimony of Al.H., the Court established that R.D. informed neither this witness nor A.P. who was standing behind these threats and preparations. If he had told them about these persons, A.P. and Al.H. would give

⁷⁰⁹ 22.02.2016, p. 7

⁷¹⁰ 22.02.2016, p. 17

⁷¹¹ 22.02.2016, p. 18

⁷¹² 22.02.2016, p. 18

⁷¹³ 04.04.2016, p. 12-13

their names already during their first testimonies given shortly after the death of R.D. What is also characteristic, Al.H. named some persons who were dangerous for R.D., but he did not mention in this context N.K.

562. The analysis of the testimony of A.P. leads to conclusion that he did not have direct knowledge who was standing behind the death of R.D. On many occasions, he shared with the Court only his speculations and rumours which he heard in the whole Sarajevo. In the trial against M.A.G., he was blaming him for the death of R.D., and he changed his mind only later when he learnt about the case against N.K., also from testimonies of other witnesses in this case and from the trial against Z.T. He claimed that he conducted his own investigation. He admitted that his knowledge was based on this what he heard from other people, read in the media and also from statements of S.T. given in this trial. He confirmed that they were good friends with her and they talked about R.D. and his death.

563. **S.T.** denied knowing A.P. and having contacts with him. The Court assessed that in this way she attempted to hide that she stayed in touch with witnesses in this case.

Summary of the relevant evidence

564. **A.P.** testified that R.D. knew that they wanted to kill him and that they were following him. According to him, R.D. was referring to N.K.⁷¹⁴ He was wearing bullet proof vest, but he was using it already before. He had weapon.⁷¹⁵

⁷¹⁴ 28.10.2015, p. 14

⁷¹⁵ 28.10.2015, p. 16

565. During cross-examination, A.P. said that before his testimony in the trial against M.A.G., he was told by the prosecutor Cavka not to mention N.K. at all because the indictment was not against him. This instruction was given verbally, outside the court. Despite of it, in that trial he mentioned N.K. on several occasions, also as a person who helped M.A.G. to find Kurds.⁷¹⁶ When asked about this discrepancy, he claimed that he testified all the time in the same way.⁷¹⁷
566. When A.P. was asked in the present trial who killed R.D. he did not mention M.A.G. at all, despite the fact that in his trial A.P. was sure that that it was him. When asked about it, he said that maybe M.A.G. participated with money, when money for this murder was paid.⁷¹⁸
567. He did not mention F.R. and Ek.L. in G. trial. A.P. explained that the prosecutor was leading him with questions. He was in his own world; therefore he did not mention F.R. and Ek.L. despite the fact that nobody told him to omit them.⁷¹⁹ In the trial against N.K., he felt that it was his duty to tell the truth.⁷²⁰ A.P. was not able to explain what happened after the trial of M.A.G. that convinced him to testify against F.R., N.K. and Ek.L.⁷²¹
568. He claimed that he found after the murder that it was F.R., N.K. and Ek.L. who ordered to murder R.D.⁷²² He was confronted with his previous statement when he said that it was N.K. and Albanian mafia but he did not mention F.R. and Ek.L. as involved in this murder. He said that that it was his intention to mention

⁷¹⁶ 28.10.2015, p. 30

⁷¹⁷ 28.10.2015, p. 28 - 29

⁷¹⁸ 27.11.2015, p. 6

⁷¹⁹ 27.11.2015, p. 6-7, 27

⁷²⁰ 27.11.2015, p. 27

⁷²¹ 27.11.2015, p. 9

⁷²² 27.11.2015, p. 9

them in his further testimony.⁷²³ Later, he gave another explanation why he changed his testimony, and he said that he wanted to testify the truth already in G. trial but he was unable to testify against F.R. as a powerful person.⁷²⁴

569. He testified that when he was visiting E.D., they were talking about the murder of R.D. As far as he remembered they talked about the people involved. He told that the state could have been involved in this ⁷²⁵ and that he believed that F.R. is a state and N.K. was his soldier.⁷²⁶

570. **E.D.** denied that A.P. ever told her that N.K. was standing behind the murder of R.D. He told her that it was M.A.G. and L.By.⁷²⁷

571. A.P. claimed that he was always sure that it was N.K. and F.R. behind the death of R.D., and later he found that also Ek.L. was involved. He was conducting his own investigation up till this trial. He made connections, about involvement of Ek.L. he learnt from the media and from statements of S.T. which were available on YouTube. He learnt it from many people that he knew personally, including S.T. He was following many things, including the trial of Z.T., he learnt a lot from this. As far as he remembered he read S.T.'s statements that N.O. was involved.⁷²⁸ Later he claimed that he just went through then briefly.⁷²⁹

572. After the situation in Turkey when A.P. saw S.T., they became good friends and they saw each other on many occasions. This relation is still active, she phones him from time to time. He claimed that they never spoke about her testimony.⁷³⁰

⁷²³ 27.11.2015, p. 24

⁷²⁴ 27.11.2015, p. 33

⁷²⁵ 08.12.2015, p. 3 - 5

⁷²⁶ 08.12.2015, p. 5

⁷²⁷ 11.12.2015, p. 46

⁷²⁸ 08.12.2015, p. 9 - 11

⁷²⁹ 08.12.2015, p. 11

⁷³⁰ 27.11.2015, p. 12

He was not meeting with her regularly. In a period 2009-2012 he was in prison. Sometimes he supported her financially.⁷³¹

573. A.P. was sure that N.K. was provoking R.D., however he never saw them together.⁷³² He was not aware if R.D. had any conflicts with somebody in Serbia. He only had conflict with N.K. He did not have a conflict with Z.T.⁷³³

574. In a course of further examination, A.P. admitted that he knew about slight confrontations between Z.T. and R.D. In 2006, A.P. and R.D. came to the house of Z.T. and they assaulted his friend D.S.⁷³⁴ This incident took place about 6-7 months before the murder of R.D.⁷³⁵ Since the situation when D.S. was beaten R.D. did not speak with Z.T. A.P. still talked with him.⁷³⁶

575. M.U. said that three days before the murder he met with R.D. who told him that he had information that during these days L. boys would attack him and their threats were not innocent ones. R.D. mentioned Ek.L., Se.L., Me.L. and Ed.L.⁷³⁷

576. On the day of the murder, M.U. met R.D. in a café Kiborg. He told that he was facing big problems, that his life was threatened. He advised M.U. to be careful. He also said that threats were coming from different sides. He received this information from one imam. M.U. insisted to get the names of people who threatened R.D.⁷³⁸ He gave the following names: F.R., N.O., Albanian Mafia, Ek.L. and S.S. In relation to Ek.L., R.D. said that for sure Es.L. and Se.L. were

⁷³¹ 27.11.2015, p. 12-13

⁷³² 08.12.2015, p. 23

⁷³³ 08.12.2015, p. 24 - 25

⁷³⁴ 10.11.2015, p. 42 -43

⁷³⁵ 27.11.2015, p. 3

⁷³⁶ 27.11.2015, p. 3

⁷³⁷ 04.04.2016, p. 15 - 16

⁷³⁸ 04.04.2016, p. 13

with him. When he testified shortly after the death of R.D. he did not give any specific names from so called Albanian mafia.⁷³⁹

577. In the G. trial M.U. did not mention all these names. When asked about this, he said that he noticed that then everything was directed towards M.A.G. and when he wanted to say something else, they told that it was not necessary.⁷⁴⁰

578. He was confronted with his first statement given on 29 June 2007, in which he did not mention F.R. He said that he was under pressure, and he was told that it was the trial only against M.A.G.⁷⁴¹

579. During cross-examination M.U. was confronted with his statement from 30 June 2007 when he said: *“regarding R.D., the last five six days he was very nervous and careful, he told me that I should be careful when I go home, not to go by myself, to be careful of bombs in my vehicle and ambushes, he was extremely careful and he received threatening calls as well. However, he never said who threatened him, but this usually was his style.”* He admitted that it was his statement, but he declined to answer the question if he stood behind this statement, especially that it was R.D.’s style not to speak. He said that it depended on the moment. He did not want to answer the question because according to him the Defence was provoking him.⁷⁴²

580. Later, he said that it was not true that R.D. did not tell him who threatened him.⁷⁴³ When asked if he told the truth in his previous statements, he said that it was the truth, then and now.⁷⁴⁴

⁷³⁹ 04.04.2016, p. 13-14, 17 - 18

⁷⁴⁰ 15.04.2016, p. 12; 14

⁷⁴¹ 15.04.2016, p. 14

⁷⁴² 18.07.2016, p. 46

⁷⁴³ 18.07.2016, p. 46

581. Then he was reminded that in the G. trial he already said names of some people who allegedly threatened R.D. Already then, he was asked why he did not tell it to the prosecutor, and he answered: *“Because at that time, my brain was not complete, I couldn’t remember everything, I was in a sort of confusion, because my life was in a problem, you know, when an armoured vehicle comes to you in Strass Meier Street and stops and they beam at your store window and then reverses, goes forwards, and then reverses, goes forward, and then they open the window for two cm, knowing that it is an armoured one”*. He confirmed this statement.⁷⁴⁵
582. According to **Al.H.**, R.D. was receiving information that his murder was being prepared.⁷⁴⁶ He often changed apartments.⁷⁴⁷ R.D. was concerned about his safety, therefore in the last year he was not staying at home.⁷⁴⁸ He started to express concerns about his safety November/December 2006. He did not explain the reasons.⁷⁴⁹
583. Later Al.H. testified that changes in behaviour of R.D. started about a month before his murder. He was under pressure because of the trial for the murder of the Serbian guest, S.L.’s murder; he expected to get at least 10 years. He was tense, nervous. He was sure he would not stand 10 years in prison.⁷⁵⁰ R.D. was always armed, for his personal safety. During the day he was using Italian Beretta. At night, he had 38 Smith & Wesson special.⁷⁵¹ He was preparing his

⁷⁴⁴ 18.07.2016, p. 47

⁷⁴⁵ 18.07.2016, p. 48

⁷⁴⁶ 27.01.2016, p. 12

⁷⁴⁷ 27.01.2016, p. 12

⁷⁴⁸ 27.01.2016, p. 16

⁷⁴⁹ 27.01.2016, p. 17

⁷⁵⁰ 27.01.2016, p. 27

⁷⁵¹ 27.01.2016, p. 22, 25-26; 29.01.2016, p. 11 - 12

escape, because he was afraid of the outcome of the trial in relation to the murder of a Serbian guest, and of information that his murder was being prepared. He prepared money to take with him. On the day of his death Al.H. exchanged 100.000 KM into euro. A.S. knew about this plan because she was supposed to go with him.⁷⁵² He did not mention the planned escape of R.D. in the G. trial. He thinks he did not mention S.L. at all.⁷⁵³

584. **A.S.** confirmed that shortly before the murder R.D. started wearing a bullet proof vest. It was like 4-5 days before the murder. He said that he was threatened by someone. He received threats through sms. He did not indicate from whom.⁷⁵⁴ He was nervous during last days, they did not see too often then.⁷⁵⁵

585. **E.D.** testified that they were very concerned about their safety. She was concerned because of M.A.G. and some people around him. She could not tell their names, because they were Albanian.⁷⁵⁶ R.D. was afraid of M.A.G. He had a weapon every day with him. He also used a bullet proof vest.⁷⁵⁷ He told her that he was called by D.Z. or D.E. who warned him because the murder was being prepared. He told it about two months before the murder.⁷⁵⁸

586. **M.U.**, as a friend of R.D., was interested in finding out who was responsible for his death. However, his testimony did not contribute to it because he did not have direct knowledge about who planned the murder. He did not know N.K., he only knew that there was a kind of conflict between him and R.D. but he did not

⁷⁵² 27.01.2016, p. 22 - 23

⁷⁵³ 22.02.2016, p. 9

⁷⁵⁴ 18.01.2016, p. 31

⁷⁵⁵ 13.01.2016, p. 17 - 18

⁷⁵⁶ 11.12.2015; p. 14-16, p. 16 - 17

⁷⁵⁷ 11.12.2015; p. 17

⁷⁵⁸ 11.12.2015, p. 25, 50

know any details. Furthermore, he confirmed that there was a truce between N.K. and R.D. What is also relevant, he already testified in the trial against M.A.G. where he did not say that N.K. was involved in this murder.

587. According to him, M.A.G. and R.D. were avoiding each other in Sarajevo, because there had always been some quarrels, tensions and conflicts. M.A.G. was lending money and rising interest; people complained to R.D.⁷⁵⁹ He only heard about a conflict between N.K. and R.D.⁷⁶⁰ He connected it with another Albanian, "Bj." but he did not know any details.⁷⁶¹ Few years later R.D. and N.K. sat together and discussed.⁷⁶²
588. He heard that R.D. was using a term "Albanian mafia" and "Albanian clan". It could have happened 8-9 years ago. He used it in reference to M.A.G., N.K. and others. M.U. did not know other names.⁷⁶³
589. His memory was refreshed with his previous statements from 04 July 2007, when he said that "For past several years R.D. was in open conflict with so called Albanian clan in Sarajevo" which included N.K., M.A.G., L.K., B.Ke. and E.Ke. M.U. said that he might have said in this way, but he did not remember it exactly. He underlined that long time passed, besides he was a diabetic.⁷⁶⁴
590. He did not know why F.R. was so against R.D. and him. According to M.U., R.D. never mentioned F.R., and he had no indication that R.D. did not like him. It was F.R. who did not like R.D.⁷⁶⁵

⁷⁵⁹ 18.03.2016, p. 9

⁷⁶⁰ 18.03.2016, p. 11

⁷⁶¹ 18.03.2016, p. 11

⁷⁶² 18.03.2016, p. 16

⁷⁶³ 18.03.2016, p. 13

⁷⁶⁴ 18.03.2016, p. 13

⁷⁶⁵ 15.04.2016, p. 13

591. During cross-examination, M.U. was confronted with his testimonies given just after the death of R.D. Then he was sure that M.A.G. was responsible for this. When he was giving statements in prosecution, in MUP and whenever he wanted to further elaborate his story, to tell what he had heard, seen and know, they told him that this case was only related to M.A.G., and others would be covered in other cases and that he should focus on this topic.⁷⁶⁶
592. M.U. claimed that he did not say the whole story, because then the situation was tense and everything was pointed towards M.A.G. He was also threatened then by Ek.L. family.⁷⁶⁷ He avoided answering the question if he hid any information related to the death of R.D. He could not remember everything then because his family received a lot of threats.⁷⁶⁸
593. Further, M.U. testified that one of the key persons who paid for the murder of R.D. was M.A.G. R.D. also told him that it was F.R., but he did not say it in the G. trial because “he was not a fool”.⁷⁶⁹ He was confronted with his statement from the G. trial where he said that R.D. told him that M.A.G. paid 250.000 Euro and he had reliable information about it.⁷⁷⁰ When this part was read, the witness left the court room and he did not want to return to finish his testimony. The panel decided not to summon him again.⁷⁷¹
594. M.U. underlined constantly that the police and the prosecution did not allow them to elaborate wider on all events which led to the death of R.D.⁷⁷² He

⁷⁶⁶ 15.04.2016, p. 17-18

⁷⁶⁷ 18.07.2016, p. 42

⁷⁶⁸ 18.07.2016, p. 43

⁷⁶⁹ 18.07.2016, p. 49

⁷⁷⁰ 18.07.2016, p. 50

⁷⁷¹ 18.07.2016, p. 50-51

⁷⁷² 18.07.2016, p. 444

claimed that he was allowed to speak wider when the proceedings against F.R. were initiated because he was no longer so powerful and people started talking. He avoided answering which people. Only 9 years after the death of R.D. he was able to tell the whole truth.⁷⁷³

595. It must be added that on 18 March 2016 M.U. interrupted his examination due to his medical conditions. He said that he was not able to answer questions because he was a diabetic and his blood pressure significantly increased. It happened after his memory was refreshed with previous statements referring to reconciliation between N.K. and R.D.⁷⁷⁴

596. On 04 April 2016, the same situation occurred. Examination was interrupted because of medical conditions of the witness. He stopped the examination in the moment when he described his last meeting with R.D., shortly before his death.⁷⁷⁵

597. On 15 April 2015, M.U. just left the court room at the very beginning of cross examination when the defence asked him why he did not mention anybody just M.A.G. as the one who was responsible for the death of R.D.⁷⁷⁶

3.23. *The murder*

598. As it was mentioned in the initial part of this judgment, the fact of the violent death of R.D. was not contested by the parties. It is additionally supported by the evidence collected on the crime scene which was assessed and analysed by the Bosnian authorities.

⁷⁷³ 18.07.2016, p. 44

⁷⁷⁴ 18.03.2016, p. 16-17,

⁷⁷⁵ 04.04.2016, p. 19

⁷⁷⁶ 15.04.2016, p. 19

599. The only witnesses who testified in details about the murders of R.D. were K4 and K5. The crucial question connected with their testimonies is whether they really knew directly about them from S.R. or they learnt from other sources. The answer to these questions would help to determine whether it was S.R. who killed R.D. The Court finds reasonable to present depositions of these witnesses in more detailed and descriptive way.
600. Initially **K5** testified that the murder occurred at night,⁷⁷⁷ around 21.00 or 21.30.⁷⁷⁸ During cross-examination he changed his version and said that the murder took place around midnight. He did not see any problem with this discrepancy. **It needs to be underlined that K5 said that if he wanted, he could have easily remembered the time because when he was in Sarajevo he got there all the information about the time, venue of the murder. He got it from personnel of SIPA.**⁷⁷⁹
601. K5 described that to kill R.D., Heckler and Koch and Magnum 38 special were used. Heckler was from K5's house and it belonged to M.Os.; Magnum belonged to K5.⁷⁸⁰ K5 testified that S.R. used his own gun to kill R.D. He took it from home. He used Heckler and Koch 5, pistol 38 Special Magnum. The pistol was used to administer the coup the grace. Heckler was brought at their place by M.Os. Afterwards, it was left in Bosnia in Sokolac, while the pistol was brought back home.⁷⁸¹

⁷⁷⁷ 27.07.2015, p. 20

⁷⁷⁸ 29.07.2015, p. 23

⁷⁷⁹ 29.09.2015, p. 30 - 31

⁷⁸⁰ 29.07.2015, p. 12

⁷⁸¹ 30.07.2015, p. 23-24

602. Silencer was not used because S.R. was discarding the silencer because if it would use the silencer he would use it for short barrelled weapons, while in this case he was using Heckler and Koch 5 which did not need the silencer.⁷⁸² S.R. never used silencers. He did it only once when he attempted to kill D.Z.⁷⁸³
603. According to K5, S.R. left the silencer on the crime scene to mislead investigation.⁷⁸⁴ K5 did not tell the authorities about this because he did not see a reason to do it.⁷⁸⁵ He did not know that DNA samples were extracted from the silencer.⁷⁸⁶
604. During cross-examination, K5 was confronted with his statement from 29 August 2012, when he said that S.R. threw nearby Heckler & Koch, but not the silencer, and he believed that it was found. He did not sustain this, saying that perhaps he was fooling around with Prosecutor Dubravko Campara.⁷⁸⁷
605. Immediately at the beginning of his testimony, K5 said that if looked into DNA found on the crime scene, it was not of his son but it did not mean anything.⁷⁸⁸ Later he said that if it was not of S.R. then it was his, because M.Os. filled an automatic gun called Igram, while he filled Heckler and Koch.⁷⁸⁹ Fingerprints on the bullets could belong only to him.⁷⁹⁰
606. In the course of cross-examination, K5 testified that he filled Heckler with 27 bullets. Then he was confronted with his previous statement when he said that

⁷⁸² 29.07.2015, p. 20

⁷⁸³ 30.07.2015, p. 26

⁷⁸⁴ 30.07.2015, p. 26 - 27

⁷⁸⁵ 29.09.2015, p. 45

⁷⁸⁶ 29.09.2015, p. 46

⁷⁸⁷ 30.09.2015, p. 49

⁷⁸⁸ 29.07.2015, p. 12

⁷⁸⁹ 29.07.2015, p. 16, 29.09.2015, p. 43

⁷⁹⁰ 30.07.2015, p. 26

M.Os. brought Heckler which was already filled with 27 bullets. Once again he said that it was him who filled the gun; perhaps the mistake was done by people who interrogated him in Belgrade.⁷⁹¹ K5 claimed that he tested Heckler before they went to Sarajevo. He also tested the silencer but he knew that it was not working well. S.R. took it to plant it, to lose traces. K5's DNA should be on the silencer and the weapons.⁷⁹²

607. The fact that DNA of S.R. was not found on the silencer found at the crime scene was confirmed by the expert reports, also the one filed by the Defence.⁷⁹³

608. According to K5, at the crime scene, there were S.R. and N.V. who was away from the scene approximately 15 meters. He was the one who warned with a whistle about the arrival of R.D. S.R. was crouching at the staircase. He used both weapons, the revolver for confirmation. He shot with HK at the chest, and with the revolver – head. He did not rob R.D. because they heard that he had 30.000 euro with him.⁷⁹⁴

609. During cross examination K5 denied that he said anything about whistling. He only said that S.R. and N.V. were involved in many businesses together.⁷⁹⁵

610. K5 also testified that S.R. described in details how the murder occurred. He mentioned also that there was 35.000 euro on a seat in his car, and the moment when he got shot. R.D. was shot with 27 bullets when he stepped out of the car

⁷⁹¹ 30.09.2015, p. 18-19

⁷⁹² 29.09.2015, p. 44 - 45

⁷⁹³ Expert report filed by the Defence on 12.10.2015; Clinical centre Sarajevo University – DNA Reports, investigation binder nr. 4, p. 233-254

⁷⁹⁴ 29.07.2015, p. 21, 22

⁷⁹⁵ 30.09.2015, p. 38

and locked it.⁷⁹⁶ The car was parked exactly in front of the apartment.⁷⁹⁷ After S.R. killed R.D. he did not open his car, but he could see money inside.⁷⁹⁸

611. This part of K5's testimony when he claimed that R.D. was killed next to his car is in contradiction with other objective evidence which clearly showed that he was killed in the yard next to the staircase leading into the building.

612. He further testified that one of police officers in Belgrade whistled on him, and K5 believed that he did it to suggest the name of N.V. as the one participating in the murder. The police officer also mentioned his nickname – "C." K5 was stunned and wanted to know how he knew this. In this moment K5 did not know how his son was warned about the arrival of R.D. When he whistled on him for the first time, K5 did not have any idea what it was about.⁷⁹⁹

613. Once again, K5 confirmed that he learnt about the details of the murder of R.D. from police officer and not his son as he claimed in other part of his testimony.

614. **K4** also testified about the details of the murder, however also her knowledge is not direct but it comes from various sources. According to her, N.V. warned S.R. about the arrival of R.D.⁸⁰⁰

K5 and how he learnt about the murder of R.D.

615. Despite of his earlier testimonies that he learnt about the details of the murder of R.D. from officers of SIPA, K5 testified that he learnt about it just after it happened, around 22 or 23 hour when S.R. called him and said "*rodio se mis,*

⁷⁹⁶ 30.09.2015, p. 28

⁷⁹⁷ 30.09.2015, p. 29

⁷⁹⁸ 30.09.2015, p. 6 - 7

⁷⁹⁹ 30.09.2015, p. 6 - 7

⁸⁰⁰ 29.06.2015, p. 7 - 12

tresla se gora” (the mice was born, the mountain was shaken). They said it every time when a big job was done.⁸⁰¹

616. He did not exclude that also M.M. could have phoned him that night. Usually, whenever he did a job, he always intended to call him because his intention was to brag about things he had done. He would use this expression “*rodio se mis, tresla se gora*” (“*The mice was born, the mount shook*”), and the other one “*Pukla Splitska Posta*” (*the post office broke out*)⁸⁰²

617. When S.R. returned, he told K5 details of the murder.⁸⁰³ During cross-examination, K5 explained that his son described in details how the murder occurred, including the fact that there was 35.000 euro on a seat in his car, and the moment when he got shot. R.D. was shot with 27 bullets when he stepped out of the car and locked it.⁸⁰⁴

618. In the course of further examination, K5 testified that he “honestly” did not know if S.R. talked about N.K. when he came back from Sarajevo. S.R. did not tell K5 that he spoke with N.K. when he went to kill R.D.⁸⁰⁵ Then confronted with his previous statement where he said “yes, yes”, and this time he said that he did not remember.⁸⁰⁶

How M.M. learnt about it

619. **M.M.** testified that he learnt about the murder of R.D. from S.R., who called him around 8 p.m. and told him to watch the news, giving no more details. Then,

⁸⁰¹ 29.07.2015, p. 23

⁸⁰² 29.07.2015, p. 23

⁸⁰³ 29.07.2015, p. 24

⁸⁰⁴ 30.09.2015, p. 28

⁸⁰⁵ 30.09.2015, p. 35

⁸⁰⁶ 30.09.2015, p. 35

M.M. was in Serbia.⁸⁰⁷ According to him, S.R. called also other people to tell them what he did.⁸⁰⁸ When he called him, M.M. did not know what it was about, he only found out when watched TV.⁸⁰⁹ S.R. did not tell him who paid for this murder and why he did it.⁸¹⁰ Later, M.M. said that S.R. was bragging that he got 100.000 euro for this murder.⁸¹¹ K4 and K5 told that he also got some used vehicles, perhaps it was Citroen, rather a cheap car. S.R. did not get all money, therefore he got a car.⁸¹²

620. M.M. was confronted with his statement that he gave on 15 October 2009 after he got arrested. During this testimony he said that S.R. killed R.D., all negotiations were done by M.Os., and it was done upon order of M.A.G. and K. brothers from Sarajevo.⁸¹³ In the statement given on 14 October 2009 he stated differently that it was ordered by three Ra. brothers and certain G. He was not able to explain how these names appeared in his statement. He also said that if he would accuse somebody he would use the same name all the time.⁸¹⁴

621. M.M. claimed that he did not give a statement, it was prepared in advance and read to him. The attorney was not present.⁸¹⁵ He explained that when he was arrested he was offered to become a cooperative witness what he refused, the statements from that time did not reflect the truth.⁸¹⁶

⁸⁰⁷ 18.05.2016, p. 32, 33

⁸⁰⁸ 18.05.2016, p. 33

⁸⁰⁹ 18.05.2016, p. 33

⁸¹⁰ 18.05.2016, p. 41

⁸¹¹ 19.05.2016, p. 30

⁸¹² 19.05.2016, p. 31

⁸¹³ 19.05.2016, p. 23

⁸¹⁴ 19.05.2016, p. 24

⁸¹⁵ 19.05.2016, p. 5

⁸¹⁶ 19.05.2016, p. 10 - 11

622. He underlined that he never spoke to anyone about the murder of R.D. He admitted that as a Serb he may have some reasons to testify against Albanians but he did not know N.K., never heard about him.⁸¹⁷
623. It happened that he visited the house of S.R. he never discussed any criminal acts with his parents.⁸¹⁸ He knew N.V., he knew that he was mentioned by K4 and K5 as a participant in the murder of R.D.⁸¹⁹
624. M.M. saw the place when R.D. was killed when he came to Sarajevo to meet with his friend A.Ku. He wanted to verify the story told him by S.R.⁸²⁰ The only knowledge about the murder of R.D. he had from S.R. He did not know which stories told by S.R. and his parents were true.⁸²¹
625. M.M. was acquitted form the charge of the participation in Sabac group. He was convicted by the Croatian court for the robbery of the post office in Split. He admitted that he committed it with S.R.⁸²²
626. He was confronted with allegations of S.T., K4 and K5 that he was involved in the murder of RD, and said that it was a complete lie.⁸²³

K4 and how she learnt about the murder of R.D.

627. **K5** testified that he did not know how his wife learnt about the murder, perhaps she overheard it. When it happened she became furious. He did not know when it happened, maybe then when the guy brought money.⁸²⁴

⁸¹⁷ 18.05.2016, p. 41

⁸¹⁸ 18.05.2016, p. 42

⁸¹⁹ 18.05.2016, p. 42

⁸²⁰ 19.05.2016, p. 25

⁸²¹ 19.05.2016, p. 35

⁸²² 19.05.2016, p. 12-13

⁸²³ 19.05.2016, p. 517-18

⁸²⁴ 29.07.2015, p. 24

628. During her testimony in the main trial, **K4** claimed that she was told about the murder of R.D. by her son. He was talking with K5 and told that he committed this murder upon the order of M.Os. He did not mention any names but only said that he had a support in Sarajevo.⁸²⁵ She only heard part of the conversation. Later, on the same day S.R. told her briefly what happened but without details and names people involved.⁸²⁶
629. In the course of further testimony, K4 changed her mind and she said that she heard the details of the murder from S.R. and N.V. Her son told her details during his first conversation.⁸²⁷
630. K4 was confronted also with another part of the statement of 24th September 2014 when she was asked about how she knew about the murder of R.D. Then she said *“immediately after murder when S.R. arrived, it was maybe a day or two after committing the crime when he returned from Bosnia. Then M.Os. came with his brother B.Os. and brought money in the bag, what I did not know until (they⁸²⁸) left, they left to the third house located at the land parcel in which 3 buildings are located.”*⁸²⁹ It results from this statement that she learned about the death of R.D. only after M.Os. and his brother brought money to S.R. According to K4, it was the second time when she heard about the case. She explained this contradiction by saying that probably she did not tell the prosecutor that she learnt about this from the conversation between S.R. and K5 because it was not

⁸²⁵ 29.06.2015, p. 3-4

⁸²⁶ 29.06.2015, p. 21 - 22

⁸²⁷ 29.06.2015, p. 22

⁸²⁸ Added having compared with the Serbian transcript of the examination held on 24 September 2014

⁸²⁹ Page 2 of the English transcript of the examination held on 24 September 2014

important for her.⁸³⁰ Later she claimed that it was logical that S.R. came first and told her.⁸³¹

631. In her testimony from 2014 she was consequent that she learnt about the murder only when money was brought, while before the Court she said that she learnt it from S.R. and K5's overheard conversation.⁸³²

632. When she testified in Belgrade, K4 said that *“he did not tell us through which people, he only said that M.Os. had some connections who ordered this murder and couple of days after S.R. was given these 100 000, after committing the murder which “Sa. ” ...”*⁸³³

633. In the course of cross-examination, K4 claimed that she heard them because they were talking loud. She did not ask who paid for the murder. Name of N.K. appeared as the main person who ordered the murder. She did not talk with S.R. about this, he heard him talking with K5 and M.Os. She never heard S.R. talking with K5 about it.⁸³⁴

634. K4, in her testimony given in 2014, when asked about the motive to kill R.D., said that he and N.K. encountered in trafficking narcotics. She explained that it was her conclusion, that either there was a conflict of drug dealing, or he was an obstacle for N.K.⁸³⁵ She claimed that she heard that R.D. was an obstacle at her home, already after the murder. She did not mention it to the prosecutor, because with K5 they decided that they should tell it here.⁸³⁶

⁸³⁰ 28.07.2015, p.32

⁸³¹ 28.07.2015, p.33

⁸³² 28.07.2015, p.34

⁸³³ 27.07.2015, p. 39

⁸³⁴ 27.07.2015, p. 23

⁸³⁵ 28.07.2015, p.35

⁸³⁶ 28.07.2015, p. 26

635. Another witness who mentioned S.R. as a perpetrator of the murder of R.D. was **S.Ro.**

636. He learnt about the death of R.D. from the media. It was in June 2007, he remembered the month because his daughter was born then.⁸³⁷ He testified that perhaps a month after the death of R.D. he picked up A.V. and a person with a nickname “Se.” from Aziz Serbegovic Str. And took them to Vrace, close to Sarajevo, where D.Z. lived. They were discussing about S.R. and his alleged involvement in the death of R.D.⁸³⁸ When they were coming back from Vrace, this time without “Se.”, A.V. told him that it was them who killed R.D. The most probably he referred to S.R. and “Se.”. A.V. was angry that Da.E. did not inform him about the murder. He also asked S.Ro. if he was the one who drove the murderers.⁸³⁹

637. According to S.Ro., everything happened upon instructions of Da.E.⁸⁴⁰ Several days later, S.Ro. learnt from El.A. that there was a spark between Da.E. and A.V. He told him how A.V. was angry at Da.E. with regards to the murder of R.D.⁸⁴¹

638. S.Ro. did not remember if he mentioned the name of N.K. in his testimony. His memory was refreshed with the statement given in March 2016 where he said: “The next day E.Ah. told me that A.V. after the conversation in the car with M.M. went to the apartment where Da.E. was and assaulted him why he didn’t tell him that he knew that S.R. and M.M. liquidated R.D”. He confirmed that he gave such statement. He also said that “he knew that S.R. and M.M. executed

⁸³⁷ 18.04.2016, p. 5 - 6

⁸³⁸ 18.04.2016, p. 10-11

⁸³⁹ 18.04.2016, p. 11, 14

⁸⁴⁰ 18.04.2016, p. 16

⁸⁴¹ 18.04.2016, p. 16

R.D., to which D.E. confirmed that it was true but that they had done it for N.K. and not for Da.E.”. He confirmed that it was written in the statement but it was transferred to him by El.A. who said that Da.E. said this.⁸⁴²

639. The name “M.M.” did not say anything to him. If it was a person with a nickname “Se.” then he knew him.⁸⁴³

E.Ah. – defence witness

640. To rebut the testimony of S.Ro., the defence proposed E.Ah. as a witness. He was sentenced for 5 years imprisonment for the participation in the organized criminal group of Da.E. His brother El.A. was a part of this group.⁸⁴⁴

641. He knew A.V., they committed criminal offences together.⁸⁴⁵ A.V. knew S.R. He cooperated closely with Da.E.⁸⁴⁶

642. E.Ah. knew R.D. as a legendary commander of the war in BiH. He denied any connections with his murder.⁸⁴⁷ He did not know S.R., but heard about him from his brother El.A. He knew that S.R. was involved in the attempted murder of D.Z. and was wounded on this occasion. It took place in February or March 2007, S.R. was severely injured on this occasion.⁸⁴⁸ Da.E. hired S.R. to kill D.Z. who had also his criminal group.⁸⁴⁹ According to him N.K. was never mentioned in relation to the group of Da.E.⁸⁵⁰

⁸⁴² 18.04.2016, p. 17

⁸⁴³ 18.04.2016, p. 8

⁸⁴⁴ 22.07.2016, p. 4

⁸⁴⁵ 22.07.2016, p. 11

⁸⁴⁶ 22.07.2016, p. 12

⁸⁴⁷ 22.07.2016, p. 7

⁸⁴⁸ 22.07.2016, p. 7 - 8

⁸⁴⁹ 22.07.2016, p. 20-21

⁸⁵⁰ 22.07.2016, p. 21

643. When S.R. was in Sarajevo, he used two apartments in the neighbourhood Malta. E.Ah. knew that he left Bosnia after he was wounded. As far as he knew he did not return later because he was afraid of D.Z.⁸⁵¹ Da.E. was also helping S.R. when he was in Bosnia then.⁸⁵² S.Ro. knew S.R.; he helped him after he was wounded during the attempt murder of D.Z.⁸⁵³ E.Ah. knew this only from his brother.⁸⁵⁴
644. E.A. did not know N.V., M.M., and N.K. His brother or other members of the group never mentioned N.K.⁸⁵⁵ He did not know Z.T.⁸⁵⁶ He did not know N.O., F.R., S.S. and S.T.⁸⁵⁷
645. He learnt about the murder of R.D. from “Dnevni Avaz” when he went with S.Ro., on the following day in the morning.⁸⁵⁸ S.Ro. gave him this newspaper and said that R.D. was killed.⁸⁵⁹
646. Later S.Ro. told him that he was driving with A.V. and with an unknown person who told him that he killed R.D. This conversation took place few months after the murder of R.D. A.V. said this.⁸⁶⁰ This person was showing a gun, Colt, which was used to kill R.D.⁸⁶¹

⁸⁵¹ 22.07.2016, p. 9

⁸⁵² 22.07.2016, p. 10

⁸⁵³ 22.07.2016, p. 9

⁸⁵⁴ 22.07.2016, p. 14

⁸⁵⁵ 22.07.2016, p. 10

⁸⁵⁶ 22.07.2016, p. 12

⁸⁵⁷ 22.07.2016, p. 11, 13

⁸⁵⁸ 22.07.2016, p. 11

⁸⁵⁹ 22.07.2016, p. 15

⁸⁶⁰ 22.07.2016, p. 11

⁸⁶¹ 22.07.2016, p. 13

647. E.Ah. denied any involvement in the murder of R.D.⁸⁶² He did not believe that it was done by S.R.⁸⁶³ His brother would tell him if it was true. For him R.D. was a hero.⁸⁶⁴
648. The testimony of E.Ah. the Court finds reliable in this part in which it corresponds with the statement of S.Ro. It allowed for verifying the credibility and veracity of the Prosecutor's witness. However, the Court finds the statement of S.Ro. of little relevance for this case.
649. S.Ro. was the only witness in this case who included Da.E. in the murder of R.D. Thirdly, his testimony must be assessed as intrinsically unreliable because he only repeated what he heard from other people without possibility to verify the accuracy of this information.

Conclusion

650. The version of events presented by witness K5 as to the way how R.D. was killed is generally in accordance with the findings at the crime scene made by investigators, the results of autopsy of R.D. and other expert reports connected with the murder. However, his testimony is full of inconsistencies especially as to the way how he learnt about this murder and who was allegedly behind it.
651. K5 even admitted that he learnt all the details of the murder from SIPA officers. This fact deeply undermines the credibility of his testimony. Furthermore, he mentioned the name of N.K. and F.R. as responsible for the murder of R.D. only in 2014, so already after the indictment in this case became publicly available.

⁸⁶² 22.07.2016, p. 15

⁸⁶³ 22.07.2016, p. 16

⁸⁶⁴ 22.07.2016, p. 17

652. His knowledge about these events seemed to be detailed and in the course of cross-examination he was quite consequent about the course of action. He even testified in a way which was incriminating for him, despite of being properly instructed, because he admitted that it was him who filled the gun, he participated in initial negotiations and he also was the one who was informed immediately after the murder that it was committed. He also claimed that the weapon which was used to kill R.D. was still in his possession and was kept at his property. At this stage of the proceedings, the Court was not competent to order a search of premises belonging to K5, especially that it was located outside of jurisdiction of the Kosovo court.
653. The Court noted that both witnesses K4 and K5 were determined to convince the Court that it was their son who killed R.D. They even made an impression that they were proud because of it. In case of K5, he was often referring to patriotic reasons.
654. On the other hand, the Court heard testimony of M.M. who confirmed that S.R. informed him that he was the one who killed R.D. He called him to watch the news where the information about the murder appeared. There were also other witnesses, like S.Ro., who also pointed at S.R. as the murderer of R.D.
655. Therefore, there is no direct evidence which would prove that it was S.R. who killed R.D. This allegation is mainly based on testimonies of people who were to hear from different sources that he was the one who committed this murder. The Court finds that establishing whether it was the case would require further investigative actions, which stay outside of the subject of this trial and the competence of Kosovo authorities

656. However, the Court must underline that even finding that S.R. killed R.D. would not be sufficient to conclude who organized this murder and who paid for it. The assassin did not act alone, but there was no sufficient evidence to establish who helped him.
657. Further, the Court did not find proven that other persons mentioned by K5 and K4 participated in this execution. First of all, people mentioned by them as co – perpetrators were heard in the course of the main trial, they presented their version of the events and denied any involvement in the murder of R.D. The Court finds that this denial was not only a matter of the right to defend, but is supported by the circumstances of the case. When reaching such conclusion, the Court took into account the motivation of K4 and K5 who at least were aware of many criminal activities which took place at their property, and they decided to testify only when their son died. They were quite clear that they were seeking revenge for his death, and their initial targets were people whom they knew from Sabac (M.Os., his brother whom they called “Bg.”, M.M, M.J.K. and L.B.C.).
658. The Court assessed that K4 and K4 did not have any knowledge about a person or persons who ordered and paid for the murder of R.D. Their statements in which they indicated that it was N.K., assisted by other people named by them, are full of inconsistencies and contradictions, both externally and internally. Symptomatically, during their testimonies given in 2014 they did not mention N.K. in this context.

3.24. Getting information about the murder of R.D. in Sarajevo

According to the indictment:

S.T. received an SMS message from F.R. on the night of the murder, informing her that R.D. had been killed. She took this SMS message as a warning to prevent her from saying anything to the police if they contacted her since she knew about the plot to murder R.D.

3.24.1. How the T. family learnt about the death of R.D.

659. The analysis of the evidence presented in relation to the moment when S.T. and Z.T. learnt about the death of R.D. leads to the conclusion that they got informed about this event shortly after it occurred.

660. Such conclusion results from the statement of Z.T. given on the first day of his testimony in the course of direct examination when he had no doubts that he was informed about the death of R.D. shortly after it happened. He claimed that he did not remember who forwarded him this message, but probably he was called. He also added that he informed about it S.T. and they both were confused with the situation. Additionally, he testified that she received sms message about it from F.R. about one hour later. Taking into account that R.D. was killed about 23.30 and S.T. received this message at 00.33, it additionally confirms Z.T.'s testimony that he learnt about the death of R.D. almost immediately after it occurred.

661. The testimony of Z.T. in this part is also corroborated by the statement of K1 who had no doubts that Z.T. informed him about the death of R.D. shortly after it

happened. K1 even added that Z.T. was so happy because of this death that he was calling many people to let them know. What is important, Z.T. confirmed that he and K1 were friends.

662. It was visible that during the course of further examination held on the next days, Z.T. tried to withdraw from his categorical statement about the moment of learning about the death of R.D. He claimed that he did not remember when he was informed, whether it was during the night or maybe in the morning, whether it was him to learn first or S.T. The Court finds this behaviour as a pretended confusion of the witness who realized that his first testimony may be harmful for him or his close people and he was desperately trying to weaken its impact.
663. The Court assessed as unreliable claims of S.T. that she and Z.T. knew K1 only superficially. The fact that K1 was working together with Z.T. results not only from his testimonies but is corroborated by statements of other witnesses in this case who testified in relation to drug charges. Additionally, her statement contradicts the testimony of Z.T. who confirmed that three of them were friends.
664. As a consequence of these findings, the Court assessed the testimony of S.T. referring to the moment when she learnt about the death of R.D. as not credible. First of all, her statement that she learnt only in the morning around 8.00 is in contradiction with the testimonies of Z.T. and K1. Secondly, S.T. often underlined that she was a professional and committed journalist for whom it was highly important to publish the news as the first one. Therefore it would be unreasonable for her to switch off the phone for the whole night.
665. The evidence presented in this trial does not allow establishing beyond reasonable doubts where S.T. and Z.T. stayed in the moment when they learnt

about the death of R.D. S.T. consequently testified that they both were at her home, and there was also her mother who left earlier. Z.T. initially said that he was alone; then he changed his mind and testified that he was with S.T. but at his home in Grbavica. This element was relevant for both of them as later S.T. gave Z.T. alibi for the night of death of R.D. because she claimed that they were together then.

666. Interestingly, K5 was the only witness who also mentioned “Grbavica”, without any explanation and question about it.

B.B.: You mentioned Grbavica; was it the place where he was executed, at Grbavica?

K5: I don't know, it should be in the outskirts of the town, but I love sports and I follow these events.

B.B.: And why did you mention Grbavica since it has nothing to do with the murder of R.D.?

K5: Is there any connection?

B.B.: Why you mentioned it?

K5: I said I can know the details of the outskirts of Sarajevo where sports fields are located⁸⁶⁵

Additionally, in the course of cross-examination K5 said that the most probably R.D. was killed by Z.T.⁸⁶⁶

⁸⁶⁵ 30.09.2015, p. 29

⁸⁶⁶ 29.09.2015, p. 10

667. According to **K1**, Z.T. was not in good terms with R.D., they were against each other. Z.T. was bringing people to Sarajevo to kill R.D. He rented an apartment for them close to a military hospital where they were staying. He M.L. from Bosnia, a person who committed the murders for Z.T.⁸⁶⁷ and another person from Serbia. There were 4 persons in the apartment.⁸⁶⁸ They were brought at the end of 2006.⁸⁶⁹ K1 testified also that at the beginning of 2007, Z.T. asked M.To. and Em.H. to engage people able to kill R.D.⁸⁷⁰
668. According to K1, Z.T. tried to kill R.D. several times, constantly. He had even a quarrel with S.T. about this. K1 was present then.⁸⁷¹ When asked about the time frame when Z.T. tried to kill R.D., he avoided a clear answer but K1 said that the apartment where these people stayed was rented in 2006 and 2007.⁸⁷²
669. K1 claimed that Z.T. was afraid of R.D., because of the money which they took from N.K. He was trying to kill him until his death. He wanted to kill him because he was afraid of R.D., he was in relation with S.T., because of money, and he had many reasons to do it.⁸⁷³ K1 never heard that R.D. wanted to kill Z.T.⁸⁷⁴
670. **M.L.**, also summoned as a witness in this case, refused to testify.

⁸⁶⁷ 10.11.2016, p. 8

⁸⁶⁸ 09.11.2016, p. 39-40

⁸⁶⁹ 09.11.2016, p. 41

⁸⁷⁰ 09.11.2016, p. 40

⁸⁷¹ 09.11.2016, p. 40

⁸⁷² 09.11.2016, p. 40

⁸⁷³ 09.11.2016, p. 41 - 42

⁸⁷⁴ 09.11.2016, p. 41;

Summary of the relevant evidence

671. **S.T.** testified that at night of the murder of R.D, at 0.33 she received a sms message from F.R. saying that “*Someone killed R.D.*”⁸⁷⁵. She read this message only in the morning, as during the night her phone was switched off. During the night, she was at her home with Z.T. Earlier, there was also her mother with them but she left because she lived nearby.⁸⁷⁶
672. **Z.T.** testified that as far as he remembered he was at his home when the murder of R.D. occurred. He was alone but he did not remember for sure.⁸⁷⁷ He was informed about the murder one hour earlier than S.T., about 23.00, probably somebody called him. He immediately told S.T. about this. They both were confused. According to him, S.T. got a message from F.R. around midnight. He was not sure if he called her or sent an SMS, however later he said that when F.R. called her she told him that she already knew. Later he stated that he was then at his house in Grbavica, with his wife, S.T.⁸⁷⁸
673. When asked about this moment during cross-examination, Z.T. was not sure who learnt first about the murder of R.D., him or S.T. However he confirmed that he got a lot of phone calls then, not sure if it was during the night or in the morning. It was possible that she was the first to learn, and then him. He did not want to explain why he presented this fact differently during the direct examination. He was sure that she was called by F.R. He was receiving phone calls during the night. He admitted that he discussed this murder with her already at night, at home. When asked further, he withdrew from this by saying that this

⁸⁷⁵ 19.03.2015, p. 921; p. 362 – 363

⁸⁷⁶ 19.03.2015, p. 13;

⁸⁷⁷ 17.06.2015, p. 3-4

⁸⁷⁸ 17.06.2015, p. 8 - 9

conversation may have been this night or another.⁸⁷⁹ He was not able to give the clear answer when he was informed about murder of R.D., whether it was at night, in the following morning, in the next day, or in the morning following it. He received many calls, he did not know who called him first. He explained that he received several calls because this was the news.⁸⁸⁰

674. When testifying on the 3rd day, during cross-examination, he said that in his opinion, F.R. was the first one to call his wife.⁸⁸¹ Later he said that he thinks that S.T. got sms first.⁸⁸²

675. **S.T.** claimed that she treated the message from F.R. as a warning because for sure he was convinced that somebody from the police would contact her whereas she was not aware that R.D. was going to be murdered exactly at that night. Hence, he sent it so that she would be aware and that she should keep her mouth shut.⁸⁸³ In principle, F.R. mainly communicated with a phone, not sms.⁸⁸⁴ She treated it as a warning because according to her there was something more written.⁸⁸⁵

676. When cross-examined she claimed that it was the only sms which she received that night. In the morning she and her husband were called by many people who wanted to inform her about this murder.⁸⁸⁶ She also added that she did not receive sms messages about other murders or criminal offences. It often happened that she informed F.R. about interesting criminal events by sending

⁸⁷⁹ 19.06.2015, p. 30-32

⁸⁸⁰ 22.06.2015, p. 9

⁸⁸¹ 22.06.2015, p. 7 - 8

⁸⁸² 22.06.2015, p. 10

⁸⁸³ 16.05.2015, p. 27

⁸⁸⁴ 23.03.2015, p. 5

⁸⁸⁵ 19.03.2015, p. 12

⁸⁸⁶ 16.05.2015, p. 29 - 30

him sms messages. Then, he responded with sms, what contradicted her previous statement about the way how they communicated. The aim of this exchange was to be the first one with the information published. Sometimes it happened that she got personally in touch with a journalist on call.⁸⁸⁷

677. **Z.T.**, when cross-examined, was asked if they discussed with S.T. that they should stay silent with regard to who had killed R.D. He answered that they did not really know who participated in it. They did not know who the assassins were.⁸⁸⁸ A moment later, he changed his mind and said that they knew who was behind the murder: L., F.R., D.B.⁸⁸⁹

678. Z.T. admitted that F.R. communicated via sms messages with S.T. what according to him was not usual because normally journalist informed him. In this case, he wanted to provide S.T. with the information.⁸⁹⁰

679. **K1** testified that he was informed about the death of R.D. shortly after it happened, first by Z.T. and then by E.Ke. Z.T. called him when K1 was in hospital where he was taking an infusion. He did not remember the exact time but it was at night. Z.T. called him because he was not in good terms with R.D.⁸⁹¹

680. K1 thinks that Z.T. did not tell him who killed R.D., he only said that he was killed.⁸⁹² He did not remember when Z.T. called him. It was possible that it was 11.30-00.00. He did not think that Z.T. told him where he was then.⁸⁹³ Z.T.

⁸⁸⁷ 16.05.2015, p. 27 - 28

⁸⁸⁸ 22.06.2015, p. 9

⁸⁸⁹ 22.06.2015, p. 10

⁸⁹⁰ 22.06.2015, p. 9

⁸⁹¹ 09.11.2016, p. 39

⁸⁹² 09.11.2016, p. 44

⁸⁹³ 09.11.2016, p. 42

called him to inform that he was happy that R.D. was dead, and he no longer had to fear him. He called everybody to share his happiness.⁸⁹⁴

681. **S.T.** claimed that she knew K1 only superficially as the witness who testified against her husband. According to her, he was working with N.K. in his drug business.⁸⁹⁵ S.T. and Z.T. were approached on many occasions by K1 who wanted to make friends with them. She did not want to get closer with him because he was dealing with drugs. Sometimes they intervened when he maltreated his wife.⁸⁹⁶

682. **Z.T.** confirmed that K1 was his and S.T.'s friend. He was visiting them at home. Z.T. was a best man on K1's wedding. K1 testified in Z.T.'s trial but he did not tell the truth.⁸⁹⁷

3.24.2. How other people learnt about the Murder of R.D.

683. **F.R.** testified that he was informed about the murder by somebody on the phone. It was in 2007, around midnight. He sent sms to people responsible for printing newspapers (this process is being done between 23.00 and 3.00), so he informed the editor for crime section dailies, editor in chief of dailies, editor in chief of Express. He also sent sms to S.T. because Express was to be published on the next day. According to him R.D. was killed on Wednesday, while Express is published in Thursday. It occurred that was too late, the newspapers were already printed and distributed.⁸⁹⁸

⁸⁹⁴ 09.11.2016, p. 44 - 45

⁸⁹⁵ 20.04.2015, p. 21

⁸⁹⁶ 20.04.2015, p. 24

⁸⁹⁷ 19.06.2015, p.19-21

⁸⁹⁸ 28.10.2016, p. 33

684. Except of S.T., he remembered the name of editor in chief of the crime section in AVAZ – R.Lub.⁸⁹⁹ He confirmed that he called S.T. to inform her about some crimes if it was before Express was edited.⁹⁰⁰
685. **N.O.** testified that on the night when R.D. was murdered, he was in his summer house in Olovo. He learnt about his death from the newspaper.⁹⁰¹ He did not know if he met S.T. after the death of R.D.⁹⁰²
686. **Ek.L.** learnt about the murder of R.D. from his wife. She told him around 11 a.m. after he woke up. He did not go to his funeral because they were not so close. He did not publish an obituary for him.⁹⁰³ He did not see anybody cutting out obituaries. It never crossed his mind to do something like this.⁹⁰⁴
687. **S.S.** learnt about the murder of R.D. from the media, it was in 2007, he did not remember which part of the year.⁹⁰⁵
688. The Prosecutor did not provide any reliable evidence to rebut the claims of the witnesses as to the moment when they found about the death of R.D. Therefore, the Court found them truthful and reliable.

3.25. Arrest of Z.T. and his release

689. The Court found proven that Z.T. was arrested in relation to the murder of R.D., but he was released because S.T. provided him with alibi by claiming that on the night of the murder they were together.

⁸⁹⁹ 28.10.2016, p. 34

⁹⁰⁰ 28.10.2016, p. 34

⁹⁰¹ 22.07.2016, p. 39

⁹⁰² 22.07.2016, p. 39

⁹⁰³ 19.07.2016, p. 29, 40

⁹⁰⁴ 19.07.2016, p. 30

⁹⁰⁵ 07.12.2016, p. 8

Summary of the relevant evidence

690. **S.T.** testified that on the following day after the death of R.D., Z.T. was arrested by the Police in order to give the statement about what he was doing during the time of the murder. He told that he was his girlfriend but he refused to give her name. Following this interview, S.T. called the Chief of the Criminal Department in the Ministry of Internal Affairs and she asked him if it was possible that the prosecutor would interview Z.T. on the same day.⁹⁰⁶
691. She was called by prosecutor Prosecutor Oleg Cavka and asked if she had been with Z.T. during the time when R.D. was killed. She confirmed.⁹⁰⁷
692. During cross-examination, she added that she called P.Ku. to ask him that Z.T. would be heard immediately. Z.T. did not want to compromise her, he pretended that he knew her only officially.⁹⁰⁸ Z.T. spent the night in detention, in the morning after examination he was released. She did not remember to give the statement herself.⁹⁰⁹
693. **Z.T.** did not remember when he was arrested in connection with the murder of R.D. He was not sure if it was on the next morning, or a day or two after it. He was with S.T. when police stopped him in a shopping mall, around 18-19. S.T. was then in the vehicle.⁹¹⁰
694. He admitted that he was examined by the police. Initially he said that during the time when the murder occurred he was at home alone, because he did not want to compromise S.T., in the end he said that he was with her. He admitted it to the

⁹⁰⁶ 19.03.2015, p. 16

⁹⁰⁷ 19.03.2015, p. 14, p. 21, 23.03.2015, p. 23; 13.05.2015, p. 7; 18.05.2015, p. 4 5

⁹⁰⁸ 13.05.2015, p. 5 - 6

⁹⁰⁹ 13.05.2015, p. 7

⁹¹⁰ 17.06.2015, p. 4 - 5

police officer, did not want it to be put into the record. He did not know if the police officer verified this information in any way.⁹¹¹ During cross-examination, Z.T. clarified that police was checking his alibi, where he was during the night of the murder. Alibi was given to him by S.T. He did not have a lawyer, he was not taken in front of the investigative judge.⁹¹² In the morning he was released. Prosecutor Oleg Cavka was coming there. In the afternoon he met with S.T. She was disturbed but glad that he was free.⁹¹³

3.26. Meeting in Radon Plaza after the murder of R.D.

According to the indictment:

Back in Sarajevo, several days after the murder of R.D., N.K. and his organized criminal group arranged a joint dinner during which it was discussed how to divert the murder investigation towards other persons. While remnants of these diversion-attempts can be found in the evidence, they have been denounced as such by different witnesses. Moreover, the Prosecution did not discover any evidence supporting the rumours about another hit man instead of S.R. having killed R.D. At the time, however, N.K. and the other members of the organized criminal group were very relaxed regarding the ongoing investigation and even felt empowered by having succeeded in murdering R.D.

695. There is no reliable evidence to support the statement of S.T. that such meeting just after the death of R.D. took place at all. The only person to corroborate her claims is Z.T. who only heard about this from her, and it happened only after he was arrested.

⁹¹¹ 17.06.2015, p. 4-6

⁹¹² 19.06.2015, p. 33

⁹¹³ 23.06.2015, p. 7-8

696. As it was already mentioned earlier, the Court found not proven that “the group of friends” as described by S.T. existed at all.

697. Therefore, the Court finds not proven that on the next day following the murder of R.D. there was a meeting in Radon Plaza with participation of mentioned persons allegedly discussing the development of situation, including the ongoing investigation in the case of the murder of R.D.

Summary of the relevant evidence

698. **S.T.** testified that two days after the murder (*initially she said that it was the morning after the murder*) there was a meeting in Radon Plaza restaurant in the morning, between 10.00 and 12.00, N.O., F.R., Ek.L. and a friend of N.O. were present. N.K. was in Ulcinj. During this meeting prosecutor they found out that she was dating Z.T. what she had been hiding from them.⁹¹⁴

699. According to her, N.O. suggested directing the investigation against Z.T. She convinced them not to do it.⁹¹⁵ Another potential “candidate” was D.Z., a person from eastern Sarajevo, a friend of N.K., suggested by him.⁹¹⁶

700. **Z.T.** testified that he knew about this meeting from S.T., it was on the same day when he was detained. During this meeting they were to realize that S.T. and Z.T. had a relation. They asked her how much she cared about him, and she said enough not to direct investigation against him. He was released, not summoned again, no investigation against him was initiated.⁹¹⁷ Later he changed his mind because he said that he only heard from S.T. that there was a meeting during

⁹¹⁴ 19.03.2015, p. 14, p. 21, 23.03.2015, p. 23; 13.05.2015, p. 7; 18.05.2015, p. 4 5

⁹¹⁵ 19.03.2015, p. 14, 15 -17; p. 21, 23.03.2015, p. 12

⁹¹⁶ 23.03.2015, p. 11

⁹¹⁷ 17.06.2015, p. 7, 22.06.2015, p. 32

which it was discussed to direct investigation against somebody, without any details. He was even not sure whether she was there, he only thought like this.⁹¹⁸

701. When cross-examined, Z.T. testified that during this meeting present were: N.K., N.O. and Ek.L. He thinks that also F.R. was there.⁹¹⁹ He confirmed it again during the next testimony.⁹²⁰ Only when confronted with the statement of S.T. he said that it was possible that N.K. was in Ulcinj and she was talking with him on the phone.⁹²¹

702. On that occasion, S.T. talked with N.K. (who was in Ulcinj) on the phone. She was trying to convince him that everything they were talking about would stay among them. N.K. was angry at her.⁹²²

703. **Z.T.** claimed that they both had concerns about their lives after their relation was disclosed because they knew about involvement of N.O., N.K. and F.R. in the murder of R.D. Z.T. was worried more about his wife.⁹²³

704. During cross-examination, **S.T.** admitted that she told her husband about this meeting only when he was arrested as she did not want to deepen or create a conflict between him, F.R. and N.K.⁹²⁴

705. **S.T.** claimed that during this meeting F.R., Ek.L., N.O. and N.K. were to find out that she was in relation with Z.T. Despite the fact that all these men denied that such a meeting took place at all, they also presented circumstances how they found out that S.T. and Z.T. were together.

⁹¹⁸ 17.06.2015, p. 12

⁹¹⁹ 22.06.2015, p. 33

⁹²⁰ 23.06.2015, p. 7

⁹²¹ 23.06.2015, p. 7

⁹²² 19.03.2015, p. 17 – 18, 23.03.2015, p. 23

⁹²³ 17.06.2015, p. 11

⁹²⁴ 18.05.2015, p. 48

706. In his testimony, **F.R.** called S.T., he mainly used her maiden name. He did not know when she married Z.T. He thinks it happened after the death of R.D. because she got married after she left their company.⁹²⁵
707. He was not sure when he learnt that S.T. is in relation with Z.T., probably after they got married. He learnt about it before she was dismissed.⁹²⁶ He was never introduced to Z.T.⁹²⁷ He denied that he gave any envelope for Z.T. via S.T.⁹²⁸
708. **N.O.** testified that he had a coffee with S.T. and she told him that she found love of her life – Z.T. He was shocked because he considered her as a moral woman. N.O. was not sure when exactly he learnt about it, but he explained that he believed that it was before the death of R.D. because when he was thinking who could have killed R.D. Z.T. came to his mind because of his jealousy about S.T.⁹²⁹
709. N.O. did not share this information with anybody. He was shocked, he could not believe it. Later on it became known, and it was even published that S.T. and Z.T. spent together the night when R.D. was murdered.⁹³⁰
710. **Ek.L.** testified that he did not go out from his house on the day when he learnt that R.D. was killed. He did not go to the rotating restaurant. He had a headache on that day.⁹³¹ He did not come one that day to meet with F.R. in his office.⁹³² It was unusual for him to wake up so late. He did not remember why it happened, perhaps he had too much drinks. He remembered this day because he was

⁹²⁵ 31.10.2016, p. 19

⁹²⁶ 31.10.2016, p. 20

⁹²⁷ 31.10.2016, p. 24

⁹²⁸ 31.10.2016, p. 34

⁹²⁹ 22.07.2016, p. 32

⁹³⁰ 22.07.2016, p. 33

⁹³¹ 19.07.2016, p. 30

⁹³² 19.07.2016, p. 38

sleeping longer.⁹³³ Later he explained that the day before he had a meeting in a club called April 92, where he met his friends (Z.L., R.Ha. and J.V.). They were drinking from 2 p.m. until 9 - 9.30. After he woke up, his wife told him that R.D. was killed.⁹³⁴

711. He heard about S.T.'s relation with Z.T., it was something unusual. The most probably he heard about it already before the death of S.L.⁹³⁵ It was irrelevant for him that S.T. and Z.T. were in relation.⁹³⁶

712. **S.S.** testified that he learnt that S.T. was married with Z.T. after they got married.⁹³⁷

713. **N.K.** testified that he found that S.T. was together with Z.T. at least in 2005, if not earlier. Since then he had never had coffee with her, neither in private, nor in the presence of others.⁹³⁸

3.27. Other meetings after the funeral of R.D.

714. It was not proven that the meetings described by S.T. took place. Once again, the only supporting evidence is testimony of her husband. Furthermore, the Court found it to be unlikely that a perpetrator would organize a dinner to celebrate a murder of somebody and would make everybody around aware of the reason.

Summary of the relevant evidence

715. According to **S.T.**, after the funeral of R.D., when N.K. returned from Ulcinj, there was the next meeting with participation of her, N.O., F.R., N.K. and Ek.L.

⁹³³ 19.07.2016, p. 31

⁹³⁴ 06.12.2016, p. 8

⁹³⁵ 19.07.2016, p. 20

⁹³⁶ 19.07.2016, p. 22-23

⁹³⁷ 07.12.2016, p. 10

⁹³⁸ 04.10.2017, p. 16

Then the obituaries for R.D. were cut off by all of them.⁹³⁹ During this meeting they were talking who should be killed next.⁹⁴⁰

716. Few days later, a dinner to celebrate death of R.D. was organized. It took place in the Rotating Restaurant. S.T. was not present there due to other obligations. Everybody knew what the dinner was about. Ek.L., N.K., F.R., N.O. and some journalists were present. S.T. was told who was present, and photos were also made during this dinner, which were published on 'the journalist network' where only journalists had access to.⁹⁴¹

717. During cross-examination, she testified that everybody knew what the reason was of this celebration, but stayed silent.⁹⁴² She was invited personally by F.R. He told her to come for dinner. She was intelligent enough to understand it from his manner that it was because of the death of R.D.⁹⁴³ She was not sure if Ek.L. participated in this meeting. She did not know what he was dealing with. She did not know if R.D. interfered into his business.⁹⁴⁴

718. Another version was presented by **Z.T.** According to him, this dinner took place in the restaurant Golf: F.R., N.K. and M.Dj. were there. He heard about it from his wife who was not there. The most probably she knew the details from F.R.⁹⁴⁵

719. **F.R.** denied it, and underlined that there was no reason to make a celebration in AVAZ to celebrate the death of R.D.⁹⁴⁶

⁹³⁹ 19.03.2015, p. 24 – 25; ex. P. 38 - 41

⁹⁴⁰ 19.03.2015, p. 23 - 24

⁹⁴¹ 23.03.2015, p. 4; 16.05.2015, p. 30 - 31

⁹⁴² 16.05.2015, p. 30

⁹⁴³ 16.05.2015, p. 32

⁹⁴⁴ 22.04.2015, p. 31

⁹⁴⁵ 22.06.2015, p. 33

⁹⁴⁶ 31.10.2016, p. 22

720. To support this claim, the Prosecutor presented not only the evidence from Z.T. and S.T. but also few obituaries for R.D. found at N.O.'s place.
721. **N.O.** explained why he had obituaries of R.D. at his place. He justified that he collected not only them but also articles about the death of R.D. because he wanted to find out why he was killed. As a former commander of the army of Bosnia and Herzegovina he was afraid about his own life, because the death of R.D. was not the only one.⁹⁴⁷
722. The Court found reliable explanation of N.O. about the reasons why he had obituaries of R.D.

3.28. Payment for the murder of R.D.

According to the Indictment:

S.R. and N.V. returned to Serbia and several days later, M.Os. and his brother B.Os. came to K5's house with a bag full of money and paid S.R. 100,000 Euro. N.V. was paid 20,000 euro and received an Alfa Romeo vehicle. S.R.'S parents saw them come to their house with the money.

723. To support claims of S.T. as to the amount of money for the murder of R.D. and the way of its payment, the Prosecutor proposed witnesses K4 and K5. Their testimonies will be presented in more detailed way to show how they developed and changed.
724. On the basis of the testimonies given by K4 and K5 it is not possible to establish who paid, what sum, for what and in what way. They permanently changed their versions, added new people to be involved, and gave different amounts of money

⁹⁴⁷ 22.07.2016, p. 28 – 30, 05.12.2016, p. 26 - 32

or kinds of reward. Furthermore, according to K5, his wife K4 was never present where the issue of money was at stake. The analysis of their testimonies leads to the conclusion that they did not have direct knowledge about the alleged payment to S.R. for the murder of R.D. Once again, it became visible that their based their testimonies on the information which they obtained from different sources, including officers of SIPA.

725. Additionally, other witnesses who were allegedly involved in payment denied any participation in it and claimed categorically that they had nothing in common with the family of S.R.

726. Therefore, the Court found unproven how much, in what way and by whom the murder of R.D. was paid. There is also no convincing evidence to support the claim that S.R. was paid for this murder as it was not proven that he was hired to commit it.

Summary of the relevant evidence

727. **K5** testified that L.B.C. received money from N.K. Then he gave it to M.J.K.⁹⁴⁸ Later he testified that N.K. paid for the murder directly to M.J.K. Money was allegedly given by M.A.G. and N.K. The witness did not want to mention other names.⁹⁴⁹ When he was cross-examined, K5 said that he did not know if L.B.C. paid any money for the murder of R.D.⁹⁵⁰

728. According to K5, S.R. was supposed to get 200.000 euro but at the end he got only 100.000, because the other 100.000 euro he gave to M.Os. S.R. was also to

⁹⁴⁸ 29.07.2015, p.12

⁹⁴⁹ 30.07.2015, p. 15

⁹⁵⁰ 30.09.2015, p. 15

get an armoured vehicle like M.Os. This time he said that the sum was already mentioned during the first meeting.⁹⁵¹

729. In the course of cross-examination, K5 admitted that he truly believed that the murder was paid with 5.000.000 euro. When asked about the source of this information he admitted that he was told this by officers of SIPA.⁹⁵² When K5 mentioned during the conversation with SIPA officer the amount of 600.000, the latter started laughing. Therefore, K5 started counting: there were two armoured vehicles of an amount of 400.000, 200.000, and 100.000 his son gave to M.Os. There was also M.J.K.; therefore much bigger sum must have been involved.⁹⁵³ K5 did not remember if SIPA officer gave him other details of the murder. He spent with him two or three days.⁹⁵⁴ SIPA officer told him about the place of the murder, but he did not know that N.K. ordered the murder of R.D.⁹⁵⁵

730. In this way K5 fall into contradiction with his another statement. When he went to testify for the first time in Belgrade, he did not tell about the murder of R.D. because defence counsels of M.Os. and others were present. Only when he came to Sarajevo and met with the Prosecutor Dubravko Campara, then he found out about The Lu. case. He said that he talked to SIPA and he found that N.K. was made 33rd accomplice in this murder.⁹⁵⁶

731. According to **K4**, M.Os. mentioned 5.000.000 euro but she did not know if it was as payment for this murder or for something else.⁹⁵⁷ During cross-

⁹⁵¹ 29.07.2015, p. 13 - 14

⁹⁵² 29.09.2015, p. 18

⁹⁵³ 29.09.2015, p. 19

⁹⁵⁴ 29.09.2015, p. 19

⁹⁵⁵ 29.09.2015, p. 26

⁹⁵⁶ 29.09.2015, p. 15

⁹⁵⁷ 29.06.2015, p. 21

examination she admitted that she did not mention this amount before, but she heard S.R. and M.Os. discussing about this.⁹⁵⁸

732. Both K4 and K5 were consequent that S.R. did not get any money in advance. In the course of further testimony K5 said that he did not know exactly what 200.000 was for. M.Os. brought it for some business.⁹⁵⁹
733. **K5** testified that S.R. got 200.000 euro but 100.000 he gave for M.Os.⁹⁶⁰ Later he said that the money for M.Os. it was only a loan.⁹⁶¹ K5 probably was present then.⁹⁶² It did not happen at their home, but in the town, he was not present there. He was told by S.R. and M.Os.⁹⁶³ He insisted that S.R. gave M.Os. 100.000 as a loan and it was the reason why his son was killed.⁹⁶⁴
734. K5 changed his mind again during cross-examination when he said that S.R. got approximately 450.000 less than others. He assumed that N.V. got more. He got 450.000, and S.R. gave him Alfa and 20.000.⁹⁶⁵ This car was in possession of a girlfriend of N.V.⁹⁶⁶
735. The fact that N.V. got Alfa Romeo and money was confirmed by K4.⁹⁶⁷ K5 testified in a different way because he said that N.V. got Alfa Romeo from M.Os.⁹⁶⁸

⁹⁵⁸ 27.07.2015, p. 26

⁹⁵⁹ 29.06.2015, p. 24; 29.07.2015, p. 27

⁹⁶⁰ 29.07.2015, p. 27

⁹⁶¹ 29.09.2015, p. 20

⁹⁶² 29.09.2015, p. 22

⁹⁶³ 29.09.2015, p. 27

⁹⁶⁴ 30.09.2015, p. 19

⁹⁶⁵ 30.09.2015, p. 5

⁹⁶⁶ 30.09.2015, p. 53

⁹⁶⁷ 29.06.2015, p. 9 – 11, 24

⁹⁶⁸ 29.07.2015, p. 32

736. K5 when confronted with the information who gave Alfa Romeo, he said that he was not listened well. M.Os. was not able to give anything to anybody, he was in prison. He never had Alfa, and this information must have come from Pr. It was a lie that he said like this. K5 was the one to buy this Alfa.⁹⁶⁹
737. In the course of cross-examination, K5 did not know how much money M.Os. got for the murder. He only saw that he bought AUDI Q7 or BMW. He took out from his pocket 110.000 euro. When asked for clarification if this money was for the murder of R.D., K5 said “yes”.⁹⁷⁰ A moment later he said that it was M.M. He was also not clear if M.M. got any money at all, because a moment later K5 said that he did not know about it.⁹⁷¹
738. Still during cross-examination, when asked again, K5 said that he did not know how much money S.R. got for the murder of R.D., but f.e. he got a speedboat.⁹⁷² He claimed he saw the money in the bag. He knew that it was for the murder of R.D. from his son. S.R. did not talk about the money he got for the murder of R.D. When confronted with the statement that he did not know that S.R. received money for the murder of R.D., he said that he was not interested.⁹⁷³
739. According to K5, S.R. received money from M.J.K. When asked where he received them, K5 answered “how should I know?”⁹⁷⁴.

⁹⁶⁹ 30.09.2015, p. 53 - 54

⁹⁷⁰ 30.09.2015, p. 8

⁹⁷¹ 30.09.2015, p. 9

⁹⁷² 30.09.2015, p. 22

⁹⁷³ 30.09.2015, p. 27, 28

⁹⁷⁴ 30.09.2015, p. 28

Way of paying

740. **K5** claims that M.J.K. brought 200.000 euro to M.Os., allegedly from N.K. and M.A.G.⁹⁷⁵
741. During cross-examination, K5 testified that N.K. or M.A.G. gave money to M.J.K.⁹⁷⁶, an old friend of the family of K5. When asked how he knew about it, K5 said “who else could have it? L.B.C. would not dare because he is afraid, M.Os. was not most intelligent and he was a drug addict.”⁹⁷⁷ This is what he heard on many occasions. There were no secrets, they were like a family. Few lines below, he said that he was not a member of this “criminal” family. However, he knows because he was the member of the first team when there were bad guys, not like currently.⁹⁷⁸
742. Further, K5 explained that he presumed that the sum of money was collected by N.O., N.K., M.A.G., and probably by F.R.⁹⁷⁹
743. Later K5 testified that M.J.K. was waiting for 7 days for money for the murder because then N.K. was at the seaside to provide alibi himself. He did not know where M.J.K. was waiting, but he knew it because he “liked sports”. He got signal that N.K. returned and then the money was collected. He knew it from M.J.K.⁹⁸⁰
744. In the course of further cross-examination K5 testified that M.J.K. came to N.O. to pick up the money.⁹⁸¹ It was the first time when K5 mentioned N.O.; he was

⁹⁷⁵ 29.07.2015, p. 13

⁹⁷⁶ 29.09.2015, p. 20

⁹⁷⁷ 29.09.2015, p. 20 - 21

⁹⁷⁸ 29.09.2015, p. 21

⁹⁷⁹ 30.09.2015, p. 12

⁹⁸⁰ 30.09.2015, p. 11

⁹⁸¹ 29.09.2015, p. 22

not able to explain why he did not speak about him before.⁹⁸² M.J.K. came 7 days after the murder. He knew it from M.J.K.⁹⁸³ K5 did not know who gave money, one of two “N.”s. It was around 1.5 million euro. He based this calculation on his experience.⁹⁸⁴

745. He was confronted with his testimony given in Belgrade where he indicated that it was L.B.C. who ordered and paid for the murder of R.D. K5 said that there was something between them and therefore L.B.C. was chasing R.D. in Turkey.⁹⁸⁵ When further confronted with his answer that N.K. gave 200.000, first he did not understand the question, and then he said that “*how could I know that he is going to give that much money*”.⁹⁸⁶ A moment later, he explained that N.K. got 200.000 from M.J.K.⁹⁸⁷ Few minutes later, when confronted again, he withdrew from his statement. This time he claimed that it was N.K. who paid and ordered the murder.⁹⁸⁸

746. In the further course of cross -examination, K5 said N.K. paid S.R. for other murders than the one of R.D., but he did not want to give any details. He knew it from a person who received 400.000 euro for N.K.⁹⁸⁹ He did not want to go into other details as he was interested only in a fact that they killed his son. However, he did not blame N.K. for it, but he believed that there were indications that he was involved. He blamed for it N.K.’s friends, including L.B.C.⁹⁹⁰

⁹⁸² 29.09.2015, p. 22

⁹⁸³ 29.09.2015, p. 23

⁹⁸⁴ 29.09.2015, p. 24

⁹⁸⁵ 30.09.2015, p. 17

⁹⁸⁶ 30.09.2015, p. 17

⁹⁸⁷ 30.09.2015, p. 17

⁹⁸⁸ 30.09.2015, p. 21

⁹⁸⁹ 29.09.2015, p. 24-25

⁹⁹⁰ 29.09.2015, p. 28-29

747. **K4** testified that few days after the murder of R.D. and return of S.R. from Sarajevo, M.Os. and his brother came with a kiwi green plastic bag, not transparent, with an inscription Benetton on it and they brought money – 100.000 euro, in bigger banknotes. They went with it to the third house together with S.R. When they came, at home there were K5, I.S., the daughter and her. When they left, S.R. brought the bag and emptied it. He told them that it was 100.000 euro.⁹⁹¹ He gave each of them 10.000 euro, despite of the fact that M.OS. got already 100.000 euro.⁹⁹² They got actually 200.000 euro, 100.000 euro for M.Os. and 100.000 euro for S.R.⁹⁹³ K5 confirmed this amount and partition of money.⁹⁹⁴
748. According to **K5**, K4 was not present when the money was brought. He was 100 % sure that she did not see the bag.⁹⁹⁵
749. K5 testified that S.R. got money at home. It was brought by M.J.K. from Sarajevo. 100.000 euro was brought by M.Os., K5 was present then. Brothers Os. came, the money in a transparent bag with new banknotes was thrown on the table located underneath the balcony. S.R. was there. K4 and his daughter were not present. He was not sure about the currency, whether euro, or German marks. M.Os. told that he brought 100.000 euro, and he took himself another 100.000 euro, but he promised to give it back.⁹⁹⁶ S.R. did not give him money, he just

⁹⁹¹ 29.06.2015, p. 9 – 11, 24

⁹⁹² 29.06.2015, p. 9 – 11, 17

⁹⁹³ 29.06.2015, p. 21,

⁹⁹⁴ 29.07.2015, p. 14

⁹⁹⁵ 30.09.2015, p. 25-26

⁹⁹⁶ 29.07.2015, p. 27-29

took it.⁹⁹⁷ There was a usual conversation among them, nothing special.⁹⁹⁸ N.V. got money, he did not remember how much.⁹⁹⁹

750. In the cross-examination, K5 testified that M.J.K., M.Os. and S.R. came. A handbag with money was thrown on a bed. Perhaps younger brother of M.Os. was also present. It all happened in the first of three houses in the yard. The couch where money was thrown was located in the living room. M.Os. threw it, nobody counted the money. They were talking about different subjects. It was a plastic transparent white bag.¹⁰⁰⁰ K5 saw this way of paying on regular base, it was nothing extraordinary. However, he was never involved in deals of S.R. He never asked him how much he was paid for a specific murder. S.R. never told him how much he got.¹⁰⁰¹

751. According to K5, when they brought money they were talking who paid for the murder. Then K5 asked about patriotic reasons. This time he said that only then they were to tell him who was involved in the murder of R.D., but K5 did not mention any names, saying that “they tried something with Kurds”. K5 said that if he had known from the beginning what it was about he would not allow his son to do this, to say in the next sentence that he was not able to exert control over his son.¹⁰⁰² Later, K5 withdrew from his statement that he could have stopped S.R. He also added that the murder of R.D. was the only one he

⁹⁹⁷ 29.07.2015, p. 32

⁹⁹⁸ 29.07.2015, p. 36

⁹⁹⁹ 29.07.2015, p. 32

¹⁰⁰⁰ 30.09.2015, p. 23

¹⁰⁰¹ 30.09.2015, p. 23 - 24

¹⁰⁰² 30.07.2015, p. 18

discussed with his son.¹⁰⁰³ S.R. did not count the money. He did not care about the money at all.¹⁰⁰⁴

752. When cross-examined, K5 testified that M.J.K. was a friend of his brother, but later also of S.R.¹⁰⁰⁵

753. When asked if he saw L.B.C. giving money to M.Os., he said “maybe yes”, and a moment later when asked again he answered - “many times” and “countless times”.¹⁰⁰⁶ He knew that money for R.D. he brought at home, while for other criminal offences he did not know. He brought the money to the cafe bar on the square. In principle he would sit with them at the one table, but on this occasion L.B.C. got on his nerves, therefore he sat nearby. L.B.C. gave M.Os. 400.000 euro in a sack, a bag. He connected this money with drug business, he did not know what happened with it.¹⁰⁰⁷

754. Later K5 changed his statement again. He saw M.Os. and his brother getting money for the murder of R.D. on the square. In this period S.R. was in detention. It was already after the murder. A moment later he returned to the situation when the money was thrown on the coach, then M.Os. said that this for the deal from Bosnia and started with something else. Further he said, that that they were discussing about this for more than half an hour, gave a description how big R.D. was, etc.¹⁰⁰⁸

¹⁰⁰³ 30.07.2015, p. 20-21

¹⁰⁰⁴ 29.07.2015, p. 30

¹⁰⁰⁵ 29.09.2015, p. 41

¹⁰⁰⁶ 30.09.2015, p. 39

¹⁰⁰⁷ 30.09.2015, p. 40-41

¹⁰⁰⁸ 30.09.2015, p. 42

755. When asked again for the money given on the square, he said that it was for the murder of R.D. He was present then, and also D.Pe., a friend from Austria. He did not know how much money M.Os. took on this occasion for this murder.¹⁰⁰⁹
756. **K4** testified that S.R. did not receive anything from L.B.C., while M.Os. got an armoured vehicle Audi A8.¹⁰¹⁰ M.Os. visited S.R. with this vehicle in prison. He told S.R. that he would get the same after release.¹⁰¹¹
757. **K5** said that he thinks that M.Os. got a car.¹⁰¹² K5 does not think that K4 saw the money. It did not happen that he or S.R. would show the money received for their services to K4. He did not dare to do it because she knew her, that she was against Sabac group, that she hated them openly.¹⁰¹³
758. K5 mentioned that M.M. was paid only during the cross-examination. He did not know how much.¹⁰¹⁴ He did not see when he got the money.¹⁰¹⁵
759. **K4** testified that S.R. separated 20.000 euro for N.V., but finally he gave it to M.M. in Belgrade because he was a part of this group and he saved his life when S.R. was wounded during the attempt to murder D.Z. M.J.K. received from him 5000 euro, because they always expected money from him.¹⁰¹⁶ The rest he spent on a car, holidays, etc.¹⁰¹⁷
760. According to her, S.R. was supposed to receive more money. About a year after the murder, she met B.Os. once, he was rubbing hand as he was

¹⁰⁰⁹ 30.09.2015, p. 44

¹⁰¹⁰ 29.06.2015, p. 15 - 16

¹⁰¹¹ 28.07.2015, p. 12, 36

¹⁰¹² 29.07.2015, p. 32

¹⁰¹³ 29.07.2015, p. 31

¹⁰¹⁴ 30.09.2015, p. 7

¹⁰¹⁵ 30.09.2015, p. 8

¹⁰¹⁶ 29.06.2015, p. 11

¹⁰¹⁷ 29.06.2015, p. 12

waiting for money from Albanians. They heard that they brought money for S.R. Then he was already in detention.¹⁰¹⁸ She was not sure if the money was connected with the murder of R.D.¹⁰¹⁹ During cross-examination, she clarified that B.Os. told that he was waiting for money from “Sh.” for defence of S.R.¹⁰²⁰

761. According to **K5**, S.R. never talked with his mother about his job, the money he earned. He did not dare.¹⁰²¹

762. **M.M.** testified that S.R. was very talkative and he liked bragging. He visited him in his house. He knew his parents, he talked with them. In his trial in Belgrade, they testified about the murders they committed together with S.R., who was the main executor. They were talking in details about 4-5 murders.¹⁰²² Initially K5 included also M.M. into the murder of S.R., but after 4 years of the trial he came and said that it was not true, that he had some confusion in his head. Both, K4 and K5 were examined by psychiatrists.¹⁰²³ K5 admitted that he testified against M.M. because he blamed him for the death of his son.¹⁰²⁴

763. S.R. was bragging around about the murder of R.D., however he did not give any details, only that there was a staircase.¹⁰²⁵ He was even bragging that he committed some murders which for sure were not done by him.¹⁰²⁶ S.R. did not mention M.Os. in a context of this murder.¹⁰²⁷

¹⁰¹⁸ 29.06.2015, p. 13

¹⁰¹⁹ 29.06.2015, p. 24 - 25

¹⁰²⁰ 27.07.2015, p. 7-8

¹⁰²¹ 30.09.2015, p. 25-26

¹⁰²² 18.05.2016, p. 36 - 37

¹⁰²³ 19.05.2016, p. 28-29

¹⁰²⁴ 19.05.2016, p. 46

¹⁰²⁵ 19.05.2016, p. 14

¹⁰²⁶ 18.05.2016, p. 41

¹⁰²⁷ 19.05.2016, p. 33

764. **M.Os.** denied that he delivered money to S.R. for the murder of R.D.¹⁰²⁸

3.29. Death of S.R.

765. The Prosecutor tried to make a connection between the death of S.R. and the murder of R.D. According to him, S.R. was killed because he wanted more money for this assassination.

766. It was proven that S.R. died on 27 December 2008 in Belgrade, while he was putting an explosive under the car which belonged to M.M. This finding results from mutually corresponding evidence of K5, K5 and M.M.

767. The Court found that there is no evidence which would justify a connection between the death of S.R. and the murder of R.D. The Prosecutor tried to prove this link on the basis of the testimonies given by S.T., Z.T. and K1 but the Court assessed them as unreliable.

768. First of all, there is no evidence that a meeting where the matter of payment and additional requests of S.R. were discussed. Even S.T., the only witness who mentioned it, was not consequent whether she was present there or not. Secondly, she was so determined to convince that there was a link between these two events that she gave a wrong date of the death of S.R. It results from other objective evidence that he was killed in December 2008, while she said that it happened a month after the murder of R.D. Thirdly, her testimony contradicts the versions of K5 and K5 who were quite consequent when saying that S.R. did not care too much about money, and as K4 underlined – he “was never barking” around about what he was doing.

¹⁰²⁸ 26.09.2016, p. 14

769. Other witnesses who spoke about this alleged connection between the death of S.R. and the murder of R.D. (Z.T., K1) based their statement on rumours what made their testimonies intrinsically unreliable.

770. It must be underlined that the death of S.R. was a crucial factor which forced K4 and K5 to testify against people whom they both blamed for the loss of their son. They were quite clear in their testimonies that they were seeking revenge for what had happened.

Summary of the relevant evidence

771. **S.T.** testified that during further meetings with participation of her, F.R., N.K., N.O. and Ek.L., N.K. was complaining that “S.R. has started barking, bragging about this, that he was tricked and that he did not receive enough money, and that he should be get rid of. This meeting was within one month after the death of R.D.¹⁰²⁹ Later it was agreed that N.K.’s sons and N.O. would go to the Hotel Sunce in Vogosca close to Sarajevo, where they would meet Da.E., whom they would engage, him or his people, to kill S.R.¹⁰³⁰

772. During cross-examination, she testified that she was present when they were leaving Radon Plaza to get there, but was not present during the meeting in hotel Sunce. It was discussed why they were going there.¹⁰³¹ Later she withdrew from the statement that she was present when the murder of S.R. was planned. She claimed that she learnt about it from N.O., and the details of his death she read in the media.¹⁰³²

¹⁰²⁹ 23.03.2015, p. 5

¹⁰³⁰ 23.03.2015, p. 6; 16.05.2015, p. 15

¹⁰³¹ 16.05.2015, p. 15- 16; 16.05.2015, p. 32

¹⁰³² 16.05.2015, p. 32-33

773. According to her, S.R. was killed about month after the murder of R.D., so in July/August 2007.¹⁰³³ Later, answering the question of the Prosecutor, S.T. said that a certain time passed between the death of R.D. and the meeting when it was said that S.R. was “barking”.¹⁰³⁴
774. **Z.T.** testified that he heard about the murder of S.R. and that Da.E., M.M. and N.K. were involved. The arrangements were done in hotel Sunce.¹⁰³⁵ When he was cross-examined, he said that he heard about this meeting from U.A.
775. **K5** did not confirm that S.R. was complaining that he was not paid. His son told him that he would be paid 200.000 euro and there was no need to worry. Besides, he was not a person to walk around and brag about any murder he had committed.¹⁰³⁶
776. **K4** testified that S.R. was killed on 27 December 2008.¹⁰³⁷ He died in explosion of the car belonging to M.M.¹⁰³⁸
777. **K1** testified that he knew that S.R. was killed in 2008. He knew that he was blackmailing and asking for more money. He knew it from N.K. S.R. stayed longer after the murder of R.D., 15 days, in Bosnia and asked for money. He heard about this from them, without specifying whom.¹⁰³⁹ A moment later, he said he heard it from N.K. who said “*let him ask for money now*”. He was not

¹⁰³³ 23.03.2015, p. 6; 16.05.2015, p. 15

¹⁰³⁴ 23.03.2015, p. 7

¹⁰³⁵ 17.06.2015, p. 13; 22.06.2015, p. 20

¹⁰³⁶ 30.07.2015, p. 38

¹⁰³⁷ 29.06.2015, p. 2

¹⁰³⁸ 29.06.2015, p. 15 - 16

¹⁰³⁹ 10.11.2016, p. 4

able to give any details, when it took place; he just repeated that he knew about it.¹⁰⁴⁰

778. **M.M.** testified that on 27 or 29 December 2008, S.R. attempted to kill him in Belgrade. Later it occurred that the whole “Sabac” group was involved in it. There was an explosive device planted under his car.¹⁰⁴¹ K5 blamed him for the death of his son. He called him told him that “*I lost my son because of you and now you will lose both of your sons you have in Subotica*”. After this, M.M. had no more contacts with K4 and K5.¹⁰⁴²

779. **M.Os.** testified that in January 2009 he met K5 in the town, who blamed him for the death of his son. K5 told him that “*if you would have managed to provide him with papers and he would leave the country he will not be killed*”.¹⁰⁴³

3.30. I.B. and L.B.C.

780. **I.B.** was another witness proposed by the Prosecutor to support allegations about the involvement of N.K. in the murder of R.D. She appeared in this case at the main trial stage after she made a press conference in Belgrade in May 2015 during which she accused her husband L.B.C. for many criminal offences, including participation in the murder of R.D. They were in a process of divorce.¹⁰⁴⁴

781. I.B. described in details problems with her husband in L.B.C. She admitted that they were in the course of divorce proceeding and could not reach agreement, also about the custody of their child. She filed many reports against him, he did

¹⁰⁴⁰ 10.11.2016, p. 6

¹⁰⁴¹ 19.05.2016, p. 36-37, 40

¹⁰⁴² 19.05.2016, p. 39

¹⁰⁴³ 10.10.2016, p. 25

¹⁰⁴⁴ 20.10.2015, p. 30-31, 21.10.2015, p. 12

the same in reference to her.¹⁰⁴⁵ She decided to testify against him because he did not allow her to leave him, he was stalking, blackmailing and threatening her.¹⁰⁴⁶

782. During cross-examination she was confronted with the law suit for divorce filed by L.B.C. from which resulted that he was the one who demanded it (23 February 2015). When asked about this, she said that he continues to disprove the divorce from him. She admitted that she did not go to the court for the divorce hearing.¹⁰⁴⁷ She claimed that she did not know whether she went to the media after he filed for divorce.¹⁰⁴⁸ L.B.C. in his testimony was clear that it was him who filed for divorce, the proceedings are ongoing.¹⁰⁴⁹

783. L.B.C. confirmed that currently he had bad relations. He also accused her that she blackmailed him for money and broke into his safe.¹⁰⁵⁰ He described in details his relations with I.B. and underlined that their problems started in 2008 and were connected with her health when she got pregnant. She was treated by Doctor B.Dj. For a period of more than 6 months she did not go out from home at all.¹⁰⁵¹

784. **I.B.** was accusing L.B.C. that he was involved in two assassinations of two persons whose name she gave.¹⁰⁵² Interestingly, in this part of her testimony, I.B. did not mention the alleged involvement of her husband into the murder of R.D. When cross-examined, she claimed that she was present when L.B.C. talked

¹⁰⁴⁵ 21.10.2015, p. 11-12, 18 - 19

¹⁰⁴⁶ 21.10.2015, p. 19

¹⁰⁴⁷ 21.10.2015, p. 55

¹⁰⁴⁸ 21.10.2015, p. 55

¹⁰⁴⁹ 16.05.2016, p. 27

¹⁰⁵⁰ 16.05.2016, p. 29 - 30

¹⁰⁵¹ 16.05.2016, p. 30--33

¹⁰⁵² 20.10.2015, p. 6

about these murders with his friends.¹⁰⁵³ She was speaking about these murders during her press conference.¹⁰⁵⁴

785. She admitted that on many occasions she reported L.B.C. violent behaviour against her. She did not remember how many times.¹⁰⁵⁵ She found the press conference the only way to tell everybody that her husband was lying about her.¹⁰⁵⁶

786. I.B. testified that she knew N.K., a friend of his husband. She met him in Sarajevo, hotel Casa Grande in 2004 for the first time. They met there several times, also with his sons. She also met N.K.'s wife or girlfriend.¹⁰⁵⁷ They met each other until 3-4 years before, the frequency of meetings was the same before and after the death of R.D. According to her, L.B.C. and N.K. were constantly in touch. She did not know when they got in touch first time after the murder of R.D.¹⁰⁵⁸ They visited him quite often in Casa Grande, even once a week. They also met him in Ulcinj and in Turkey. He never visited them in Serbia, only his son B.K.¹⁰⁵⁹

787. They were talking about business, family affairs, persons who were obstacles for them.¹⁰⁶⁰ Whenever they met with N.K., there was at least one of his sons or N.O.¹⁰⁶¹ She claimed that it happened that they met even on weekly basis.¹⁰⁶²

¹⁰⁵³ 21.10.2015, p. 32-33

¹⁰⁵⁴ 21.10.2015, p. 34

¹⁰⁵⁵ 22.10.2015, p. 12 - 13

¹⁰⁵⁶ 22.10.2015, p. 28 -30

¹⁰⁵⁷ 20.10.2015, p. 7 - 9

¹⁰⁵⁸ 20.10.2015, p. 25

¹⁰⁵⁹ 20.10.2015, p. 25

¹⁰⁶⁰ 20.10.2015, p. 33, 21.10.2015, p. 3

¹⁰⁶¹ 20.10.2015, p. 13

¹⁰⁶² 22.10.2015, p.5

When they visited him in Sarajevo, they stayed in the hotel. Once they also stayed in his house, but she did not remember the year.¹⁰⁶³

788. She admitted that after the birth of her child she was suffering of problems related with oxytocin. In this period she was not able to travel a lot, she mainly stayed in bed.¹⁰⁶⁴ She cannot remember when she stopped travelling with her husband to Sarajevo.¹⁰⁶⁵
789. According to her, N.K. and L.B.C. once they talked about R.D., and her husband said that this man was chasing him in Turkey in attempt to kill him. L.B.C. was in Turkey then because they wanted to kill him in Serbia (Z.C. involved in the murder of the Serbian prime minister).¹⁰⁶⁶
790. She claimed that R.D. was hired by Z.C. to kill L.B.C. and she knew it from her husband.¹⁰⁶⁷ As far as she knows, there was no direct contact between her husband and R.D. in Turkey, only the latter found out in which hotel L.B.C. was staying, but he escaped before. It was the only reason for their conflict.¹⁰⁶⁸
791. The existence of the conflict between R.D. and L.B.C. was denied by **A.P.** who testified that R.D. was not hired by Z.C. to kill L.B.C.¹⁰⁶⁹
792. According to **L.B.C.**, R.D. was not hired by Z.C. to kill him. There were other people who were searching for him to do it. They wanted to kill him because he knew everything about their criminal activity.¹⁰⁷⁰ Many people were searching

¹⁰⁶³ 21.10.2015, p. 38-39

¹⁰⁶⁴ 22.10.2015, p. 4 - 5

¹⁰⁶⁵ 22.10.2015, p. 11

¹⁰⁶⁶ 20.10.2015, p. 9 – 10

¹⁰⁶⁷ 20.10.2015, p. 11; 21.10.2015, p. 5

¹⁰⁶⁸ 21.10.2015, p. 5

¹⁰⁶⁹ 08.12.2015, p. 27

¹⁰⁷⁰ 19.05.2016, p. 8

for him to inform Z.C. where he stayed and then they would kill him.¹⁰⁷¹ He heard that R.D. was looking for him, he heard about it probably before the murder of Z.D., from so his friend that 5-6 people were talking about him, but he did not take it too seriously.¹⁰⁷² He never had a personal contact with R.D.¹⁰⁷³

793. According to **I.B.**, N.K. and L.B.C. were talking in dirty words about R.D.¹⁰⁷⁴ It was L.B.C. who said that R.D. should be killed.¹⁰⁷⁵ N.K. shared the opinion that R.D. is a bad man, and he agreed with everything what L.B.C. said.¹⁰⁷⁶ She did not remember in what way he said this. He could have said, “*Yes, that is right*”. She did not comment it, did not try to prevent the murder.¹⁰⁷⁷ She did not remember if her husband discussed this revenge on R.D. with M.Os. and M.J.K.¹⁰⁷⁸

794. They were planning to kill him. While asked when, she connected it with a period of her pregnancy. The child was born on 15 January 2008, she was 2-3 months pregnant when they were planning it.¹⁰⁷⁹ She did not know the details what they were talking about, but she remembered that once N.K. asked her husband to find people from Serbia to perform certain assassinations (in plural) in Bosnia.¹⁰⁸⁰

795. After this initial meeting when the plan to kill R.D. was discussed, they did not talk about it again.¹⁰⁸¹ She was not able to indicate how long after she met N.K.

¹⁰⁷¹ 19.05.2016, p. 9

¹⁰⁷² 19.05.2016, p. 19, 21

¹⁰⁷³ 19.05.2016, p. 19

¹⁰⁷⁴ 20.10.2015, p. 12

¹⁰⁷⁵ 21.10.2015, p. 3

¹⁰⁷⁶ 21.10.2015, p. 3

¹⁰⁷⁷ 22.10.2015, p.9-10, 11

¹⁰⁷⁸ 21.10.2015, p. 60

¹⁰⁷⁹ 20.10.2015, p. 12

¹⁰⁸⁰ 20.10.2015, p. 13

¹⁰⁸¹ 20.10.2015, p. 33

this conversation that R.D. should be killed took place. Later she changed her mind as to the frequency of conversations about planned murder of R.D. and she said that they spoke about it on several occasions.¹⁰⁸²

796. In the course of cross examination, she testified that L.B.C. did not ask for help in killing R.D. According to her, he had sufficient sources to do it himself, he could also ask S.Cl.¹⁰⁸³ According to her, L.B.C. could have sent people to commit any murder in Sarajevo.¹⁰⁸⁴ She claimed that on several occasions L.B.C. told her that she would take revenge on R.D. She did not remember when this discussion was held. It was done before she met N.K. He did not say how he was going to do it.¹⁰⁸⁵

797. Further, she explained that N.K. asked L.B.C. to send certain people for “certain liquidations”.¹⁰⁸⁶ She cannot remember if during the conversation between N.K. and L.B.C. the word “murder” was used.¹⁰⁸⁷

798. She admitted that she never heard that N.K. said: *I want R.D. to be killed and send me some people to execute him.*¹⁰⁸⁸ She did not report the plan to murder R.D. because then she was still married to her husband.¹⁰⁸⁹

799. According to her, L.B.C. sent few men from Sabac in Serbia to N.K. It was M.Os. and M.J.K. She knew it because her husband was in a constant phone contact with them, and she was next to him all the time. It took place

¹⁰⁸² 21.10.2015, p. 6-7

¹⁰⁸³ 22.10.2015, p. 41 - 42

¹⁰⁸⁴ 22.10.2015, p. 19, 42

¹⁰⁸⁵ 21.10.2015, p. 59 - 60

¹⁰⁸⁶ 22.10.2015, p. 42+

¹⁰⁸⁷ 22.10.2015, p. 11

¹⁰⁸⁸ 22.10.2015, p. 42

¹⁰⁸⁹ 21.10.2015, p. 21

immediately after they returned to Belgrade from the meeting with N.K.¹⁰⁹⁰ In cross-examination, she testified that she did not see when they left to Sarajevo. She did not know how and where exactly they went. She was not present at their meeting with N.K.¹⁰⁹¹

800. She found that M.Os. and M.J.K. found some young associates to join them on the trip to Sarajevo. They joined them during the second trip (answered to the leading question of the prosecutor). She knew about it because she heard from her husband stories about the younger man from Sabac.¹⁰⁹² She knew the name of S.R., she knew nicknames of M.J.K. and M.Os.¹⁰⁹³ I.B. explained that she heard the name of the murderer. She remembered it because it was rare in Serbia. She heard it from her husband, but she cannot remember when. She knows that S.R. was killed.¹⁰⁹⁴ She read in the media names of N.K. in connection with S.R.¹⁰⁹⁵

801. She claimed that she met M.Os. and M.J.K. on numerous occasions.¹⁰⁹⁶ She met S.R. only once in their company.¹⁰⁹⁷

802. **M.Os.** testified that he did not know I.B., but he said that everybody in Serbia knew about her conflict with her husband.¹⁰⁹⁸

803. During cross-examination, she testified that she did not talk with M.Os. and M.J.K. about the content of their discussions with N.K. They did not do it in her

¹⁰⁹⁰ 20.10.2015, p. 14 - 15

¹⁰⁹¹ 22.10.2015, p. 19

¹⁰⁹² 20.10.2015, p. 16

¹⁰⁹³ 20.10.2015, p. 16

¹⁰⁹⁴ 22.10.2015, p. 15-16

¹⁰⁹⁵ 22.10.2015, p. 48

¹⁰⁹⁶ 20.10.2015, p. 16 – 17

¹⁰⁹⁷ 20.10.2015, p. 17

¹⁰⁹⁸ 10.10.2016, p. 26

presence. She did not remember if they made it on a phone. She talked with M.Os. on the phone, but she cannot remember if about the crimes or just normal talks.¹⁰⁹⁹ M.Os. did not mention R.D. to her.¹¹⁰⁰

804. Further, she said that M.Os. never talked with her that he went to Sarajevo to kill R.D. M.J.K. did not talk about the purpose of his visit in Sarajevo. M.Os. never told that M.J.K. was involved in this murder. She never heard anyone talking in her presence that R.D. had to be killed and they are the ones to do it.¹¹⁰¹

805. She also admitted that she did not hear that N.K. paid for the murder of R.D.¹¹⁰² She was never present when they were talking about the murder of R.D. She was not present when N.K. negotiated with M.Os. and M.J.K.¹¹⁰³

806. She learnt about the death of R.D. immediately from the media. She was alone then, her husband was in the city. She talked with him about this, but later, she cannot remember when.¹¹⁰⁴ Her husband was praising the guys who killed R.D. She did not remember who started speaking about this. It was in the media.¹¹⁰⁵ According to I.B., N.K. was also praising the assassins, he said that the guys were great, he agreed with L.B.C.¹¹⁰⁶

807. **L.B.C.** denied any involvement in the murder of R.D. He did not speak with his wife about it, he did not praise his murderers.¹¹⁰⁷

¹⁰⁹⁹ 22.10.2015, p. 19-20

¹¹⁰⁰ 22.10.2015, p. 21

¹¹⁰¹ 22.10.2015, p. 47

¹¹⁰² 22.10.2015, p. 47

¹¹⁰³ 22.10.2015, p. 19

¹¹⁰⁴ 20.10.2015, p. 20

¹¹⁰⁵ 20.10.2015, p. 22

¹¹⁰⁶ 21.10.2015, p. 15

¹¹⁰⁷ 19.05.2016, p. 12

808. **I.B.** testified that L.B.C. gave M.Os. an armoured Audi A8 which was later seized by the police.¹¹⁰⁸ She was at home when M.Os. came to pick up the car, however it stayed registered on her husband.¹¹⁰⁹ M.Os. did not give any money for the car.¹¹¹⁰ During cross-examination, she claimed that M.J.K. was also present when L.B.C. gave the car to M.Os.¹¹¹¹
809. She did not know why her husband gave a car to M.Os.¹¹¹² In cross-examination, she changed her mind because she said that she never heard her husband saying to M.Os. that he gave this car, nor gave it for the murder of R.D. She did not know why this car was with M.Os. and then returned to her husband.¹¹¹³ This car was seized by the police, then released and returned to L.B.C.¹¹¹⁴
810. **L.B.C.** testified that he had three armoured Audi. He sold two in Belgrade, and the third one he had still with him. He did not give Audi to M.Os.¹¹¹⁵ Two or three years ago (2013-2014), one vehicle was seized due to duty tax but it was returned to him. It was seized from the auto service.¹¹¹⁶ He still had the car, it was returned to him later.¹¹¹⁷
811. He used to take cars to the mechanic in Sabac, his people were coming to pick up the car.¹¹¹⁸ His friend recommended this place.¹¹¹⁹ He did not remember names of people who came to pick up the car. He allowed driving his car only people

¹¹⁰⁸ 20.10.2015, p. 19 - 21, 22.10.2015, p. 43

¹¹⁰⁹ 20.10.2015, p. 22

¹¹¹⁰ 20.10.2015, p. 24

¹¹¹¹ 22.10.2015, p. 18

¹¹¹² 20.10.2015, p. 24

¹¹¹³ 22.10.2015, p. 45

¹¹¹⁴ 22.10.2015, p. 19

¹¹¹⁵ 16.05.2016, p. 35

¹¹¹⁶ 16.05.2016, p. 35 - 36

¹¹¹⁷ 18.05.2016, p. 20-22

¹¹¹⁸ 18.05.2016, p. 22-23

¹¹¹⁹ 18.05.2016, p. 23

sent by the mechanic.¹¹²⁰ He had 10-15 invoices from the mechanic which he gave to the Court.¹¹²¹

812. **M.Os.** testified that he did not know L.B.C., he never worked for him. He did not buy, nor get anything from him.¹¹²² He confirmed that several times he drove his armoured Audi when he was asked to do it by the owner of the Auto Centre “P.” in Sabac who repaired cars owned by L.B.C. He drove this car on the route from and to Surcin when L.B.C. had his residence.¹¹²³ It happened sometimes that he used this car for joyrides because it stayed for several days in the workshop. M.Os. helped his friend, the owner of the workshop, also with other cars.¹¹²⁴ He was seen by many people when driving the armoured vehicle of L.B.C.¹¹²⁵ He was not heard by the police about this car when it was seized.¹¹²⁶

813. According to her, M.J.K. was a head of S.Cl. She never talked with him about the murder of R.D. She did not meet him after her press conference. He never told her that he helped L.B.C. to murder R.D. She did not talk about this with M.Os.¹¹²⁷

814. She claimed that she knew S.T. from the media and from this what her husband told her. She never met her, nor spoke with her. She heard that N.K. and Z.T. were in bad terms because they were fighting for drug market. She did not talk about her with anybody else.¹¹²⁸

¹¹²⁰ 18.05.2016, p. 23

¹¹²¹ 18.05.2016, p. 25 - 26

¹¹²² 26.09.2016, p. 8, 10

¹¹²³ 26.09.2016, p. 9 - 10

¹¹²⁴ 26.09.2016, p. 10 - 11

¹¹²⁵ 26.09.2016, p. 11

¹¹²⁶ 10.10.2016, p. 29

¹¹²⁷ 22.10.2015, p. 45-46

¹¹²⁸ 21.10.2015, p. 16-17

815. I.B. confirmed that she had Facebook account. She never entered the FB account of S.T. ¹¹²⁹
816. L.B.C. testified that two days before her press conference I.B. passed a message to him that in case he was not going to give her 1.000.000 euro she would organize a press conference during which she would tell every single untrue information about him and all of his friends, especially N.K. since she found out in the media everything what was happening in his case. She wrote “1.000.000” on a piece of paper. ¹¹³⁰ When he refused her demand, she told him that he would have to give her 3 million. ¹¹³¹ He filed a report against her on 12 May 2015. Press conference was after she blackmailed him, like 12-15 days. ¹¹³²
817. **I.B.** denied that she blackmailed L.B.C. She never wrote that she asked. ¹¹³³ However, she did not remember writing 1.000.000 euro, she did not know what kind of paper he was talking about. ¹¹³⁴
818. The Court did not admit as evidence a copy of a piece of paper on which it was written “100.000.000” proposed by the Defence, as intrinsically unreliable (Article 259 of the CPC).
819. L.B.C. reported the fact of being blackmailed by I.B. to the police. ¹¹³⁵

Press conference

820. As a public figure (singer in Serbia), **I.B.** called a press conference to explain, as she said, everything in relation to her marriage and divorce. She read a

¹¹²⁹ 21.10.2015, p. 17

¹¹³⁰ 16.05.2016, p. 33; 18.05.2016, p. 8

¹¹³¹ 18.05.2016, p. 7-8

¹¹³² 18.05.2016, p. 5

¹¹³³ 22.10.2015, p. 13

¹¹³⁴ 22.10.2015, p. 13

¹¹³⁵ 22.10.2015, p. 38

statement. It was on 30 May 2015.¹¹³⁶ She was preparing for this conference for about 10 days, she wrote the statement, and she consulted it. At the end journalists were allowed to put questions. Her statement lasted around 40 minutes.¹¹³⁷ When asked with whom she consulted her statement, she changed her mind and denied that she did it.¹¹³⁸

821. The video – recording from the press – conference of I.B. was admitted as the evidence and presented during the main trial session held on 03 October 2017. The Court observed that I.B. read the statement which was prepared in advance.

822. When cross-examined, she explained that she would have not decided to go public if her husband would divorce her and stop pursuing her, threatening and blackmailing.¹¹³⁹

823. During the cross-examination, I.B. testified about her health problems related with level of oxytocin.¹¹⁴⁰ She admitted that she met Doctor B.Dj. According to her, L.B.C. bribed him to produce false medical certificates.¹¹⁴¹ She travelled to visit Doctor B.Dj. in Subotica. She described in details therapy she received from him.¹¹⁴² She did not receive any report from this doctor, he gave them L.B.C.¹¹⁴³

824. She met with prosecutor Hughes once in Belgrade, shortly before her testimony. He called her on her private phone to arrange the meeting which took place after the press conference. They talked about her arrival to Kosovo and her personal

¹¹³⁶ 21.10.2015, p. 13-15

¹¹³⁷ 22.10.2015, p.49-50

¹¹³⁸ 22.10.2015, p. 50

¹¹³⁹ 21.10.2015, p. 54

¹¹⁴⁰ 21.10.2015, p. 61

¹¹⁴¹ 21.10.2015, p. 66-69

¹¹⁴² 22.10.2015, p. 31 - 38

¹¹⁴³ 22.10.2015, p. 34

safety.¹¹⁴⁴ Before the meeting with prosecutor Hughes, she also met once with a Bosnian prosecutor, she did not remember his name. She was summoned to the Special Court in Belgrade.¹¹⁴⁵

825. She thinks that she spoke about the murder of R.D. in public first, even before the press conference. First time when she spoke about the involvement of N.K. and L.B.C. in criminal activities it was in the *Informer* newspaper. It was her choice to go to the media first.¹¹⁴⁶ She did it after N.K. was arrested. She read about it in the Serbian media which reported that “the drug lord N.K. was arrested in Kosovo”. Then she did not know that N.K. was also charged for the murder of R.D.¹¹⁴⁷ She was not interested in details.¹¹⁴⁸ When N.K. was arrested she was still in good relations with her husband.¹¹⁴⁹

826. She learnt about the murder charge “recently” but it was before she gave the interview to the *Informer*.¹¹⁵⁰ She found about it from the lawyer S.Pr. who told her that there was a lot in the indictment. He asked her husband for the advice how to defend M.Os. in reference to the charge of R.D.’s murder.¹¹⁵¹ S.Pr. did not mention M.J.K., S.R. as one of the suspects. He mentioned only N.K. and M.Os.¹¹⁵² She admitted that Pr. also said that L.B.C. was indicted as a co-perpetrator of R.D.’s murder. She did not remember if he gave any details of it.¹¹⁵³

¹¹⁴⁴ 21.10.2015, p. 41 - 42

¹¹⁴⁵ 21.10.2015, p. 42-43

¹¹⁴⁶ 21.10.2015, p. 46 - 47

¹¹⁴⁷ 21.10.2015, p. 47, 57

¹¹⁴⁸ 21.10.2015, p. 57 - 58

¹¹⁴⁹ 21.10.2015, p. 57

¹¹⁵⁰ 21.10.2015, p. 47 - 48

¹¹⁵¹ 21.10.2015, p. 48

¹¹⁵² 21.10.2015, p. 49

¹¹⁵³ 21.10.2015, p. 55-56

827. She also heard the name of S.R. from lawyer S.Pr. when they were talking about M.Os. Then they were speaking about the indictment of N.K. She heard that N.K. would be charged for the murder of R.D. and that there would be an investigation. She heard it when N.K. was arrested. During this conversation name of M.Os. was mentioned, she did not hear it before.¹¹⁵⁴ The name of S.R. did not come up then.¹¹⁵⁵
828. She claimed that it often happened that illegal activities of L.B.C. were discussed in her presence. They also involved murders. She did not remember other murders than two mentioned at the beginning of her examination (she did not mention again the murder of R.D.).¹¹⁵⁶
829. She recognized on pictures M.Os. and B.Os. She did not recognize S.R. or his father.¹¹⁵⁷ She never met K5. She was confronted with his statement that he knew her. Her husband never mentioned him.¹¹⁵⁸
830. In the course of redirect – examination, she admitted that she had doubts if N.K. and L.B.C. wanted to kill R.D.¹¹⁵⁹ She did not know why R.D. was in bad terms with N.K.¹¹⁶⁰
831. **L.B.C.** was not heard during the investigation. He gave his testimony only during the main trial.
832. He testified that since the end 2002, he was a protected witness in the case of the murder of Serbian Prime minister, against Z.C. He was always accompanied by

¹¹⁵⁴ 22.10.2015, p. 16 -17

¹¹⁵⁵ 22.10.2015, p. 17

¹¹⁵⁶ 22.10.2015, p. 40

¹¹⁵⁷ 22.10.2015, p. 48 - 49

¹¹⁵⁸ 22.10.2015, p. 51

¹¹⁵⁹ 22.10.2015, p.54

¹¹⁶⁰ 22.10.2015, p.55

minimum three officers, sometimes even 12 of them.¹¹⁶¹ He received protection already before the murder of Z.D. (12 March 2003), because he informed Serbian authorities about the planned assassination.¹¹⁶² In the moment of his death he was in Slovakia, he was in Turkey before for 5-6 months.¹¹⁶³

833. L.B.C. affirmed that he knows N.K. almost since birth. Their fathers were godfathers. He never had business relations with him.¹¹⁶⁴ During cross-examination, he explained that he knew sons of N.K., they respected each other. When they met, they talked mainly about family issues.¹¹⁶⁵ He never told him that he was a member of Z.C.¹¹⁶⁶ He did not ask N.K. to help him when he had problems with Z.C. because he never wanted to misuse him.¹¹⁶⁷

834. L.B.C. visited N.K. in Sarajevo, once in Montenegro and once in Istanbul.¹¹⁶⁸ He visited him not intentionally, it was usually on his way to Montenegro and then he stopped at his hotel. He visited him also with his wife I.B. It happened since 2006, only once per year. He visited N.K. with her only 2-3 times.¹¹⁶⁹ He denied that he met him every week.¹¹⁷⁰ N.K. never visited him in his house or office in Serbia. He did not know when N.K. was the last time in Serbia.¹¹⁷¹

835. N.K. never told him that he had any problems with R.D. The only problem he shared with him, was with a mujahedin from Syria.¹¹⁷²

¹¹⁶¹ 16.05.2016, p. 27 - 28

¹¹⁶² 19.05.2016, p. 18-19

¹¹⁶³ 19.05.2016, p. 18-19

¹¹⁶⁴ 16.05.2016, p. 28

¹¹⁶⁵ 19.05.2016, p. 6-7

¹¹⁶⁶ 19.05.2016, p. 8

¹¹⁶⁷ 19.05.2016, p. 12

¹¹⁶⁸ 16.05.2016, p. 28

¹¹⁶⁹ 16.05.2016, p. 28-29; 18.05.2016, p. 15

¹¹⁷⁰ 19.05.2016, p. 10-11

¹¹⁷¹ 16.05.2016, p. 38

¹¹⁷² 18.05.2016, p. 15

836. L.B.C. confirmed knowing M.J.K. but only by his nickname. He did not have any contacts or work with him.¹¹⁷³ He did not know R.D. He did not have any conflict of interest with him. He never spoke about him with N.K. He never told that he would kill him.¹¹⁷⁴ He was not asked by N.K. to find assassins to murder some people in Sarajevo.¹¹⁷⁵ He was not involved in finding assassins of R.D.
837. He knew N.O., met him once in Casa Grande.¹¹⁷⁶ He never discussed with him the murder of R.D. He did not take S.R. to Casa Grande to discuss the murder of R.D.¹¹⁷⁷
838. He did not know M.Os. but he heard about him. He never talked with him.¹¹⁷⁸ He did not know B.Os.¹¹⁷⁹ He denied this what his wife said that they visited them in their house.¹¹⁸⁰ He did not know M.A.G., S.S., N.V., M.M., B.H., E.Ah., F.R. and S.T.¹¹⁸¹
839. He did not know K5, K4 and S.R.¹¹⁸² When confronted with the statement of K5 that he visited them he answered that it was impossible because each his movement in Serbia was closely monitored by the police, his phones were tapped.¹¹⁸³
840. **M.M.** was sure that S.R. never met L.B.C. and the latter was never at his parents' place. K4 and K5 never mentioned him.¹¹⁸⁴

¹¹⁷³ 16.05.2016, p. 33

¹¹⁷⁴ 16.05.2016, p. 34; 18.05.2016, p. 15

¹¹⁷⁵ 16.05.2016, p. 34

¹¹⁷⁶ 18.05.2016, p. 16

¹¹⁷⁷ 18.05.2016, p. 17

¹¹⁷⁸ 16.05.2016, p. 34

¹¹⁷⁹ 16.05.2016, p. 35

¹¹⁸⁰ 18.05.2016, p. 3

¹¹⁸¹ 18.05.2016, p. 16 - 17

¹¹⁸² 16.05.2016, p. 34

¹¹⁸³ 16.05.2016, p. 35

¹¹⁸⁴ 19.05.2016, p. 34

841. **L.B.C.** testified that he did not know K1. He was confronted with his statement that K1 was coming to his premises, factories, and there he received hundreds of kilos of heroine. He denied it.¹¹⁸⁵ In the same way he commented the statement of the witness that he was present in Casa Grande when he was asked to find assassins of R.D.¹¹⁸⁶ He was not involved in drug business with N.K.¹¹⁸⁷
842. During cross-examination, L.B.C. explained that he had knowledge only about Z.C., and no other criminal groups.¹¹⁸⁸ He did not know if his wife knew members of S.Cl.¹¹⁸⁹
843. He denied all allegations of the Prosecutor that he wanted to kill R.D., talked about this with N.K., got in touch with M.J.K. and that he heard that S.R. was complaining that he was not paid.¹¹⁹⁰ He explained again the situation with armoured vehicles.¹¹⁹¹
844. He explained relations with his wife, admitted that he was convicted for attacking a member of I.B.'s protection officer. He filed many reports against I.B. There were some indictments against her.¹¹⁹²

Doctor B.Dj. – defence witness

845. Doctor B.Dj. was a doctor who provided medical assistance to I.B. He was heard to verify some of her claims referring to the character of support he gave her. According to her, he was only a marriage adviser to help her and L.B.C. in

¹¹⁸⁵ 16.05.2016, p. 36-37, 38

¹¹⁸⁶ 16.05.2016, p. 37

¹¹⁸⁷ 16.05.2016, p. 37; 18.05.2016, p. 17

¹¹⁸⁸ 19.05.2016, p. 4

¹¹⁸⁹ 19.05.2016, p. 6

¹¹⁹⁰ 19.05.2016, p. 11-13

¹¹⁹¹ 19.05.2016, p. 13-14

¹¹⁹² 19.05.2016, p. 15-16

marriage problems, while he testified that he was her doctor, and started treating her because of oxytocin problems.

846. During the session held on 22 October 2015, I.B. gave her consent to hear Doctor B.Dj. in this case. She even provided his phone number.¹¹⁹³ Doctor B.Dj. received an extract from this part of the minutes when he came to testify to Kosovo.
847. The Prosecutor opposed hearing Doctor B.Dj. in a capacity of witness, because in his opinion he should be heard as an expert witness.¹¹⁹⁴ However, the Court decided to summon Doctor B.Dj. not in a capacity of an expert witness, but as a witness to testify on his relations with I.B. and L.B.C. He was not called to present his expert opinion on the health of I.B. The Defence proposed this witness to verify credibility of the Prosecutor's witness.
848. Doctor B.Dj. as a doctor was professionally obliged to keep in secret everything that he had learnt during performance of his medical duties and obligations. This obligation results also from Article 127 (1.5) of the CPC, which provides that a medical doctor is exempted from the duty to testify on what he came to know during exercise of his profession, if bound by duty to keep secret what he learnt, and this is the case of any medical doctor. However, according to Article 127 (2) of the CPC, such witness cannot refuse to testify when there is a legal basis for releasing him from the duty of maintaining confidentiality. Taking into account that during the main trial session held on 22nd October 2015 the witness I.B. waived her right to keep secret her medical examination and

¹¹⁹³ 22.10.2015, p. 37

¹¹⁹⁴ 10.11.2015, p. 22

records and she gave her consent Doctor B.Dj. to be heard as a witness about the report issued by him and the treatment that he provided.

849. In the course of his examination, he testified that he was not a marriage adviser of I.B. and her husband, but that he provided her with medical assistance. He described also in details his observations about the situation in this family which he could have observed during his contacts with them.

Conclusion

850. The Court finds that the testimony of I.B. is not reliable and truthful. First of all, when assessing her credibility, it was necessary to take into account that this witness was deeply involved in a personal conflict with L.B.C., who according to the Prosecution participated in the murder of R.D. Her testimony justifies conclusion that she decided to accuse her husband publicly for many criminal offences because in this way she tried to obtain a better position in the proceedings related with divorce. It cannot be excluded that she was even ready to blackmail him and demand money for him for not testifying in this trial. When asked about 1.000.000 euro written on a piece of paper, she did not deny that she did it. She only said that she did not remember this fact.
851. Her version of the events before the death of R.D. significantly differed from the one presented by other Prosecution's witnesses. Indeed, she presented another motive of the murder of R.D. – according to her it was her husband who wanted to kill him for revenge because R.D. was trying to kill him when he was hiding in Turkey from Z.C. She was the only person who mentioned this motive and her statement is not corroborated by another piece of evidence. L.B.C. denied this categorically and underlined that in this period many people, especially from the

Balkan countries, were trying to find and kill him. It meant that if it was his motive, he must have planned to take revenge against many people.

852. I.B. was also the only witness who said that it was L.B.C. who wanted to kill R.D. and therefore he asked N.K. for assistance. According to the Prosecution, it was in an opposite way and L.B.C. was asked by N.K. to help in execution of R.D.
853. She was also not consequent with her accusations against alleged involvement of L.B.C. in murders. When asked about this, she said that he was involved in two of them, she even named the victims, but none of them it was of R.D. Only later she added that L.B.C. also planned to kill him. However, in the course of further examination she said that N.K. asked him to find assassins to commit some murders in Sarajevo, without indicating names of potential victims. At the end of her testimony, she concluded that she actually did not know if L.B.C. and N.K. wanted to kill R.D.
854. There is no evidence to support I.B.'s claim that L.B.C. gave an armoured vehicle to M.Os. This allegation was denied by L.B.C. and M.Os. who explained in details why it happened that he used the armoured vehicle of L.B.C., His testimony is corroborated by the statement of L.B.C. who confirmed that his car was serviced in Surcin, and workers from there came to pick it up. Further, even I.B. admitted that the car was all the time registered on the name of her husband, and after it had been seized by the Police, it was later returned to him.
855. The Court finds that the Prosecutor did not present convincing and reliable evidence to support claims of I.B. Additionally, there is evidence that I.B. stayed in touch with S.T. and K6. It is supported by the messages which were posted on

Facebook account of S.T. where three of them were sitting together and called themselves as “Black Three”. It supports a suspicion that they were coordinating their testimonies.

3.31. Threats/influence on S.T.

856. **S.T.** testified that at the end of 2010 or beginning of 2011, some offers of talks and money from F.R. for withdrawal of her testimony were transferred to S.T. by a journalist and his cousin.¹¹⁹⁵

857. In 2012 or 2013, S.T. met F.R.’s wife who approached her and offered assistance. She refused and said “even if my husband would be in prison for 100 years, and if me and my child would die of hunger, I will never sit with him on the same table and send him my message that no matter how much he is attempting to destroy me psychologically, that will not happen and I will testify against him”.¹¹⁹⁶

858. She claimed that she received threats and because of it she was under a police protection. She did not provide any details of it what would enable to identify a source of alleged threats.¹¹⁹⁷

859. **Z.T.** testified that he was not aware of any threats to be received by S.T. He only indicated that they were being followed or pressured.¹¹⁹⁸

Conclusion

860. The Court was not presented with any convincing evidence that S.T. was threatened in any way. What is also important, she testified before the Court for

¹¹⁹⁵ 23.03.2015, p. 16

¹¹⁹⁶ 23.03.2015, p. 13

¹¹⁹⁷ 23.03.2015, p. 15 - 16

¹¹⁹⁸ 17.06.2015, p. 17

several days, each time for several hours and she was speaking freely. Sometimes it happened that she behaved emotionally, however her reactions did not exceed a standard behaviour of other witnesses.

3.32. A.S.

861. A.S. was in relation with R.D. since August/September 2006.¹¹⁹⁹ According to her, R.D. was respected in the city. He was not respected only by G.s, K.s and Z.T.¹²⁰⁰
862. When cross-examined, she said that she learnt the [family name of N.K.] when she started dating with R.D.¹²⁰¹ She did not talk with R.D. about their existence. During her relation with R.D. no [family name of N.K.] was seen while they were together. R.D. did not talk with her about [the family name of N.K.]. The fact that he was in bad relationship with [the family name of N.K.] she captured when he was discussing with A.P. about his conflict with [the family name of N.K.].¹²⁰² She did not remember if R.D. ever spoke about E.Ke.¹²⁰³
863. A.S. claimed that she knew that R.D. and N.K. had a conflict. However, she did not remember exactly if R.D. told her this.¹²⁰⁴
864. During cross-examination she admitted that she remembered her statement given in front of Prosecutor Oleg Cavka that R.D. called E.Ke. and asked him if they were in conflict or not.¹²⁰⁵ She explained that the most probably it was A.P. or

¹¹⁹⁹ 13.01.2016, p. 8

¹²⁰⁰ 18.01.2016, p. 39

¹²⁰¹ 13.01.2016, p. 33

¹²⁰² 13.01.2016, p. 33

¹²⁰³ 13.01.2016, p. 37

¹²⁰⁴ 18.01.2016, p. 9

¹²⁰⁵ 18.01.2016, p. 10-11

Al.H. who told it to her. She added that R.D. conducted all important conversations far from her.¹²⁰⁶

865. A.S. said that R.D. never spoke with her specifically about N.K. allegedly being involved in drug activities. He told her that he had a conflict with N.K. because of his dealings with drugs.¹²⁰⁷ Therefore, she was confronted with her previous statement – 13 January – when she was asked if R.D. talked to her about N.K. in any way, and she answered “not with me”. This time she answered that it was A.P. and Al.H. with them, and he was discussing mainly with them.¹²⁰⁸ During their relation, she did not discuss about [the family name of N.K.]. She only knew that there was a conflict.¹²⁰⁹

866. R.D. did not disclose to her why he was concerned about his safety.¹²¹⁰ She heard from him about the conflict in Istanbul that [the family name of M.A.G.], meaning “Zu.”, and other two or three persons who came in order to kill him, but he found out that and beat them.¹²¹¹

867. She testified also that once they were driving the car and passing by the house of [the family name of M.A.G.] and R.D. was looking at the house and slow down. He said that “I should do something to him, or for him, because they are preparing something for me”. When she asked who he said “Shi.” and he was thinking about M.A.G. and N.K.¹²¹² It was five days before his death.¹²¹³

¹²⁰⁶ 18.01.2016, p. 11

¹²⁰⁷ 18.01.2016, p. 25

¹²⁰⁸ 18.01.2016, p. 26

¹²⁰⁹ 18.01.2016, p. 26

¹²¹⁰ 13.01.2016, p. 10

¹²¹¹ 13.01.2016, p. 9

¹²¹² 13.01.2016, p. 11 - 12

¹²¹³ 13.01.2016, p. 13

868. R.D. told her that [the family name of M.A.G.] and [the family name of N.K.] were in good relations. [the N.K. family name] group was more powerful, more numerous. She knew it because after the death of R.D. she saw them in the city.¹²¹⁴ R.D. and [the family name of N.K.] were enemies. R.D. told her that there were misunderstandings in relation to drugs.¹²¹⁵
869. During cross-examination, A.S. did not base her belief that N.K. was an enemy on this situation when they were passing by the house of M.A.G. As far as she knew they were in conflict already before their relation.¹²¹⁶ R.D. protected her from such information. The fact that he was in a conflict with N.K. it was general knowledge. R.D. was constantly carrying gun, living in fear, looking under the car. He was wearing a bullet proof vest but it was not because of N.K. It was because of his enemies.¹²¹⁷
870. R.D. knew Z.T. As far as A.S. knows they did not have any contacts.¹²¹⁸ She saw the argument between two of them on New Year's Eve, 2006-2007. R.D. insisted that a man in a company of Z.T. should leave the premises – discotheque Aqua.¹²¹⁹ They had an argument there but no one left the place.¹²²⁰ She testified that R.D. was not afraid of Z.T.¹²²¹ He did not tell it to her.¹²²²
871. R.D. knew N.O., but was disappointed with him because he moved to the side of N.K.¹²²³ R.D. never spoke with her about F.R.¹²²⁴

¹²¹⁴ 13.01.2016, p. 12

¹²¹⁵ 13.01.2016, p. 13

¹²¹⁶ 18.01.2016, p. 21

¹²¹⁷ 18.01.2016, p. 21

¹²¹⁸ 13.01.2016, p. 13

¹²¹⁹ 13.01.2016, p. 14

¹²²⁰ 13.01.2016, p. 29

¹²²¹ 18.01.2016, p. 37

¹²²² 18.01.2016, p. 40

¹²²³ 13.01.2016, p. 15

872. A.S. met S.T. on her birthday in 2006 when she came with R.D., A.P. and another man called “Pa.”. She did not know if R.D. and S.T. were friends.¹²²⁵ Few months before the murder, R.D., A.S., S.T. and two or three other people had lunch together.¹²²⁶
873. She never had personal contacts with N.K. and M.A.G.¹²²⁷ She remembered that on 13 July 2007 N.K.’s sons were arrested.¹²²⁸ The most probably it was E.Ke. who was arrested in connection with the murder of R.D.¹²²⁹ When asked about the arrest of Z.T. just after the death of R.D., she said that she did not remember every person that was arrested.¹²³⁰
874. She stopped contacts with A.P. immediately after the murder of R.D., because he called her on the same night and started threatening her. He felt really bad about the death of his best friend, and he told that he would kill her and bury her next to him.¹²³¹
875. A.S. admitted that she was very interested in the outcome of this trial but she did not read the statements not to be influenced.¹²³² On the other side, she only saw the headlines in Avaz and she assumed that it was literally a massacre being done to S.T. She knew it from her mother who read them. Her mother could have occasionally told her what S.T. testified about the murder, that she was accusing F.R, that there was an agreement between him and N.K.¹²³³

¹²²⁴ 13.01.2016, p. 19, 29

¹²²⁵ 13.01.2016, p. 19

¹²²⁶ 13.01.2016, p. 28-29

¹²²⁷ 13.01.2016, p. 27

¹²²⁸ 13.01.2016, p. 28

¹²²⁹ 18.01.2016, p. 13

¹²³⁰ 13.01.2016, p. 33

¹²³¹ 18.01.2016, p. 31 - 32

¹²³² 18.01.2016, p. 32

¹²³³ 18.01.2016, p. 33

876. She never discussed or met with S.T. on purpose.¹²³⁴
877. During cross-examination she was confronted with her statement from 2014 when she was asked about the enemies of R.D. Then she mentioned N.K., [the family name of M.A.G.] brothers, M.A.G. and A.A.G. and Z.T. When asked that she did not differentiate between them, she explained that they did not put additional questions.¹²³⁵ She stood by this statement.¹²³⁶ The only reason why Z.T. and R.D. were enemies was this situation on the New Year which she described.¹²³⁷
878. She never heard about the reconciliation between R.D. and Z.T. After the death of R.D., Z.T. came to her to tell that they reconciled but she did not want to talk with him.¹²³⁸ She was not sure but it could have been two years after the death of R.D.¹²³⁹ They met in a café, she was with her friend, Z.T. was with S.T. She greeted S.T., but ignored Z.T. who said that there was no need for this because he reconciled with R.D. She ignored him because after the death of R.D. she cut all the contacts with people from this world.¹²⁴⁰ She also cut contacts with S.T. but when she saw her, they just greeted each other. She saw her only three times in public.¹²⁴¹

¹²³⁴ 18.01.2016, p. 33

¹²³⁵ 13.01.2016, p. 32

¹²³⁶ 18.01.2016, p. 18

¹²³⁷ 18.01.2016, p. 20

¹²³⁸ 18.01.2016, p. 18

¹²³⁹ 18.01.2016, p. 19

¹²⁴⁰ 18.01.2016, p. 19

¹²⁴¹ 18.01.2016, p. 19

879. R.D. never spoke with her about Z.T. He never mentioned that he suspected him that he threw a bomb on his house. She knew that there were some conflicts between them but she did not know since when.¹²⁴²
880. She said that she knew the names of N.K.'s sons but she did not tell them. She saw one of them in Sarajevo few months before. Of course, he did not threaten her or approach her.¹²⁴³ Only after the death of R.D. she connected the names of N.K.'s with their pictures.¹²⁴⁴
881. She never heard R.D. saying that N.K. or any [person with the same family name] wanted to kill him.¹²⁴⁵ Only when they were passing by the house of G., R.D. said about "*Shi.*".¹²⁴⁶ She did not know if M.A.G. is Albanian.¹²⁴⁷
882. She did not read anything about this trial. She was not interested. She did not read S.T.'s articles.¹²⁴⁸ She does not have any contacts with A.P. They ignored each other. He blamed her for the death of R.D.¹²⁴⁹
883. R.D. told her that few days before the death he got a sms with threats. He did not indicate from whom.¹²⁵⁰

Conclusion

884. A.S. did not have any direct knowledge who was standing behind the death of R.D. She was clear that R.D. was protecting her from the information about his problems. She based her claims that R.D. had a conflict with Albanians on this

¹²⁴² 13.01.2016, p. 32-33

¹²⁴³ 13.01.2016, p. 34

¹²⁴⁴ 18.01.2016, p. 425

¹²⁴⁵ 18.01.2016, p. 15

¹²⁴⁶ 18.01.2016, p. 15-16

¹²⁴⁷ 18.01.2016, p. 16

¹²⁴⁸ 18.01.2016, p. 29

¹²⁴⁹ 18.01.2016, p. 30

¹²⁵⁰ 18.01.2016, p. 31

what she heard mainly from A.P. Therefore, in this part her testimonies do not constitute a piece of evidence to support the Prosecution's case.

3.32.1. Influence on A.S.

885. A.S. testified that on 14 December 2015 she was asked by her manager to protect F.R. She answered that she would tell the truth. She said that she stood by her statement from 2014.¹²⁵¹

886. On 15 December 2015 she met with B.Da. and his out of wedlock wife. They put a pressure on her to protect F.R. in the trial against N.K. as much as possible. She told them that there were three questions about F.R., she answered briefly and she was going to repeat the same.¹²⁵²

887. On 17 December 2015 she was once again approached by the same woman, who called her, and they met in the evening in front of Hotel P. This lady "Bi." transferred a message that F.R. asked also to protect N.K. A.S. repeated that she was going to stand by her testimony, but she was also curious what exactly they wanted from her. "Bi." showed her a notebook with sentences to be rewritten.¹²⁵³

888. She was supposed to testify that R.D. was not in relation with her, and that he only stayed in his house with his wife and his family. She was expected to confirm that R.D. never had an affair with the wife of F.R. She was supposed to say that R.D. only had a conflict with G. and Z.T. and he was in friendly relations with N.K. She was to tell that R.D. did not have any contacts with S.T.¹²⁵⁴ A.S. said that she was not going to lie, she would tell the truth. "Bi." told

¹²⁵¹ 13.01.2016, p. 20-21

¹²⁵² 13.01.2016, p. 22

¹²⁵³ 13.01.2016, p. 23

¹²⁵⁴ 13.01.2016, p. 24

that the boss (F.R.) would do something for her, if needed. N.K. was dangerous and he would send somebody to kill her for. A.S. did not agree. On the following day she refused to testify in Kosovo. She reported this event to the authorities.¹²⁵⁵

889. During cross examination, A.S. testified that she had an impression that “Bi.” was passing the message to her from F.R. and N.K. She did not tell that she was in touch with N.K.¹²⁵⁶

890. **F.R.** testified that he did not speak, nor anybody on his behalf, with A.S.¹²⁵⁷

891. A day before his testimony in Kosovo, Bosnian authorities delivered a binder of transcripts of intercepted phone calls of F.R. with other people. It was already translated into English. It must be underlined, that it was sent without request from Kosovo side, as the Court was not aware of its existence, and the Prosecutor did not inform that he knew about it.

892. The Defence opposed admitting these transcripts, however the Court after deliberation admitted it. As a consequence, F.R. refused to answer any questions related with these intercepted conversations claiming that the surveillance was illegal.

Conclusion

893. The Court did not hear testimonies of people who allegedly approached A.S. on behalf of F.R. and N.K. The fact that on 16 December 2016, A.S. refused to testify and was visibly nervous indicates that there must have been a reason for

¹²⁵⁵ 13.01.2016, p. 24-25

¹²⁵⁶ 13.01.2016, p. 30 - 31

¹²⁵⁷ 31.10.2016, p. 16

such behaviour. However, what is relevant for this case, A.S. did not have any direct knowledge about who stood behind the murder.

894. In the same time, the Court noted that in her previous testimony given shortly after the death of R.D., A.S. did not indicate N.K. as potentially involved in this murder. He used his name only when asked about persons with whom R.D. had a conflict and she mentioned several of them. Therefore, the Accused objectively had no reasons even to try approaching her in any way to influence her testimony.

895. Witness A.S. testified through a video link. It must be mentioned that on the session held on 13 January 2016 the Court accepted her request to zoom a camera during cross-examination on the Defence, to make the Accused not visible for her. At that moment, the decision was taken without assessing the credibility of the witness, but the Court took into account that she indicated some circumstance justifying her fear of N.K. According to the law, the court may even decide to order the accused to leave the court room during the examination of the witness, so the Court found that none of his rights was violated when he was placed in a way that he was not visible to the witness via video-link.

3.33. E.D.

896. According to E.D., during the last winter before the murder, a bomb was thrown on their house. R.D. thought it was by Z.T. because they had a conflict from before the war, there was always hatred between two of them.¹²⁵⁸ Before the war,

¹²⁵⁸ 11.12.2015, p. 31

Z.T. shot at her husband, he was tried for this. He also attacked him near the building of the presidency.¹²⁵⁹

897. According to E.D., her husband never spoke about F.R.¹²⁶⁰ He did not have any relations with him.¹²⁶¹ He was not involved into intimate relations with F.R.'s wife.¹²⁶²

898. After the arrest of Z.T., S.T. came to E.D. and told that F.R. and N.K. paid for the murder of R.D.; they did it in front of her. E.D. did not want to listen to it.¹²⁶³ She did not believe her because she came three years after the murder, and she did not come to express her condolences. E.D. did not believe her because she never came again.¹²⁶⁴

899. During cross-examination, E.D. that she trusted her husband. She was informed about all important events in his life, conflicts and threats.¹²⁶⁵ His relation with another woman did not affect this trust.¹²⁶⁶ She knew his associates: A.P., J.C., but the real friend was her.¹²⁶⁷ As far as she knew R.D. was never in conflict with N.K.¹²⁶⁸ She denied categorically that R.D. wanted to establish a drug trafficking network.¹²⁶⁹

¹²⁵⁹ 11.12.2015, p. 44

¹²⁶⁰ 11.12.2015, p. 32

¹²⁶¹ 11.12.2015, p. 41

¹²⁶² 11.12.2015, p. 42

¹²⁶³ 11.12.2015, p. 37

¹²⁶⁴ 11.12.2015, p. 51

¹²⁶⁵ 11.12.2015, p. 38-39

¹²⁶⁶ 11.12.2015, p. 39

¹²⁶⁷ 11.12.2015, p. 39-40

¹²⁶⁸ 11.12.2015, p. 40

¹²⁶⁹ 11.12.2015, p. 41

Conclusion

900. Testimonies of E.D. did not provide the evidence to support the Prosecution case that N.K. was involved in the murder of R.D. It must be underlined that as a wife of R.D. she was an injured party in this case, particularly interested in its outcome. She had no interest to testify in favour of the defendant.

3.34. AL.H.

901. AL.H. was an imam, at least in a course of his religious education.¹²⁷⁰

902. He was a close friend of R.D. He was in charge of his premises and shops. He was finding apartments for R.D., paying his rent, etc.¹²⁷¹ He saw R.D. every day.¹²⁷²

903. During the trial, AL.H. testified that R.D. was in conflict M.A.G. which started in Turkey. R.D. attacked one of the G. brothers, and he was accusing N.K. for sending Kurds there to kill him.¹²⁷³

904. During cross-examination, AL.H. admitted that he did not mention R.D.'s accusations against N.K. that he sent Kurds in the G. trial because this information was presented to him a long time ago, while the fresh one was about L.By. shooting A.P.¹²⁷⁴

¹²⁷⁰ 27.01.2016, p. 8

¹²⁷¹ 27.01.2016, p. 8

¹²⁷² 27.01.2016, p. 9

¹²⁷³ 27.01.2016, p. 9; 29.01.2016, p. 6-7

¹²⁷⁴ 22.02.2016, p. 11

905. According to Al.H., A.P., M.Al., D.Ce., J.C. and El.H., were closely related with R.D.¹²⁷⁵ They all belonged to the group of R.D. which was dealing with criminal activities. R.D. was not a boss, but they were there for him.¹²⁷⁶
906. In the course of further examination, Al.H. withdrew from his statements that R.D. was involved in criminal activities. The witness underlined that R.D. was a religious person, hero of Sarajevo.¹²⁷⁷
907. R.D. was more afraid of N.K., probably because he was more powerful. M.A.G. was afraid of R.D., he was hiding before him.¹²⁷⁸ According to Al.H., R.D. considered N.K. as a protector of M.A.G.¹²⁷⁹ Whenever R.D. maltreated M.A.G., he went and complained to N.K. R.D. was stalking M.A.G.¹²⁸⁰
908. AL.H. did not think that there was any conflict directly between R.D. and N.K.¹²⁸¹ He never witnessed any conflicts between them.¹²⁸² He confirmed that he heard R.D. calling N.K. after the accident of his son. It was few months before the death.¹²⁸³
909. He admitted that R.D. did not like Albanians, especially M.A.G.¹²⁸⁴ AL.H. was not aware of other enemies of R.D.¹²⁸⁵
910. Al.H. did not know Z.T. He knew that R.D. knew Z.T., but R.D. mentioned him very rarely. He mentioned Z.T. in 2006; in the beginning of year 2006, when he

¹²⁷⁵ 27.01.2016, p. 10

¹²⁷⁶ 29.01.2016, p. 9 – 10

¹²⁷⁷ 27.01.2016, p. 14

¹²⁷⁸ 27.01.2016, p. 10, 11

¹²⁷⁹ 29.01.2016, p. 6

¹²⁸⁰ 29.01.2016, p. 7

¹²⁸¹ 27.01.2016, p. 10

¹²⁸² 22.02.2016, p. 25

¹²⁸³ 22.02.2016, p. 26

¹²⁸⁴ 29.01.2016, p. 7

¹²⁸⁵ 27.01.2016, p. 15

was visiting one coffee bar called “Boh.” in “V.P.”street, which was run by R.D.’s friend “Vo.”, M.U. R.D. was called to come because Z.T. came there with his friend M.Me. Unfortunately, a problem had occurred prior to R.D.’s arriving there which was caused by M.Me., and on that occasion he and several guests were also wounded. Police arrived and arrested him.¹²⁸⁶ According to Al.H., it was the only disagreement that R.D. and Z.T. had in last years.¹²⁸⁷

911. Al.H. knew Ek.L. from the city. He never talked about him with R.D. never spoke about the wife of F.R.¹²⁸⁸

912. He confirmed his statements given in the trial against M.A.G. where he told that people went to Belgrade with 250.000 euro for the murder of R.D. and 50.000 euro for A.P. He thinks it was a man with a nickname “P.”¹²⁸⁹ He was also told by R.D. that M.A.G. offered people in Belgrade 200.000 KM for R.D., and 100.000 KM for A.P. He got this information from E.P., and it was supposed to be paid by the man with a nickname “Zu.”¹²⁹⁰

913. Al.H. had a friend S.El. who told him that L.By. who escaped to Kosovo was bragging in Prizren that he killed the biggest boss in Sarajevo. He testified about this in the G. trial.¹²⁹¹ Al.H. concluded then that it was L.By. who killed R.D. However, he admitted that he was no longer sure about. He commented that each person arrested in Bosnia was accused of R.D. murder. He changed his mind because the court acquitted M.A.G.¹²⁹² In the G. trial he did not mention S.L. at

¹²⁸⁶ 27.01.2016, p. 16

¹²⁸⁷ 27.01.2016, p. 17

¹²⁸⁸ 29.01.2016, p. 5

¹²⁸⁹ 29.01.2016, p. 18 -19; 22.02.2016, p. 22

¹²⁹⁰ 22.02.2016, p. 123

¹²⁹¹ 29.01.2016, p. 21; 22.02.2016, p. 23

¹²⁹² 22.02.2016, p. 24 - 25

all because he did not find it relevant. He did not know why he did not mention it earlier.¹²⁹³

914. He admitted that he read that S.T. accused F.R. and N.K. for the death of R.D. He also read that she was accusing Ek.L. for being involved in it. He did not read what the motive was according to her, but he thought that there was no other one, just the fact that they were brothers.¹²⁹⁴

915. He admitted that he shared in this trial more information than in the G. trial because now he knew more. Moment later, he said that it was not that he did not know, but he did not want to share them because of his personal safety.¹²⁹⁵

916. There was also information that Z.T. killed R.D. but according to him this was nonsense because they never had such arguments which could finish in grave. In his opinion, Z.T. was more afraid than anyone.¹²⁹⁶

Conclusion

917. Al.H. was one of many witnesses, closely connected with R.D., determined to find people responsible for his death. He used to be his friend and a close collaborator therefore he had quite extent knowledge about him.

918. It was visible that he adapted his testimony to the development of the situation. During the proceedings against M.A.G., Al.H. was convinced that he was the one behind the murder. He lost his conviction after the acquittal. During the current trial he avoided any clear statements who should be blamed for it, what indicated that he had no direct knowledge. He underlined that he was not aware

¹²⁹³ 22.02.2016, p. 9 – 10

¹²⁹⁴ 22.02.2016, p. 10

¹²⁹⁵ 22.02.2016, p. 15

¹²⁹⁶ 22.02.2016, p. 27

about any conflict between R.D. and N.K. As many other witnesses, he shared with the Court speculations and rumours.

919. What was of particular relevance in the case of his testimony, it was confirmation that R.D. was involved in criminal activities and that he had many enemies around himself. He indicated several incidents with various people when R.D. fall into conflict, which resulted sometimes in use of weapons. It was visible that in the course of examination he tried to mitigate his harsh statement about R.D. by underlying that he was a good man, father of the family and a hero of Sarajevo, but he did not withdraw from his claims that he was involved in criminal activities.

3.36. K6, B.L., F.R. - additional information

920. Another witness proposed by the Prosecutor to corroborate the murder charges was **K6**. This witness was proposed already after the commencement of the main trial.

921. **K6** started working for AVAZ in October 2006.¹²⁹⁷ He claimed that he resigned from his job in December 2014.¹²⁹⁸ Due to his experience in the police, he was working as a driver of F.R.¹²⁹⁹ He was working on shifts,¹³⁰⁰ also on weekends.¹³⁰¹ Besides driving, he was also a protection officer. He usually was waiting for F.R. in the room with surveillance cameras.¹³⁰²

¹²⁹⁷ 15.09.2015, p. 5; employment booklet

¹²⁹⁸ 15.09.2015, p. 42;

¹²⁹⁹ 15.09.2015, p. 6;

¹³⁰⁰ 15.09.2015, p. 9;

¹³⁰¹ 15.09.2015, p. 12;

¹³⁰² 15.09.2015, p. 12;

922. He was driving F.R. from home to work, and back, later also to restaurants. F.R. was always sitting on the front seat, no matter it was against the rules.¹³⁰³ He was reading newspapers, talking on the phone. He rarely spoke to the driver.¹³⁰⁴
923. **F.R.** confirmed that when he went to work, he usually sat on the front seat because of route sickness. He does not speak with a driver, he talks through the phone.¹³⁰⁵ Members of his family were driven with him. His friend had their own vehicles. He thinks that S.T. never sat in this vehicle, neither Ek.L., nor N.K.¹³⁰⁶
924. **K6** claimed that when F.R. was talking on the phone he used nicknames. He also used the nickname “*St.*” for N.K.¹³⁰⁷. When asked about the nickname of N.K. before, he said that he did not remember if he had any.¹³⁰⁸ In cross examination, he said that he was not sure about the nickname, it is more his guess.¹³⁰⁹
925. Besides F.R. he also drove S.Ba. He could not recall other people.¹³¹⁰ He added later: S.T., Ek.L., also two of them in the same time. S.T. was driven in the armoured vehicle.¹³¹¹ A moment later, he said that guests were not driven with an armoured vehicle, but with a regular one.¹³¹² In the course of examination, he changed his mind and he said that S.T. was driving with them on daily basis, the same as Ek.L.¹³¹³

¹³⁰³ 15.09.2015, p. 10;

¹³⁰⁴ 15.09.2015, p. 10;

¹³⁰⁵ 31.10.2016, p. 14 - 15

¹³⁰⁶ 31.10.2016, p. 15

¹³⁰⁷ 15.09.2015, p. 32-33;

¹³⁰⁸ 15.09.2015, p. 27;

¹³⁰⁹ 16.09.2015, p. 47

¹³¹⁰ 15.09.2015, p. 12;

¹³¹¹ 15.09.2015, p. 14;

¹³¹² 15.09.2015, p. 15;

¹³¹³ 15.09.2015, p. 26;

926. **EK.L.** admitted that he heard that K6 was an assistant driver of FR. He was never driven by him. He read about his testimony in the media.¹³¹⁴ He would not recognize K6.¹³¹⁵ He saw his pictures on portals.¹³¹⁶
927. K6 assessed that F.R. was very frightened, paranoid, a hypochondriac. Therefore, he was often interfering in the job done by security officers, he had fear.¹³¹⁷ F.R. was a person who was easily scared. When he entered the rotating restaurant he was scanning the entire premises. If he sensed that there were unknown persons sitting in the restaurant he would return to his cabinet. If he stayed, he chose a table distant from other guests.¹³¹⁸ K6 believed that F.R. was very cautious; he never talked in his presence with anybody about any criminal activity.¹³¹⁹ He was very cautious, also when he was speaking with someone. When he picked up a phone in the vehicle, he said that he would call back in few minutes when he would be in the office. When he had official meetings in public places, he asked his protection to be discreet. He liked bragging about his success.¹³²⁰
928. In the light of such assessment of F.R., the Court found as untrue K6's statement that he heard him talking in K6's presence on the phone about R.D., he was very afraid of him, even obsessed with him. He usually spoke about him as "interceptor" or "disturber", however when he forgot himself, he used name him as R.D.¹³²¹ Similarly, it is fully unreliable that K6 once heard F.R. and Ek.L.

¹³¹⁴ 19.07.2016, p. 25 - 26

¹³¹⁵ 19.07.2016, p. 35

¹³¹⁶ 19.07.2016, p. 36

¹³¹⁷ 15.09.2015, p. 21;

¹³¹⁸ 15.09.2015, p. 26;

¹³¹⁹ 16.09.2015, p. 30;

¹³²⁰ 16.09.2015, p. 36

¹³²¹ 15.09.2015, p. 32;

talking in his presence while he was driving them, about. R.D., “Vo.” and the group. According to him, F.R. said “let me handle this, leave it to me”. This conversation was the only one the group that he heard and let him concluded that something was going on.¹³²² He did not report what he heard. He did not treat it as clear information.¹³²³

929. He also testified that few days after the murder, F.R. and Ek.L. were talking about the death of R.D. He said “*I told you that he would be put asleep.*” Ek.L. was very worried.¹³²⁴ F.R. admitted that he stood behind the murder of R.D. also in presence of B.L., who was replacing his regular secretary. He said it in his cabinet, in a company of Ek.L. B.L. repeated it to K6.¹³²⁵

930. This element was also not proven because it was only K6 who testified about this. Additionally, it was denied not only by F.R. and Ek.L., but also by “the emotional friend” – B.L., whose testimonies will be discussed below.

931. In the course of cross-examination, K6 testified that he was in emotional relation with B.L., who started to work in Avaz in June 2006 after the death of S.L. He knew that she would be a witness in this case and she knew a lot.¹³²⁶ According to him, she was replacing the main secretary of F.R.– “Sei.”. She worked there in a legal department up till 2009. She was dismissed by F.R. because her emotional relation with K6.¹³²⁷

¹³²² 16.09.2015, p. 34

¹³²³ 17.09.2015, p. 20

¹³²⁴ 15.09.2015, p. 41-42;

¹³²⁵ 16.09.2015, p. 3;

¹³²⁶ 16.09.2015, p. 26; 17.09.2015, p. 5

¹³²⁷ 16.09.2015, p. 28-29

932. After K6 was dismissed from AVAZ he went on his own to SIPA to testify about F.R. He was asked about his illegal activities, and his alleged involvement in the killing of R.D.¹³²⁸
933. K6 believed that he was being permanently attacked by F.R., also through his media¹³²⁹ and through traffic accidents against him. He claimed that F.R. had “paranoia” because of him because of his brother who used to work with President B.Iz., a political opponent of F.R.¹³³⁰
934. In his testimony he was concentrated on L.B.C., it was visible that K6 blamed him for many things in his life.¹³³¹
935. He claimed that he never talked with S.T.¹³³² Despite of this, he underlined that she was also mistreated and attacked F.R. after she left AVAZ, the same as B.L. who would come “here” to testify in this case. When asked how he knew that she would testify in Kosovo, he changed his statement and he said that he meant that she would testify in other proceedings.¹³³³
936. K6 changed his testimony as to his contacts with S.T., because he admitted that he talked with her. He claimed that initially he meant that he did not talk with her only when he worked in Avaz, but he did it after he left. It occurred few times, and he did not speak with her about the involvement in the trial against N.K. She told him that she testified in Kosovo, but they did not go into too many details. She read what happened to him, and they discussed about it. He offered her

¹³²⁸ 16.09.2015, p. 39

¹³²⁹ 16.09.2015, p. 14-15

¹³³⁰ 16.09.2015, p. 7

¹³³¹ 16.09.2015, p. 31

¹³³² 16.09.2015, p. 9

¹³³³ 16.09.2015, p. 41

assistance. He denied being in regular contacts with her, but he confirmed that they were friends on Facebook. He admitted to post on her wall a comment “*September is coming, and the fear of F.R. is bigger and bigger*”. S.T. was publishing his pictures.¹³³⁴ Later it occurred that it was an exchange of comments between them on a Facebook site “Stop Avaz”.¹³³⁵

937. On many occasions, he underlined that S.T. knew more, and he claimed that this assessment was based upon his observations because she was all the time them sitting at the table with F.R. and others.¹³³⁶
938. K6 gave an interview in April 2015 in Bosnia where he said that he would testify for EULEX in the case against N.K., in relation to F.R.¹³³⁷ He met with EULEX prosecutor, it was once, he did not remember if he signed the minutes, for sure he signed the ones taken by SIPA.¹³³⁸ He also had a short meeting with the prosecutor after he arrived to Pristina.¹³³⁹
939. When asked about his motivation to testify, he said that he was discriminated and mistreated by F.R., and he found it unfair. Later, his car was demolished, official weapon stolen, and some staff from his locker at work was stolen. He blamed F.R. for these events and therefore he resigned. He described them in big details.¹³⁴⁰ In the course of cross-examination, he explained that he was not mistreated, but marginalized.¹³⁴¹ Before he left he wrote a letter to the management where he complained about how he was treated. However, he

¹³³⁴ 16.09.2015, p. 42

¹³³⁵ 17.09.2015, p. 4; printout of facebook account “Stop Avaz” with a comment made by K6 in response to S.T.

¹³³⁶ 17.09.2015, p. 5

¹³³⁷ 16.09.2015, p. 44

¹³³⁸ 16.09.2015, p. 44 - 45

¹³³⁹ 16.09.2015, p. 46-47

¹³⁴⁰ 15.09.2015, p. 43-45;

¹³⁴¹ 16.09.2015, p. 39

underlined in this letter that he was of a good opinion about F.R. The letter was from October 2014. He concluded that F.R. was always good for him¹³⁴²

940. **F.R.** confirmed that he knew K6; he was in a vehicle fleet of AVAZ. He was fired 3-4 years ago. He denied that he was ever driven him. K6 usually was driving the second car, escorting one. He remembered when K6 was fired because he was informed about his misuses, besides he got a private letter from him.¹³⁴³

941. K6 had some low level assignments like driving F.R.'s children to school, keeping them company, taking care of them during holidays, making sure they do not drown. F.R. trusted him absolutely.¹³⁴⁴ F.R. fulfilled his dream to fly with a plane.¹³⁴⁵ According to him, K6 was dismissed from AVAZ because of theft. F.R. did not know what his motive to testify against him was.¹³⁴⁶

942. **B.L.** was proposed as a witness by the defence after she made a statement in front of the Bosnian notary where she denied facts presented by K6 in his testimony. She used to have friendly relations with K6.¹³⁴⁷ She denied that the statement she gave in front of the notary was prepared by another person. She denied that it was paid by somebody else.¹³⁴⁸

943. She was a wife of S.L.¹³⁴⁹ Her brother in law was Ek.L.¹³⁵⁰ From the middle of 2008 until 2009 she was employed in Avaz. Occasionally she was replacing

¹³⁴² 17.09.2015, p. 25

¹³⁴³ 28.10.2016, p. 26-27

¹³⁴⁴ 28.10.2016, p. 28

¹³⁴⁵ 28.10.2016, p. 28 and pictures; 31.10.2016, p. 24 – contract of purchase of the plane

¹³⁴⁶ 31.10.2016, p. 30

¹³⁴⁷ Statement in front of the notary 13 October 2015.

¹³⁴⁸ 16.05.2016, p. 9

¹³⁴⁹ 16.05.2016, p. 4

¹³⁵⁰ 16.05.2016, p. 7

F.R.'s secretary when she was on break.¹³⁵¹ She did not work in Avaz in 2007.¹³⁵² From her employment contract it resulted that she started working there only 01 August 2008.¹³⁵³

944. She learnt about the death of R.D. from the media. She discussed it neither with colleagues from Avaz, nor with F.R. She was never present at any meeting where it was discussed. She did not see F.R. rubbing his hands and saying “you see how the father took care of R.D.”¹³⁵⁴ She never heard him or N.K. talking about the murder of R.D.¹³⁵⁵

945. She did not know personally S.T.¹³⁵⁶ K6 was filing false reports against her.¹³⁵⁷ She was never summoned by Bosnian authorities to testify in the case of the murder of R.D.¹³⁵⁸

946. **F.R.** testified that B.L. worked in AVAZ as a technical administrator, courier, in legal service, and her contract was terminated probably after a year. She worked there 10-12 years before. Probably it was Ek.L. who asked him to employ her because of social reasons. It was after the death of S.L.¹³⁵⁹ She never was his secretary. She never replaced his secretaries.¹³⁶⁰ During the break in the session F.R. got in touch with his office and found out that B.L. started working in AVAZ in August 2008.¹³⁶¹

¹³⁵¹ 16.05.2016, p. 5

¹³⁵² 16.05.2016, p. 11

¹³⁵³ employment contract of Mrs. L., dated on 1st August 2008 presented during the session held on 17.09.2015

¹³⁵⁴ 16.05.2016, p. 6

¹³⁵⁵ 16.05.2016, p. 8

¹³⁵⁶ 16.05.2016, p. 6-7

¹³⁵⁷ 16.05.2016, p. 7

¹³⁵⁸ 16.05.2016, p. 7

¹³⁵⁹ 31.10.2016, p. 6 - 7

¹³⁶⁰ 31.10.2016, p. 8-9

¹³⁶¹ 31.10.2016, p. 37

Conclusion:

947. The analysis of the testimony of K6 leads to the conclusion that he had no information about the murder of R.D.
948. First of all, in the course of his whole testimony it was visible that K6 decided to testify against F.R. because he blamed him for marginalisation in his job, and later for termination of his employment.
949. Secondly, K6 did not possess any direct knowledge about meetings held by N.K. and other people. In the course of examination he mainly repeated what he heard from other people and read in the media. It was proven during the trial that he knew S.T. and stayed in touch with her. He confirmed it himself, admitting even that they talked with each other about their testimonies in the present trial. Furthermore, the existence of quite close relations between them was corroborated by the printouts from a public account of S.T. where they posted information and pictures, and commented them. Initially, he said that he knew with S.T. because he testified that he never spoke with her. When he was asked about his later contradiction because he said admitted talking with S.T. on different occasions, he explained that he was asked about the period when they were working together in AVAZ. However, the Court finds that it was an inapt attempt to hide their relation.
950. Thirdly, he was not consequent in his testimony and he contradicted himself. Initially he said that F.R. was a very alert and careful person, who did not speak in his presence on the phone. He even assessed him as ‘paranoiac’ in reference to his safety. S.T. described him in the same way. Later, K6 changed his version and described some situations when he had an opportunity to hear F.R. speaking

on the phone. The same happened when he was describing the way how they were protecting F.R. Initially, he said that protection officers were always staying downstairs in their office and they never went with him to the restaurant. Later, he changed his version when he realized that it did not fit the story about the meetings which were to take place in the rotating restaurant.

951. Additionally, K6 was not consequent when he described his alleged encounters with N.K. At the beginning he said that he saw the defendant for the first time in 2007, and then he saw him again several months later. When he realized that it did not match the date of R.D. he testified about many meetings which he allegedly observed.

952. He was all the time adding new information, most of them he heard from other people, f.e. from the secretary of F.R. When asked about memory problems, he said that he was simply overwhelmed with the information.¹³⁶²

953. On the other hand, the Court had no doubts that in certain time K6 was a trusted driver of F.R. It results from his testimonies, corroborated with pictures when K6 and F.R. were together. Additionally, he confirmed that K6 was also driving his children and he even fulfilled his dream to fly.

3.37. Da.E.

954. Da.E. was another witness proposed by the Defence. He was sentenced for 9 years by the court in Serbia.¹³⁶³

955. He testified that he did not know N.K. He knows A.V.¹³⁶⁴

¹³⁶² 15.09.2015, p. 30;

¹³⁶³ 16.05.2016, p. 16

¹³⁶⁴ 16.05.2016, p. 16

956. He never spoke or mentioned the name of N.K.¹³⁶⁵ He knew R.D. superficially. He heard only stories or rumours about his murder. He indicated a group from Zagreb or Novi Pazar, but nothing specific. There were even stories about the involvement of Bosnian intelligence.¹³⁶⁶ There were many stories in the media that N.K. was involved in it.¹³⁶⁷
957. He did not know M.Os., never talked with him about the murder of R.D.¹³⁶⁸ He knows El.A. only as an acquaintance. He never met in person S.Ro. He heard about him. He never talked with them about the murder of R.D.¹³⁶⁹ He heard about M.M.¹³⁷⁰, but he did not know if he or his team had been involved in the murder of R.D.¹³⁷¹
958. He read about S.R. in the media.¹³⁷² He was acquitted from the charge of the attempted murder of D.Z.¹³⁷³
959. In reference to A.V. he said that *all* the transcripts from his trial which were taken in Belgrade had been found in a cell of A.V. in the central prison in Sarajevo. They were delivered by S.T. Da.E. informed the authorities about it. According to him, S.T. in cooperation with SIPA officers was collecting the information about his case in order to construct cases against him and against N.K.¹³⁷⁴

¹³⁶⁵ 16.05.2016, p. 16

¹³⁶⁶ 16.05.2016, p. 16

¹³⁶⁷ 16.05.2016, p. 17

¹³⁶⁸ 16.05.2016, p. 17

¹³⁶⁹ 16.05.2016, p. 17

¹³⁷⁰ 16.05.2016, p. 17

¹³⁷¹ 16.05.2016, p. 18

¹³⁷² 16.05.2016, p. 18

¹³⁷³ 16.05.2016, p. 18

¹³⁷⁴ 16.05.2016, p. 18

960. He denied that he gave a testimony in front of BiH prosecutor in 12 September 2012. There was only an official note made.¹³⁷⁵ He admitted that he talked with them but it was not an official interrogation. It was connected with a discussion about his transfer to Bosnia.¹³⁷⁶ He did not tell them that R.D. was killed by members of his group. They were talking only about his transfer to Bosnia. It was upon his request. In the end, they did not reach any agreement.¹³⁷⁷
961. According to Da.E., they were using this official note to construct a case against N.K. They were planting evidence and putting pressure on witnesses to conduct a process against him. He read this official note maybe 6 months before giving a testimony in Kosovo. It was not his testimony.¹³⁷⁸
962. Da.E. knew S.T. superficially. She was sending transcripts of his trial to A.V. She did it to construct a case against him and N.K. He knew it from other convicts who were in the same cell with A.V. A.V. wanted to do it because he was convicted for 10 years, and wanted to get earlier release. S.T. wanted to do it the most probably because she wanted to protect her husband who was convicted for 40 years.¹³⁷⁹
963. Additionally he said:

During the time period between 2006 and 2009 I was in big problems whether I wanted that or not, I was forced to have information regarding all criminal groups for my personal safety. So, at that time I spoke and I have had two

¹³⁷⁵ It is an official note, signed only by police officers which contains description of events connected with the murder of RD (binder 3, pretrial)

¹³⁷⁶ 16.05.2016, p. 18 – 19

¹³⁷⁷ 16.05.2016, p. 19 - 20

¹³⁷⁸ 16.05.2016, p. 20 - 21

¹³⁷⁹ 16.05.2016, p. 20 – 21, 22

*persons in each criminal group close to me, and I heard a lot of stories, some of them true and some of them not. There was one story that investigation has been deliberately directed against N.K. in order to protect the true persons who ordered the killing and to have situation where R.D.'s group would retaliate and kill N.K. or remove him from Sarajevo. At that time, the name which was well known is a person with surname S.R., he was simply involved or somehow inserted in that story. He is not among living; however I can claim now from here that he did not kill him. Taking into consideration the commencement of murder investigation shortly after assassination, by issuing international warrant based on DNA which was allegedly found on the crime scene speaks in favour of the fact that investigation was not directed towards S.R. but someone else.*¹³⁸⁰

964. Da.E. claimed that no one influenced on his testimony.¹³⁸¹ He denied that he asked prosecutors several times to make a statement in The Lu. case. He underlined that the official report was falsified.¹³⁸²
965. **M.A.G.** testified that he was advised in prison not to testify at all. He was approached by people from the international community to testify against F.R., N.K. and B.Iz. It was before the state elections in 2014. They still exercise pressure on him. He refused to give names, saying that he did not want to risk disciplinary punishment.¹³⁸³ Prosecutor Dubravko Campara was trying to convince him to testify against N.K.¹³⁸⁴ Prosecutor Campara wanted to make him

¹³⁸⁰ 16.05.2016, p. 21

¹³⁸¹ 16.05.2016, p. 21

¹³⁸² 16.05.2016, p. 22-23

¹³⁸³ 07.12.2016, p. 19-20

¹³⁸⁴ 07.12.2016, p. 21

testify against N.K., and he did not want to tell lies against him. They come to Zenica prison and publicly search for witnesses in N.K.'s case. They offered liberty for K2 for his testimony. The entire prison is talking about it.¹³⁸⁵

3.38. B.H.

966. Testimonies of B.H. were of little relevance for his case. He did not know N.K., N.O., F.R., Ek.L., S.S., S.R. and N.V. He saw once or twice M.M.¹³⁸⁶ He never saw S.R. and N.V., he denied that he rented them an apartment.¹³⁸⁷ He knew R.D., he was his friend, and he had no motive to kill him.¹³⁸⁸

Final conclusion on the murder charges

967. The Prosecution did not present the reliable evidence supporting his case that N.K. with other people indicated in the indictment planned and organized the murder of R.D., paid for it and executed it through hired assassins.

Part 4 Factual findings as to the drug charges

4.1. General remarks

968. The testimonies of witnesses K1 and K2 were crucial pieces of evidence to support the Prosecutor's case for the drug charges. Both K1 and K2 had a status of cooperative witnesses in this case which required corroboration of their testimonies by other evidence. Only these parts of their testimony that were corroborated by other pieces of evidence could serve as a ground for the factual findings.

¹³⁸⁵ 07.12.2016, p. 23

¹³⁸⁶ 19.07.2016, p. 8-9

¹³⁸⁷ 19.07.2016, p. 9

¹³⁸⁸ 19.07.2016, p. 9

969. It must be underlined that witnesses K1 and K2 testified for several days before this Court. He was also examined by the Bosnian authorities in the proceedings against Z.T. and in another investigation in so called “Lu.” case. Therefore there has been a voluminous material to be assessed and compared what allows for a proper analysis of the veracity and reliability of this witness.
970. When assessing the value of the testimonies given by witnesses K1 and K2, the Court kept in mind that they had interests and motives to incriminate N.K. Therefore, it was of particular importance to assess their depositions with precaution.
971. Furthermore, in case of the witness K1 there was a turning point in his testimony when it was found that he was promised the immunity which was not provided in the Code. The Court decided to repeat the whole examination of K1 after proper instruction was given to the witness. There were numerous and significant discrepancies and inconsistencies between the versions of events presented before and after the lawful immunity was granted and proper instruction was given. It was clearly visible that witness K1 withdrew from majority inculpatory statements against N.K. what additionally caused a sceptical approach to his depositions.
972. The problem with the immunity given by the Prosecutor to this witness was discovered at the final stage of the cross-examination. Until this moment, the Court did not observe that the witness was afraid or concerned about his safety. He testified freely, described in details his involvement in many criminal activities, including murders in which he participated together with Z.T. Only after the issue with the immunity, during cross-examination, when K1 realized

how much he changed his version of events, he raised the argument that he was approached by the family of A.Ka. and the Defence who allegedly attempted to influence him not to testify. The Court found K'1 testimony as a pure lie and a desperate attempt to save his story and in consequence - the status of the protected and cooperative witness.

973. It is worth to underline that even the Prosecutor noted this radical change in the testimonies of witness K1 what resulted in his motion to declare him as a hostile witness. Only when instructed by the Presiding Judge of the consequences of such motion, the Prosecutor withdrew it and continued with direct examination of witness K1. In his closing argument, the Prosecutor claimed that the change of the testimony resulted from the fact that the witness was threatened by the Defence and the family of A.Ka. what affected negatively his statement.
974. K1 admitted that he met with the Prosecutor and discussed the case. He did not remember exactly how many times, however he said that it was on several occasions. No minutes of those meeting were ever presented to the Court. Moreover, investigators were seeing the witness every day, even 10 of them per day.¹³⁸⁹

4.2. Alleged attempt to influence on witness K1

975. As it was mentioned above, witness K1 testified for several days what enabled the Court thorough observation of his conduct, behaviour, the way of speaking. However, it was never noted that he was afraid or felt threatened in any way. The Court observed that K1 trusted the Prosecutor in this case what he mentioned on

¹³⁸⁹ 23.03.2017, p. 22

several occasions in his testimony, he even addressed him in a familiar way although he mistook the name (“Henry” instead of “Andrew”). The only concern that he shared with the Court and the Prosecutor was his dissatisfaction with the conditions given to him within the witness protection program as he did not like accommodation offered, he complained about the amount of money which he had received, he was not satisfied with a legal status which was given to him and his family by the third state where they were staying.

976. In his closing statement, the Prosecutor claimed that during the second examination, after he received the proper instruction on immunity, witness K1 withdrew from many of his earlier testimonies inculpatory for the Accused because he was threatened. The Prosecutor requested that his previous statements (before the immunity) to be used for establishing the facts of the case. This motion was rejected as obviously *contra legem*. The Court elaborated already on this question in paragraphs 70-71 of Part 1 of the Judgment.
977. Nevertheless, the Court found that there is no single piece of reliable evidence which would confirm threats and attempt to influence on K1 after he was properly instructed. There are many reasons supporting this stance.
978. Witness K1 stayed under EULEX Protection Program. He and members of his closest family were living in the third country which was not known even to the Court.
979. He mentioned the attempt to influence on him by the Defence only during the second round of his testimony, after he was properly instructed about the immunity and his right and duties, during the cross-examination by the Defence. He mentioned this attempt when he was cross-examined about using the building

of the R-a-C shop in Peja and it became clear that his testimony in this part was dubious. It was Court conclusion that allegations of attempt to influence him were presented to mitigate impression of false testimony.

980. K1 alleged that he talked on the phone with A.Ka. and in the same time he heard his phone conversation with B.B. who offered 5 or 10 millions of Euro for withdrawal from the previous statements. K1's version of events is full of contradiction, inconsistencies and there is no logic in it. In the course of questioning, he withdrew from his initial statement that he heard the Defence offering money, and finally he told that it was only A.Ka. who informed him about this.¹³⁹⁰

981. K1 also claimed that on this occasion he called his family from a public phone from the airport in Amsterdam. He allegedly did it on his way back from Kosovo in August 2017. He was aware of restrictions imposed on him as a protected witness in reference to phone calls. He often underlined, that he needed a permission from the protection unit to make a phone call. He was not allowed to use a public phone, especially during his trip under protection from Kosovo to the country of his stay. He knew that any phone call from the phone provided by the witness protection, it could have been easily verified.

982. It must be underlined that A.Ka. denied that such a conversation took place at all.

983. Upon a clear instruction of the Court, the Prosecutor entrusted EULEX investigators to take all necessary measures to verify the statements of K1 as to the alleged attempt to influence on him by the Defence through his family. After having contacted the mother and brother of K1, it was established that they did

¹³⁹⁰ 11.11.2016, p. 17 - 29

not talk with him in August 2017, and their last phone conversation took place few years before.¹³⁹¹

984. When asked whether he informed anybody about this situation, K1 said that he sent SMS to prosecutor Campara, and tried to get in touch with him few times but he did not respond. He did not inform about this EULEX Prosecutor, or the witness protection unit, because he claimed that he expected that Campara would do it when K1 finally explains what happened. This explanation appeared to the Court as not convincing.

4.3. Count 3 of the indictment

According to the indictment:

from at least 2000 through 2012, N.K., as the head and director of his extensive Structured and Organized Criminal Group that included K1 (drug manager and mixer for N.K.), K2 (directed shipments between Turkey, the Balkan region, and Holland), K3 (drug distributor in Belgrade/Serbia), L.K. (distribution manager of drugs to Serbia and other European countries), H.Me. (driver and bodyguard), S.A. (driver), Z.B. (auto mechanic, creating hidden car compartments for drugs), H.Ka. (contact in Turkey), I.K. (contact in Turkey), A.Ka. (coordinator of drug shipments) and others, managed and directed the purchase, preparation, transport, sale and distribution, of large amounts of Heroin, Ecstasy, Speed, and other drugs, as well as drug precursors such as acetic anhydride acid, through a well-established organized criminal network. Defendant N.K. coordinated through the aforementioned individuals and many others the import/export of tons of these dangerous and illegal drugs in hidden car compartments such as specially modified chambers in gas tanks, hollowed-out furniture, false bottom trucks,

¹³⁹¹ 15.02.2017

fruits, clothing/textile and by using other methods. Through well-coordinated drug trafficking routes, large shipments of Ecstasy pills were picked up in Holland and transported to Bosnia and Herzegovina and Kosovo, where they were repackaged and transported onwards to Istanbul/Turkey where the Ecstasy was exchanged for Heroin and other drugs. The drugs received in Istanbul were then transported back through Bosnia and Herzegovina and Kosovo and then delivered and sold to dealers and distributors throughout Europe.

985. This count was supported by the evidence produced by the witness K1, not only by his testimony, but also by the notebook which he handed over to the EULEX investigators in 2015. His testimony in a decisive part was found by the Court as not reliable and not true. Witness K1 was the only one testifying about his alleged involvement in drug trafficking with the defendant N.K. for at least several years. Other witnesses who testified on drug trafficking described actions which took place only in 2003.

986. The Court found proven as not contested that K1 was involved in drug trafficking, which involved his participation in transport, delivery, distribution, purchase and sale of drugs. He specialized in mixing heroine. Additionally, in the period of at least 2005 until 2010 he was involved in drug trafficking related to cocaine. These facts were presented in details by witness K1.

4.4. Cooperation of K1 with N.K. in drug trafficking – time frame

987. The Court did not find proven that K1 started working with N.K. in 1986. First of all, the witness himself is not consequent with the period. Secondly, there is no other piece of evidence which would support his testimonies on this matter, especially that A.Ka. and M.Ka. denied facts presented by K1. Thirdly, K1

testified in an inconsistent way as to the number of meetings with N.K. in this initial period. Furthermore, he changed his version as to whether he was paid for collecting the parcels delivered by buses to Peja which were to contain heroine. All these circumstances justify finding of the testimonies of K1 referring to the beginning of the cooperation with N.K. as unreliable.

Summary of the relevant evidence

988. K1 was very inconsistent about the period when he allegedly worked for N.K. During his testimony he mentioned different years when he started and finished this cooperation.

989. During the main trial, K1 said that he met N.K. in 1986 when he was employed by his relative M.Ka. as a waiter and a cook in his restaurant in Rozaje.¹³⁹² At that time K1, upon the instruction of M.Ka. started to collect packages with heroin brought to Rozaje by bus drivers. He used to give drivers envelopes with an unknown to him amount of money in exchange. Initially he was not aware what was inside the packages, but one time he opened it and found out that there was heroin what was later confirmed by M.Ka.¹³⁹³ Packages, different in size and weight, were usually coming 2-3 times monthly, one package at one time. They were small, made of cardboard, taped and nothing was written on them.¹³⁹⁴

990. Initially he said that before 1986 he did not have any contact with drugs, while a moment later he testified that he did not remember if the situation in 1986 was his first encounter with heroine.¹³⁹⁵

¹³⁹² 01.11.16, p. 4; 19.02.2016, p. 4

¹³⁹³ 01.11.16, p. 4-5, 19.02.2016, p. 5 - 6

¹³⁹⁴ 01.11.16, p. 6

¹³⁹⁵ 10.11.2016, p.24

991. K1 also changed his testimony as to the remuneration received for collecting parcels brought from Peja. When testifying on this circumstance after getting proper immunity, he said that he was not paid for this but instead he was receiving a treat, every time when he took the parcels except the time when M.Ka. was abroad.¹³⁹⁶ When he was describing this cooperation before the immunity, K1 said that he started to be paid for this service after some time.¹³⁹⁷ Initially he was paid by M.Ka., later also by N.K.¹³⁹⁸
992. K1 testified that he met N.K. in person for the first time in 1986 in Peja, in a vicinity of a shopping centre. He was sent there by M.Ka., and the most probably he was accompanied by A.Ka.¹³⁹⁹ This meeting was 4-5 months before he joined the army, what took place in December 1986, and he spent there a year.¹⁴⁰⁰
993. **A.Ka.** excluded that he participated in such meeting. He explained that it was also not possible because in 1986 he was in Germany from where he returned only in February or March 1987 and joined the army.¹⁴⁰¹ Additionally, he did not know N.K.¹⁴⁰² According to him until 2003, K1 did not know N.K. because he never mentioned his name, but he did not know how it was later.¹⁴⁰³
994. Initially, **K1** testified that he delivered the money to N.K. on numerous occasions, while after being properly instructed about the immunity he described only this one event. Already then they were discussing about drugs.¹⁴⁰⁴ During

¹³⁹⁶ 01.11.16, p. 6 - 7

¹³⁹⁷ 19.02.2016, p. 5 - 6

¹³⁹⁸ 19.02.2016, p. 8

¹³⁹⁹ 01.11.2016, p. 10

¹⁴⁰⁰ 01.11.16, p. 10, 19.02.2016, p. 7-8

¹⁴⁰¹ 27.02.2017, p. 6

¹⁴⁰² 27.02.2017, p. 4

¹⁴⁰³ 27.02.2017, p. 8

¹⁴⁰⁴ 19.02.2016, p. 7

cross-examination, K1 again testified about the only one meeting with N.K. when he gave him an envelope. Additionally, he said that they did not talk about the drugs.¹⁴⁰⁵

995. **M.Ka.** denied that he was sending K1 to pick up parcels with drugs. He commented the statement of K1 that he not only was involved in transport of drugs and payment for bus drivers as the biggest lie. He denied mixing drugs in the basement, drying heroine in the stove.¹⁴⁰⁶

996. M.Ka. denied knowing N.K. He said that he never saw him. His knowledge about him is based on the information from the media. He said it was a lie that he was working with N.K. since at least 1986.¹⁴⁰⁷

997. After 1984 he started running a restaurant called *V.I.* in Rozaje. It had 8 tables, a small kitchen, he employed people there. In the basement he kept beverages. He used gas stoves which he had in the kitchen. When asked what for, he answered that only for cooking. He had no idea what other purposes it could be used for.¹⁴⁰⁸

998. M.Ka. confirmed that he knew K1, they were cousins. Upon request of his sister, he employed K1 in his restaurant *V.I.*, perhaps it was in 1985 but he was not sure, it could have been 1982 or 1983. In this period K1 was 12 or 11, maybe 13. His duty was to bring food and drinks from the storage downstairs, stand behind the bar and clean the restaurant. As a child he could not do other things.¹⁴⁰⁹

¹⁴⁰⁵ 19.02.2016, p. 7

¹⁴⁰⁶ 28.03.2017, p. 8

¹⁴⁰⁷ 28.03.2017, p. 8-10

¹⁴⁰⁸ 28.03.2017, p. 5 - 6

¹⁴⁰⁹ 28.03.2017, p. 6-7

999. Two or three months after K1 started working in the restaurant, M.Ka. found out from his aunt that K1 was stealing alcohol from the storage and was selling it around. Therefore, he came together with his brother by car and took K1. When they asked about the theft K1 managed to open the back door and jumped out of the car. Afterwards, M.Ka. never saw K1 again.¹⁴¹⁰ He only read in the media that K1 was a protected witness.¹⁴¹¹
1000. M.Ka. knew A.Ka. whom everybody in Rozaje knew as “A.” [in the redacted version of the judgment, A. is hereinafter referred to as A.Ka.].¹⁴¹²
1001. In the course of his further testimony, **K1** said that in 1986 he met not only N.K., but also R.K. (“D.”) what took place in Peja or Vitimirica. According to him, N.K. and R.K. were continuously in contact, meaning they were all the time together. They were working together with drugs and cigarettes.¹⁴¹³ A moment later, K1 withdrew from this statement and he said that R.K. did not work in cigarettes with N.K.¹⁴¹⁴
1002. The different version as to the year when K1 begun cooperation with N.K. was presented by him during his first examination by EULEX investigators which took place on 20 February 2013. Then he said that he knew the Accused from the period when he was 16 or 17 years old, and he met him in Rozaje, in Kosovo. At that time K1 did not work with drugs, but only as a black market foreign currency trader. He started to work with drugs only in 1996, after the war.¹⁴¹⁵ Additionally K1 said that he worked for N.K. until the moment when he went to

¹⁴¹⁰ 28.03.2017, p. 7

¹⁴¹¹ 28.03.2017, p. 16

¹⁴¹² 28.03.2017, p. 10-11

¹⁴¹³ 01.11.16, p. 15

¹⁴¹⁴ 01.11.16, p. 16

¹⁴¹⁵ 25.01.2017, p.27-28

jail, somewhere in 2004.¹⁴¹⁶ When asked about the discrepancies as to the period when he was working with N.K., K1 was not able to explain the reasons why he testified in a different way. He only said that these were not his words (the ones from his examination conducted by EULEX investigators in 2013). According to him, the fact that he did not testify in this way was supported by a statement that he was arrested in 2004, while in fact it took place already in 2003.¹⁴¹⁷ However during cross examination, K1 confirmed that in 1986 he worked with currencies. In this way he additionally undermined his previous statements about involvement in drugs.¹⁴¹⁸

1003. **A.Ka.** testified that he knew N.K. only from the media.¹⁴¹⁹

1004. He admitted that he knew K1, since 1991 or 1992. He met him in Rozaje and in this period K1 was selling vehicles which he brought from Germany and the Netherlands. They used to socialize for a year or year and a half, then they had a break in contacts until 2001 when they met again. In this period A.Ka. lived and worked in Germany, while K1 was in prison there for drug trafficking and he was extradited to Bosnia and Herzegovina in this year.¹⁴²⁰

1005. They met in Sarajevo again, they were socializing with each other, however they did not have any common business. A.Ka. saw K1 for the last time in 2003. Later, they may have had some phone conversations. He phoned K1's wife and children when he was in prison to find out if they needed anything.¹⁴²¹ The fact that A.Ka. was in contact with the spouse of K1 was a reason for their conflict

¹⁴¹⁶ 25.01.2017, p.27-28

¹⁴¹⁷ 25.01.2017, p.27-28, 48 - 49

¹⁴¹⁸ 25.01.2017, p. 28 - 29

¹⁴¹⁹ 27.02.2017, p. 3, 7

¹⁴²⁰ 27.02.2017, p. 4

¹⁴²¹ 27.02.2017, p. 5

because K1 suspected that he had an affair with her. They did not resolve this issue between them.¹⁴²²

1006. A.Ka. denied that he ever worked with K1 or anybody else in drug trafficking.¹⁴²³ He never had his own criminal group working with drugs.¹⁴²⁴ He was never convicted or detained for drug offences.¹⁴²⁵ He denied that notes in K1's notebook where his name was mentioned were true.¹⁴²⁶

1007. A.Ka. confirmed that he knew M.Ka. but he never worked with or for him. He did not work with him in drug business.¹⁴²⁷ He knew S.Hu. from Rozaje.¹⁴²⁸

1008. He did not know R.K.¹⁴²⁹ He did not know K2, but heard his name in the media on many occasions. He never sat with him at one table.¹⁴³⁰ He did not have any business relation with him, he did not visit him, did not buy any weapon from him.¹⁴³¹ He did not know the motive of K2 to testify against him. After the conversation he had with the prosecutor, he guessed that maybe K2 was promised earlier release or mitigation of his punishment.¹⁴³²

1009. A.Ka. did not know E.As. and S.Ban. He never heard about hotels P.and Jusaj in Peja. He did not know the places: *Koridor* in Bosnia, "Ban." Center on the exit

¹⁴²² 27.02.2017, p. 5

¹⁴²³ 27.02.2017, p. 6, 14

¹⁴²⁴ 27.02.2017, p. 9 - 10

¹⁴²⁵ 27.02.2017, p. 10

¹⁴²⁶ 27.02.2017, p. 13-16

¹⁴²⁷ 27.02.2017, p. 6

¹⁴²⁸ 27.02.2017, p. 15

¹⁴²⁹ 27.02.2017, p. 6

¹⁴³⁰ 27.02.2017, p. 8

¹⁴³¹ 27.02.2017, p. 13

¹⁴³² 27.02.2017, p. 16

of Peja. He knew the place called Hrasnica in Sarajevo.¹⁴³³ He did not know S.Ak.¹⁴³⁴

1010. When asked about the man with a nickname “Kra.” [translation], A.Ka. said that he knew H.H., a former judo champion of the former Yugoslavia. He denied knowing anybody with a nickname “St.” [translation].¹⁴³⁵

1011. A.Ka. denied any involvement in drug trafficking. He admitted that he was heard by EULEX investigators. He did not recall if on this occasion he was shown pictures of any locations.¹⁴³⁶

1012. He had an apartment in Sarajevo and it happened that K1 visited him there. Other friends did not visit him.¹⁴³⁷ He confirmed that he knew Restaurant Brajlovic but he never met there with K1.¹⁴³⁸

1013. During his testimony, A.Ka. confirmed that he knew the family of K1. It happened sometimes that they saw each other in Rozaje. He described the situation when a year/year and a half before his testimony before the court in Kosovo he was approached by the son of K1, named “An.”, who forwarded him a message from K1 that everything that he was saying to the prosecutor was a lie.¹⁴³⁹

1014. When asked about the motive why K1 testified against him, A.Ka. said that he was thinking about it for a long time but he did not know it. The only justification which he proposed was the situation with the wife of K1. According

¹⁴³³ 27.02.2017, p.14

¹⁴³⁴ 27.02.2017, p. 13

¹⁴³⁵ 27.02.2017, p. 15

¹⁴³⁶ 27.02.2017, p. 7-8, 12 - 13

¹⁴³⁷ 27.02.2017, p. 8

¹⁴³⁸ 27.02.2017, p. 9

¹⁴³⁹ 27.02.2017, p. 10

to his knowledge, she left K1 after he got arrested.¹⁴⁴⁰ He claimed that K1 was drug addicted.¹⁴⁴¹

1015. In the course of cross-examination, A.Ka. admitted that he had a nickname “A.”. According to him, K2 recognized him in the picture only because somebody showed it to him.¹⁴⁴² He explained where his income came from (bakery).¹⁴⁴³ Once again he categorically excluded any involvement in drug operations.¹⁴⁴⁴

4.4. Total period of alleged cooperation between N.K. and witness K1

1016. As it has been mentioned above, K1 was the only witness testifying in this case about the organized criminal group allegedly ran by N.K. in the period from 2000 until 2012 as it is indicated in the indictment.

1017. The Court found no evidence to support these allegations as K1’s testimony was assessed as unreliable. The Prosecutor did not provide any credible evidence to corroborate the testimony of the co-operative witness K1.

1018. In the course of the proceedings it has become clear that K1 could not have cooperated with the defendant for all this time, and he did not possess knowledge about his activities. There are many circumstances which on one side indicate that such cooperation did not take place, while on the other side – the Prosecutor did not provide the evidence to prove that K1 was working in this period with or for N.K.¹⁴⁴⁵

¹⁴⁴⁰ 27.02.2017, p. 12

¹⁴⁴¹ 27.02.2017, p. 13

¹⁴⁴² 27.02.2017, p. 18

¹⁴⁴³ 27.02.2017, p. 19

¹⁴⁴⁴ 27.02.2017, p. 19-21

¹⁴⁴⁵ 27.02.2017, p. 12

Summary of the relevant evidence

1019. In 1988, when K1 returned from the army, he was sent for training on how to mix drugs¹⁴⁴⁶ by M.Ka., R.K. and he did not know by whom else.¹⁴⁴⁷ R.K. and others paid for plane tickets, accommodation was also paid by A.Ka. and R.K.¹⁴⁴⁸ Before the immunity, he testified differently because he said that it was A.Ka. and R.K. who proposed this training for him, however he underlined that they were working for N.K.¹⁴⁴⁹ During cross-examination he testified that M.Ka. told him that N.K. was involved.¹⁴⁵⁰
1020. K1 also testified differently about the main place of the training. Before the immunity, he said that he spent few days in Pakistan, while the whole training took place in Turkey. After the immunity, he testified in an opposite way – few days he was in Istanbul and then 6-8 months in Pakistan.¹⁴⁵¹
1021. During his testimony, K1 was not consequent about the names of people who trained him. After the immunity, he said that he remembered only S.Ec.,¹⁴⁵² who was a contact person, from the beginning. K1 was going to him to Turkey, he visited him.¹⁴⁵³ Before the immunity, he said that there were 10-15 people who were training him but he did not remember any names. Under pressure of questions, he mentioned “Ze.” and H.B.¹⁴⁵⁴ Only during cross-examination he

¹⁴⁴⁶ 01.11.16, p. 13

¹⁴⁴⁷ 01.11.16, p. 4,9

¹⁴⁴⁸ 19.02.2016, p.11, 01.11.16, p. 14

¹⁴⁴⁹ 19.02.2016, p. 11

¹⁴⁵⁰ 10.11.2016, p.27

¹⁴⁵¹ 01.11.16, p. 13 - 14

¹⁴⁵² 01.11.16, p. 14

¹⁴⁵³ 01.11.16, p. 19

¹⁴⁵⁴ 19.02.2016, p. 14

reminded himself that he saw S.Ec. with N.K. in Sarajevo and that he came often.¹⁴⁵⁵ When S.Ec. was coming to Sarajevo, they all (R.K., A.Ka. and many others) were sitting at one table, including N.K.¹⁴⁵⁶ This was 1989, then he corrected himself saying that it was only in 1999, to return in a moment to 1989.¹⁴⁵⁷

1022. In 1990 – 2002, K1 lived in Germany, Ulm where he opened a construction company and a shop called “L.V.” which was used as a discotheque.¹⁴⁵⁸ He mixed drugs there for R.K., A.Ka., K.Ku. and S.Hu.¹⁴⁵⁹, and he was also travelling if needed through Germany and to Switzerland.¹⁴⁶⁰ He often went for mixing drugs to Hamburg and Frankfurt. There were bigger amounts of drugs mixed.¹⁴⁶¹

1023. In this period he was often travelling to the Balkan, any time it was needed, at least once a week, sometimes once in two weeks. He received instructions when to come and he was called mainly by A.Ka. He was travelling by plane, paid for tickets, and later reimbursed by A.Ka. and R.K.¹⁴⁶²

1024. K1 went often only to mix drugs in Switzerland, to Ramosen on the border with Germany, to Zurich and Bern.¹⁴⁶³ K1 did mixing also in Austria, in different locations, f.e. Vienna through Su.C. and B.Ka.¹⁴⁶⁴

¹⁴⁵⁵ 10.11.2016, p.29

¹⁴⁵⁶ 10.11.2016, p.30

¹⁴⁵⁷ 10.11.2016, p.30

¹⁴⁵⁸ 02.11.2016, p. 8

¹⁴⁵⁹ 02.11.2016, p. 8

¹⁴⁶⁰ 02.11.2016, p. 8

¹⁴⁶¹ 02.11.2016, p. 10

¹⁴⁶² 02.11.2016, p. 9

¹⁴⁶³ 02.11.2016, p. 10-11

¹⁴⁶⁴ 02.11.2016, p. 11

1025. In 1999 K1 was convicted in Germany for 6 years of imprisonment, and as a consequence he was deprived of liberty since then, until his release only in January 2002 when he moved to Sarajevo.¹⁴⁶⁵ K1 admitted that in this period he was dealing with drugs, however there is no evidence to prove any relations between these activities and N.K.
1026. On 05 November 2003, K1 was arrested in Bosnia and stayed in prison until 2008. Admittedly, he was released from time to time from prison, but it started only in 2005, when he was transferred from the detention facility in Sarajevo to the prison in Kula.¹⁴⁶⁶ He admitted that these breaks were short, usually one day or even one night. Taking into account a notorious fact how much time is needed to travel around the countries of the former Yugoslavia the Court finds that K1 had no sufficient time to go abroad during this breaks.¹⁴⁶⁷
1027. In the context of the releases of K1 from prison in Bosnia it also shall be mentioned that K1 presented different versions presented by him as to who enabled him such a special treatment. In the trial against Z.T. K1 testified that everything was arranged by him, while in the present case he testified that it was N.K. and F.R. who used their influence to enable him going out from prison almost every time he wanted. K1 was not able to explain the reasons of discrepancies in his statements.
1028. K1 was confronted with the decision on immunity issued by Bosnian authorities, which was given him also for criminal offences connected with drug trafficking, committed by him in the period 2005-2010. According to the description of this

¹⁴⁶⁵ 02.11.2016, p. 11-12, 25.02.2015, p. 22 - 23

¹⁴⁶⁶ 02.11.2016, p.29, 24.01.2017, p. 22-23

¹⁴⁶⁷ 02.11.2016, p.29

charge in this period he was detained in the correctional institute in Sarajevo, and then in the correctional institute Kula; the role of Z.T. was to enable K1 through his acquaintances and connections to be frequently absent from these correctional facilities. When asked for the reason why it was only Z.T. mentioned there, K1 said that it was a trial only against him and he was not allowed to speak against others.¹⁴⁶⁸

1029. During the cross examination K1 admitted that since 2005 he was working with Z.T. whom he met in prison where they made friends. Their extensive collaboration lasted until 2010 when K1 decided to testify against Z.T. in front of the prosecution in Bosnia, after he received a status of the protected witness.¹⁴⁶⁹

According to his testimony, since 2010 he was not involved in drug trafficking. In 2011 he left the country.¹⁴⁷⁰

1030. The very analysis of these dates, significant in the life of K1, shows that he did not have direct knowledge about N.K.'s involvement in the organized crime connected with drug trafficking in the period from 2000-2012.

4.5. K1's co-operation with others, including Z.T.

1031. The Court finds as unreliable the statements of K1 that he worked for the same time for Z.T. and N.K. His statement that S.T. stayed on a daily basis with N.K. in the rotating restaurant stays in contradiction with other evidence collected in this case. The profit made by K1 in cooperation with Z.T. was much higher than the one obtained as a payment for mixing of drugs so there was no reasonable justification to get involved in the business with other people, especially such

¹⁴⁶⁸ 23.03.2017, p. 42

¹⁴⁶⁹ 08.11.2016, p. 35-36

¹⁴⁷⁰ 08.11.2016, p. 33; 10.11.2016, p. 16 - 17

who stayed in conflict with Z.T. Additionally, there is no other witness who would corroborate claims of K1.

Summary of the relevant evidence

1032. The Prosecutor's case was that N.K. was a leader of the organized criminal group involved in drug trafficking. One of the specific of such activity is the fact that a group performing it is closed, its members are loyal to each other, there is a duty to keep its activities secret and interactions with other groups are very limited. What results from the testimonies given by the witness K1, is in contradiction with such *modus operandi* what the Court finds as strongly undermining the credibility and veracity of this witness.

1033. K1 testified that in the same time when he was a member of the organized criminal group ran by N.K., he was working with or for various groups involved in drug trafficking which operated in the Balkan and outside of the region. He explained that he was a man "for hire", who was mixing drugs for everybody who paid him for it. Besides N.K. he mentioned his cooperation with: R.K., H.D., Z.T., L.B.C. and VE.H. During cross examination he also admitted that he was a member of the group of A.Ka. and he also worked for D.Sa. In relation to this last man, he said that he started working with him only after he had finished working with N.K., but a moment later he said that he was working for all of them in the same time.¹⁴⁷¹

1034. K1 was clear that his crucial partners in drug trafficking were Z.T. and his wife S.T. He described in details their operations mainly connected with trafficking of cocaine which brought K1 much bigger income than mixing drugs. They were

¹⁴⁷¹ 26.01.2017, p. 19 - 20

working together in the period 2005-2009. It was a well-structured group, around 50 people were involved. He admitted that it happened that there were some arguments between him on one side, and the [T. family] on the other connected with partition of money and for this part of business S.T. was responsible. According to K1, it was her who actually ran the organization.¹⁴⁷² During cross examination K1 admitted that they also sold heroine in Bosnia, but definitely in a smaller amount than cocaine.¹⁴⁷³

1035. K1 testified that Z.T. had nothing against his working with N.K., especially that S.T. was meeting him almost on daily basis in Radon Plaza. However, Z.T. and N.K. were in bad relations because N.K. suspected that Z.T. together with R.D. robbed his apartment.¹⁴⁷⁴ The clear evidence for this tension between them was the attempt to kill N.K. undertaken by Z.T. what he admitted in his trial in Bosnia and Herzegovina.

1036. It must be underlined that Z.T. was sentenced with the final judgment of the court of Bosnia and Herzegovina i.a. for the attempted murder of N.K., organized crime and drug trafficking. One of the most important witnesses in his case was K1.¹⁴⁷⁵

4.6. Organization

1037. The Court found it proven that K1 worked with drugs. In his testimony he described in details the way how drugs were pressed, packed and hidden in special compartments in long trucks, vans and other vehicles.¹⁴⁷⁶ He presented

¹⁴⁷² 08.11.2016, p. 35-36, 38 – 41; 10.11.2016, p. 16 - 17

¹⁴⁷³ 10.11.2016, p.22

¹⁴⁷⁴ 08.11.2016, p. 44

¹⁴⁷⁵ Judgment of the court of BiH against Z.T.

¹⁴⁷⁶ 19.02.2016, p. 15 - 16

routes which were used to bring drugs and where they were further distributed.¹⁴⁷⁷ Besides mixing, he was also in charge of packing drugs into suitcases, paper would be attached where the suitcase should go.¹⁴⁷⁸ He described the way how the drugs were packed, transported, hidden¹⁴⁷⁹ and the routes.¹⁴⁸⁰

1038. However, the essential issue in this case was to establish whether there was any connection between the drugs which K1 was talking about and N.K. The Court noted that testimonies of K1 in reference to this issue were inconsistent, they changed significantly after the situation with the immunity. It was visible that he withdrew from many inculpatory statements against N.K. as he stopped to connect him with deliveries of drugs, or underlined that he was not competent to know the details.

Summary of the evidence

1039. K1 testified that after his return from Turkey, he was mixing drugs.¹⁴⁸¹ K1 worked for N.K. on mixing drugs from 1988 until 2009. All instructions for mixing he got from A.Ka. and R.K.¹⁴⁸² When asked if he saw any money made by N.K. he answered that he worked for R.K., and he did not know what he earned.¹⁴⁸³

1040. K1 generally said that drugs belonged to N.K. and R.K. because for a long time he was attending meetings and heard stories.¹⁴⁸⁴ Before the immunity, he was

¹⁴⁷⁷ 01.11.16, p. 14 - 20

¹⁴⁷⁸ 01.11.2016, p. 24

¹⁴⁷⁹ 01.11.16, p. 16-18, 25; 02.11.2016, p. 4, 5

¹⁴⁸⁰ 01.11.16, p. 21

¹⁴⁸¹ 01.11.2016, p. 16

¹⁴⁸² 08.11.2016, p. 32

¹⁴⁸³ 01.11.2016, p. 17

¹⁴⁸⁴ 02.11.2016, p. 5

clearer by saying that N.K. was number one in the group, while R.K. was first after him.¹⁴⁸⁵ During cross-examination he admitted that everything was dealt by R.K., and only in case if some things went wrong he would go and speak with N.K.¹⁴⁸⁶ According to him, they all knew from whom they were working. N.K. was the leader, all of them were working for him, everybody had his duties.¹⁴⁸⁷

1041. During the cross-examination K1 on many occasions was confronted with his earlier testimonies given in front of the Bosnian authorities. On 20 February 2013, he was asked about his cooperation with N.K. and a chain of command. Initially he said that then it was forbidden to speak about him and F.R. However, the analysis of this testimony indicates that there was no ban on testifying about N.K. because already then K1 mentioned the name of N.K. in a context of trafficking with drugs. When K1 was asked why he mentioned N.K. despite of the alleged instruction of a Bosnian prosecutor not to do so, he explained that it was forbidden to speak about the amounts. He was allowed to speak only about positive things, nothing negative and no drugs.¹⁴⁸⁸

1042. In the same testimony from February 2013, K1 said that he knew N.K., they all called him “*St.*” [translation], and he worked in drugs. He admitted that he revealed it, however he did not mention any quantities. But a moment later he was confronted with a fragment where he described in details the amount of drugs and how it was transported.¹⁴⁸⁹ During the trial against Z.T. in 2011 the same prosecutors told him not to mention N.K. and F.R.¹⁴⁹⁰

¹⁴⁸⁵ 19.02.2016, p. 24

¹⁴⁸⁶ 10.11.2016, p.35

¹⁴⁸⁷ 11.11.2016, p.32

¹⁴⁸⁸ 24.01.2017, p. 23 - 26

¹⁴⁸⁹ 24.01.2017, p. 31

¹⁴⁹⁰ 24.01.2017, p. 26 - 27

1043. The Court found that it was not true that K1 and other witnesses were forbidden to speak about N.K.'s involvement in drug trafficking in Bosnia. It is not only contradictory with the content of the testimony given by K1 before the Bosnian authorities when at least on several occasions he mentioned N.K. and his involvement in drug trafficking, but such behaviour of the prosecutors would violate not only provisions of the criminal procedure, but also a code of professional ethics.
1044. On many occasions, when speaking about the organization which was dealing with drugs, K1 mentioned only the names of R.K., A.Ka., K.Ku. and S.Hu. He also underlined that it was R.K. who was responsible for organizing and all operations.¹⁴⁹¹ When K1 was working all over Europe, he was often in touch with his bosses R.K., A.Ka. and "F."¹⁴⁹² K1 did not mention N.K. in this context.
1045. He claimed that whenever R.K. would face a problem, he had to talk to "St." [translation], meaning N.K.¹⁴⁹³ According to K1, R.K. was a bigger boss in terms of organization, but the main boss was N.K. R.K. was always in charge of organization, he was always with them, provided them with information where to go, in which location.¹⁴⁹⁴
1046. In the course of his further testimony, K1 underlined that R.K. was responsible for everything; he was the one to give them instructions. He kept records to report to "St." as to what was received and delivered. After the delivery R.K. asked them for their records which were sent to N.K.1 was not consequent in his

¹⁴⁹¹ 01.11.16, p. 13

¹⁴⁹² 02.11.2016, p. 13

¹⁴⁹³ 01.11.16, p. 15-16

¹⁴⁹⁴ 01.11.2016, p. 24

testimony because a moment later he explained that R.K. did not send the reports but he met with N.K. and transmitted them to. It must be underlined that K1 only heard about these meetings from R.K. N.K. He also explained that he was rarely present when this was happening because usually R.K. N.K. went alone to meet N.K.¹⁴⁹⁵

1047. K1 testified differently about reporting done by R.K. during cross-examination. This time he said that he wrote down if everything was in order with the delivery and informed R.K. Afterwards, the latter approached N.K., f.e. in Casa Grande or Restaurant Brajlovic. During this testimony K1 said that he was present on such occasions, however he was not always sitting with them at a table. He underlined also that it was not his duty to inform N.K., therefore he did not do it himself.¹⁴⁹⁶

1048. In the course of further questioning within cross-examination K1 changed his version again because he said that during his whole cooperation with that group he witnessed R.K. reporting to N.K. only two to three times.¹⁴⁹⁷ When asked about drugs coming to a specific location (178), K1 said that about the reporting to N.K. he knew only from the stories of R.K.¹⁴⁹⁸

1049. K1 could not remember how many times he was present when R.K. reported to N.K., but more or less it was 2-3 times. When asked if he referred to a period 1996-2009, he said that he did not know. Then he changed his mind and said that they had meetings very often but they were connected only with lists of deliveries because whenever the delivery was finished they checked if

¹⁴⁹⁵ 01.11.2016, p. 30 – 31; 07.11.2016, p. 28 – 29, 31; 25.01.2016, p. 15

¹⁴⁹⁶ 25.01.2017, p. 15-16

¹⁴⁹⁷ 24.01.2017, p. 38

¹⁴⁹⁸ 25.01.2017, p. 22-23

everything matched. After a while, K1 changed his mind again because he said that these 2-3 meetings were during the times when they communicated in writing, besides they all met many times: A.Ka., N.K., R.K., and S.Hu.¹⁴⁹⁹ It was visible that the witness was avoiding giving a clear answer to a simple question and was trying to gain time to prepare a response.

1050. During cross-examination K1 was asked about his previous testimony as to the chain of command, given in February 2013. On this occasion he said that the chain consisted of: A.Ka., K.Ku., H.Su., Albanian from Kosovo that participated in the murder with K2, S. and H.Kr. from Novi Pazar. The list of the names did not contain N.K. and R.K. When asked about this K1 said that it was not his testimony and it was the most probably fabricated. He was not able to explain why he did not mention R.K. and N.K.¹⁵⁰⁰
1051. K1 did not know if R.K. had his own criminal organization, but A.Ka. had for sure because he saw it personally in Turkey.¹⁵⁰¹ However A.Ka. was hiding it from R.K.¹⁵⁰²
1052. According to K1, since 1988 N.K. was living in Bosnia, he had an apartment in Hrasno, Trg Heroja Str., a house in Ilidza and hotel Casa Grande.¹⁵⁰³ During cross- examination he said that in this period N.K. was working in drugs and for Serbian security.¹⁵⁰⁴

¹⁴⁹⁹ 01.11.2016, p. 30 - 31

¹⁵⁰⁰ 24.01.2017, p. 29-31

¹⁵⁰¹ 02.11.2016, p.28

¹⁵⁰² 24.01.2017, p. 37

¹⁵⁰³ 01.11.16, p. 20, 24

¹⁵⁰⁴ 10.11.2016, p.31

1053. At that time his bosses were R.K., A.Ka. and “F.” from Peja, but he did not remember his name. Later, he was abducted together with M.Ka. by K2. They all worked for N.K. and they were giving instructions to him.¹⁵⁰⁵
1054. K1 mentioned also that records were kept by him, A.Ka. and R.K.¹⁵⁰⁶ to know what quantities of drugs they received and delivered, and to know the balance at the end.¹⁵⁰⁷
1055. During his testimony K1 testified how the criminal organized group allegedly ran by N.K. functioned, however it can be observed that knowledge of the witness was very limited and on many occasions he referred to this what he heard. Frequently, he was not able to indicate a source of information and when asked about this he only said that he just knew it. A visible difference in the way how he testified could have been easily observed between what he said before the issue with the immunity and after it occurred. Before the immunity he was more inclined to indicate N.K. as the leader of the group, while after immunity he avoided statements clearly pointing at N.K. as the one involved in this criminal operation.

4.7. Notebook of K1

1056. Significant part of K1’s testimony referred to the notebook, or was even based on it. The notebook was handed over by the witness K1 only in April 2015, when the main trial in this case already started, despite the fact that K1 became a cooperative witness in 2010. The Court and the Defence were informed about

¹⁵⁰⁵ 02.11.2016, p. 13

¹⁵⁰⁶ 01.11.2016, p. 25

¹⁵⁰⁷ 01.11.2016, p. 30; 07.11.2016, p.17

this new piece of evidence on 21 April 2015 when the Prosecutor filed a motion to disclose it.

1057. During the main trial session held on 22 February 2016, when the motion to admit the notebook as evidence was discussed, the Defence opposed the Prosecutor's motion and requested to reject it as inadmissible on the grounds that it was filed after the indictment, without proper court order and without possibility to challenge it.¹⁵⁰⁸

1058. The Court concluded that the Prosecutor learned about this piece of evidence later, in 2015. Therefore, the Court treated it not as a disclosure of evidence but as a new motion for it. According to Article 329 of CPC the parties are allowed to present new evidence till the conclusion of the main trial. The Court found that no grounds existed which are provided in article 258 and 259 of the CPC which could justify a decision to prevent this evidence.¹⁵⁰⁹

1059. In 2016, during the session to decide on the notebook the Prosecutor refused to provide the minutes from examination when K1 admitted for the first time the existence of the notebook, because of the secrecy of other proceedings where the statement was taken. However it was obtained later and K1 was confronted with this what he said then.¹⁵¹⁰

1060. The notebook contains several hand written notes (discussed in detail below) covering the period from April 2002 until 2009.

1061. The authenticity and the reliability of the notebook were contested by the Defence during the course of the main trial. The Defence filed on several

¹⁵⁰⁸ 22.02.2016, p. 38 – 39; 23.02.2016, p. 2-3

¹⁵⁰⁹ 23.02.2016, p. 4

¹⁵¹⁰ 23.02.2016, p. 3-4

occasions a motion to declare it as intrinsically unreliable. Upon the request of the defence the notebook was examined by an expert on ink dating, and finally three expert reports were produced.

4.7.1. Ink dating

1062. The first expert report on ink dating was prepared by an expert appointed by the Court upon the motion of the Defence¹⁵¹¹, E.H.S. from the E.H.S. Forensics, LLG. His report was delivered on 11 July 2016 and served on the parties.

1063. The purpose of this expert opinion was to establish whether the entries in the notebook were made contemporaneously with their recorded dates. To answer this question, the expert examined visually selected pages from the notebook, and applied the following methods of ink – dating: gas chromatography, ink comparison by thin – layer chromatography and ESDA impressions. In conclusion, the expert indicated that:

“No evidence exists from the testing conducted, that the pages were written at any time other than their purported dates.”¹⁵¹²

1064. The Defence did not agree with the conclusion of the expert and presented the expert report prepared by V.N.A. PhD to rebut the findings presented by E.H.S. V.N.A. disagreed in total with the conclusions contained in the report of E.H.S., mainly on the methodological grounds. Having conducted the analysis of this report he held the following opinion:

“(…) that the conclusion regarding the age of the questioned inks on the Notebook that Mr. E.H.S. reached (“it is my opinion that no evidence exists

¹⁵¹¹ 24.02.2016

¹⁵¹² Expert report of E.H.S., p. 5

from the testing conducted, that the pages were written at any time other than their purported dates”) cannot be scientifically supported by the data obtained, was reached through the methodologically unsound procedure (that has nothing to do with the published, peer reviewed, and tested/validated ink – aging methods that analyse 2-PE), and therefore this ink – age – determination conclusion can be considered neither accurate nor reliable.”¹⁵¹³

1065. The right for the defendant to obtain and pay for expert analysis on his own results from Article 141 (2) of the CPC. It provides that the expert must comply with Article 139 of the CPC and the state prosecutor shall receive a copy of the defence expert’s report within 14 days of its completion.
1066. The Court found that the expert report filed by the Defence meets the requirements prescribed in the law and as such is an admissible piece of evidence.
1067. Taking into account two expert opinions with contradictory conclusions, the Court found necessary to engage another expert on documents and graphology. An expert R.Lu. from *the Forensic Association of Poland* was called to present and explain existing methods applied for ink dating analysis of documents.¹⁵¹⁴ He also received the notebook for examination.
1068. The decision on appointment of this specific expert was preceded by an attempt to obtain this expert opinion through the Forensic Agency of Kosovo. Therefore during the main trial session held on 31 July 2017, H.Bo., the head of division for documents and handwriting, testified whether it was possible to conduct ink –

¹⁵¹³ Expert report of V.N.A., p. 6

¹⁵¹⁴ Ruling dated 04 August 2017

dating examination in Kosovo. He explained that the Institute in Kosovo was not able to conduct such analysis. From the information which he obtained from other European institutes he found out that few of them apply a method of ink – dating but it is limited to records not older than 6 months. Another method used for this purpose is based on comparison of inks with those which were available on the market on the exact date.¹⁵¹⁵

1069. Similar information that ink – dating can be effectively conducted only in case of documents not older than 6 months was also obtained from the University of Wroclav in Poland.

1070. Expert R.Lu. presented his report in writing. The report meets all the requirements specified in Article 138 of the CPC. He conducted the examination of the notebook, which was delivered to him. Additionally, he received expert reports prepared by E.H.S. and V.N.A. for analysis. Mr. R.Lu. presented available methods of ink – dating, and addressed the conclusions of the both experts. He concluded:

“As a result of the analysis of the writings dated for a period 2002 – 2008 (according to the document) in the notebook in question it is stated that:

1) It is practically impossible to determine the time when the individual records were made, hence if they were produced in the purported dates, or later, as one act of creation ;

2) According to the forensic science it is not possible to confirm or deny the reliability of the writings as to the time and order of making them.”

¹⁵¹⁵ Minutes of the trial held on 31.07.2017, p. 3 - 6

1071. Expert R.Lu. presented in his thorough and detailed report the methods currently applied to assess “the age of the document”. He underlined that all known and verified methods of ink – dating bring positive results only in case of “fresh” inks. He presented in the table the findings of various experts on ink – dating which indicate “the age” of the ink which allows for assessment:

Year	Author/Authors	Scope of dating	Publication
1996	V.N.A.	Several months	V.N.A. Dating and characterizing writing, stamp, pad, and jet printer inks by gas chromatography/mass spectrometry. International Journal of Forensic Document Examiners, vol. 2, no. 2 103–116, 1996
2002	V.N.A.	Up to 6 months	V.N.A. <i>Current Methods for Dating Ink on Documents</i> . Proceedings of the 60th Annual Conference of the American Society of Questioned Document Examiners, San Diego, California, August 14-19, 2002, and the Midwestern Association of Forensic Scientists Fall 2002 Meeting, Milwaukee, Wisconsin, September 15-20, 2002.

2002	Gaudreau & Brazeau	Up to 18 months	Gaudreau M., Brazeau L. Ink Dating Using A Solvent Loss Ratio Method, 60 th Annual Conference of the American Society of Questioned Document Examiners, San Diego, 2002
2002	R.Lu. & Krawczyk	12 – 18 months	R.Lu., Krawczyk, W. <i>Metodyka badań dokumentów. Problemy Kryminalistyki</i> 236, 18-22, 2002
2003	Andrasko	4 – 6 months	Andrasko J. Ink Dating Using SPME and Methanol Extraction, 3rd Meeting of the European Network of Forensic Science Institutes, Istanbul, 2003.
2006	Wang	Up to 3 months	Y. Wang, L. Yao, P. Zhao, J. Wang, Y. Wang, Determining the relative age of blue ballpoint ink by gas chromatography, <i>Frontiers of Chemistry in China</i> 2 (223–226), 2006
2008	Bugler	Up to 6 months	Bügler, J. Buchner H., Dallmayer A. Age determination of ballpoint pen ink by thermal desorption and Gas Chromatography-Mass Spectrometry. <i>Journal of Forensic Sciences</i> , 53, 982–988,

			2008
2014	V.N.A.	Up to 6 months	V.N.A. Ink dating testing – Do Preceding Indentation Examinations Affect ink dating Parameters? Journal of the American Society of Questioned Document Examiners, vol. 17, no 2, 49-63, 2014
2015	Koenig, Weyermann, Kohler, Kirsch, Bugler	Up to 6 months	Koenig A, Weyermann C., Kohler F., Kirsch D., Bugler J. Ink Dating Using Thermal Desorption And Gas Chromatography Mass Spectrometry Comparison Of Results Obtained In Two Laboratories, 2015

1072. The expert underlined that ballpoint inks were best examined and presented in the literature, and they can be analysed to determine the date when the record was made. As it was established through the initial examination of records in the notebook in question, they were made with this kind of ink. However, from the received information results that this document was handed to the Court on 21 April 2015. Therefore, the methods connected with the analysis of losses of solvents (2-PE) was not applicable because they would not be useful for inscriptions which were already two years and five months old at the time when the opinion was requested (08 September 2017). This conclusion refers both to the possibility of determining the absolute age of records in the notebook and of determining the time of making records in relation to each other.

1073. In his expert opinion, R.Lu. addressed also one by one the findings contained in the report prepared by E.H.S. It must be underlined that his opinion is in full concurrence with the critical assessment presented by expert V.N.A. Both experts agreed:

Ad. Ink dating by Gas Chromatography

The report of Mr. E.H.S. was produced on 11 July 2016, therefore the examination was probably performed shortly before. The document in question was filed with the Court on 21 April 2015, so the examination was conducted after more than a year and three months. As it has been presented in the theoretical part, after such period ink – dating should not be undertaken, because it does not allow for a reasonable conclusion. Only to remind, according to the rules respected by the experts there is time to conduct such examination only during maximum 6 months from the date when the records were made or disclosed to conduct such examination.

E.H.S. detected “low” levels of 2-PE in inks what he found as a confirmation of reliability of time period when the records were made (2002 – 2008). However, low levels of 2-PE do not authorize to make any conclusions. It is a methodological mistake. It is a far reaching interpretation, a statement without any scientific basis that if one result repeats for few various inks in one document then the conclusion that writings are reliable (because they are “old”) is true. The statement “old” writings may refer to the writings from 2002, 2008, and from 2014 as well. In his opinion, E.H.S. neither presented what analytic method he used, nor any data/results obtained from the examination. Therefore it is possible to assess the quality and

correctness of the conducted analysis and the interpretation of used notions such as “low levels of 2-PE” and “stabilized level”.

Ad. Ink Comparison by Thin – layer chromatography

Statements presented by Mr. E.H.S. are formally correct, but they are irrelevant for the case. In principle, examinations using thin – layer chromatography let only to establish accordance or difference between composition of inks and other substances. The TLC analysis conducted by Mr. E.H.S. could have not led to any conclusions connected with the order and time of making records in the notebook. As I have already mentioned in point B. Preliminary examination, it cannot be excluded that the same ball pens were used, even within 6 – year - period. Even accepting the thesis that the records were antedated and made in a short period of time, different from the one indicated, does not lead to any conclusions.

Ad. ESDA

Conclusions of Mr. E.H.S. from the ESDA examination are irrelevant for this case. The ESDA method is not applied to determine when the writings and their impressions were made.

When the writings in the notebook were made, most probably typical hollows appeared on the consecutive pages which were serving then as “pads” for writing. In both analyzed cases, i.e. when the writings were made in the indicated dates or the writings were antedated, the impressions/hollows which appeared during the writing would be the same, on the same consecutive pages.

1074. The Court concurs with the conclusions presented in the reports of experts V.N.A. and R.Lu. who were clear with the assessment that it was not possible to determine the age of the ink in the notebook (i.e. how old the notes contained in it were). They also explained in details why they disagreed with the findings of E.H.S. Both experts have relevant education, qualification and experience in assessing documents, they presented the thorough analysis of the subject, the reasoning and conclusions.

1075. Having concluded the above, it must be underlined that it was not possible to establish through ink – dating methods whether the notes in the notebook produced by K1 were taken in dates as indicated in it. However, this fact could not have been a reason to declare this evidence inadmissible on the basis that it was intrinsically unreliable as it was requested by the Defence. Deciding on it, the Court took into account the legal definition of “intrinsically unreliable” stipulated in Article 19 (1.29) of the CPC which provides that evidence or information is such if its origin is unknown, it is based upon a rumour, or on its face it is impossible or inconceivable. In the case in hand, the origin of the notebook was known (it comes from K1), it is not a rumour, and neither is impossible or inconceivable on the first sight.

1076. Therefore, reliability, accuracy and evidentiary value of the notebook must be assessed in the light of other evidence and circumstances of the case.

4.7.2. Keeping and handing over the notebook by K1

1077. Witness K1 was examined several times on the circumstances related to the notebook, in particular about the logic of making notes, where it was kept, whom

he informed about it. The other very relevant question was a reason why he handed it over so late.

1078. K1 testified that he kept this notebook in many locations, in Sarajevo, Hrasno neighbourhood, in a rented apartment where he and other kept different stuff.¹⁵¹⁶ The notebook was regularly moved into other locations because apartments were often changed. In Hrasno it was in a safe, where other items were also hidden.¹⁵¹⁷
1079. During cross-examination K1 said that even when he was being released from prison to the job, it happened that he was coming to this apartment in Hrasno to put notes in the notebook. He was not afraid to go there as it was well organized because people from “the top of the state” were working with them.¹⁵¹⁸
1080. K1 initially testified that before he left Bosnia in 2011, he took the notebook and some other papers with him.¹⁵¹⁹ He did not remember whether he informed Bosnian investigators about the notebook which according to him documented his cooperation with N.K. At the same time, he admitted that his papers and notes connected with Z.T. were taken by the investigators just after he started cooperation with Bosnian authorities.¹⁵²⁰
1081. He admitted that the notebook was handed over to EULEX investigators only in 2015¹⁵²¹. When asked why it did not happen earlier, K1 said that he was not meeting very often with the investigators. On one occasion he informed them that he possessed a list of transactions, but he was told that they would return to

¹⁵¹⁶ 07.11.2016, p.19

¹⁵¹⁷ 08.11.2016, p. 32-33

¹⁵¹⁸ 24.01.2017, p. 20

¹⁵¹⁹ 08.11.2016, p. 33

¹⁵²⁰ 08.11.2016, p. 34

¹⁵²¹ 08.11.2016, p. 33

this later. Then he told about the notebook to the prosecutor, who asked him to deliver it, and then he did it.¹⁵²² He also said that he thought that he informed Prosecutor Dubravko Campara about the notebook and there was an agreement that they would meet in an undisclosed country but it was postponed.¹⁵²³

1082. In the course of cross-examination, K1 presented a different version. He said that he was just to show the notebook to Campara, but the convoy which he was transported with was shot by the sniper. Therefore, he did not return to the court where he was supposed to meet with the prosecutor and to hand over the notebook.¹⁵²⁴

1083. The Court verified this information with the Bosnian authorities. From the written statement of the police officer involved in protection of K1 in Bosnia resulted that there was no shooting on the vehicle which was used to transport K1.¹⁵²⁵

1084. K1 also testified that he talked for sure with the Prosecutor Dubravko Campara about the notebook but it was not put in the minutes. It was agreed between them that they would meet outside the office and then he would supplement his testimony.¹⁵²⁶ Later he said that he did not give the notebook to Prosecutor Dubravko Campara during his first examination because he did not have it with him, as it was in another country.¹⁵²⁷

¹⁵²² 08.11.2016, p. 33

¹⁵²³ 08.11.2016, p. 34

¹⁵²⁴ 25.01.2017, p. 5-6

¹⁵²⁵ 25.01.2017, p. 5-6

¹⁵²⁶ 25.01.2017, p. 5-6

¹⁵²⁷ 25.01.2017, p. 34 - 35

1085. On this occasion K1 was confronted with his previous statement (given on 17.03.2016) when he said that he was supposed to show the notebook to Prosecutor Campara on that day in the court when he told him about, but while they were returning from the court with the witness protection unit they were fired at by a sniper. K1 did not see a contradiction in his statement (once he said that on this occasion the notebook was in the third country, while on the second occasion he said that he had it with him but simply did not manage to show it).¹⁵²⁸

1086. After being confronted with the relevant part of the statement given by him in March 2016 was read again, K1 commented it that he did not understand how he could have said this.¹⁵²⁹

1087. Additionally, K1 explained that he did not mention the notebook while giving the statement but only when he met with Prosecutor Dubravko Campara in the forest, Ribljak, Sarajevo where he was specially brought by the witness protection unit from another country. He did not have the notebook with him then. They were to meet later again to hand over the notebook but finally such an encounter did not take place.¹⁵³⁰

1088. In the course of examination, K1 again changed his version. On this occasion, he claimed that the notebook with other documents was kept by the witness protection unit in the safe.¹⁵³¹ He even said that the notebook was all the time with this unit in any country where he stayed.¹⁵³²

¹⁵²⁸ 25.01.2017, p. 39

¹⁵²⁹ 25.01.2017, p. 40-41

¹⁵³⁰ 25.01.2017, p. 35-37

¹⁵³¹ 25.01.2017, p. 42

¹⁵³² 25.01.2017, p. 43-44

1089. K1 admitted that he was testifying several times before EULEX prosecutors, starting from 2013. He was not able to explain why he did not hand over the notebook already during his first examination, but only in 2015. He explained this delay by possible fear for himself and his family.¹⁵³³ After he informed EULEX prosecutor about the notebook, the prosecutor informed Witness Protection Unit (WPU) and they got in touch with their counterparts and arrange for the handover. They brought it, and asked K1 if this was the notebook and he confirmed.¹⁵³⁴

1090. During the further examination K1 said that first he informed about the notebook an investigator named “Gr.”, and not the prosecutor as he testified before. He could not remember the exact circumstances of it, but he admitted that it was just an informal conversation. He did not tell “Gr.” that he had the notebook but only informed him that he wrote down quantities of drugs.¹⁵³⁵ When confronted with the minutes with his previous statement, K1 said again that he informed the investigator and the prosecutor before, and the statement was given when he was supposed to bring the notebook. It took him several months to bring the notebook and it was planned that the Witness Protection Unit officers (WPU) would meet him to hand it over.¹⁵³⁶

1091. K1 testified that he told first investigators about the notebook because they insisted on him to give the quantity of drugs that he had written it down. In this moment, the notebook was in the remote location.¹⁵³⁷ He admitted also that he

¹⁵³³ 25.01.2017, p. 41 -42

¹⁵³⁴ 25.01.2017, p. 44

¹⁵³⁵ 26.01.2017, p. 8-9

¹⁵³⁶ 26.01.2017, p. 10

¹⁵³⁷ 26.01.2017, p. 12

said that he wanted only to allow them to make copy of the notebook for the use during the trial, but he underlined that he finally gave the original.¹⁵³⁸

1092. K1 claimed that he gave a full statement only in front of EULEX prosecutor in 2014 but he did not want to reveal all the circumstances as long as he would not clarify everything with Prosecutor Dubravko Campara Therefore, on this occasion he did not inform EULEX prosecutor that he had the notebook. Later Prosecutor Dubravko Campara told him that K1 could disclose everything and following that confirmation, he informed EULEX prosecutor that he was in possession of this notebook and he could send it.

1093. K1 did not know exactly, but it was 4 or 5 months after when he came to Kosovo and on this occasion he gave the notebook to the witness protection unit. He did not know when they handed it over to the prosecutor.¹⁵³⁹ A moment later, he admitted that it was him to do it personally.¹⁵⁴⁰ In the course of further examination, he said that he was supposed to bring the notebook only in 2016 but some time earlier officers from the Witness Protection Unit came and took it.¹⁵⁴¹

1094. In the statement from February 2015, he said that his wife knew about the notebook. He did not mention other persons in this context. He did not know why he did not tell about this before. He also did not know why he did not mention Prosecutor Campara as the one who knew about the notebook. His wife learnt about it when they were admitted into the Witness Protection program.¹⁵⁴²

¹⁵³⁸ 26.01.2017, p. 11

¹⁵³⁹ 25.01.2017, p. 34 - 35

¹⁵⁴⁰ 25.01.2017, p. 45-46

¹⁵⁴¹ 26.01.2017, p. 13-14

¹⁵⁴² 26.01.2017, p. 13

1095. Taking into account changes and inconsistencies in the versions presented by K1 about the notebook, the Court *ex officio* took additional steps to establish to a possibly accurate degree what was happening with the notebook, especially about the involvement of the officers of the witness protection unit.
1096. From the information received from the Witness' Protection Unit, filed on 15 February 2017, results that the notebook was definitely not taken from K1. Furthermore, the circumstances of its handing over were described in details based on the records taken by the officers. According to it:

Late afternoon on Thursday 26th February 2015 the Prosecutor Andrew Hughes (AH) called an officer from the EULEX WS, AH had spent the day with K1. During the course of their discussions K1 had informed AH that his wife was in possession of a notebook which detailed numerous drug dealings between 2002 and 2008. A request was made by the prosecutor that a phone call be facilitated between K1 and his wife in order that delivery of the notebook could be arranged.

AH informed WSD officer that this transaction book was significant in that EULEX had already seized a similar book of transactions written in such a code (representing drug deals as house and business purchases) and the one in K1's possession was excellent corroborative evidence in several ways relevant to the case against N.K. As such it is extremely desirable that the prosecutors obtain the original of this book.

AH added that when they spoke at length with K1 he was reluctant for them to have it as it also contained material which related to other matters (not elaborated on) and that K1 said he would put his family members who live in

Germany in danger. K1 had refused to make a telephone call to his wife to instruct her to release the book to WSD counterparts for them to arrange for it to be brought to him while still in Kosovo.

K1 wishes to copy this book and edit out the bits not relevant himself. This is not acceptable legally as the original is best evidence and that any redaction should be done within legal procedures.

During the afternoon on Friday 10th April 2015 an officer from EULEX WSD met with K1 and officers from supporting country. The officer was to escort K1 back to Kosovo, at this time K2 was in possession of his notebook, it had never been in the care of the supporting country.

Later that afternoon of Sunday 12th April 2015, AH together with investigator Phil Weston attended the EULEX WSD secure premises where they were handed the notebook by K1 who had removed it from the signed and sealed envelope.¹⁵⁴³

1097. The Prosecutor Andrew Hughes confirmed that the content of the statement was accurate.¹⁵⁴⁴

1098. The information obtained from the Witness Protection Unit made it necessary to hear witness K1 again to confront him with it. The final examination of this witness took place on 23 March 2017 and was in principle limited to the notebook, where and how it was kept, in what circumstances it was disclosed, when and how it was handed over.

¹⁵⁴³ Written information from the Witness Protection Unit filed on 15 February 2017

¹⁵⁴⁴ 23.03.2017, p. 48

1099. During this examination K1 said that in the moment of the arrest in 2003 the notebook was kept in the apartment in Sarajevo, at Trg Heroja 5 which was rented by K.K. and A.K. The keys to this apartment had them and K1.¹⁵⁴⁵ The notebook was kept in the safe located under a bed in a bedroom together with other documents, including false passports.¹⁵⁴⁶ This location was not searched by the police after K1's arrest.¹⁵⁴⁷ Later, the safe with the notebook was taken to an apartment in Ilidza.¹⁵⁴⁸
1100. The notebook stayed in this last apartment until the moment when K1 left Sarajevo in 2011.¹⁵⁴⁹ Before it happened, K1 went to this apartment and took various documents from there, including the notebook. On this occasion he went there with his protection officers.¹⁵⁵⁰ He kept all the documents with him in a leather briefcase.¹⁵⁵¹ However, he admitted that before he took the documents, he took a safe from there which he installed in his apartment. In this period, the documents and the notebook were still kept in the apartment in Ilidza but in a different place.¹⁵⁵²
1101. Afterwards, he took the notebook and other documents with him.¹⁵⁵³ He kept all these documents in the briefcase and he always had it with him.¹⁵⁵⁴
1102. Once it happened that when he moved to the third country, he gave all the documents to the officers of witness protection unit. When asked if he had this

¹⁵⁴⁵ 23.03.2017, p. 3-4

¹⁵⁴⁶ 23.03.2017, p. 4

¹⁵⁴⁷ 23.03.2017, p. 5

¹⁵⁴⁸ 23.03.2017, p. 5-6

¹⁵⁴⁹ 23.03.2017, p. 6

¹⁵⁵⁰ 23.03.2017, p. 10

¹⁵⁵¹ 23.03.2017, p. 11

¹⁵⁵² 23.03.2017, p. 11

¹⁵⁵³ 23.03.2017, p. 12

¹⁵⁵⁴ 23.03.2017, p. 20

notebook, K1 answered positively, but he was not sure. Later the officers returned him the notebook. He said that it probably happened in 2014.¹⁵⁵⁵ It took place after he informed the prosecutor that he had this notebook, they told him that he could go there and collect it. However a moment later he said that they took the notebook, placed it in an envelope and gave it to one of EULEX investigators – “Ch.”.¹⁵⁵⁶

1103. K1 was asked again when he informed anybody about the existence of the notebook for the first time. He said that he told about it to the prosecutor in this case when he and investigators asked about exact amounts of drugs which were sold. On this occasion he told them that he had everything written in the notebook.¹⁵⁵⁷ Once again it occurred that he was not consequent with his statement because when he was asked to confirm that the first person whom he informed about the notebook was EULEX prosecutor (called by the witness “Henry”), K1 answered that before the Prosecutor Dubravko Campara was informed about this when they met in the forest.¹⁵⁵⁸

1104. During the meeting with Campara, K1 did not think about handing over the notebook. He justified it by saying that EULEX prosecutor on many occasions asked him about the amounts but he told him that he could not calculate and he did not know it.¹⁵⁵⁹

¹⁵⁵⁵ 23.03.2017, p. 20

¹⁵⁵⁶ 23.03.2017, p. 20-21

¹⁵⁵⁷ 23.03.2017, p. 21

¹⁵⁵⁸ 23.03.2017, p. 21

¹⁵⁵⁹ 23.03.2017, p. 21

1105. K1 was regularly meeting with the Prosecutor and the investigators who asked him all the time about the amount of drugs that was coming. Then he told them that he could not calculate but he kept everything in writing.¹⁵⁶⁰
1106. K1 was asked again why he informed EULEX prosecutor and investigators about the notebook only in 2015. He said that he had doubts about what was going on because the prosecutor from Bosnia promised to come to another country but he did not do it. He still had doubts even when he was taken over by EULEX because once he heard that they were talking on the phone with N.K.'s son.¹⁵⁶¹
1107. Just before handing over the notebook to EULEX, K1 spoke once again with Prosecutor Dubravko Campara who advised him to do so.¹⁵⁶²
1108. During this examination K1 was confronted once again with his testimony given in front of EULEX investigators in another case on 26 February 2015 when he mentioned the notebook for the first time. On this occasion he said that he would allow the investigators make a copy of the diary but he must be present during this. When asked for the reason, K1 said that he did not remember, however he underlined that he handed over the notebook.¹⁵⁶³ He denied that he was afraid that the prosecutor may find in the notebook information dangerous for him or his family. According to him, there must have been a mistake in translation.¹⁵⁶⁴ In the course of cross-examination, however, K1 admitted that handing over the notebook could put on danger his family, not only in Germany.¹⁵⁶⁵

¹⁵⁶⁰ 23.03.2017, p. 22

¹⁵⁶¹ 23.03.2017, p. 21-22

¹⁵⁶² 23.03.2017, p. 22-23

¹⁵⁶³ 23.03.2017, p. 23

¹⁵⁶⁴ 23.03.2017, p. 23

¹⁵⁶⁵ 23.03.2017, p. 30

1109. When asked about two - months delay in handing over the notebook, K1 blamed for it officers of the witness protection unit who were to take the notebook and deliver it later to him.¹⁵⁶⁶ According to him the notebook was brought by the witness protection unit from another country on the same day when he returned from Kosovo in February 2015. On this occasion it was given to the EULEX witness protection unit.¹⁵⁶⁷
1110. He was confronted with the information that the witness protection unit was never in possession of the notebook. He said that it was not true, and he claimed that even his wife saw when they came and took the notebook.¹⁵⁶⁸
1111. He denied that he wanted to rewrite the notebook and denied that he did it to protect his family in Germany. He claimed that he delivered it in an original version.¹⁵⁶⁹ He did not remember that he was asked to get in touch with his wife when he informed EULEX about the notebook to arrange its delivery to Kosovo.¹⁵⁷⁰ He underlined that he did not know why the Witness Protection Unit created a story against him. He said that they were in conflict with him because he did not accept conditions offered to him.¹⁵⁷¹
1112. K1 said that he fully trusted EULEX prosecutor. On this occasion he was confronted with the information received from the witness protection unit (quoted above). He asked to read them twice.¹⁵⁷² Finally, he admitted that he would bring his family in danger if delivered the notebook without redaction.¹⁵⁷³

¹⁵⁶⁶ 23.03.2017, p. 23 - 24

¹⁵⁶⁷ 23.03.2017, p. 24

¹⁵⁶⁸ 23.03.2017, p. 25

¹⁵⁶⁹ 23.03.2017, p. 25, 26

¹⁵⁷⁰ 23.03.2017, p. 26

¹⁵⁷¹ 23.03.2017, p. 27

¹⁵⁷² 23.03.2017, p. 28-29

¹⁵⁷³ 23.03.2017, p. 30

1113. K1 confirmed that he refused to call his wife to arrange with her delivery of the notebook.¹⁵⁷⁴ Later, he admitted that the notebook was in possession of his wife, and not witness protection unit as he testified before. Once again, in the next sentence when cross examined on this point, he denied that he said that the notebook was in possession of his wife and blamed for wrong translation. He claimed that she had no access to the notebook because it was kept by the witness protection unit.¹⁵⁷⁵
1114. K1 did not remember saying the Prosecutor that he wanted to edit the notebook before handing it over, but he did not deny it. However, he admitted that the Prosecutor never lied to him.¹⁵⁷⁶ Initially, he wanted only to show the notebook to help the Prosecutor to calculate how many drugs were sold.¹⁵⁷⁷
1115. K1 remembered that the Prosecutor told him that editing of the notebook was not legally acceptable.¹⁵⁷⁸ He was not able to explain why he asked the Prosecutor if it was possible to edit the notebook. He underlined that he was examined all day long, from morning until dark and he “did not know where my head was”.¹⁵⁷⁹ He was meeting on many occasions with the investigators, they were discussing the case.¹⁵⁸⁰
1116. Then he said that he was concerned about all people mentioned in the notebook.¹⁵⁸¹ He was also afraid of Z.T., but he submitted to the prosecution documents related with him.¹⁵⁸²

¹⁵⁷⁴ 23.03.2017, p. 30 - 31

¹⁵⁷⁵ 23.03.2017, p. 31, 35

¹⁵⁷⁶ 23.03.2017, p. 33

¹⁵⁷⁷ 23.03.2017, p. 37

¹⁵⁷⁸ 23.03.2017, p. 34

¹⁵⁷⁹ 23.03.2017, p. 35

¹⁵⁸⁰ 23.03.2017, p. 38 - 39

¹⁵⁸¹ 23.03.2017, p. 35

1117. K1 confirmed everything that was written in the information of the Witness Protection Unit about the words of the prosecutor.¹⁵⁸³

4.7.3. The way how the notebook was kept

1118. K1 testified that the reason why he decided to show or give the notebook to the Prosecutor was to help him in calculation of amount of drugs which was sold.¹⁵⁸⁴

He said that he was writing down in the notebook how much goods were delivered to places in Peja, Kosovo, Vitimirica, Mitrovica, Sarajevo and even Serbia. He kept records of transactions. He was doing this because people were reporting problems.¹⁵⁸⁵

1119. K1 explained that first he made a note on a piece of paper, and when he returned to Sarajevo he wrote it down in the notebook. He was writing in codes.¹⁵⁸⁶ It also happened sometimes that K1 was making a note on a piece of paper, and then he was giving it f.e. to A.Kur., A.Ka. He did not know if they put the notes in the same notebook.¹⁵⁸⁷

1120. According to him not whole period of his work for N.K. was covered in the notebook. However, starting from April 2002, it embraced all the activities connected with N.K.¹⁵⁸⁸ Later he contradicted himself because he said that in some parts as noted in the notebook, he was working for N.K., while on other occasions mentioned there he was working for A.Ka. and R.K.¹⁵⁸⁹

¹⁵⁸² 23.03.2017, p. 37-38

¹⁵⁸³ 23.03.2017, p. 40

¹⁵⁸⁴ 23.03.2017, p. 37

¹⁵⁸⁵ 07.11.2016, p.17; 10.11.2016, p. 21

¹⁵⁸⁶ 07.11.2016, p.18 – 19, 08.11.2016, p. 6

¹⁵⁸⁷ 08.11.2016, p.19

¹⁵⁸⁸ 08.11.2016, p. 35

¹⁵⁸⁹ 08.11.2016, p. 31

1121. K1 admitted that notes for Z.T. were not kept in the same manner. Those records showed the quantity of the goods, their destination, how much money S.T. would take, etc. He avoided answering the question which notes were more detailed.¹⁵⁹⁰ These notes were kept in a vicinity of his house, in apartments leased by Z.T.¹⁵⁹¹
1122. When K1 testified about the content of the notebook, he avoided stating clearly whom drugs belonged to. He was consequently testifying that he was paid by R.K. and instructions were given by him and A.Ka.¹⁵⁹² K1 said that when N.K. was not mentioned in the note, it meant that he was not involved.¹⁵⁹³ K1 was avoiding to give clear answers to him drugs belonged. He was evasive, often changing his version.¹⁵⁹⁴ When cross-examined, K1 explained that he never asked to whom the drugs belonged. It was not his business.¹⁵⁹⁵
1123. K1 explained also that he did not invest his own money in drugs mentioned in the notebook.¹⁵⁹⁶ Sometimes he saw money which was brought by drivers. He was personally giving money in Switzerland, f.e. to “F.” from Peja, and M.Ra. from Bujanovac. He never got money from N.K.¹⁵⁹⁷
1124. During cross examination, he admitted that R.K. and A.Ka. told him to take notes. If there was a problem, K1 would inform R.K. and then he would refer it to his boss, but he did not mention the name. He would go alone to see him.¹⁵⁹⁸
- K1 admitted also that he did not know who and how much invested in drugs

¹⁵⁹⁰ 08.11.2016, p. 34

¹⁵⁹¹ 08.11.2016, p. 34-35

¹⁵⁹² 07.11.2016, p. 34-37

¹⁵⁹³ 10.11.2016, p. 34

¹⁵⁹⁴ 08.11.2016, p. 13, 15

¹⁵⁹⁵ 11.11.2016, p.4; 24.01.2017, p. 37

¹⁵⁹⁶ 10.11.2016, p.34 -35

¹⁵⁹⁷ 10.11.2016, p.34 -35

¹⁵⁹⁸ 11.11.2016, p. 5

mentioned during the meetings which were registered in the notebook. He was present there but the drugs did not belong to him.¹⁵⁹⁹

4.7.4. Specific notes in the notebook

1125. Witness K1 testified on specific notes which were made in the notebook. Each time, he had it before what obviously helped him in speaking about the alleged events.

1126. *Note from the notebook (translated):*

April 2002 – Peja, R-a-C

(Meeting in Peja “Rent a Car)

N.K.

Ag.K.

R.K., “As.”

“Be.”

S.Ban.

Q.O.

And two others

April 270 KM

70 c for England

200 M 400

100 Germany

¹⁵⁹⁹ 10.11.2016, p.36

100 Switzerland

50 Austria

150 Denmark (problem)

K1 said that whenever he spoke about the R-a-Cit was always the same place.¹⁶⁰⁰ The note referred to heroin. During the meeting present were: N.K., Ag.K., R.K., “Be.”, S.Ban. and Q.O., and two other men from Austria.¹⁶⁰¹ N.K. was present there because of Q.O. and S.Ban.¹⁶⁰² Ag.K. was also an associate, involved in something in relation with drugs, family related with N.K. “Be.” was in charge for transport, the same as S.Ban.¹⁶⁰³ The meeting took place in the office on the first floor.¹⁶⁰⁴

1127. In the course of the examination, K1 admitted that he was not sure if all the persons whose names were written down participated in this meeting. Maybe he omitted some names.¹⁶⁰⁵ In this way, he additionally undermined the credibility of his statement and accuracy of the note.

1128. The topic of the meeting was following: the goods were to be distributed in the next few days, and they discussed who ordered what quantities. K1 said that a problem was discussed but he did not know what it was about.¹⁶⁰⁶ When asked again, he said that the problems were written but in other notebooks which were kept by R.K. and A.Ka.¹⁶⁰⁷ People were complaining about the goods, about the

¹⁶⁰⁰ 15.03.2016, p. 17

¹⁶⁰¹ 15.03.2016, p. 17

¹⁶⁰² 15.03.2016, p. 29

¹⁶⁰³ 15.03.2016, p. 18 - 19

¹⁶⁰⁴ 16.03.2016, p. 12

¹⁶⁰⁵ 11.11.2016, p.14

¹⁶⁰⁶ 15.03.2016, p. 19

¹⁶⁰⁷ 15.03.2016, p. 20

quality, quantity.¹⁶⁰⁸ He was not able to indicate exactly what kind of problems they had.¹⁶⁰⁹

1129. Before being granted the proper immunity, K1 testified that only distribution of drugs and a problem in Denmark where drugs were sent by E.As. were mentioned. According to K1, the group decided that he had to pay it back to R.K. N.K. because it was his responsibility. E.As. sold everything to pay it back.¹⁶¹⁰

1130. **Ag.K.** and **E.As.**, heard in capacity of witnesses, denied participation in any meetings (their testimony will be discussed below); K1 commented that it was obvious that they would not admit it.¹⁶¹¹

1131. On this occasion K1 explained that he met Ag.K. on numerous occasions. However, later during the statement given in February 2016 he said that he saw him only once or twice, in Bosnia and Kosovo, and he even said that he was wearing a sport cap. He could not remember why he said like this. He made a mistake.¹⁶¹² K1 did not remember when he met Ag.K. for the first time, it could have been in 2008.¹⁶¹³ This claim as to the year when they could have met fully contradicts the note in the notebook, where it was indicated that Ag.K. participated in the meeting in 2002.

1132. During cross-examination, K1 admitted that he was not present when goods were purchased, did not know how much was paid for it and who did it. It was R.K.

¹⁶⁰⁸ 07.11.2016, p. 21

¹⁶⁰⁹ 07.11.2016, p. 23

¹⁶¹⁰ 15.03.2016, p. 21

¹⁶¹¹ 11.11.2016, p.16-17

¹⁶¹² 26.01.2017, p. 16 -17

¹⁶¹³ 26.01.2017, p. 20

who received the drugs. Interestingly, he did not mention N.K. in this context.

1614

1133. *With reference to the note from the notebook (translated):*

May 2002

Peja 300 KM

300 M 600

150 Spain

100 Switzerland

100 Germany

100 France

100 Austria

50 Serbia

K1 testified that the note referred to mixing of 300 kg of heroin into 600 kg, and it was done for N.K., R.K. and entire group. When asked how he knew it, he said that because of presence of R.K. He admitted that it was not written but it was known because it was R.K. who gave him instructions.¹⁶¹⁵ He did not remember if there was any problem, and where he was mixing.¹⁶¹⁶

1134. When he testified before the proper immunity, K1 said that the names were not written because the load was planned to be sent to people responsible for the

¹⁶¹⁴ 11.11.2016, p.31

¹⁶¹⁵ 07.11.2016, p. 27

¹⁶¹⁶ 07.11.2016, p. 28

delivery to a specific country.¹⁶¹⁷ Actually it was not a meeting, the goods were only dispatched.¹⁶¹⁸

1135. With relation to the following note from the notebook (translated):

May 2002,

Sarajevo Stup

400 M 800

150 Serbia

200 Holland

170 Switzerland

130 Italia

100 Germany

50 Slovenia

K1 said that on this occasion he mixed drugs in Sarajevo in the house of K.Ku. Stup was mentioned because the goods arrived there. He did not remember any problem with this situation. When asked for whom he mixed, he said that he got instructions from R.K.¹⁶¹⁹

1136. When he testified before the immunity, K1 said that the reason to make this note was to avoid complaints.¹⁶²⁰ A.Ka., R.K. and K1 were present. He was not able to explain why he did not put names.¹⁶²¹

¹⁶¹⁷ 15.03.2016, p. 23

¹⁶¹⁸ 15.03.2016, p. 24

¹⁶¹⁹ 07.11.2016, p. 28-29

¹⁶²⁰ 15.03.2016, p. 24

¹⁶²¹ 15.03.2016, p. 27

1137. With relation to the following note from the notebook (translated):

May 2002, Cattle market

150 km – C England

Pakistan

Present were:

N.K.

“Ga.” - “Zu.”

N.Z.

K1 was not sure if a man from Pakistan was present there.¹⁶²² He did not know why M.A.G. was present on this meeting. He heard that “Zu.” had some debts resulting from cigarette business.¹⁶²³ There were other people present on this meeting but he did not know why they were not mentioned. The meeting was about heroin. N.K. and R.K. were the owners of it.¹⁶²⁴ M.A.G. cooperated with N.K. in relation to cigarettes and there were some problems related with it.¹⁶²⁵

1138. Before being properly granted with the immunity, K1 testified that N.K. appeared at this meeting because the man from Pakistan was very important to him. He did not explain why.¹⁶²⁶ Additionally, he said that M.A.G. was his neighbour. They were in good relations with N.K., had them bad for a short time.¹⁶²⁷

¹⁶²² 07.11.2016, p. 30

¹⁶²³ 07.11.2016, p. 30 - 31

¹⁶²⁴ 07.11.2016, p. 30-31

¹⁶²⁵ 07.11.2016, p. 31

¹⁶²⁶ 15.03.2016, p. 29

¹⁶²⁷ 15.03.2016, p. 29 - 30

1139. With relation to the following note from the notebook (translated):

July 2002,

Vitomirica 350 km

350 M 700

100 Denmark

60 Sweden

140 Spain

400 Holland

200 Germany

100 Switzerland

K1 testified that the note was about heroin. N.K. was not present there, only A.Ka. and R.K. He did not mention any problem in this case.¹⁶²⁸

1140. With relation to the following note from the notebook (translated):

July 2002,

Mitrovica 200 km

Br.P.

Hotel "Beli Dvor"

200 M 400

Hamburg

Frankfurt

¹⁶²⁸ 07.11.2016, p. 31

Hanau

En.K.

1141. K1 testified that the place of delivery of drugs was indicated. Br.P. was present there. He took the good from R.K. and others. He noted the places where the drugs were to be sent, he was not able to explain why he did it in this way. It was not only for En.K. but also another person but he forgot to mention another name.¹⁶²⁹

1142. The Court noted, that before being granted the proper immunity, K1 did not mention the name of other persons who allegedly received the drugs. The whole amount was sent to En.K., the brother of M.Ka., who was allegedly the biggest drug dealer in Germany.¹⁶³⁰

1143. With relation to the following note from the notebook (translated):

July 2002,

Vitmirica 300 km

Distributed in 3 hotels

Taken Ag.K.

K1 testified that he noted that goods were delivered to three hotels, but he did not remember their names then. Ag.K. was in charge of delivery of them to drivers. His role was to guarantee that goods would reach a final destination. He

¹⁶²⁹ 07.11.2016, p. 32

¹⁶³⁰ 15.03.2016, p.31

did not remember any problem connected with this delivery. He made a notation because he received these 300 kilograms and had to deliver them somewhere.¹⁶³¹

1144. With relation to the following note from the notebook (translated):

August 2002

Pec

R.K. 250 km

Sent to Serbia

R.K. 150 km for Rozaje

Sent from his house

K1 was not able to explain why the note was taken. As he recalled, 150 kg of heroin was sent to L.B.C. K1's role was to be present when the goods arrived and mixed them under instructions. A.Ka., R.K. and others were present. He did not remember whom the drugs were sent to.¹⁶³² He gave exact details where they met with R.K. who delivered the goods (road extension, he came in a caddy, put drugs in two sport bags), however he did not remember who was the buyer.¹⁶³³

1145. With relation to the following note from the notebook (translated):

September 2002

Corridor 350 km arrived

Tuzla 50 km

Czech – 120

¹⁶³¹ 07.11.2016, p. 34 - 35

¹⁶³² 07.11.2016, p. 35-36

¹⁶³³ 07.11.2016, p. 36

Croatia 50

Slovenia 70

Italy 110

50 km disputed (B.H.) K2 took

K1 presented the situation with 50 kg which were disputable with K2. K2 said that H.K. stole it immediately after he received the goods and went home with them. K2 called K1 to tell him about it on the same night.¹⁶³⁴ He admitted that he could have done a mistake in calculation (400 instead of 350).¹⁶³⁵

1146. He did not know who was the owner of the drugs, however he received instructions from R.Dz. and A.Ka.¹⁶³⁶

1147. With relation to the following note from the notebook (translated):

November 2002

Sarajevo, Hrasno

70 km

From Turkey through M.D.B.

(a vehicle acting for a truck)

S.Hu.

K.Ku.

For Ireland – Dublin

¹⁶³⁴ 07.11.2016, p. 36 - 37

¹⁶³⁵ 07.11.2016, p. 38

¹⁶³⁶ 07.11.2016, p. 37

K1 testified that Mu.D. was involved in drug trafficking. He was transporting spare parts for vehicles from Turkey. K1 was called then by K.Ku. to go Hrasno. When he came there, K.Ku. told him to go to Mu.D.'s place.¹⁶³⁷ Su.Ku. and K.Ku. called K1 not to go to Hrasno, but to come to Bejlava. K1 went there with them as they wanted him to do mixing. Then Su.Ku. and K.Ku. spoke with somebody, negotiated and increased the price for drugs. They were not competent to do it themselves, therefore before they called somebody to get permission.¹⁶³⁸ Mu.D. received instructions from R.K. and was paid by him.¹⁶³⁹

1148. K1 was not able to explain why there was a gap in entries from November 2002 till March 2003.¹⁶⁴⁰ He testified differently before immunity, because he said then that in missing months from December 2002-February 2003 notes were taken by K.Ku. and A.Ka.¹⁶⁴¹

1149. With relation to the following note from the notebook (translated):

March 2003

From Holland Amsterdam to Sarajevo (garages in Hrasnica)

200.000 pcs. (bulldog, Ferrari)

A.Ka. Su.Ku. K.Ku.

K1 explained that it refers to the ecstasy brought from Holland to the garages in Hrasnica. A.Ka., Su.Ku. and K.Ku. were working then for K2 who made a deal

¹⁶³⁷ 07.11.2016, p. 38

¹⁶³⁸ 07.11.2016, p. 39-40

¹⁶³⁹ 07.11.2016, p. 40

¹⁶⁴⁰ 07.11.2016, p. 41

¹⁶⁴¹ 16.03.2016, p. 25

in Turkey.¹⁶⁴² On this occasion, K1 travelled to Amsterdam and it was on a day when the Serbian Prime Minister Z.D. was killed.¹⁶⁴³

1150. He was not able to explain how many pills arrived.¹⁶⁴⁴ He wrote “bulldog, Ferrari” because A.Ka. and R.K. told him that he should look how the drugs are marked. The names were mentioned because until the moment when he got to Hrasnica A.Ka., Su.Ku. and K.Ku. were responsible for this delivery.¹⁶⁴⁵

1151. With relation to the following note from the notebook (translated):

April 200.000 pcs

After 300.000 pcs

500.000 pcs

Holland, Amsterdam

Sa.K.

Sarajevo Hrasnica (garages)

The same company

K1 was not able to explain how many pills came, he was confused himself with the amount. His assessment based on the note which he made himself varied from 500.000 up till 1.200.000.¹⁶⁴⁶

1152. He explained that he wrote the name of Sa.K. because he was responsible for transport and shipment. Sa.K. lived in Amsterdam then. K1 was supposed to tell

¹⁶⁴² 07.11.2016, p. 42

¹⁶⁴³ 07.11.2016, p. 42

¹⁶⁴⁴ 07.11.2016, p. 43

¹⁶⁴⁵ 07.11.2016, p. 42

¹⁶⁴⁶ 07.11.2016, p. 43-44

upon the arrival that he was sent by A.Ka. and R.K. He added also: *Who on earth knows to whom else he was selling!*¹⁶⁴⁷

1153. With relation to the following note from the notebook (translated):

Meetings in Hrasnica by the garages

Present were:

“Ok.”

N.K..

Mechanic

A.Ka.

K.Ku.

Su.Ku.

H.K.

To Turkey sent: 100.000 pcs

(driver S.Ak.)

K2 took for Turkey 50.000 pcs

Hakija 40.000 pcs

The rest at N.K. and A.Ka.

Problems between N.K. and K2

K2 did not pay

Decided that he would pawn apartment in Tuzla

¹⁶⁴⁷ 07.11.2016, p. 44; 08.11.2016, p. 4 - 5

1154. K1 said that N.K. for sure was not there, he meant the moment when drugs were being prepared and ready to be sent to Turkey. In this note he meant another meeting near the garages¹⁶⁴⁸ when other things were discussed. He wrote it down in the notebook because S.Ak. and H.Me. were to come there to discuss in order to explain who ordered 10 kg of heroin from Turkey. It was about this who ordered S.Ak. to load 10 kg of heroin (the one mixed with coffee), whether it was N.K. or K2. Ha.Me. and S.Ak. did not show up. The meeting lasted several minutes. K1 was invited to explain the situation because K2 was saying that it was N.K. who framed him with the heroine.¹⁶⁴⁹
1155. K1 was not able to explain what was the reason for this this meeting next to the garages. He said that he did not remember, but he added that there were many various reasons for it.¹⁶⁵⁰
1156. K1 testified in a different way before the immunity was properly granted. Then he said that he wrote these names down because they counted the ecstasy in case something would go missing. He added that there were 4 garages, 1 for ecstasy and two for cars, and many had keys to these garages and for that reason the names were written down in order if something went missing.¹⁶⁵¹ 100.000 pieces went to Turkey, S.Ak. was the driver of Mercedes, K2 took 50.000 to Tuzla, Ha.Kr. took 40.000; the remaining part that was supposed to go to Turkey remained with N.K. and A.Ka.¹⁶⁵²

¹⁶⁴⁸ 07.11.2016, p. 45; 08.11.2016, p. 4 - 5

¹⁶⁴⁹ 08.11.2016 p. 3 - 4

¹⁶⁵⁰ 07.11.02016, p. 46

¹⁶⁵¹ 16.03.2016, p. 29

¹⁶⁵² 16.03.2016, p. 29 - 30

1157. According to this version of testimony N.K. was present because R.K. was not there.¹⁶⁵³

1158. With relation to the following note from the notebook:

June 2003

Vitomirica

90 km with "Rg.", N.K., "Dk.", "Be.", Ag.K.

Sent to Austria

Company "rent a car" Vienna

Transportation S.B.

During the meeting pure heroin was delivered and sent as such to Austria. K2 wrote this entry because initially there was a possibility that he would mix heroin but instead it was decided that it would be sent not mixed.¹⁶⁵⁴

1159. With relation to the following note from the notebook (translated):

Pec, Kosovo, 2003

In the house of "Dk." the following were present:

Ag.K.

"Rg."

"Dk."

110 km

Sent to Germany Hamburg for Q.O.

¹⁶⁵³ 16.03.2016, p. 29

¹⁶⁵⁴ 08.11.2016, p. 13

K1 testified that it was noted that N.K. was present and 110 kg of heroin involved. K1 further said that he did not know exactly if N.K. was involved in it, but as he was written down, the most probably he was. He did not answer the question who was the boss on this occasion, it was not his duty to ask about it. Once again he underlined that he was called and given instructions by R.K.¹⁶⁵⁵

1160. With relation to the following note from the notebook:

2003, Sarajevo, Stup

230 km

In the truck (Muhovic, fruits, vegetables form Turkey)

Present:

N.K.

A.Ka.

Su.Ku.

K.Ku.

“Zu.”

Sent to England, Spain, Germany

K1 explained that in this note he wrote how the goods arrived, who was responsible for the transport and who was present. These goods were not mixed and were shipped as such. N.K. was present there. He was not able to explain why he did not indicate specific amounts sent to different countries.¹⁶⁵⁶

¹⁶⁵⁵ 08.11.2016, p. 13 - 14

¹⁶⁵⁶ 08.11.2016, p. 15-16

1161. With relation to the following note from the notebook (translated):

November 2006

Meeting at Casa Grande regarding the problem that happened earlier (quality)

Present:

N.K.

Ag.K.

R.K.

“As.”

“Be.”

S.B.

Q.O.

And two others, N.K. 's guys

1162. K1 explained that there were no notes taken in the period between 2003 and November 2006 because he was then in prison in Sarejevo.¹⁶⁵⁷

1163. According to him, all people mentioned in the note were present there. He did not remember the names of these two men of N.K. He was not sure if they were the same men as he noted in April 2002 for the meeting in Peja.¹⁶⁵⁸

1164. He was not able to tell specifically what problems they discussed on this occasion. He only said that there were complaints from all over but he did not know exactly from whom and how.¹⁶⁵⁹

¹⁶⁵⁷ 08.11.2016, p. 16

¹⁶⁵⁸ 08.11.2016, p. 17

1165. The meeting took place in the hotel Casa Grande in Sarajevo owned by N.K. in the conference office.¹⁶⁶⁰

1166. With relation to the following note from the notebook (translated):

2007

Serbia Vrsac

Textile factory

350 km received

Present: N.K.

P.Pe.

L.B.C.

Inspector S.

K1 testified that goods came to an old factory. Among the others, L.B.C. was present. K1 saw him on many occasions in Sarajevo and Serbia. He was often coming to Casa Grande, K1 met him there on many occasions, cannot remember how many. L.B.C. stayed there for many days with his wife. He was in good relations with N.K.¹⁶⁶¹

1167. K1 did not know who exactly organized a meeting in this place. He was only directed there. L.B.C. picked him up in Belgrade with an armoured Audi A8. The other vehicle followed them, K1 did not know people inside.¹⁶⁶² Later he

¹⁶⁵⁹ 08.11.2016, p. 17, 18

¹⁶⁶⁰ 08.11.2016, p. 17

¹⁶⁶¹ 08.11.2016, p. 19-21

¹⁶⁶² 08.11.2016, p. 22

found that the reason why L.B.C. was coming there, was something for murder of R.D.¹⁶⁶³

1168. N.K. was present there. L.B.C. brought another man to help K1 in mixing. K1 believed that N.K. had his share in drugs delivered there.¹⁶⁶⁴ L.B.C. and his people were giving instructions to K1 how to mix.¹⁶⁶⁵ P.Pe. bought the drugs.¹⁶⁶⁶

1169. On this occasion he explained that he met L.B.C. often in Casa Grande, he was often coming there, because they were working there.¹⁶⁶⁷ K1 mixed drugs on many occasions for him in Vrsac and in Krnjaca neighbourhood in Belgrade. He worked for him already in 2002, at least until 2007.¹⁶⁶⁸

1170. With relation to the following note from the notebook (translated):

2007

Serbia

Krnjaca near Belgrade

140 km received

L.B.C.

K.Dr.

N.K.

¹⁶⁶³ 08.11.2016, p. 21

¹⁶⁶⁴ 08.11.2016, p. 23

¹⁶⁶⁵ 08.11.2016, p. 24

¹⁶⁶⁶ 08.11.2016, p. 17

¹⁶⁶⁷ 08.11.2016, p. 21

¹⁶⁶⁸ 08.11.2016, p. 21

K1 said that on this occasion 140 kg of heroin came which belonged to L.B.C. N.K. was there because K1 thinks that he had his share in it. K1 mixed the drugs in the apartment. L.B.C. paid for mixing there.¹⁶⁶⁹

1171. With relation to the following note from the notebook (translated):

2007

Zenica

N.Z.

80 km

For N.K.

Switzerland

K1 testified that 80 kg of heroin came for N.K. from Zenica. K1 was informed about this delivery by A.Ka. and R.K. N.K. from Zenica told him that he must be careful with mixing because the goods were sent to Switzerland for N.K.¹⁶⁷⁰

1172. With relation to the following note from the notebook (translated):

2007

Bihac

Ve.H.

110 KM

For N.K.

Spain

¹⁶⁶⁹ 08.11.2016, p. 25

¹⁶⁷⁰ 08.11.2016, p. 27

K1 testified that goods were sent for Bihac, for Ve.H. from Rozaje. He was powerful and received goods from all over the places, he was buying from R.K., Da., from R.K. from Turkey. He was selling in Spain, Germany.¹⁶⁷¹ Ve.H. told K1 that he was doing it for N.K.¹⁶⁷²

1173. With relation to the following note from the notebook (translated):

2008

Bosnia and Herzegovina

Ilidza

Mala Aleja

M.Li.

Fr N.K. 120 KM

To Germany

Czech Republic

K1 testified that goods came to Mala Ilidza for M.Li. He was working with N.K., with heroin, marihuana, cigarettes. K1 knew this because they were often gathering in his shop. When asked by K1, M.Li. said that he worked for N.K.¹⁶⁷³

1174. With relation to the following note from the notebook (translated):

2008

Sarajevo

N.K.'s brother – in – law

¹⁶⁷¹ 08.11.2016, p. 28

¹⁶⁷² 08.11.2016, p. 29

¹⁶⁷³ 08.11.2016, p. 29

“Bs.”

M.Li.

Mu.D.,

100 km

M.Li., N.K.’s brother in law called “Zu.”, and Mu.D., “Bs.” – son of N.K. were present there. “Bs.” took K1 to this location. He was not present during the further part of the meeting. He was mentioned in the note because K1 could not have found the location.¹⁶⁷⁴

4.7.5. Conclusion on the notebook

1175. Although the Court finds the notebook admissible piece of evidence it was assessed as unreliable and it cannot constitute a basis for making factual findings in this case. Such assessment results from the following circumstances:

- There were unexplainable doubts about authenticity of the notebook. Despite of being a protected/cooperative witness since 2010, having intensive contacts with the investigators, witness K1 informed the prosecutor about the existence of the notebook only in 2015;
- There is a sound probability that the notebook was fabricated by witness K1 when he learnt that his testimony must be corroborated. First of all, he admitted that he wanted to edit or rewrite it because of risk for his family in Germany; this suspicion is supported also by the fact that there were two notes allegedly taken in a significant period of time where the names and

¹⁶⁷⁴ 08.11.2016, p. 30-31

their order are exactly the same (April 2002, November 2006) which gives impression that they were written at the same time;

- The conclusions of the expert reports produced by V.N.A. and R.Lu. do not give the grounds to establish that the notes in the notebook were taken contemporaneously to the dates mentioned there; both experts were clear that there are no scientific methods which would allow determining the age of the ink. They effectively rebutted the findings made by the expert E.H.S.;
- There is no logic and pattern followed in the notes taken; K1 was often not able to explain why he put a specific note there;
- There are other pieces of evidence which contradicted with the content of a specific note what will be further elaborated below.

4.8. Communication with N.K.

1176. When asked specifically about his contacts with N.K., K1 was clear that they were limited. However he often contradicted himself, particularly when he was explaining the meaning of the notes in the notebook. On that occasion, he was indicated that he met N.K. on many occasions. This fact additionally undermines the credibility of the witness.

1177. When K1 testified on the topic of communication with N.K. before being properly instructed about the immunity, he said that he was in contact with R.K. and A.Ka. on every day basis. He underlined that they did not contact N.K. because R.K. was in charge, he decided what to do. It was in a period when he

was living in Switzerland, Austria, and Germany. They knew that N.K. was a boss.¹⁶⁷⁵

1178. K1 did not know if he ever communicated with N.K. about the drugs that arrived at particular locations. He could not recall that he had communicated directly with him.¹⁶⁷⁶ K1 did not remember how many times he communicated directly with N.K. He remembered that once he met him in Hrasnica, and once in Tuzla.

1179. The meeting in Hrasnica took place in 2003 and was connected with the delivery of ecstasy pills.¹⁶⁷⁷ He did not remember the circumstances of the meeting in Tuzla, there were many people. It was on the occasion when the contract for the apartment was signed.¹⁶⁷⁸ During the examination on the apartment after the immunity K1 said that N.K. had nothing to do with the apartment and was not aware that K1 signed a contract for it. (*Elaborated in details in the other part of the judgment*).

1180. K1 initially claimed that he was a manager for N.K. All agreements he ever did, he did in the presence of N.K. and R.K. A moment later, he admitted that his duties were limited to mixing of drugs. When asked about further explanation, he did not understand the word “manager” which he used.¹⁶⁷⁹ He frequently had meetings with R.K. and A.Ka. who were informed in advance about arrival of the truck with drugs.¹⁶⁸⁰ When he was in Germany, Switzerland and Austria, he communicated with A.Ka. over the phone every day. He had also frequent contacts with R.K., even two to three times a day. At this time they did not

¹⁶⁷⁵ 25.02.2016, p. 24

¹⁶⁷⁶ 23.02.2016, p. 34

¹⁶⁷⁷ 23.02.2016, p. 34-35

¹⁶⁷⁸ 23.02.2016, p. 35

¹⁶⁷⁹ 23.02.2016, p. 34

¹⁶⁸⁰ 24.02.2016, p. 25

contact N.K., because R.K. was in charge, and he was the one to decide. From Germany he called R.K., A.Ka., S.Hu., and K.Ku.¹⁶⁸¹

1181. K1 denied that he ever called N.K. He underlined that N.K. was too high in a hierarchy just to call him.¹⁶⁸²

1182. The phone communication with N.K. was presented differently by K2 who claimed that he called N.K. and the latter also called him. However, N.K. was often changing phone number. According to him it was difficult to get in touch with N.K. Anyone who wanted to call him should first contact K1, A.Ka. or Sa.Ku.¹⁶⁸³

4.9. Locations

General remarks

1183. An important part of the testimony of K1 referred to various locations in Kosovo where he allegedly participated in activities connected with drug trafficking for or with N.K. and his group. K1 showed them to EULEX investigators, however according to him there were many others which he did not because they told him that it was not necessary. Later he said that they told him that it was not safe. One of the reasons why it was not safe concerned the interpreter who did not want “to show his face around”.¹⁶⁸⁴

1184. When K1 was examined after the proper instruction on the immunity and was confronted again with pictures of different locations in Kosovo, filed by the Prosecutor, he often appeared very confused and he was not able to recognize the

¹⁶⁸¹ 25.02.2016, p. 23-24

¹⁶⁸² 25.02.2016, p. 27

¹⁶⁸³ 09.03.2017, p. 21

¹⁶⁸⁴ 25.01.2017, p. 16-17

places. There was a significant difference in the way how he testified about these locations in comparison to his previous testimony. When he was heard for the first time he talked about these places with a certainty and confidence, usually he had no doubts what location he was talking about. After the issue of the immunity, K1 appeared to be lost when testifying on this topic. He said that pictures were taken when driving and from different angles.¹⁶⁸⁵ He explained his confusion also with the fact that he was tired, did not feel well, he could not see with his left eye, his brain did not function well.¹⁶⁸⁶

1185. Only then the Prosecutor admitted that the pictures of the locations which were used during the main trial for examination of the witness were not taken in presence of K1.¹⁶⁸⁷

1186. During the main trial session held on 23 February 2016, the Defence filed an objection against several pictures of Kingpin Location 19 which were taken inside the buildings on the basis of violation of the right to privacy of the owner of the premises.

1187. Having analysed the content of the pictures, the Court decided to exclude from the body of evidence the pictures which were taken inside the private property as they were taken without the consent of the owner of the property and without a proper search order what violates the constitutional right of privacy and protection of private property. With regard to the Location 19, the following

¹⁶⁸⁵ 25.01.2017, p. 18-31

¹⁶⁸⁶ 25.01.2017, p. 32-33

¹⁶⁸⁷ 25.01.2017, p. 50

pictures number: 124, 125, 126, 127, 128, 129, 130, 131, 132 and 133 were declared inadmissible.¹⁶⁸⁸

4.9.1. Specific locations

4.9.1.1. Locations in Bosnia

1188. According to K1, from 1989 heroin was delivered to Sarajevo in various locations: Hrasnica, Stup near the airport, live stock market, and many locations.¹⁶⁸⁹

1189. Drugs were coming to Stup once or twice per month, but it depended. They were brought with long trucks and a cooling truck Volvo.¹⁶⁹⁰ Deliveries were done during the night.¹⁶⁹¹ This location was convenient because long trucks could have come there easily.¹⁶⁹²

1190. There were few drivers who were coming to Stup: “Mj.” who was dealing there with fruits and vegetables, R.Ma. and M.Dj.¹⁶⁹³

1191. Drugs which were coming to Sarajevo were unloaded and taken to the house of K.Ku.¹⁶⁹⁴ His house was located in Carsia, where it was mixed and from there sent further.¹⁶⁹⁵

1192. On many occasions three garages in Hrasnica were used, they were characteristic because doors had traces of shooting (holes). K1 recognized them in the pictures

¹⁶⁸⁸ 23.02.2016, p. 24

¹⁶⁸⁹ 01.11.16, p. 20; 02.11.2016, p. 4

¹⁶⁹⁰ 02.11.2016, p. 4, 6

¹⁶⁹¹ 02.11.2016, p. 7

¹⁶⁹² 02.11.2016, p. 6

¹⁶⁹³ 02.11.2016, p. 7-8

¹⁶⁹⁴ 02.11.2016, p. 4

¹⁶⁹⁵ 02.11.2016, p. 5

shown, however the quality of them was not the best. The owner of one of these garages was A.Ka., while the other belonged to his relative “Sm.”.¹⁶⁹⁶

1193. K1 testified that during the war in Bosnia probably drugs were not coming to these places. He added that in this period they came to Serbia, Croatia and other countries, but he did not mention Kosovo. He did it only when led by the question of the prosecutor.¹⁶⁹⁷

1194. K1 said that drugs were also coming to Arizona Market in Tuzla which he described as a big market in vicinity of Tuzla, where lots of goods and textiles came from Turkey. This was a place where drugs were constantly coming, K1 did not know since when. Drugs were coming there for everybody.¹⁶⁹⁸

Conclusion

1195. The Court found it proven that drugs were brought to the mentioned places in Sarajevo and Tuzla. K1 was consequent in his testimony as to these places of delivery. They were also mentioned by other witnesses in this case. Furthermore, the same finding was also done by the Court of Bosnia and Herzegovina in the judgments against K2 and Z.T. which are a part of evidentiary material in this case.

4.9.1.2. Locations in Kosovo

1196. According to K1, in Kosovo heroin was brought to Vitimirica, Mitrovica, and Peja. These places started to be used shortly after K1 returned from the army (end of 1987).¹⁶⁹⁹ It lasted up till 2009.¹⁷⁰⁰

¹⁶⁹⁶ 02.11.2016, p. 25 - 26

¹⁶⁹⁷ 01.11.2016, p. 31 - 32

¹⁶⁹⁸ 01.11.2016, p. 29 - 30

¹⁶⁹⁹ 01.11.2016, p. 22, 19.02.2016, p. 7-8

1197. When cross-examined he said that it was possible to bring drugs to Kosovo despite of the presence of international forces because of connections of N.K.¹⁷⁰¹ He was also confronted with his statement form 2013 when he did not mention any locations in Kosovo. K1 explained that he did not tell about it because K2 told already all details. His role was only to confirm what K2 already said.¹⁷⁰² When he was asked about a part from his testimony (page 3 of the minutes from February 2013) where he mentioned deliveries to England, Austria, Switzerland, Croatia, Slovenia, Holland, Germany and Turkey, but not Kosovo, K1 answered that he did not finish his statement.¹⁷⁰³

4.9.1.3. Peja, R-a-C of E.A, Location 17, pictures 84 – 92

1198. According to K1, drugs started coming there 1988 – 1989. When the shipments arrived there were many of them present: R.K., E.As., A.Ka., “Rg.” from Vitimirica and others.¹⁷⁰⁴

1199. Rent – a Car shop in Peja was owned by E.As. and drugs started to come there 1995 or 1996 until 2009 when E.As. got imprisoned in Austria. K1 recognized a wooden house building in the picture. During meetings there, N.K., R.K., A.Ka., E.As. and many others were present.¹⁷⁰⁵ K1 admitted there were two R-a-Cs shops in Kosovo which they used, however the meetings took place only in the wooden one which was shown on the pictures presented during the trial. He described how all 10 people managed to be present there at one time.¹⁷⁰⁶

¹⁷⁰⁰ 02.11.2016, p. 3

¹⁷⁰¹ 24.01.2017, p. 44

¹⁷⁰² 24.01.2017, p. 32-33

¹⁷⁰³ 24.01.2017, p. 32-33

¹⁷⁰⁴ 02.11.2016, p. 3-4

¹⁷⁰⁵ 23.02.2016, p. 10 - 11

¹⁷⁰⁶ 07.11.2016, p. 23 – 24

1200. K1 in details described interior of the R-a-C shop. They mixed drugs on the first floor where there were two rooms, one big office and a smaller room. Downstairs, there was a bureau. He described furniture, the way how he was mixing, time used for it, the clothing used, symptoms (like getting dizzy), yoghurt drank to avoid it, and normal spray to kill smell of heroine. He started mixing there in 2002 and it lasted till the end.¹⁷⁰⁷
1201. K1 said that there was probably another R-a-C shop and a gas station in Vitomirica, also shown to the investigators.¹⁷⁰⁸ However, when he talked about the notes in his notebook he said that they used only this one rental shop.¹⁷⁰⁹
1202. K1 met E.As. (who was born 1972) after K1 left military (1988). They met in Peja for the first time at the train station, then they went to the R-a-C shop. R.K., A.Ka. and other were present on this occasion.¹⁷¹⁰ A.Ka. and R.K. worked with E.As. even before K1 started working, before the time when he was in military. They were working with him under training, also his father and brother and somebody else but K2 did not know the names.¹⁷¹¹
1203. When he was cross-examined, K1 excluded that E.As. was 16 years old when he met him for the first time.¹⁷¹² When he was informed that in 1988 E.As. was only 16 years old, K1 said that he was not working on his own but with his father, brother.¹⁷¹³

¹⁷⁰⁷ 16.03.2016, p. 3 - 8

¹⁷⁰⁸ 01.11.2016, p. 32

¹⁷⁰⁹ 15.03.2016, p. 17

¹⁷¹⁰ 01.11.2016, p. 26

¹⁷¹¹ 01.11.2016, p. 27

¹⁷¹² 24.01.2017, p. 11

¹⁷¹³ 24.01.2017, p. 11

1204. According to K1, N.K.new E.As. It happened that once they were all together, and E.As. was frequently coming to Sarajevo.¹⁷¹⁴ E.As. was buying drugs from them, and then was selling in Denmark.¹⁷¹⁵ E.As.'s drivers were stopped in Germany. R.K. paid for the defence.¹⁷¹⁶

Version of E.As. and A.Ka. - defence witnesses

1205. **E.As.** denied any involvement in drug business.¹⁷¹⁷ When confronted with the statement of K1 who claimed that since 1990s the witness participated in it he said that since 1991 until 1999 or 2000 he was not in Kosovo. He stayed in Germany where he applied for asylum because in 1991 he deserted the Yugoslav army,¹⁷¹⁸ which he joined on 19 March 1991.¹⁷¹⁹ In Germany he got married and received German papers. He wanted to return to Kosovo already in 1997 but his father warned him not to do it because the Serbian police was still searching for him.¹⁷²⁰

1206. After he returned, he transported furniture from Germany.¹⁷²¹ The company was called "Armendi trans".¹⁷²²

1207. The witness described his involvement in business. He also testified that since 2005 or 2006 he had a R-a-C in Peja which was located close to the bus station. He was shown the pictures of the location 17, page 91 and he recognized it as the

¹⁷¹⁴ 07.11.2016, p. 25

¹⁷¹⁵ 01.11.2016, p. 27

¹⁷¹⁶ 01.11.2016, p. 28

¹⁷¹⁷ 17.05.2016, p. 5, 12 - 13

¹⁷¹⁸ 17.05.2016, p. 5

¹⁷¹⁹ 17.05.2016, p. 20

¹⁷²⁰ 17.05.2016, p. 20

¹⁷²¹ 17.05.2016, p. 6

¹⁷²² 17.05.2016, p. 14

one of the R-a-C shop.¹⁷²³ He underlined that the building was not reconstructed or changed since the beginning. It had only one floor.¹⁷²⁴

1208. The building was located on the land that E.As. rented from a railway company. The witness provided the documents confirming this. Before, there was nothing on this location, just an empty space where garbage was thrown.¹⁷²⁵

1209. E.As. was confronted with the statement of K1 that before in the same place there was a building which was destroyed to hide traces of drugs. He said that it was not true.¹⁷²⁶

1210. Ag.K. denied knowing N.K. He knew that they both came from Peja.¹⁷²⁷ He did not have any contacts with R.K. He only knew that he came from Peja. He did not meet S.Ban., he knew that he had a business. He did not know “Be.” from Decani. He did not know A.Ka. and K1.¹⁷²⁸

1211. They never had any contacts or business relations.¹⁷²⁹ He never travelled to Bosnia.¹⁷³⁰ He was never involved in narcotics.¹⁷³¹

1212. Ag.K. was shown the pictures of the R-a-C in Peja. He denied that he had ever been there.¹⁷³²

¹⁷²³ 17.05.2016, p. 4

¹⁷²⁴ 17.05.2016, p. 6

¹⁷²⁵ 17.05.2016, p. 4-5, 14; certificate from the municipality of Peja; contract for rent with Kosovo railways; project of the building;

¹⁷²⁶ 17.05.2016, p. 8

¹⁷²⁷ 29.07.2016, p. 28

¹⁷²⁸ 29.07.2016, p. 29-30

¹⁷²⁹ 29.07.2016, p. 29

¹⁷³⁰ 29.07.2016, p. 30

¹⁷³¹ 29.07.2016, p. 316

¹⁷³² 29.07.2016, p. 29

4.9.1.3.1. New pictures of the R-a-C shop in Peja

1213. Having analysed the description of the place and the pictures taken, the Court had serious doubts that it was possible that several people were mixing drugs in such a small wooden building in the same time. Such possibility was also constantly contested by the Defence. Therefore the Court decided to order the investigators to take pictures of the place. E.A gave his consent to take pictures also inside the building.

1214. The pictures were taken by EULEX investigators in presence of the Prosecutor and the Defence.

1215. K1 was confronted with the pictures of the interior which clearly indicated that it was not possible that in the same time there were several people mixing drugs. There were no rooms on the first floor which he described. K1 explained that the most probably the new building was built there to get rid of traces of drugs.

1216. It must be mentioned that K1 stated that before the newly taken pictures were shown to him, the Prosecutor met him and informed that the interior of the R-a-C shop in Peja did not fit the description given by K1 during his earlier testimony. This action of the Prosecutor was assessed by the Court as an example of unacceptable coaching of the witness as it deprived the Court and the Defence an opportunity to observe a spontaneous reaction of the witness K1 to the pictures contradicting his version.

Conclusion

1217. Having considered the above, the Court found not proven that drugs were being mixed in the R-a-C shop in Peja. The place did not exist in 1987 when K1

claimed that drugs started arriving. It was not physically possible to operate with drugs there, especially by a big group of people.

4.9.1.4. Hotel P. in Peja, Location 18, pictures 97 - 107

1218. **K1** described in detail how drugs were brought to Hotel P. in Peja and were being distributed from there via drivers.¹⁷³³ According to him, N.K. was for sure familiar with it, because R.K. was always there, and everything was organized from there. Suitcases with drugs were brought there. Present were: R.K., E.As. and A.Ka. K1 could not recall if N.K. was there.¹⁷³⁴

1219. During cross-examination K1 testified that they started to use this place after the R-a-C shop in Peja. They used it also during the NATO bombing, in 1998, 1999 and later. K1 did not exclude that he may have done a mistake if this place was just a private house then.¹⁷³⁵ He underlined that they did not use the same room all the time. They would stay there only for one night, arrived in the afternoon and left in the morning. The odour resulting from mixing heroine would not get around. He described the room, small, typical, and its furniture.¹⁷³⁶ There was no need to refurbish it in order to get rid of traces of drugs. It was different than in case of an apartment of S.T. which was used countless times.¹⁷³⁷

1220. **E.As.**, who was also to come to Hotel P. with drugs, denied that he ever came to this place with K1, R.K., A.Ka. and other persons.¹⁷³⁸

¹⁷³³ 01.11.2016, p. 32

¹⁷³⁴ 19.02.2016, p. 29, 23.02.2016, p. 12-13

¹⁷³⁵ 24.01.2017, p. 36

¹⁷³⁶ 24.01.2017, p. 45-46

¹⁷³⁷ 24.01.2017, p. 45 - 46

¹⁷³⁸ 17.05.2016, p. 11 - 12

1221. Defence proposed as a witness **M.Sh.**, owner of the Hotel P. He denied knowing N.K.,¹⁷³⁹ R.K. and A.Ka.¹⁷⁴⁰
1222. He admitted that he knew E.As., it was his friend. He confirmed that during the war E.As. was in Austria and he returned from there in 2006, 2007 or 2008. E.As. did not visit his hotel.¹⁷⁴¹ He knew it because they had family ties.¹⁷⁴²
1223. M.Sh. was in Switzerland from 1989 until 2001.¹⁷⁴³
1224. The Hotel P. was opened only on 31 October 2003. Earlier, it was a private house belonging to a person called K.V. and M.Sh. bought it from him in 2002. Then the building was not finished, it was like a skeleton. M.Sh. is the first owner of the hotel.¹⁷⁴⁴ Only the first floor was finished already in 2000.¹⁷⁴⁵
1225. Hotel P. was a family business. There were 10 rooms. The first floor belonged to another landlord, it was bought already before the war. M.Sh. had the second - the fourth floors. On the first floor, there was a driving school, a hair dresser and so called “one euro store”. On the second floor there was a hall, on the third – seven rooms, and on the fourth – three rooms.¹⁷⁴⁶ He recognized his property in the picture – location 18, p. 104.¹⁷⁴⁷ There was no separate reception. A bartender served guests, gave them keys, etc.¹⁷⁴⁸
1226. Rooms in the hotel were not bigger than 4 x 4 m. In each room, there was a bed, a big closet and a small closet with TV. Ventilation was only in restrooms. The

¹⁷³⁹ 16.02.2017, p. 4

¹⁷⁴⁰ 16.02.2017, p. 6

¹⁷⁴¹ 16.02.2017, p. 6

¹⁷⁴² 16.02.2017, p. 8

¹⁷⁴³ 16.02.2017, p. 7

¹⁷⁴⁴ 16.02.2017, p. 4 - 5

¹⁷⁴⁵ 16.02.2017, p. 6

¹⁷⁴⁶ 16.02.2017, p. 5

¹⁷⁴⁷ 16.02.2017, p. 7

¹⁷⁴⁸ 16.02.2017, p. 10

entrance was from the street. The floor was covered with ceramic tiles. There was no carpet. There was no much space between the bed and other pieces of furniture, just sufficient to go to the toilet.¹⁷⁴⁹

1227. No drugs were ever mixed in his place.¹⁷⁵⁰ Neither him, nor any member of his family was ever charged or convicted for drug trafficking.¹⁷⁵¹

1228. In a period 2003-2007 majority of his guests were internationals, including police officers. Some of them stayed even for few months.¹⁷⁵²

1229. During cross-examination, M.Sh. said that he was not aware that E.As. was convicted for drugs. He admitted that not only police officers stayed in his hotel.

¹⁷⁵³

Conclusion

1230. Having considered presented evidence referring to Hotel P., the Court found not proven that drugs were being brought, mixed or distributed in this place. The building was not used as a hotel in the period indicated by K1 as a starting moment for bringing. It would be also unreasonable to use for mixing heroin a place like a hotel which is in principle easily accessible by other people. It is notorious fact that mixing heroine with acetic acid as described by K1 produces a distinctive and strong odour of vinegar.

¹⁷⁴⁹ 16.02.2017, p. 9-10

¹⁷⁵⁰ 16.02.2017, p. 6

¹⁷⁵¹ 16.02.2017, p. 7

¹⁷⁵² 16.02.2017, p. 7

¹⁷⁵³ 16.02.2017, p. 8

4.9.1.5. Warehouse in Dobrush, Location 19, pictures 108 - 133

1231. According to **K1**, a gas station and an old building in the vicinity of Dobrush village was used for mixing and packing drugs in 2002-2003. K1 did not know the owner of the building.¹⁷⁵⁴
1232. Upon the motion of the defence, witness **Ar.E.** was heard. He and his family are owners of a company called “Mc.” which is located in Dobrush, on the main road between Peja and Mitrovica. They started this business in 1989, it deals with production of doors and windows. There is also a gas station. It employed 40 to 60 employees, the premises are guarded 24/7. He never leased buildings of the company to anybody. His family also sells Peugeot in Pristina.¹⁷⁵⁵
1233. He moved to the location in Dobrush in 1992. It did not operate during the war, he returned there in 1999. The gas station was opened only in 2003. It was never visited by law enforcement agents.¹⁷⁵⁶
1234. Ar.E. denied knowing R.K., A.Ka., E.As. and K1.¹⁷⁵⁷ During cross-examination he clarified that he knew N.K. only from the media. They never had any business together. They never even drank coffee.¹⁷⁵⁸
1235. Ar.E. was shown pictures 116-127 (location 19) where he recognized buildings located in Dobrush which belonged to his company.¹⁷⁵⁹ He categorically denied that any person (N.K., R.K., E.As., A.Ka. and K1) could come to the premises of

¹⁷⁵⁴ 19.02.2016, p. 29; 23.02.2016, p. 23

¹⁷⁵⁵ 17.05.2016, p. 23, 29

¹⁷⁵⁶ 17.05.2016, p. 29

¹⁷⁵⁷ 17.05.2016, p. 24

¹⁷⁵⁸ 17.05.2016, p. 28

¹⁷⁵⁹ 17.05.2016, p. 24-25

his company and do anything related with drugs. He underlined that terms between El. and K. families are rather bad since 1999, and therefore such thing could not have been allowed by him and his family. He would neither allow this because he was a serious businessman, a father of the family with seven children.¹⁷⁶⁰ However, the name of N.K. was not used in this context. He did not want to enter details of this relation. They are related more with R.K.¹⁷⁶¹

1236. Ar.E. was never questioned about allegations made by K1.¹⁷⁶²

Conclusion

1237. Taking into consideration the above, the Court found not proven that drug were being mixed, delivered, and distributed in the warehouse in Dobrush.

4.9.1.6. Hotel Jusaj, Location 20, pictures 134 - 141

1238. K1 testified that R.K. made arrangements to take drivers there; the premises were used for mixing drugs and dispatching them in suitcases to be sent to other countries. They were using hotel rooms.¹⁷⁶³ Drugs were coming through S.B., were delivered to Mitrovica, drivers were waiting in hotels.¹⁷⁶⁴ This location started to be used not long after K1 returned from the army.¹⁷⁶⁵ He also said that N.K. knew about this location, but R.K. was more informed because N.K. escaped from Peja in 1988. In this hotel, A.Ka., R.K. and E.As. were staying. They were coming there starting from the period 2001-2002 till 2009.¹⁷⁶⁶

¹⁷⁶⁰ 17.05.2016, p. 25-26, 27

¹⁷⁶¹ 17.05.2016, p. 26

¹⁷⁶² 17.05.2016, p. 27

¹⁷⁶³ 01.11.2016, p. 24

¹⁷⁶⁴ 01.11.2016, p. 24

¹⁷⁶⁵ 01.11.2016, p. 25

¹⁷⁶⁶ 19.02.2016, p. 22, 23.02.2016, p. 25-26

1239. E.As. denied that he ever visited this hotel with K1, R.K., A.Ka. and other persons.¹⁷⁶⁷ Neither him, nor his brother knew R.K., A.Ka. and N.K. (the last one was known to him only from the media).¹⁷⁶⁸

Conclusion

1240. The Court found not proven that drugs were brought, mixed and or dispatched from hotel Jusaj.

4.9.1.7. “Ban.” centre(s), Locations 21, pictures 163 – 183 (“Ban.” Centre, “Ban.”

S.H. Istog

1241. **K1** testified that S.Ban. was continuously transporting drugs from Turkey. He was using long trucks in which he transported fruits and vegetables. Heroin was packed in balls, mixed with fruits. It was also placed inside the doors, inside washing machines.¹⁷⁶⁹

1242. K1 met S.Ban. on many occasions. For the first time he met him on the way from Peja to Decan on the right side where he had a big point for selling fruits, and where heroin was delivered from Turkey.¹⁷⁷⁰

1243. S.Ban. had his business premises in Peja, in Decan, all over Kosovo. He knew N.K. and R.K. who were the main ones. K1 was on many meetings with S.B. in different locations.¹⁷⁷¹

1244. During cross-examination K1 admitted that he told the investigators that “Ban.” place was in Peja, while they corrected him and said that it was on the right side

¹⁷⁶⁷ 17.05.2016, p. 11

¹⁷⁶⁸ 29.07.2016, p. 11

¹⁷⁶⁹ 01.11.2016, p. 22 - 23

¹⁷⁷⁰ 01.11.2016, p. 23

¹⁷⁷¹ 01.11.2016, p. 23

on a way to Decan. He explained that for him the location was not important but the name “Ban.” was relevant.¹⁷⁷² Investigators told him that they only wanted to see places where a signboard “Ban.” was placed.¹⁷⁷³

1245. When cross-examined about the Location King Pin 21/171 (“Ban.” shopping centre), K1 was not able to remember how many times he was there. However, he had no doubts that S.Ban. was the owner. This location was used from 1988. K1 said he never met S.Ban. there, he withdrew from his statement made in direct examination. Handover of drugs took place there at the parking lot.¹⁷⁷⁴

1246. K1 was confronted with the evidence showing that “Ban.” shopping centre was built only in 2012, but he still insisted that that he was coming to this place before. There was a building but it apparently was extended and fenced. He admitted that the building looked in a different way, it was not finished then. He recognized it because on many occasions he took the same road. He avoided answering the question if there were any signs on the building. To the leading question if there was “Ban.” sign on it, he said that he was not sure, because he was coming there at night. He recognized the place based on the road.¹⁷⁷⁵

1247. **E.As.** (defence witness) said that he did not know “Ban.” centre in Istog. He said that he was never there.¹⁷⁷⁶ He testified that he and his brother C.H. were owners of the company called NT “Ban.”. They started in 2000, and initially there were 4 owners: E.H., S.H., R.H. and C.H. In 2001 they started sale in the neighbourhood “Leage e Prizrenit” in Istog which is functioning until now. In

¹⁷⁷² 11.11.2016, p. 8 - 11

¹⁷⁷³ 25.01.2017, p. 12-16

¹⁷⁷⁴ 25.01.2017, p. 12-16

¹⁷⁷⁵ 25.01.2017, p. 17-20

¹⁷⁷⁶ 17.05.2016, p. 12

2012 they opened another centre, also in Istog. Both of them are called “Ban.” Centre”.¹⁷⁷⁷

1248. E.H. was shown pictures of Page 171, location number 21. He recognized it as the one belonging to E.H. and C.H.¹⁷⁷⁸ The site construction started in March 2012, and they started working there in October 2012.¹⁷⁷⁹ He supported it with the following documents: offers a contract of purchase a land in 2012 and a construction contract and permission. He denied that S.Ban. had any connection with their premises in Istog. When they bought the land in 2012 there was no building on this parcel.¹⁷⁸⁰

1249. He was shown also the location from page 177 which belonged to his brother S.H. The building there was constructed in 2012, May or June. This premise is leased by S.H.¹⁷⁸¹

1250. Only in 2002 they had their own two trucks for deliveries, registered in Ulcinj. There were two drivers: A.N. and S.Ka. They brought goods from Zrenjanin, Serbia.¹⁷⁸² They also bought fruits and vegetables in Podgorica; they never had deliveries from Turkey.¹⁷⁸³

1251. E.H. knew S.Ban., they had contacts in Tirana in 2001. They bought juices from his factory which were sold only in Ulcinj. They were not brought to Kosovo at all. They were driven by a driver F.Fer. All together there were three

¹⁷⁷⁷ 29.07.2016, p. 4-5

¹⁷⁷⁸ 29.07.2016, p. 8

¹⁷⁷⁹ 29.07.2016, p. 8

¹⁷⁸⁰ 29.07.2016, p. 8-10; contract of purchase a land in 2012 and a construction contract and permission

¹⁷⁸¹ 29.07.2016, p. 12

¹⁷⁸² 29.07.2016, p. 5

¹⁷⁸³ 29.07.2016, p. 18-19

transports.¹⁷⁸⁴ He saw him only once.¹⁷⁸⁵ In a period 2001-2011 E.H. did not meet with S.Ban.¹⁷⁸⁶

1252. The company took goods mainly from national companies such as: ELC – ELKOS, Dauti Commerce, Meridian. Transport was organized by them.¹⁷⁸⁷

1253. E.H. denied that any trucks from Turkey were coming to their place. He did not know K1, had no involvement in drugs.¹⁷⁸⁸

1254. E.H. denied that he called his business “Ban.” because of cooperation with S.Ban. He did not have anything in common with him. He explained that initially his business was called “Drenica” but in 1988 he moved with it to Ulcinj and because of the pressure from Serbs and Montenegrins he decided to rename it for “Ban.”¹⁷⁸⁹ Between years 1988-1995 they did not have any business in Istog, they operated only in Ulcinj. In 1995 his brothers S.H. and R.H. returned to Kosovo first and opened a grocery shop. E.H. returned in 2002.¹⁷⁹⁰

1255. E.H. explained that he employs around 100 people. When he started his business in 2000 he employed 5-6 people. He excluded that drugs were brought to his place. He denied knowing K1, N.K., E.As. and R.K.¹⁷⁹¹

1256. The defence proposed also to hear **S.NI.**, nickname “Bn.”. He testified that he was selling fruits and vegetables in the former Yugoslavia for 50 years.

¹⁷⁸⁴ 29.07.2016, p. 6

¹⁷⁸⁵ 29.07.2016, p. 18

¹⁷⁸⁶ 29.07.2016, p. 7

¹⁷⁸⁷ 29.07.2016, p. 7

¹⁷⁸⁸ 29.07.2016, p. 10

¹⁷⁸⁹ 29.07.2016, p. 13

¹⁷⁹⁰ 29.07.2016, p. 14

¹⁷⁹¹ 29.07.2016, p. 16-17

Currently he is retired. He had companies named: Hit, Prerada, Fructis and Visnica.¹⁷⁹²

1257. He imported “Ban.”s, oranges, kiwi, etc., mainly from Europe, Asia and also from Cuba. He ordered deliveries which were brought by ships mainly to Rijeka, Split and Budva. He never brought fruits by trucks from Turkey.¹⁷⁹³ When he was working with fruits and vegetables, he had 47 branches all over Yugoslavia. He had his own trucks.¹⁷⁹⁴ In the period 1991-1998 he had 10-15 DAV trucks, 10-15 vans and around 50 limousines.¹⁷⁹⁵

1258. He was also buying different kinds of nuts from Turkey. They were not brought by trucks but with a ship. He never bought the whole freight from Turkey himself but he cooperated with other partners from this part of Europe. Part of the delivery was taken by one, while the other was taken by another. Ships were unloaded in Greece and in Montenegro.¹⁷⁹⁶

1259. In 1991 he started business also in Albania. In 1992 he closed all his business in Yugoslavia.¹⁷⁹⁷ From 1992 to 1998 he was searching for possibilities in Albania. In 1994 he bought a building there, he produced packages for milk and juice. He hired around 300-400 people. When the war in Kosovo broke he also hired refugees from there.¹⁷⁹⁸

1260. From 1993 until 1996 he worked with Macedonian company called “Macedonia Tabak”. He sent them filters for manufacturing cigarettes which he bought from

¹⁷⁹² 17.03.2017, p. 4

¹⁷⁹³ 17.03.2017, p. 7-8

¹⁷⁹⁴ 17.03.2017, p. 6

¹⁷⁹⁵ 17.03.2017, p. 6

¹⁷⁹⁶ 17.03.2017, p. 8

¹⁷⁹⁷ 17.03.2017, p. 5

¹⁷⁹⁸ 17.03.2017, p. 5

a Serbian company called “El Nis”. He cooperated with Ek.L. who owned “D. Company”.¹⁷⁹⁹

1261. When asked about relations with Turkey, he said that he never sent trucks with goods to Turkey.¹⁸⁰⁰

1262. In a period 1999-2010 S.Ni. did not have a supermarket in Kosovo.¹⁸⁰¹ Until 2003 he stayed in Albania, only then he returned to Kosovo.¹⁸⁰² Then he brought machines from Albania and started production in Peja.¹⁸⁰³

1263. He was shown pictures of location 21 (151, 161, 156, 157) and he did not recognize them.¹⁸⁰⁴ He was also shown pictures of location 17 (R-a-C shop in Peja). He did not recognize it, asked if it was a restaurant or cafeteria. He was never there.¹⁸⁰⁵

1264. He denied any involvement in drugs, that his trucks were sent to Turkey to transport drugs.¹⁸⁰⁶ He denied knowing: Ag.K., R.K., E.As. and “Be.”.

1265. He admitted that he knew N.K.¹⁸⁰⁷ S.Ni. sold a house to N.K. who rented premises near him. It was 30-35 years before.¹⁸⁰⁸ He said that he was a friend of N.K.¹⁸⁰⁹ They had business relations – N.K. exchanged for S.Ni. Serbian dinars into Swiss francs. Besides, later N.K. bought cigarettes from him, and more from

¹⁷⁹⁹ 17.03.2017, p. 5 - 6

¹⁸⁰⁰ 17.03.2017, p. 9

¹⁸⁰¹ 17.03.2017, p. 9

¹⁸⁰² 17.03.2017, p. 9

¹⁸⁰³ 17.03.2017, p. 10

¹⁸⁰⁴ 17.03.2017, p. 10

¹⁸⁰⁵ 17.03.2017, p. 11

¹⁸⁰⁶ 17.03.2017, p. 10, 12 - 13

¹⁸⁰⁷ 17.03.2017, p. 11

¹⁸⁰⁸ 17.03.2017, p. 11

¹⁸⁰⁹ 17.03.2017, p. 12

Ek.L.¹⁸¹⁰ During cross-examination S.Ni. clarified that N.K. took cigarettes only from Ek.L.¹⁸¹¹

1266. In the end of 2002 or beginning of 2003 S.Ni. travelled to Sarajevo. Starting from 2003 he never went there again.¹⁸¹² His last visit in Sarajevo was connected with a business in plastic.¹⁸¹³

1267. S.Ni. was interviewed 7-8 years before by EULEX in the barracks at Fushe Kosovo. They let him go and he was never summoned again.¹⁸¹⁴

1268. During cross-examination S.Ni. said that he saw N.K. last time 5-6 years before.¹⁸¹⁵ He met N.K. for the last time during his visit in Sarajevo in 2002/2003. They had dinner together and were talking about cars. It happened sometimes that S.Ni. bought cars from N.K.¹⁸¹⁶ S.Ni. was not able to indicate how often he met N.K. He called him whenever he needed anything from him. He called him when he needed Swiss francs. He also sold him cigarettes because he knew that N.K. would pay for it.¹⁸¹⁷

1269. He admitted that he was always fond of N.K., despite the fact that he was younger than him and had a different life style.¹⁸¹⁸

1270. He denied knowing K1. When asked how it was possible that K1 knew him, he answered that everybody knew him, while he did not have to know everybody.

He was the biggest businessman in the former Yugoslavia. He was called not

¹⁸¹⁰ 17.03.2017, p. 11- 12

¹⁸¹¹ 17.03.2017, p. 14

¹⁸¹² 17.03.2017, p. 12

¹⁸¹³ 17.03.2017, p. 12

¹⁸¹⁴ 17.03.2017, p. 13

¹⁸¹⁵ 17.03.2017, p. 14

¹⁸¹⁶ 17.03.2017, p. 16

¹⁸¹⁷ 17.03.2017, p. 14

¹⁸¹⁸ 17.03.2017, p. 14

only S.Ban. but also S.Po. Currently he worked in telecommunication and is hated for cooperation with Serbia.¹⁸¹⁹

Conclusion

1271. The Court finds that the Prosecutor did not present evidence to prove that “Ban.” centres were used for drug trafficking. It must be underlined that from the testimony of K1 results that he was not sure if he recognized proper places as the ones where drugs were brought. The defence presented the evidence which effectively rebutted claims of K1. They were not only testimonies of the witnesses mentioned above but also documents provided by them. Additionally, in case of “Ban.” centres it became visible that pictures of places with a sign “Ban.” were taken, no matter if these locations had any connection with drug trafficking.

4.9.1.8. Mitrovica, Vitimirica, Peja, Location 22, pictures 184 – 192, M.M.F. I, Location 23, pictures 193-200, M.M.F. II

1272. **K1** described in his testimony M.M.F. as another place where drugs were brought. According to him it belonged to K.V.¹⁸²⁰

1273. Defence proposed as a witness **K.B.**, the owner of M.M.F. I and II in Mitrovica. He recognized pictures of these premises. He is the owner of these places since 2007. He does not import products himself, he sells grocery, fruits and vegetables which he buys mainly in the green market in Pristina and directly

¹⁸¹⁹ 17.03.2017, p. 15

¹⁸²⁰ 23.02.2016, p. 10 – 11, 27

from villagers. He used trucks for transport but only in Kosovo. He never imported anything from Turkey.¹⁸²¹

1274. K.B. did not know K1, R.K., A.Ka. and N.K. He knew E.As. who was a medical doctor in Mitrovica. He knew K.V. as a public figure in Kosovo. He did not have any business relation with him. He heard about S.Ban. as a man working in the market. He did not have any common business with him.¹⁸²²

1275. He underlined that the markets were video monitored and there was also security system which was active during the night. It worked 7 days per week, from 7 till midnight.¹⁸²³ During cross examination he clarified that the monitoring was installed 5-6 years before. The security is provided by the company “Black Panther”.¹⁸²⁴

1276. He denied any involvement in drug business, he excluded that his premises could have been used in this purpose.¹⁸²⁵

1277. He was never sentenced for anything, he underlined that he did not understand why he was summoned to testify.¹⁸²⁶

Conclusion

1278. The Prosecutor did not present any piece of evidence to corroborate the statement of K1 about the delivery of drugs to M.M.F. in Mitrovica. The Court sees no reasons not to believe the witness K.B. Therefore, it was not proven that any actions related with drug trafficking occurred in these locations.

¹⁸²¹ 29.07.2016, p. 22-23

¹⁸²² 29.07.2016, p. 24 - 25

¹⁸²³ 29.07.2016, p. 25

¹⁸²⁴ 29.07.2016, p. 26

¹⁸²⁵ 29.07.2016, p. 25

¹⁸²⁶ 29.07.2016, p. 25

4.10. “Water acid”

1279. K1 testified that N.K. and Z.T. sent to Turkey 6 tons of the liquid substance called “water acid”, used for processing of heroine. K1 was present when the acid arrived to Turkey. It was done by a company registered on a German person, whose name K1 did not know.¹⁸²⁷

1280. The Prosecutor did not present any evidence to corroborate K1’ testimony in order to support this claim, therefore the Court found it unproven.

4.11. Witness K3

1281. Witness K3 was proposed by the Prosecution to support the allegations described in count 3 of the indictment. On many occasions during the examination K3 claimed that he had to consult his answers with the Prosecutor. It gave the Court impression that his testimony was neither sincere nor spontaneous.

1282. During the trial it became clear that K3 acted with the purpose to obtain immunity and possibly other benefits in exchange for his testimony. It created obvious risk that the witness concocted his statement to earn the desired status. Nevertheless, he said virtually nothing about N.K. alleged involvement in drug trafficking except unverified and not detailed hearsay.

1283. K3 described in details his involvement in drug business. He started working with drugs when he was 13 years old, in 2000. At the beginning he was operating only in Belgrade. Then he was selling so called recreational drugs: marihuana and other based on methamphetamine. Later he dealt also with heroin, cocaine and other drugs. He described the structure and the hierarchy of the group he

¹⁸²⁷ 01.11.2016, p. 28-29

worked with.¹⁸²⁸ He explained that he made a lot of money on it, there was no need for him to work.¹⁸²⁹

1284. He started dealing with drugs after he was approached by Al.Ki.¹⁸³⁰ who belonged to the group which operated in Serbia, Republika Srpska and Bosnia and Herzegovina.¹⁸³¹ All the drugs which came to the Balkans arrived through Kosovo.¹⁸³²

1285. K3 presented in details the amount of drugs which he sold. When he turned 18 years, the scale of business became bigger.¹⁸³³ He was involved in selling drugs during big musical events.¹⁸³⁴ His position was a middle manager; he did not want to be promoted high because he found it dangerous.¹⁸³⁵

1286. In the period 2000-2009 he received drugs from H.Ha., D.Ri., and M.Lu.¹⁸³⁶

1287. K3 said that his father in law, S.P., was aware of his drug business and later, he was involved in it himself. He possessed clubs in Belgrade which were managed by K3, where the drugs were sold. There was a club called Star.¹⁸³⁷ K3 refused to give names of all clubs where drugs were sold, because he said that he was afraid that certain people could be hurt by people who were still active in the business.¹⁸³⁸

¹⁸²⁸ 14.10.2015, p. 4 – 41; 15.10.2015, p. 4-5

¹⁸²⁹ 15.10.2015, p. 23-24

¹⁸³⁰ 14.10.2015, p. 9

¹⁸³¹ 14.10.2015, p. 7

¹⁸³² 14.10.2015, p. 8; 15.10.2015, p. 6

¹⁸³³ 14.10.2015, p. 13

¹⁸³⁴ 14.10.2015, p. 9-10

¹⁸³⁵ 14.10.2015, p. 11

¹⁸³⁶ 15.10.2015, p. 7

¹⁸³⁷ 14.10.2015, p. 17 – 18

¹⁸³⁸ 14.10.2015, p. 19

1288. According to K3, S.P. arranged contact with N.K. who was supposed to help K3 to develop his business because “they” always had goods, while K3 with his group controlled the market. K3 explained that by “they” he meant N.K., L.K., people around him and others whom he cooperated with. When asked about details, he mentioned two names: D.Ri. and H.Ha.¹⁸³⁹
1289. However, K3 did not indicate any single action that constituted help that he mentioned. In particular he did not present any occasion N.K. supplied him with drugs.
1290. When asked whether L.K. worked with N.K., K3 said that he believed so. When asked why, he explained that he based his conclusion on what he heard from other people.¹⁸⁴⁰ According to K3 it was a common conviction that N.K. knew about L.K. involvement in drug trafficking.¹⁸⁴¹
1291. K3 heard that N.K.’s organization mixed drugs somewhere in Peja and in Bosnia. When asked how he knew this, he answered that he must have asked the prosecutor first if he could disclose the names.¹⁸⁴²
1292. When asked about the head of his organization, K3 answered that N.K. was on his side, and there were also people in Belgrade.¹⁸⁴³
1293. In his testimony K3 gave numerous facts about actions allegedly performed by L.K. He did not present any action performed by N.K.

¹⁸³⁹ 14.10.2015, p. 29

¹⁸⁴⁰ 14.10.2015, p. 30

¹⁸⁴¹ 14.10.2015, p. 30

¹⁸⁴² 14.10.2015, p. 38

¹⁸⁴³ 15.10.2015, p. 18

1294. In February 2011, he was for the first time present in Ilidza, Sarajevo, when the drugs were mixed. He went there with somebody who was supposed to take the goods, but he did not want to tell his name without consulting the Prosecutor. They took a plastic bag with a drug called “speed” from N.Cu., a member of D.E.’s group. K3 went there only once.¹⁸⁴⁴
1295. When asked about the connection between N.Cu., N.K. and L.K., K3 said that they were taking drugs from the same place.¹⁸⁴⁵
1296. K3 testified extensively about L.K.’s actions. In 2009, he was directed to him by S.P., who told him that somebody would call him and he should follow the instructions. Petkovic explained that this call will be job related.¹⁸⁴⁶
1297. On the same day, K3 was called by somebody who did not introduce himself. He connected this call with the earlier conversation with S.P. In such conversations nobody used names, also SIM cards were often changed.¹⁸⁴⁷
1298. K3 travelled from Belgrade, probably in March 2009. He was accompanied by another person but he refused to give the name because of security reasons, as he claimed. Somebody was waiting for them in Kosovo. They went to Gracanica¹⁸⁴⁸ where K3 met L.K. K3 came by car with another person, but again K3 refused to give his name because otherwise this person would be exposed for risk.¹⁸⁴⁹
1299. K3 met L.K. in a private house in Gracanica. The meeting lasted 30-45 minutes. On this occasion they were introduced to each other, however K3 knew before

¹⁸⁴⁴ 14.10.2015, p. 38-39

¹⁸⁴⁵ 14.10.2015, p. 39

¹⁸⁴⁶ 14.10.2015, p. 25-26; 15.10.2015, p. 7 - 9

¹⁸⁴⁷ 15.10.2015, p. 9

¹⁸⁴⁸ 15.10.2015, p. 10

¹⁸⁴⁹ 14.10.2015, p. 25-26; 15.10.2015, p. 8

how L.K. looked like because he saw him in the same circles in Belgrade.¹⁸⁵⁰ K3 was little surprised to meet L.K. because he did not know what to expect.¹⁸⁵¹

1300. During the meeting L.K. asked questions about the parties organized by K3, how much drugs could be sold there. K3 did not pose any questions to him. L.K. did not tell anything about his business. During this meeting they exchanged sim cards and later one of K3's associates was in touch with L.K.'s people. L.K. told that they would receive a call from him and that was how the cooperation was established.¹⁸⁵²

1301. At the end L.K. gave him 1 kg of the drug called "speed" as a sign of good will. From this moment their cooperation became regular. He received regularly from him ecstasy, heroin, including white, and speed. It was 1 kg per month, usually paid in advance. Price for heroin was 2-7 euro per gram, speed – 3000-3500 euro per kilogram.¹⁸⁵³

1302. K3 informed his closest associates about this cooperation with L.K.¹⁸⁵⁴

1303. In contrast to detailed story that he gave about L.K., K3 did not give any particular facts about N.K.

1304. K3 stated that he was convinced that N.K. was aware that K3 cooperated with L.K., because it was allegedly impossible that he would not know.¹⁸⁵⁵ He did not explain why there was no such a possibility.

¹⁸⁵⁰ 14.10.2015, p. 26 – 27; 15.10.2015, p. 11

¹⁸⁵¹ 15.10.2015, p. 12

¹⁸⁵² 15.10.2015, p. 12 - 13

¹⁸⁵³ 14.10.2015, p. 26 – 27, 28

¹⁸⁵⁴ 15.10.2015, p. 18

¹⁸⁵⁵ 14.10.2015, p. 29

1305. K3 stated in a general way that he was buying drugs from N.K. and L.K. in 2009-2012.¹⁸⁵⁶ He received drugs from this source more rarely than from other places. He did not remember exactly how many times.¹⁸⁵⁷ Last time he received drugs from L.K. two or three days before his escape.¹⁸⁵⁸ He did not describe any occasion when he bought drugs from N.K.
1306. Despite general statement that N.K. was trafficking drugs K3 stated that actually nobody told him about cooperation with N.K. K3 never met any person who directly cooperated with N.K. or people around him.¹⁸⁵⁹
1307. He heard that N.K. was in drug business from D.E. and members of his group, from D.Ri. and H.Ha. He also based this information on what he heard from a police officer A.Kar.¹⁸⁶⁰ This hearsay appeared to the Court as unverified. At the same time it did not present any particular facts confirming that N.K. was involved in drug trafficking.
1308. K3 testified that in spring 2012, upon arrangements of S.P., he participated in the meeting in a restaurant called Lozovacka Cesta, on a highway Nis - Belgrade. N.K. and his son L.K. were present then. There were also other people, however K3 refused to give any names as he claimed it would jeopardize his security.¹⁸⁶¹
1309. K3 did not know the subject of the meeting. He did not want to tell who invited him for this meeting. He came and greeted everybody. He did not know N.K., they were not introduced to each other. They did not talk with each other. He

¹⁸⁵⁶ 14.10.2015, p. 34

¹⁸⁵⁷ 15.10.2015, p. 3

¹⁸⁵⁸ 15.10.2015, p. 4

¹⁸⁵⁹ 15.10.2015, p. 14

¹⁸⁶⁰ 15.10.2015, p. 18

¹⁸⁶¹ 14.10.2015, p. 20-21

talked a little with L.K., but nothing about the business.¹⁸⁶² It was the only time when K3 met N.K. He never talked with him.¹⁸⁶³

1310. K3 did not present what happened during that meeting. In particular he did not present anything that could prove N.K.'s involvement in drug trafficking.

1311. K3 said that that meeting was necessary because many deliveries were intercepted, and there were problems on the borders. In this period there were riots in the north of Kosovo, there was more police, helicopters were also involved. Therefore, more drugs were seized¹⁸⁶⁴ He did not explain how this meeting was supposed to change the situation.

1312. K3's allegations about the only occasion when he met N.K. were confusing and too ambiguous to serve as an example of N.K.'s alleged criminal activity.

1313. K3 said that he knew K1 and things about him. He said that he was cooperating with N.K. in drugs. When asked how he knew this, he said that he would have to consult the prosecutor first.¹⁸⁶⁵ Finally, he did not present any facts about K1 cooperation with N.K.

1314. According to K3, S.P. knew N.K. for quite a long time and their relation was of a criminal character. When asked about the details, K3 said that he himself knew L.K. from 2009 and took drugs from him. Therefore, he concluded that his father in law and N.K. probably had the same relations.¹⁸⁶⁶ He did not give any convincing reasons for this conclusion.

¹⁸⁶² 14.10.2015, p. 21-22

¹⁸⁶³ 15.10.2015, p. 16

¹⁸⁶⁴ 14.10.2015, p. 33-34

¹⁸⁶⁵ 14.10.2015, p. 42-43

¹⁸⁶⁶ 14.10.2015, p. 24-25

1315. K3 left his organization in October 2012 because of an internal conflict. It resulted from the fact that since 2008 he cooperated with the police and reported to them his competitors in drug business. Additionally, someone who worked with him became drug addicted and started business on his own. K3 got in conflict and escaped from the country, also because other people were informed about K3's cooperation with the police.¹⁸⁶⁷
1316. He got in touch with EULEX via Swedish police where he knew one person. He did it because he was being hunted by his former associates. There were even shootings and some people were wounded. He got in touch with the police and the prosecution few months after his escape. The police was meanwhile checking the information obtained from him. He did not want to give the name of this person because he did not want to expose her for the risk. Then he was directed to the organization which name he could not reveal.¹⁸⁶⁸
1317. There has been no criminal investigation against him for his participation in drug organization. The trial against N.K. was the first one when he testified.¹⁸⁶⁹
1318. In the course of cross-examination, K3 testified that he was not in touch with S.P. since 22 October 2012 for the last time.¹⁸⁷⁰ His father in law with his wife and daughter visited K3 and his wife in Belgrade for the first time in July 2011, after their son was born.¹⁸⁷¹ Initially nobody knew that he got married. There

¹⁸⁶⁷ 14.10.2015, p. 35 - 36

¹⁸⁶⁸ 14.10.2015, p. 36-37

¹⁸⁶⁹ 14.10.2015, p. 37

¹⁸⁷⁰ 15.10.2015, p. 23

¹⁸⁷¹ 27.10.2015, p. 3

were only witnesses present on the ceremony. He did it to protect himself and his wife. He was afraid of being arrested.¹⁸⁷²

1319. K3 denied that his wife did not speak with S.P. in a period 2006-2011. S.P. was one of the reasons why he had to escape.¹⁸⁷³

1320. K3 was questioned by the Defence if he applied for a status of an immigrant in Sweden and if he needed to lie to obtain a status of a protected witness from EULEX. K3 responded in an ambiguous way that it was not a case, but at the same time he admitted that it was also partially true. He asked for a break before giving the answer.¹⁸⁷⁴

1321. After the break he was not able to testify due to hyperventilation. The break was prolonged.¹⁸⁷⁵

1322. After the proceedings resumed, K3 refused to speak about the grounds of his application for a status of an immigrant in Sweden. Later he said that he requested asylum and protection. He explained that he was refused asylum because Serbia is considered to be a safe country. Further, he contacted Swedish police, gave some information which was verified with Serbian authorities. He applied for the asylum because he was threatened by his former associates.¹⁸⁷⁶ In his application, he indicated his criminal activities and conflicts with other people. He did not remember if he mentioned there N.K. or his son.¹⁸⁷⁷

¹⁸⁷² 27.10.2015, p. 12 -13

¹⁸⁷³ 27.10.2015, p. 13

¹⁸⁷⁴ 15.10.2015, p. 29

¹⁸⁷⁵ 15.10.2015, p. 30

¹⁸⁷⁶ 15.10.2015, p. 31

¹⁸⁷⁷ 15.10.2015, p. 39

1323. He returned from Sweden in June 2013. He did not want to answer the question if he contacted EULEX directly afterwards. He was in contact with EULEX through different organizations. He explained that he was in touch with EULEX already during his stay in Sweden. He sent email to them. He did it in a course of negotiations with a representative of Swedish police what led to further cooperation with EULEX and two other law enforcement organizations.¹⁸⁷⁸ He refused to give their names. He was encouraged to get in touch with EULEX by members of these two organizations.¹⁸⁷⁹ He sent lot of emails to EULEX.¹⁸⁸⁰ He also talked with people from EULEX through the phone.¹⁸⁸¹ Later he admitted that he talked with certain A.Ha.¹⁸⁸²
1324. He refused to answer the question what he was negotiating with the Swedish police. He admitted that the prosecution knew it.¹⁸⁸³
1325. He decided to testify against N.K. after he returned to Belgrade and after the discussions with the other organizations. He was approached by them.¹⁸⁸⁴
1326. He admitted that he received some guarantees from the Serbian authorities that he would not be detained.¹⁸⁸⁵ He also admitted that he received guarantees that he would not be accused by the other organization which he negotiated with.¹⁸⁸⁶
1327. K3 claimed that he did not know when N.K. was arrested. However, it happened after his negotiations.¹⁸⁸⁷ He did not want to tell if during the negotiations he

¹⁸⁷⁸ 15.10.2015, p. 33

¹⁸⁷⁹ 15.10.2015, p. 40

¹⁸⁸⁰ 15.10.2015, p. 42

¹⁸⁸¹ 15.10.2015, p. 43

¹⁸⁸² 15.10.2015, p. 44

¹⁸⁸³ 15.10.2015, p. 34

¹⁸⁸⁴ 15.10.2015, p. 32-33

¹⁸⁸⁵ 15.10.2015, p. 35

¹⁸⁸⁶ 15.10.2015, p. 35-36

¹⁸⁸⁷ 15.10.2015, p. 45

mentioned the name of N.K. He said that they discussed many things, and the name of N.K. was not relevant at that point of time. He did not remember when it became relevant.¹⁸⁸⁸ K3 remembered that N.K. was arrested when K3 came to Belgrade. He did not remember who told him about this arrest.¹⁸⁸⁹

1328. He did not remember when he mentioned N.K. and L.K. for the first time. Initially, K3 avoided speaking about N.K. because he was in an extreme situation, very uncertain when a lot of people tried to reach him. He was trying to understand then what options he had.¹⁸⁹⁰

1329. Only on the last day of his testimony, in a course of redirect examination K3 explained that he was given a status of a protected witness in September 2013.¹⁸⁹¹ The following institutions were involved in negotiating with him: EULEX, Swedish Police, INTERPOL, Serbian Police – Department for Narcotics and Drugs. He admitted that FBI and DEA were also involved in this process.¹⁸⁹²

1330. K3 claimed that he handed over a lot of documents to the investigators. He was surprised that it was not given to the court.¹⁸⁹³

1331. K3's story about his negotiations with various law enforcement authorities indicated clearly that he used his statements as a bargaining card to obtain certain advantages.

¹⁸⁸⁸ 15.10.2015, p. 45

¹⁸⁸⁹ 15.10.2015, p. 46

¹⁸⁹⁰ 15.10.2015, p. 46-47

¹⁸⁹¹ 28.10.2015, p. 37

¹⁸⁹² 28.10.2015, p. 37 – 38, 40

¹⁸⁹³ 28.10.2015, p. 40

Defence witness – S.P.

1332. Defence proposed to hear as a witness S.P., mentioned on many occasions by witness K3 in a criminal context. S.P. was not interrogated during the investigation stage.
1333. S.P. testified that he was a father in law of K3. He does not have any contact with his daughter since 2006. They re-established a kind of relation only in 2011 which lasted only few months. Since then they did not have any contacts.¹⁸⁹⁴ In this period they met three or four times. He learnt that his daughter was married only a year later from his son.¹⁸⁹⁵ They did not have good relations, because K3 was prone to narcotics. They did not have any business relations.¹⁸⁹⁶
1334. S.P. denied knowing N.K. He met him during the court session for the first time. He heard about him from the media. He did not know any members of N.K.'s family.¹⁸⁹⁷ He did not contact K3 with N.K. or any members of his family.¹⁸⁹⁸ He did not contact K3 with L.K. He denied having any conversations with K3 about N.K. He denied any involvement in drug business or another criminal activity.¹⁸⁹⁹
1335. S.P. denied that he was involved in drug business. He did not help K3 in any business. K3 did not give him any money, he was not able to support his own family.¹⁹⁰⁰

¹⁸⁹⁴ 10.11.2015, p. 6, 7, 19

¹⁸⁹⁵ 10.11.2015, p. 7

¹⁸⁹⁶ 10.11.2015, p. 7

¹⁸⁹⁷ 10.11.2015, p. 8

¹⁸⁹⁸ 10.11.2015, p. 9

¹⁸⁹⁹ 11.11.2015, p. 4-6

¹⁹⁰⁰ 10.11.2015, p.11-12

1336. S.P. was sure that K3 never met N.K.¹⁹⁰¹ He said that N.K. was known as a serious businessman and K3 had no chance to approach him.¹⁹⁰²

1337. N.K. denied knowing K3 and S.P. He never met any of them, nor did he make any business with them. He explained that since 2004 he had never been to Serbia.¹⁹⁰³

Conclusion – K3

1338. The Court found that the testimony of K3 had no evidentiary value for the case in hand. The witness described his own involvement in drug trafficking, however he did not provide any details of N.K.'s operations.

1339. It became apparent that K3 did not have any direct knowledge about alleged involvement of N.K. in drug trafficking. He referred to some presumptions he made or so called general knowledge. He claimed that he met N.K. once in Serbia, however the Prosecutor did not provide any evidence to support this claim. The Accused denied entering Serbia since 2004, and there is no reason not to believe him, especially because of a notoriously known political situation in the region.

1340. The Court did not find any reason to discredit the testimony of S.P.

1341. The competent authorities of the Kingdom of Sweden did not provide the Court with the documents of the asylum proceedings in case of K3.¹⁹⁰⁴

¹⁹⁰¹ 11.11.2015, p. 10-11

¹⁹⁰² 11.11.2015, p11

¹⁹⁰³ 18.01.2018, p. 54

¹⁹⁰⁴ ILA request to Sweden, 20.10.2015;

Conclusion – count 3

1342. Having assessed the evidence presented by the Prosecutor to support count 3 of the indictment which referred to organized crime in relation to drug trafficking, the Court found that the Prosecutor did not present sufficient evidence to support his claims. This claim was based on the testimonies of co-operative witness K1, which was assessed as untruthful and not reliable. The notebook of K1 which was presented to corroborate the evidence of this witness was assessed as unreliable as there are strong indications that it was fabricated especially for this trial. The testimony of K3 had no evidentiary value.

4.12. N.K. and his acquaintance with K2

1343. The Court concluded that K2 and N.K. knew each other. This finding is supported by reliable testimony of J.J., which was corroborated by corresponding parts of the statements of R.L., K1 and K2. Therefore, the Court assessed N.K.'s denial of his acquaintance with K2 as unreliable and aimed on defending himself.

Summary of evidence

1344. The Accused consequently denied that he had ever met K2 and had any contacts with him.

1345. **K2** testified that he heard about N.K. in 1990, when he was in prison. He met him in 1993 at police station in Peja and on this occasion N.K. intervened and K2 was released from arrest.¹⁹⁰⁵ They were neighbours in Peja. 2-3 days after the situation at the police station, K2 thanked N.K. for help and they had short chat.¹⁹⁰⁶ After that he had many contacts with N.K. connected with currencies

¹⁹⁰⁵ 23.02.2017, p. 4-5

¹⁹⁰⁶ 23.02.2017, p. 4-5

and gold which N.K. bought from K2 on 3 occasions. Last time, he did not get money for this, but 10 blank Yugoslavian passports and a pistol. It was in 1994 or 1995. All these situations happened in Peja.¹⁹⁰⁷

1346. **N.K.** denied these circumstances. In his statement he underlined that he could not have assisted K2 from detention because he was neither police officer, nor he cooperated in any way with the authorities of this time. To support his claim, he indicated that in 1993 he was detained for 39 days because of some problems related with cigarettes which he dealt with.¹⁹⁰⁸

1347. **K2** left Kosovo in 1997 and moved to Mostar. He met N.K. in Bosnia in 1998 in the restaurant Mlin. There was a problem because somebody was abducted. Present were: “Fa.”, N.K.’s people, R.Ka. from Tuzla. There was a kind of celebration there.¹⁹⁰⁹ At that time K2 was trafficking weapons but not drugs.¹⁹¹⁰

1348. According to **K2**, N.K. stayed in Kosovo until the beginning of war. Then he went to Bosnia, he was living between Tuzla and Sarajevo. K2 met with him on many times on informal meetings.¹⁹¹¹ He specified there were around 5-10 meetings in a period 1997-2001. He never saw N.K. alone, he did not remember names of the people who were with him because they meant nothing to him. None of these meetings was connected with criminal activity.¹⁹¹²

1349. In 2000, K2 and N.K., accompanied by another man met in Sarajevo, in the restaurant “Papagaj” or “Gaj” in Kiseljak neighborhood. Then N.K. asked him to

¹⁹⁰⁷ 23.02.2017, p. 6

¹⁹⁰⁸ 18.01.2018, p. 13 - 14

¹⁹⁰⁹ 23.02.2017, p. 8-9

¹⁹¹⁰ 23.02.2017, p. 9

¹⁹¹¹ 23.02.2017, p. 10

¹⁹¹² 23.02.2017, p. 11 - 12

drive a young man to a place where it was planned to throw a bomb because of some unsettled business. K2 refused, and joked that he could be sent to take somebody off, but not to throw a bomb on the yard. Later S.L. and E.Dz. came. During the meeting K2 gave them a gun, while the man who accompanied N.K. gave a little box with cocaine.¹⁹¹³ S.L. and E.Dz. came because there was need to arrange some debts.¹⁹¹⁴

1350. In 2001 they met in Rozaje, pizzeria "Still" owned by a man with the nickname "Me.". N.K. offered him a job consisting of transport of heroin from Bosnia to England. K2 refused. N.K. did not give any details.¹⁹¹⁵

1351. N.K. was dealing with oil, diesel, cigarettes and any profitable activity. K2 did not know if he dealt with any other illegal activity besides drugs.¹⁹¹⁶

1352. **N.K.** denied that any of the meetings ever took place. He was consequent in saying that he never met K2.

Conclusion

1353. The Court concluded that it was not proven that K2 and N.K. met in the circumstances mentioned by witness K2. There is no evidence corroborating the testimony of K2.

¹⁹¹³ 23.02.2017, p. 16-18

¹⁹¹⁴ 28.02.2017, p. 5

¹⁹¹⁵ 23.02.2017, p. 12-14

¹⁹¹⁶ 28.02.2017, p. 7 -8

K2's trip to Turkey, 2001

1354. According to **K2**, in 2001 he travelled with R.L. to Turkey, Istanbul. He went there upon request of N.K. When leaving to Turkey, K2 did not know what N.K. wanted from him.¹⁹¹⁷

1355. N.K. and K2 met in hotel Zagreb in Istanbul. R.L. and Mece were in the restaurant; they greeted each other, but they were sitting at the separate tables, in separate booths. N.K. offered K2 100.000 KM to assassinate a person who did not pay for heroin. K2 refused.¹⁹¹⁸

R.L.

1356. R.L. was proposed as a witness by the Defence.

1357. He is a craftsman, deals with jewellery in Gjakova since 1993.¹⁹¹⁹ He met K2 in Gjakova, in 2000. K2 was his customer who bought gold from him. Their relation was friendly, they did not have any business together.¹⁹²⁰

1358. R.L. confirmed that in 2001 or 2002 he travelled together with K2 to Istanbul by plane from Pristina. They stayed there 3-4 days in hotel "Zagreb". They did not spend so much time together, only when they came back to a hotel room which they shared. During the day it was obvious that they went to a bazar.¹⁹²¹

1359. They met N.K. in a silver shop. R.L. did not know him, but K2 told him that it was N.K.¹⁹²² After a short break in the main trial session, R.L. asked by the

¹⁹¹⁷ 23.02.2017, p. 15, 17

¹⁹¹⁸ 23.02.2017, p. 18 -19; 28.02.2017, p. 5

¹⁹¹⁹ 27.01.2017, p. 21

¹⁹²⁰ 27.01.2017, p. 21-22

¹⁹²¹ 27.01.2017, p. 23

¹⁹²² 27.01.2017, p. 23

defence said that he saw N.K. only on TV. He underlined that K2 never mentioned N.K. to him.¹⁹²³

1360. During cross-examination R.L. was confronted with this statement made during the direct examination when he said that he saw N.K. in Istanbul and it was K2 who told him that it was N.K. When asked about this answer which contradicted what he said later, R.L. said that he misunderstood the question. He thought that it was about what the prosecutor had asked him before.¹⁹²⁴ When asked why he immediately spoke about N.K., even indicating to him with a head, he answered that just for a brief moment he recalled that the prosecutor asked him if he knew N.K. He saw him only on TV.¹⁹²⁵

1361. R.L. was also confronted with his previous statement given on 31 March 2014, p. 206. Then he said that on this occasion during the trip to Turkey with K2 he met N.K. for the first time. When cross-examined, R.L. explained that he did not meet N.K. for the first time, but only heard about him for the first time. To the question when he heard about N.K. for the first time, he said that he could not remember, because it was not important to him, but he was sure that he heard from K2. He did not remember the context in which K2 spoke about N.K.¹⁹²⁶

1362. He was further confronted with his statement from 2014 when he said that they met N.K. in a shop which he described as very crowded. He did not remember saying this, it was not important to him. When asked again if K2 met N.K. in a silver shop, he said that he did not see that and he did not believe it.¹⁹²⁷

¹⁹²³ 27.01.2017, p. 21-22

¹⁹²⁴ 27.01.2017, p. 25

¹⁹²⁵ 27.01.2017, p. 25

¹⁹²⁶ 27.01.2017, p. 27-28

¹⁹²⁷ 27.01.2017, p. 28

Conclusion

1363. The Court had no doubts that R.L. told the truth when he spontaneously testified that he had seen N.K. and K2 together during their trip to Istanbul. It was even observed that he nodded towards the Accused when he made this statement. His later withdrawal from this part of his testimony was only an inapt attempt to testify as it had been expected by the Defence. Furthermore, during his examination in the course of the investigation he was confronted with his testimonies given during the investigation when he had no doubts that he saw K2 and N.K. together in Istanbul.

1364. Therefore, the Court found proven that K2 and N.K. knew each other and they met in Istanbul. It results from the part of the testimony of K2 which was confirmed by the witness R.L.

1365. The other circumstances of the meeting, especially the subject of the offer made by N.K. to K2, the Court found unproven. There is no evidence to corroborate claims of K2.

J.J.

1366. J.J. was another witness relevant to establish whether K2 and N.K. knew each other. He was proposed by the prosecution.

1367. **K2** testified that he knew J.J. who was a general of the army of Bosnia and Herzegovina. He knows N.K. Once K2 was together with J.J. in Peja where they met N.K. at the petrol station, it happened before K2 went to Turkey. J.J. and

N.K. had a short conversation. K2 claimed that he insisted not to approach N.K. because according to him nobody can approach him without prior approval.¹⁹²⁸

1368. **J.J.** was a soldier of the Yugoslavian army. Currently he is a university professor.¹⁹²⁹

1369. He met N.K. in 1998, in a company of his aunt's husband, H.H.K. It was in Sarajevo, in a coffee shop where 5-6 people were present.¹⁹³⁰ They never had coffee together, it could have happened that they would meet somewhere by chance, they greeted each other then but N.K. was never within his circle of friends.¹⁹³¹ H.H.K. constructed apartments in Ulcinj and N.K. used to come there for holidays with his family.¹⁹³²

1370. J.J. met K2 in Mostar in 1997 or 1998. K2 was selling cars in Jablanica, while J.J. had his shop in Sarajevo. It happened that when J.J. had not a specific car in a stock, he would contact other sellers.¹⁹³³ J.J. socialized sometimes with K2.¹⁹³⁴

1371. J.J. was twice in Kosovo, in the period between 2000 and 2002. On the second occasion, he went there with K2 whom he asked for this because K2 knew the road. They travelled to Pristina with Mercedes 123 or 124. J.J. was invited there by his friend A.Has. On this occasion K2 showed J.J. different places in Kosovo.¹⁹³⁵

¹⁹²⁸ 23.02.2017, p. 28-29

¹⁹²⁹ 03.04.2017, p. 4

¹⁹³⁰ 03.04.20

17,p. 4 - 5

¹⁹³¹ 03.04

.2017, p. 5

¹⁹³² 03.04

¹⁹³³ 03.04.2017, p. 6-7

¹⁹³⁴ 03.04.2017, p. 7

¹⁹³⁵ 03.04.2017, p. 7

1372. J.J. did not contact N.K. when he was in Kosovo. He met him once on a petrol station where they stopped by chance to use a restroom. This meeting lasted 15-20 minutes. The conversation was very general. K2 was present also, he greeted with N.K. J.J. did not have an impression that they were close friends but only acquaintances. N.K. was sitting at his table, while they were sitting at theirs.¹⁹³⁶
1373. Later J.J. heard that N.K. was an owner of this petrol station.¹⁹³⁷
1374. This was the last meeting with N.K., J.J. could have seen him around. After this trip to Kosovo he also did not meet K2 again. In 2002, J.J. moved to Mostar.¹⁹³⁸
1375. J.J. said that he was not so close with K2, he was just a client. He came to him once 3-4 months. They travelled only once together. He was not a large client. He did not know K2 went with him to Turkey, he thought that he had a boutique.¹⁹³⁹
1376. J.J. denied that during this accidental meeting on the petrol station K2 insisted not to sit with N.K. while J.J. urged to do so.¹⁹⁴⁰

4.12.1. K2's involvement in drug trafficking

1377. Regardless of the final conviction for drug trafficking¹⁹⁴¹, when testifying before the court in Kosovo, **K2** was consequently presented himself as a fighter against drugs in Bosnia and Italy.¹⁹⁴² The Court had not doubts that he was deeply involved in the drug trafficking what clearly resulted particularly from

¹⁹³⁶ 03.04.2017, p. 8

¹⁹³⁷ 03.04.2017, p. 9

¹⁹³⁸ 03.04.2017, p. 9, 12

¹⁹³⁹ 27.01.2017, p. 26-27

¹⁹⁴⁰ 03.04.2017, p. 11

¹⁹⁴¹ Judgment of the Court of Bosnia and Herzegovina dated 22 November 2005

¹⁹⁴² 09.03.2017, p. 48

the testimonies of K1, S.Ak., H.Mu., M.Ha. which in a consistent way presented his involvement in this activity.

1378. The Court also concluded that K2 introduced himself on many occasions as a police officer. It was confirmed by witnesses Sa.Ku. who testified that K2 had a business card with his name, picture and inscription “police”¹⁹⁴³ and J.J. who said that K2 used a certificate confirming that he was a police officer.¹⁹⁴⁴ Also H.Me. said that K2 introduced himself as a former police officer.¹⁹⁴⁵

Summary of the relevant evidence

1379. **S.Ak.** testified that he met K2 in Tuzla, in 2003 or 2004. He worked for him, initially he transported silver and drugs.¹⁹⁴⁶ He travelled to Istanbul and Amsterdam.¹⁹⁴⁷ He described in details situations when he was driving with silver and drugs for K2. S.Ak. was once in Amsterdam, and 3-4 times in Turkey transporting staff for K2.¹⁹⁴⁸
1380. When S.Ak. was involved in drugs, the name of N.K. never appeared. He did not know him, he only heard about N.K. from the media. He was not threatened by anybody.¹⁹⁴⁹
1381. The testimony of S.Ak. was assessed by the Court as reliable. This witness appeared to be honest and trustworthy. He did not have any motive to testify in a specific way, especially that he was already convicted for the criminal

¹⁹⁴³ 17.03.2017, p. 25

.2017, p. 5

¹⁹⁴⁴ 03.04.2

¹⁹⁴⁵ 11.04.2017, p. 8-9

¹⁹⁴⁶ 30.01.2017, p. 5

¹⁹⁴⁷ 30.01.2017, p. 6

¹⁹⁴⁸ 30.01.2017, p. 24

¹⁹⁴⁹ 30.01.2017, p. 23

offences related with drug trafficking. He presented the circumstances of his involvement in drug trafficking in an objective way, without exaggeration. In many instances his evidence was used in this judgment to corroborate other evidence produced in this trial what was mentioned in relevant parts of this document. He was also convinced that N.K. did not work with K2 in drug trafficking.

1382. **M.Ha.** testified that she knew K2 for more than 20 years. They were in friendly relations until abduction of her friend H.Na.¹⁹⁵⁰ K2 had his criminal group. According to her its members were K1 who was also in a group of Z.T. and H.Me. She did not remember other names.¹⁹⁵¹ K2 was always working independently and he was always the one was leading the game. She never met anyone in his vicinity who would be above him.¹⁹⁵²
1383. The Court assessed the testimony of M.Ha. was reliable. Her testimony in many aspects corresponds with the evidence of other witnesses in this case – especially H.Mu. and S.Ak. She had no doubts that K2 was a leader of his group which was involved in drug trafficking.
1384. **H.Me.** was convicted for drug trafficking, participation in the murder, kidnapping, unauthorized possession of weapons.¹⁹⁵³
1385. When asked if K2 was a fighter against drugs, he said that he was a drug dealer. He said that he would like to leave a court room to laugh for 2 minutes after he heard that K2 introduced himself as a drug fighter.¹⁹⁵⁴

¹⁹⁵⁰ 31.01.2017, p. 6-7

¹⁹⁵¹ 31.01.2017, p. 9 - 10

¹⁹⁵² 31.01.2017, p. 37

¹⁹⁵³ 07.04.2017, p. 4 - 5

¹⁹⁵⁴ 11.04.2017, p. 8

1386. He testified in details about his involvement in drug trafficking with K2. He met him in 1998 or beginning of 1999 in Tuzla. K2 was searching for somebody to work with. The meeting was arranged by their common acquaintance. K2 and H.Me. agreed to work together.¹⁹⁵⁵
1387. Initially H.Me. transported weapons from Bosnia and Herzegovina to Kosovo. They did it 1998 and 1999 until the moment when K2 was arrested for kidnapping “Md.”.¹⁹⁵⁶ After K2 was released from detention they started with robberies of banks and a post office. Afterwards, they entered into business with drugs, ecstasy and heroine. It was more or less in April 2003.¹⁹⁵⁷
1388. The idea to start with drugs came from K1 and K2. K1 was more experienced in this area. K2 had a kind of reputation in a criminal world so he ended up in meeting K1 and F.K. K2 was not picky when it came to criminal activity.¹⁹⁵⁸ K2 was offered to enter into drug business by K1, by F.K. and a narrow group of people around them. They were “F.”, “Va.”, S.Ku. and some Italians.¹⁹⁵⁹
1389. When asked how he knew that K2 was offered, H.Me. said that he took K2 to the meetings but he stayed in the car. He was not present during their first meeting.¹⁹⁶⁰
1390. K1 was providing them with information about other potential businesses, f.e. that should be kidnapped or robbed. Such people were usually also involved in drugs.¹⁹⁶¹ When asked to give some names, he said that it was hard to

¹⁹⁵⁵ 07.04.2017, p. 5-6

¹⁹⁵⁶ 07.04.2017, p. 6-7

¹⁹⁵⁷ 07.04.2017, p. 8-9

¹⁹⁵⁸ 07.04.2017, p. 15

¹⁹⁵⁹ 07.04.2017, p. 15, 18

¹⁹⁶⁰ 07.04.2017, p. 15

¹⁹⁶¹ 07.04.2017, p. 16

remember them; however he said that there was “Sha.” from Pristina, “Mi.” from Pristina. He remembered only these two names.¹⁹⁶²

1391. K2 had Mercedes with a special tank (1/3 for fuel and the rest for smuggling goods). He also had golf. Drugs were packed in 0.5 l coca-cola bottles. For packing they used also a special tape like plumbers used.¹⁹⁶³
1392. H.Me. underlined that he never saw N.K.2 did not work for N.K.¹⁹⁶⁴
1393. During cross examination H.Me. explained that he testified in the trial against K2 and others and he told the truth then. K1 and K2 were business partners in ecstasy and heroine business. K2 finished in debts towards K1 so he gave compensation – at least one vehicle, and he put his apartment as collateral. This last fact was a reason why he divorced with his wife Mi.Me.¹⁹⁶⁵
1394. He excluded that he was a member of the N.K.’s group. He did not know him, neither was he aware that he had any group. He never transported drugs for him. He belonged to the group of K2 who was a boss to others, while H.Me. saw him as a partner. K1 was more an associate or co-operator, the same as H.K., E.Ko, and M.Ha.¹⁹⁶⁶
1395. H.Me. was confronted with his previous statements from 2013-2014 (pages 273, 274 and 332). Then he said that he saw N.K. shaking hands with K2, heard K2 calling N.K. He denied this.¹⁹⁶⁷ He also denied his previous statement (p. 263) that N.K. gave K2 60.000 euro to pay for ecstasy.¹⁹⁶⁸ He did not testify

¹⁹⁶² 07.04.2017, p. 16

¹⁹⁶³ 07.04.2017, p. 16-17

¹⁹⁶⁴ 07.04.2017, p. 26

¹⁹⁶⁵ 07.04.2017, p. 34

¹⁹⁶⁶ 11.04.2017, p. 5

¹⁹⁶⁷ 11.04.2017, p. 7

¹⁹⁶⁸ 11.04.2017, p. 7

freely then, he was pressured by K2 who also sent some people to influence on him.¹⁹⁶⁹

1396. **H.Mu.** met K2 in 2000 or 2001 and they were friends until his conviction (2003 – 2004). They were introduced to each other in Kosovo by M.Be. who was working for K2 as a driver.¹⁹⁷⁰
1397. H.Mu. worked for K2. He drove K2 at least 15 times from Lukovac in Bosnia to Kosovo, mostly to Gjakova but also to Peja. K2 was a weapon smuggler; it was in 2001-2003.¹⁹⁷¹ According to H.Mu., K2 was also working for “Ro.”, “At.” and the man with a nickname “Te.”. “Ro.” had a jewellery shop in Gjakova.¹⁹⁷²
1398. H.Mu. knew H.Me. whom he met through K2 in Tuzla. H.Me. and K2 were good friends, H.Me. worked for K2, he did all kind of jobs for him (robbery, drugs, smuggling of weapon).¹⁹⁷³ He knew also his mistress, Larisa, however he did not know if she worked for K2.¹⁹⁷⁴
1399. H.Mu. knew S.Ak. whom he met through M.Be. S.Ak. was working for K2 as a driver. He transported gold, money and weapons.¹⁹⁷⁵
1400. He met K1 once, in Tuzla. They had coffee together with K2. It was in a period between 2001 and 2003. K1 and K2 were speaking in Albanian therefore H.Mu. did not understand them. This meeting was a day or two before S.Ak.

¹⁹⁶⁹ 11.04.2017, p. 8

¹⁹⁷⁰ 27.01.2017, p. 5-6

¹⁹⁷¹ 27.01.2017, p. 7-8

¹⁹⁷² 27.01.2017, p. 8

¹⁹⁷³ 27.01.2017, p. 11

¹⁹⁷⁴ 27.01.2017, p. 11-12

¹⁹⁷⁵ 27.01.2017, p. 12

went to Turkey. H.Mu. explained that he knew the name of K1 because he heard it many times in the court.¹⁹⁷⁶

1401. H.Mu. did not know N.K.¹⁹⁷⁷ H.Mu. never heard from K2 or another person about N.K.¹⁹⁷⁸

1402. K2 called H.Mu. whenever he needed him. It did not happen that they would spend few days together. Later H.Mu. introduced K2 with H.Me., and then they spent more time together.¹⁹⁷⁹

Conclusion

1403. The Court assessed statements of H.Mu. as credible and truthful. Their content corresponds with other evidence collected in this case. This is the next witness who denied any knowledge of actions taken by N.K.

4.13. Count 4

According to the indictment:

Approximately in February 2003, N.K. repeatedly approached K2, and asked him to transport Heroin for him to England. K2 eventually did fly to Turkey, picked up 50 kilograms of “White Heroin” from a person called H.K., hid them in two large clothing packages and arranged them to be transported to Tuzla in Bosnia and Herzegovina. K2’s driver, S.Ak., then transported the “White Heroin” from Tuzla to Sarajevo in order to deliver the packages, as instructed by Krlic, to a person called A.Ka. Shortly after, K2 was asked by A.Ka. to come himself to Sarajevo, where K2 met A.Ka. and

¹⁹⁷⁶ 27.01.2017, p. 13-14

¹⁹⁷⁷ 27.01.2017, p. 15

¹⁹⁷⁸ 27.01.2017, p. 17

¹⁹⁷⁹ 27.01.2017, p. 19

Defendant N.K., who informed K2 that the 50 kilograms of “White Heroin” K2 had just delivered from Turkey belonged to him.

1404. The Court found that there was no sufficient evidence to prove that N.K. was in any way connected with 50 kg of heroine transported by K2 from Turkey.

1405. First of all, this count is based only on the testimony of the cooperative witness K2 which was not corroborated by another piece of evidence. What is important, K1 consequently denied that N.K. had anything to do with it. Additionally, such finding is supported by the testimony of K2 himself, because according to him H.K. and A.Ka. were quarrelling for this delivery, and each of them claimed that it belonged to him.

1406. In principle, the Court assessed the testimony of K2 credible in reference to the majority of facts related with this delivery, with the exception to his lack of knowledge what kind of drugs he was dealing with and N.K.’s role in this transaction. The assessment of his testimony as reliable in the mentioned part resulted from the fact that he testified about circumstances incriminated him so as he confessed to participation in drug trafficking. This part of his statement constituted a declaration against his own interest. However the Court did not believe that he was not aware that it was heroin and not cocaine, especially that he admitted that checked it.

Summary of the relevant evidence

1407. According to **K2**, in February 2003, he was called by I.K. (he was known under both names¹⁹⁸⁰) from Turkey who told him that his wife and children were

¹⁹⁸⁰ 23.02.2017, p. 26

abducted in Albania. I.K. asked K2 to come immediately to Istanbul. K2 went there with his friend P.C. and met with I.K. who cried and said that he took 50 kg of cocaine to transport it to Bosnia and Hercegovina, got money from some people which he already spent. Therefore his wife and children remained trapped in Albania, and that he had to find a way to transport that load of cocaine to Bosnia. K2 asked I.K. again whether it was for sure cocaine and not heroin, and he swore that it was cocaine. It was relevant for K2 because he did not want to be involved in anything connected with heroin as the most dangerous narcotic. K2 checked that substance personally and ensured himself that it was cocaine, therefore he decided to help I.K.¹⁹⁸¹

1408. The drugs were put in two big packages of clothes which he sent from Turkey by courier service. They arrived to Srebrenik in Bosnia, to the place called Arizona, where K2's driver M.Be. collected the load and delivered it to K2.¹⁹⁸²

1409. At the beginning K2 thought there was no connection between the drugs and N.K. Later, A.Ka., announced by I.K., picked it up from Lipnica where P.C. lived. On this occasion K2 met A.Ka. for the first time.¹⁹⁸³

1410. As agreed with I.K., K2 gave 50 kg of narcotic substance to A.Ka. Only then he learnt that it was not cocaine but heroine. After that A.Ka. left.¹⁹⁸⁴

1411. After some time, A.Ka. called K2 to come to Sarajevo. They met at Visa shopping mall from where they went together to the Restaurant Brajlovic. There was N.K. there, they greeted each other. A.Ka. and N.K. were speaking about

¹⁹⁸¹ 23.02.2017, p. 20-21; 23.02.2017, p. 21 - 22

¹⁹⁸² 23.02.2017, p. 24

¹⁹⁸³ 23.02.2017, p. 24

¹⁹⁸⁴ 23.02.2017, p. 25

drugs. N.K. said to K2 “*you see, I told you are going to work for me*”. According to K2 he meant delivery of this heroine.¹⁹⁸⁵

1412. Later H.K. told K2 that it was his heroine. He asked K2 what he did with it. K2 told that he gave it to A.Ka. H.K. requested a meeting with him. K2 called A.Ka. telling that they needed to meet because there was a problem.¹⁹⁸⁶

1413. The meeting took place in Sarajevo, in a shopping mall. H.K. and A.Ka. quarrelled whom the drugs belonged to. They did not come to any agreement. K1 was also present during this meeting, he came together with A.Ka.¹⁹⁸⁷

Version of K1

1414. According to K1, K2 brought to restaurant Brajlovic a small sample of white heroine as he was not aware what it was. He wanted to verify if it was really heroine because A.Ka. told him before. K2 got it from Pakistan. There was a conversation that N.K. screwed K2 and there were different stories circulating around about it. K2 said that he did not believe that it was actually heroin. K1 confirmed to K2 that it was white heroin. K1 did not know where K2 had it from. K2 had bigger quantity of it and he wanted to sell it.¹⁹⁸⁸

1415. K2 claimed that he received it from N.K. and that he was cheated because he was sure that it was not white heroin. Then K2 talked with R.K. and A.Ka. and they told that apparently K2 was speaking about the quantity, first about 20 kg, and then about 50 kg.¹⁹⁸⁹

¹⁹⁸⁵ 23.02.2017, p. 26

¹⁹⁸⁶ 23.02.2017, p. 34

¹⁹⁸⁷ 23.02.2017, p. 35

¹⁹⁸⁸ 02.11.2016, p. 14 - 16

¹⁹⁸⁹ 02.11.2016, p. 16

1416. K1 confirmed that K2 was working for N.K., but not with this white heroin. He was trafficking heroine, weapons, pistols and other contraband, but not on this occasion.¹⁹⁹⁰
1417. K2 kept this white heroin in his apartment in Lukovac. He was telling that N.K. screwed him with it, but at the end it occurred that N.K. had nothing to do with it. K1 knew it from A.Ka. and R.K. According to K1, if K2 got it from N.K., it would be dispatched to everybody, and he did not believe that N.K. would give it to K2 in a hidden way. K1 did not know how this situation finished.¹⁹⁹¹
1418. K1 was also consequent during the cross examination that N.K. had nothing to do with 50 kg of white heroin.¹⁹⁹² Later K1 said that N.K. told him this.¹⁹⁹³

4.14. Count 5

According to the indictment:

Having completed the transport of 50 kilograms of drugs for the Organized Criminal Network of Defendant N.K., K2 agreed in early 2003 through Defendant N.K.'s associate A.Ka., to coordinate the transportation of 50,000 Ecstasy-tablets to Turkey. K2's driver, S.Ak., transferred the drugs from Bosnia to Turkey in a hidden tank reservoir compartment built-in by mechanic Z.B.

1419. There is no evidence of any connection of N.K. with the delivery of the ecstasy pills on the occasion described in count 5 of the indictment. K2 did not mention the Accused in his testimony in relation to this specific drug transaction. On the other hand, K1 was clear that K2 and N.K. had no business in ecstasy.

¹⁹⁹⁰ 02.11.2016, p. 16-17

¹⁹⁹¹ 02.11.2016, p. 17 - 18

¹⁹⁹² 10.11.2016, p. 11

¹⁹⁹³ 24.01.2017, p. 34-35

Summary of the evidence

Version of K2

1420. After the argument about load of narcotics, which according to K1 was cocaine, H.K. asked K1 if he knew where to get ecstasy pills from. K1 called some people, and received samples but they were not good as they came from Poland or the Czech Republic. Finally, P.C.told that he had a friend in the Netherlands who can help them. K2 sent P.C. with 30.000 euro by plane from Sarajevo to Amsterdam. It was March/April 2003.¹⁹⁹⁴
1421. P.C.found ecstasy in Amsterdam but he was 8000 euro short to get 50.000 pills. Therefore, K2 travelled with S.Ak. by car to Amsterdam where he gave 8000 euro to P.C. They were waiting whole night and during the next day for the information. Finally, P.C. called when they were already on their way back, and he told that he was tricked because he got forged pills and lost money. After that K2 had no more contacts with P.C.¹⁹⁹⁵
1422. When they returned to Tuzla, H.K. was still at K2's place. He said that he had another source of ecstasy, they could get 50.000 pills but K2 must be a guarantor. It was arranged through K1 and A.Ka.¹⁹⁹⁶
1423. They decided to buy 50.000 pills for 1.1 euro each, and then to sell them in Turkey for 2.5 euro. K2 agreed to be a guarantor for K1 and A.Ka. of this transaction and to secure transport to Turkey. In case if H.K. would not pay for this, K2 was obliged to do it. H.K. was obliged to pay 55.000 euro. K2 had

¹⁹⁹⁴ 23.02.2017, p. 36

¹⁹⁹⁵ 23.02.2017, p. 37

¹⁹⁹⁶ 23.02.2017, p. 37

- sufficient money at home to pay for this.¹⁹⁹⁷ S.Ak. transported 50.000 ecstasy pills to Turkey with S.To.¹⁹⁹⁸
1424. K1 picked the ecstasy in the apartment of K1 in Sarajevo, where also A.Ka. was present. Pills were packed in bubble wraps. K2 took it with his ML Jeep to his apartment in Lukovac.¹⁹⁹⁹ H.K. and K2 repacked the pills into plastic bottles. 33 – 34 bottles were placed in a fuel tank of S.To. and S.Ak. drove with it to Turkey. It happened in April/May 2003.²⁰⁰⁰
1425. H.K. arranged everything, S.Ak. delivered ecstasy pills to Turkey.²⁰⁰¹
1426. When S.Ak. was still in Turkey, H.K. stole the money and weapon from K2's house. He left one gun.²⁰⁰²
1427. S.Ak. returned with nothing from Turkey, money was stolen.²⁰⁰³
1428. Later when the next delivery for 100.000 ecstasy pills was being arranged, K1 and A.Ka. told K2 that also these 50.000 pills belonged to N.K.2 was a little surprised because he did not know it before.²⁰⁰⁴
1429. During cross examination K2 said that he gave K1 for this ecstasy SUV jeep, the leather jacket, and the mixture which he took from M.K. for mixing drugs.²⁰⁰⁵

¹⁹⁹⁷ 23.02.2017, p. 38 - 39

¹⁹⁹⁸ 23.02.2017, p. 39

¹⁹⁹⁹ 23.02.2017, p. 40

²⁰⁰⁰ 23.02.2017, p. 41

²⁰⁰¹ 23.02.2017, p. 42

²⁰⁰² 23.02.2017, p. 42-43

²⁰⁰³ 23.02.2017, p. 43

²⁰⁰⁴ 28.02.2017, p. 9 - 10

²⁰⁰⁵ 16.03.2017, p. 31

Version of S.Ak.

1430. **S.Ak.** confirmed that K2 asked him to go to Amsterdam to pick up ecstasy. He agreed and went there with Mercedes “Eyes” (*Okac*) which belonged to K2.²⁰⁰⁶ On that occasion K2 made an agreement with the man called P.C. who apparently gave him money but S.Ak. did not know how much it was. P.C. went before them to Amsterdam.²⁰⁰⁷

1431. According to S.Ak., they stayed few days in Amsterdam in the hotel Van Gogh. K2 bought water in plastic bottles, more than 50, emptied them and dried them with a hairdryer. K2 tried to get in touch with P.C. but he did not succeed. On the next day K2 threw plastic bottles into containers and said that P.C. tricked him, there was no ecstasy. They returned to Tuzla with nothing. On their way back they were contacted by P.C. who told them that he was arrested.²⁰⁰⁸

Version of K1

1432. K1 was consequent that K2 had no business with N.K. connected with the delivery of ecstasy.²⁰⁰⁹

4.15. Counts 6 and 7

Summary of Allegations:

(Count 6) K2 arranged for the transportation of another 100,000 Ecstasy tablets on behalf of Defendant N.K. to Turkey. To secure this deal, K2 signed over his wife’s apartment to K1 on behalf of Defendant N.K. before receiving the 100,000 pills for delivery to Turkey. Attorney A.Pr. prepared the promissory note that was signed by the

²⁰⁰⁶ 30.01.2017, p. 15-16

²⁰⁰⁷ 30.01.2017, p. 16

²⁰⁰⁸ 30.01.2017, p. 16-17, 25

²⁰⁰⁹ 10.11.2016, p. 11, 14; 24.01.2017, p. 35

parties. Following the giving of this guarantee, Defendant N.K. arrived with his men and 100,000 Ecstasy tablets at a garage in Sarajevo where K2 had the gas tank of his Mercedes altered by mechanic Z.B., building a special separate compartment to store the drugs. Under the supervision of Defendant N.K. the Ecstasy is loaded into K2's Mercedes and subsequently transported to Turkey by K2's trusted driver S.Ak.

(Count 7) After delivering the 100,000 Ecstasy tablets to Turkey, the altered gas tank of K2's Mercedes that had carried the Ecstasy tablets was filled up at the direction of N.K. and his OCG with 25 kilograms of Heroin. This Heroin was then transported again by S.Ak. from Turkey to Tuzla/Bosnia and Herzegovina

1433. The Court found proven that S.Ak., upon instructions of K1 and K2 travelled to Turkey with Mercedes filled with 100.000 ecstasy pills. On a way back he brought the heroine and he received 10.000 euro for it. These findings are based on the truthful testimony of S.Ak., supported by H.Mu. and H.Me. They are also corroborated by statements of K1 and K2 which were assessed as truthful in the part referring to logistic aspects of delivery of ecstasy from the Netherlands to Sarajevo.

1434. The Court assessed that statements of K2 where he claimed that N.K. was involved in the delivery of ecstasy are not truthful, and they were fabricated by him to incriminate Defendant and involve him in this case. These claims are not supported by other evidence. Especially, witness K1, when he testified again after he was properly instructed about the scope of the immunity, was clear that N.K. was not involved in this delivery, he was not present at the meeting at the garages in Hrasnica where the ecstasy was reloaded and dispatched to Turkey. K1 was consequent that N.K. had nothing to do with any delivery of ecstasy.

1435. The Court found as reliable the statements of S.Ak., H.Me. and H.Mu. Both witnesses were not interested in the outcome of the case and testified truthfully about events in which they participated. They corroborated to a certain degree the statement of K2 (confirmed delivery of the ecstasy to Turkey, the way how it was transported, who was involved, what was brought in exchange – coffee mixed with heroine). They had no doubts that K2 was involved in the whole deal, especially that he was aware that drugs were to be brought in return from Turkey, and not money. S.Ak. also confirmed the circumstances of signing the agreement for the apartment by K1 and K2.

1436. There is no evidence corroborating the fact that N.K. was involved in the delivery of ecstasy from the Netherlands and later heroin from Turkey. It is only K2 who testified in this way, while it was not confirmed by other witnesses. His testimony as to the pawning of the apartment is in contradiction with other evidence, especially the contract itself and statements of K1 and S.Ak. K1 was consequent by saying that N.K. had nothing to do with the ecstasy.

1437. There is also no evidence to support K2's claims that N.K. was involved in the delivery of heroine mixed with coffee which was brought by S.Ak. from Turkey. He was the only one who testified in this way. K1 denied categorically that N.K. had any connection with this situation.

Summary of the evidence

Version of K2

1438. Shortly after the events when K2 participated in delivery of 50.000 ecstasy pills to Turkey, K1 and A.Ka. approached K2 and offered to help him because in a

short time he lost a lot of money. They asked K2, if he agreed to take 100.000 tablets of ecstasy which they later would be able to sell for cash in Turkey for 2.2 euro.²⁰¹⁰ K2 needed money so he accepted this offer.²⁰¹¹

4.15.1. Apartment

1439. The Court established that the contract to pawn the apartment of Lukovac which belonged to the wife of K2, signed on 02 June 2003 in the office of a lawyer Al.P., was related with this drug transaction.

1440. Witnesses K1 and K2 were giving different explanations why this contract was signed.

Version of K2

1441. K2 claimed that he made an agreement for ecstasy with N.K., on this occasion A.Ka. and K1 were present. N.K. requested a guarantee for the delivery. K2 said that he had nothing to offer, N.K. told him that he had an apartment.²⁰¹² K2 agreed for this solution.²⁰¹³

1442. Before K2 agreed for participation in this transaction for ecstasy, H.Me. with his girlfriend travelled to Turkey with samples to check the quality of the drugs. It was accepted by potential buyers.²⁰¹⁴ K2 paid for their trip, all arrangements were done by K1.²⁰¹⁵

1443. N.K. did not want to sign this contract on his own name. Initially, A.Ka. was supposed to sign it, but it occurred not possible because he did not have Bosnian

²⁰¹⁰ 28.02.2017, p. 9

²⁰¹¹ 28.02.2017, p. 9 - 10

²⁰¹² 28.02.2017, p. 9 - 10

²⁰¹³ 28.02.2017, p. 13

²⁰¹⁴ 28.02.2017, p. 11 - 12

²⁰¹⁵ 28.02.2017, p. 15

citizenship, so N.K. suggested that the contract for the apartment should be signed by K1.²⁰¹⁶ According to K2, N.K. was too wise to sign it on his own.²⁰¹⁷ The contract was signed on the following day in Tuzla, in the lawyer's office. K1, A.Ka., S.Ak., F.K. and the lawyer were present.²⁰¹⁸ Before the contract was signed, K2 consulted only his wife, and she was against it. He did not tell her that it was a guarantee for drugs.²⁰¹⁹

1444. **A.Ka.** testified that since 1998 he had Bosnian citizenship.²⁰²⁰

1445. **K2** claimed that between the moment when the contract for the apartment was signed and taking over the drugs, he informed the police about the planned delivery of ecstasy. There was no proper reaction from their side.²⁰²¹ He expected that the police would arrest him and other people involved in the deal with ecstasy. He claimed that he was ready to spend some time in prison because he expected to be released for cooperation. On the other side, he believed that he would get the apartment back as a reward for not testifying against N.K. and other.²⁰²²

1446. During cross examination, K2 explained that after he reached an agreement with N.K. he called the police and told them that they could arrest all of them with 100.000 pills of ecstasy. There was no proper reaction because of links of N.K. saw nothing odd in pawning his apartment for the fight with drugs. If they would have arrested him, witness K1, N.K. and A.Ka., all of them would

²⁰¹⁶ 28.02.2017, p. 13

²⁰¹⁷ 28.02.2017, p. 15

²⁰¹⁸ 28.02.2017, p. 14

²⁰¹⁹ 28.02.2017, p. 14

²⁰²⁰ 27.02.2017, p. 5

²⁰²¹ 28.02.2017, p. 16

²⁰²² 28.02.2017, p. 16, 18

have ended up in jail. Then they would agree to give K2 back his apartment, somebody would take the responsibility on himself, for sure not N.K., and for him nightmares would've stopped.²⁰²³

1447. According to K2, N.K. was actually not interested in the apartment which was pawned, but rather in K2 himself because he wanted to engage him in transporting drugs. When asked about the reasons, K2 said that N.K. new best why. According to him, N.K. wanted to have a trusted person and a trusted place where he could store drugs. Besides, K2 also had a family in Kosovo.²⁰²⁴

1448. During cross examination, K2 was confronted with his testimony given in his trial before the court of Bosnia and Herzegovina (p. 172 of the judgment against K2) when he said about the contract for the apartment: "*it was because 100.000 ecstasy pills, he did it on behalf of H.K. who was a reliable man and who spent time in prison with him.* K2 told that it was not true. According to him it was wrongly recorded because he did not mention ecstasy but only captagon tablets."²⁰²⁵ When asked again why he did not say during his trial that the apartment was pawned for N.K. but mentioned H.K. in this context, he explained that he was afraid to mention his N.K.²⁰²⁶

Version of K1

1449. K1 presented two different versions why the apartment of K2's wife was pawned. He changed his testimony significantly after he was declared properly a cooperative witness in this case.

²⁰²³ 09.03.2017, p. 50

²⁰²⁴ 09.03.2017, p. 21

²⁰²⁵ 09.03.2017, p. 43

²⁰²⁶ 09.03.2017, p. 43

1450. After he was properly instructed about the scope of immunity, K1 testified that K2 and his wife had an apartment in Lukavac which consisted of three apartments in the same building. He came there because he was called by A.Ka. and R.K. who told him to come to Tuzla to sign the documents. He went there and K1 signed the agreement.²⁰²⁷ Later he was confronted with his testimony given in Bosnia, December 2004 where he said that he was called by HA.Ka. and A.Ka. to sign the agreement to secure the deal with K2 for ecstasy. K1 said that he did not remember it. He contested the accuracy of the minutes. He underlined that it was for sure A.Ka. and R.K. who called him.²⁰²⁸
1451. The contract for the apartment was signed on 2 June 2003 in Tuzla, after delivery of ecstasy from the Netherlands.²⁰²⁹ K2 signed it because nobody wanted to have it to be transferred on his name. They also feared that K2 would not be a reliable person. R.K. and A.Ka. were to benefit this contract.²⁰³⁰
1452. According to K1, this apartment was a collateral for ecstasy which K2 promised to deliver it to Turkey and then to return money to R.K. and N.K.²⁰³¹
1453. Finally it occurred that K2 was cheated with the ecstasy that was sent through H.K., he did not receive money for this delivery but coffee mixed with unspecified substance.²⁰³²
1454. In the course of further testimony, K1 said that when the contract was signed, K1 did not think that N.K. was aware of it. For sure he got aware afterwards, but a

²⁰²⁷ 02.11.2016, p.26

²⁰²⁸ 10.11.2016, p.20 - 21

²⁰²⁹ 02.11.2016, p.27

²⁰³⁰ 02.11.2016, p.27 - 28

²⁰³¹ 02.11.2016, p.26

²⁰³² 02.11.2016, p.26

moment later K1 said that he was not sure about this, and N.K. should be asked about it.²⁰³³

1455. When K1 was asked about a note in his notebook “*problems between N.K. and “Fe.”*”, “*Fe.” did not pay, he will pawn apartments in Tuzla*”, he explained that N.K. wanted to put his name on this agreement because K2 owed him money. N.K. did not know that they were signing the contract with K2. The apartment is still on K1’s name. K2 owed money K1, but K2 cannot sell this apartment.²⁰³⁴

1456. Later, during cross examination K1 withdrew from his statement that the contract for the mortgage of the apartment was supposed to guarantee debts of K2 towards N.K. He admitted that the agreement signed with K2’s wife had nothing to do with N.K. and he even did not know about it.²⁰³⁵ The aim of this contract was to guarantee that K2 would return money to K1 who invested 60.000 euro in business of K2. Finally, K2 did not pay back this debt, therefore K1 retained the flat. If K2 would return money, K1 would register the flat on K2’ wife.²⁰³⁶

1457. Before proper immunity was granted to the witness, he testified differently because then he involved N.K. in the arrangements connected with the apartment. During this examination K1 testified that K2 owned an apartment in Lukavac which was registered on his wife, Mi.Me. K2 signed a contract in Tuzla, the apartment was to be taken as a collateral.²⁰³⁷

²⁰³³ 02.11.2016, p.31

²⁰³⁴ 08.11.2016, p.8-10

²⁰³⁵ 10.11.2016, p. 14

²⁰³⁶ 10.11.2016, p. 15-16

²⁰³⁷ 25.02.2016, p. 30, p. 32 -33

1458. This apartment was placed by K2 as collateral on K1's name because he owed some money to N.K. for ecstasy. Initially, K1 did not know what it was about, but he was called by R.K. and A.Ka. who told him to come to Tuzla.²⁰³⁸ The agreement stated that the apartment was worth 110.000 euro. No money was given. It was written in this way as the contract could not have indicated that it was for ecstasy.²⁰³⁹

1459. The contract was signed with K1 because they did not want to have it registered on them and to be found later by journalists. "They" meant A.Ka., R.K., N.K. Perhaps if K1 had known it before, he would not agree for this. The apartment is still registered on K1's name.²⁰⁴⁰ Few months later, K1 gave money to K2 and his wife because K2 wanted to have the contract terminated, while K1 did not want it.²⁰⁴¹

S.Ak., H.Me.

1460. S.Ak. confirmed that there was an agreement between K1 and K2 that K1 lent money to K2, and the latter pawned his apartment in Lukovac as a guarantee for it. He was asked by them about his opinion as to the value of the apartment. He said that it was more than 100.000 euro or KM, but rather euro. He recommended them the Attorney A.Pr. to prepare the contract for the apartment.²⁰⁴²

²⁰³⁸ 25.02.2016, p. 31; 15.03.2016, p. 13, 30

²⁰³⁹ 25.02.2016, p. 34

²⁰⁴⁰ 25.02.2016, p. 35

²⁰⁴¹ 25.02.2016, p. 36

²⁰⁴² 30.01.2017, p. 18-19

1461. On the day when the contract was signed, S.Ak. came to the hotel where the office of the lawyer was located. Present were: K2, his wife Mi.Me., K1 and F.K.²⁰⁴³
1462. After the contract for the apartment was done to secure the debts of K2 towards K1, it was agreed that S.Ak. would travel to Turkey with ecstasy and will bring back heroine.²⁰⁴⁴
1463. Later, K1 took from K2 leather jackets and Mercedes vehicle because of his debts.²⁰⁴⁵ He heard also from F.K. that they met again with Mi.Me., wife of K2 and told her that she had to give the apartment because of K2's debts.²⁰⁴⁶
1464. Also **H.Me.** testified that K2 finished in debts towards K1 so he gave compensation – at least one vehicle, and he put his apartment as collateral. This last fact was a reason why he divorced with his wife Mi.Me.²⁰⁴⁷

Apartment – conclusion

1465. In the light of the evidence related to the contract of pawning the apartment, the Court established that it was given as collateral to guarantee the debts between K1 and K2. N.K. was not involved in this situation at all, he was not aware of it. Such conclusion results not only from the documentary evidence – the contract, but is supported by the statement of K1 who finally admitted what the real reasons for this agreement were. Additionally, K1's claim that the contract was supposed to secure K2's debts towards him is corroborated by the statement of witness S.Ak., who objectively and without prejudice described what happened.

²⁰⁴³ 30.01.2017, p. 19-20

²⁰⁴⁴ 30.01.2017, p. 30 - 31

²⁰⁴⁵ 30.01.2017, p. 31-32

²⁰⁴⁶ 30.01.2017, p. 32

²⁰⁴⁷ 07.04.2017, p. 34

S.Ak. had not doubts that the aim of this contract was to guarantee that K2 would pay the debt he had towards K1. Also H.Me. confirmed this fact.

4.15.2. Ecstasy pills from the Netherlands

1466. After the proper instruction about the scope of the immunity, K1 testified that he travelled to the Netherlands on the day when Z.D. was murdered. It is a notorious fact that it occurred on 12 March 2003. K1's duties were to hand over money for drivers and to check the quality of ecstasy to be delivered to Sarajevo. On this day all passengers who were travelling from the Balkans were checked. Therefore K1 reported that he had 100.000 euro with him. He got the money from A.K. and R.K. He did not know from where they had money from.²⁰⁴⁸ Money was only for transport.²⁰⁴⁹

1467. One part of the quantity of the ecstasy was paid, but he did not know in what way. The other one was compensated through heroin, and it was paid by A.Ka. and R.K. This shipment belonged to A.Ka., R.K. and K2.²⁰⁵⁰ Everything was organized by K2, A.Ka., S.Ak., H.Me. and R.K. N.K.1 did not know whom the ecstasy belonged to.²⁰⁵¹

1468. K1 was not aware if N.K.new that he went to Holland.²⁰⁵² K1 did not know if N.K. was involved in it; he did not see him there. He underlined that N.K. was not in good terms with K2.²⁰⁵³

²⁰⁴⁸ 02.11.2016, p. 19-21

²⁰⁴⁹ 02.11.2016, p.24

²⁰⁵⁰ 02.11.2016, p.25

²⁰⁵¹ 08.11.2016, p.7

²⁰⁵² 02.11.2016, p.19 -21

²⁰⁵³ 02.11.2016, p.25

1469. In the airport in Amsterdam K1 met S.L., Sa.Ko. and two Albanians. Then he was taken to a location where ecstasy was kept. It was 30-40 km from Amsterdam, perhaps in a place called Argen. Pills were packed in 0.5 l coca cola bottles. One bottle could fit 1000 pills.²⁰⁵⁴ K1 gave money to Lukac and Kocic in the car.²⁰⁵⁵
1470. He did not test this ecstasy because he was not a specialist in it. Another person came to check its quality and confirmed it. Then drivers (S.Ak., Re.”Md.”, and two others with VW Passat) took pills to Sarajevo. Before, they packed it into plastic vacuumed bags and loaded into vehicles. This whole operation lasted 3-4 days.²⁰⁵⁶ 100.000 ecstasy pills packed in plastic bottles were transported by 3-4 vehicles, each bottle contained 1000 pills. There was another shipment which came with the long truck, the amount was larger than 100.000.²⁰⁵⁷ K1 was not able to specify the exact amount of ecstasy.²⁰⁵⁸
1471. When 3- 4 days later K1 came to Sarajevo from Amsterdam, the ecstasy was stored in a garage, close to a pizza bar in Hrasnica. Some people were packing in garages, some were in the pizzeria.²⁰⁵⁹ Garages were characteristic as they had holes from bullets in the doors.²⁰⁶⁰
1472. On this occasion when the ecstasy came to Sarajevo, K1 did not see N.K. there around the garages in Hrasnica where the ecstasy was reloaded. Prosecutor told him that all other witnesses said that they saw N.K. there. He did not see him

²⁰⁵⁴ 02.11.2016, p.19 -22

²⁰⁵⁵ 02.11.2016, p. 23

²⁰⁵⁶ 02.11.2016, p. 22, 23

²⁰⁵⁷ 02.11.2016, p.29

²⁰⁵⁸ 02.11.2016, p.23

²⁰⁵⁹ 02.11.2016, p.22, 07.11.2016, p.5-6

²⁰⁶⁰ 02.11.2016, p.24

there and he did not want to tell something he did not see. He was sure that N.K. was not present there.²⁰⁶¹ He did not know whom this ecstasy was for, who else was involved in it.²⁰⁶²

1473. He testified that on this occasion at the garages there were present: K2, A.Ka., S.Hu., K.Ku., R.K., H.Me. and the mechanic who was dealing with the fuel tank. All of them were involved in packing; they also received instructions about their flight to Turkey.²⁰⁶³

1474. Before the proper instruction on immunity was given, K1 testified in a different way about the delivery of ecstasy from Amsterdam. The details of his trip there, how was it organized, who gave him money, the way how the ecstasy was packed and later transported to Sarajevo, he presented in the same way as during his testimony after the proper instruction on the scope of the immunity.²⁰⁶⁴ His version differed significantly when it comes to the involvement of N.K.

1475. K1 changed his testimony significantly comparing to the one that he gave before. During that examination he said that soon after K2 put his apartment as collateral, he got ecstasy.²⁰⁶⁵ It happened in Hrasnica, there were many people present: K2, A.Ka., N.K., K2, H.K., Z.B., and about 10-12 people.²⁰⁶⁶ There were so many people present because there were the ones who built the hidden compartments (Z.B., whom he recognized), drivers who were to go to Turkey, Tuzla.²⁰⁶⁷

²⁰⁶¹ 02.11.2016, p.22

²⁰⁶² 02.11.2016, p. 22

²⁰⁶³ 02.11.2016, p.22

²⁰⁶⁴ 24.02.2016, p. 28 – 34, 16.03.2016, p. 28

²⁰⁶⁵ 25.02.2016, p. 39

²⁰⁶⁶ 25.02.2016, p. 35

²⁰⁶⁷ 25.02.2016, p. 37

1476. This ecstasy belonged to N.K., therefore he was present then.²⁰⁶⁸ N.K. and R.K. were in charge of this ecstasy. They also owned the heroin.²⁰⁶⁹
1477. On that occasion, K1 testified that the plan was that K2 would get money for the ecstasy to repay N.K.²⁰⁷⁰ K1 did not know how much money would be paid for this ecstasy, several deliveries were at stake, and he thought it was 150-200.000 euro per shipment.²⁰⁷¹ The price for ecstasy in Holland –was 30 cents per pill, while in Turkey – 10 euro.²⁰⁷² The shipment was worth around 110-120.000 euro.²⁰⁷³
1478. Z.B. built a compartment in Mercedes which belonged to K2. K1 saw when he was assembling and disassembling it. On that occasion Z.B. showed it to S.Ak. how to deal with it.²⁰⁷⁴ Ecstasy was placed in coca-cola bottles, covered with foil which was glued to avoid contamination.²⁰⁷⁵
1479. S.Ak. drove the Mercedes to Turkey.²⁰⁷⁶ Ecstasy was delivered there, and then heroine mixed with coffee returned.²⁰⁷⁷
1480. In the notebook it was indicated that 100.000 was taken to Turkey by S.Ak., another 50.000 by K2 to Tuzla, and 40.000 by H.K. The rest was sent to Turkey in a cooler truck. The transport of 100.000 was not done in one shipment.²⁰⁷⁸

²⁰⁶⁸ 25.02.2016, p. 36, 39

²⁰⁶⁹ 15.03.2016, p. 6

²⁰⁷⁰ 15.03.2016, p. 4

²⁰⁷¹ 15.03.2016, p. 5

²⁰⁷² 15.03.2016, p. 6

²⁰⁷³ 15.03.2016, p. 6

²⁰⁷⁴ 25.02.2016, p.37-38

²⁰⁷⁵ 25.02.2016, p. 38

²⁰⁷⁶ 25.02.2016, p. 39

²⁰⁷⁷ 25.02.2016, p. 40

²⁰⁷⁸ 15.03.2016, p. 629-30

1481. K1 testified that K2 did not make any payments to N.K.²⁰⁷⁹ He did not know what the reaction of N.K. for this was. When asked for explanation, once again he suggested that K2 should explain it. K1 suggested asking K2 about the reaction of N.K. However, according to him, K2 started to behave unfairly towards them, cheat them and to hide from N.K.²⁰⁸⁰

1482. In the notebook, K1 indicated that there were problems between N.K. and K2 and therefore he had to pawn the apartment.²⁰⁸¹ When asked about details, K1 said that he would prefer not to talk about this and ask K2.²⁰⁸²

Version of K2

1483. According to K2, the ecstasy was taken over in the evening.²⁰⁸³ It took place in the garages, they were characteristic because there were holes after bullets in the doors.²⁰⁸⁴ Mercedes of K2 was placed inside. It had a special compartment which was built by Z.B. Two men from golf brought ecstasy packed in bubble wrap which was placed in the hidden compartment.²⁰⁸⁵

1484. N.K. was present at the garages in Ilidza when K2 took 100.000 pills. There were also A.K., K1, Z.B., a person in jeep who did not get out, and two people in Golf. It was in the spring.²⁰⁸⁶

²⁰⁷⁹ 15.03.2016, p. 14

²⁰⁸⁰ 15.03.2016, p. 16

²⁰⁸¹ 15.03.2016, p. 30

²⁰⁸² 15.03.2016, p. 14

²⁰⁸³ 28.02.2017, p. 19

²⁰⁸⁴ 28.02.2017, p. 19

²⁰⁸⁵ 28.02.2017, p. 20 - 23

²⁰⁸⁶ 28.02.2017, p. 11

1485. K2 drove with Mercedes filled with ecstasy to Tuzla. Afterwards, S.Ak. immediately drove it to Turkey.²⁰⁸⁷ Z.B. was taken by H.Mu. to Zagreb for a flight to Istanbul.²⁰⁸⁸

1486. The ecstasy arrived to Turkey. S.Ak. had to leave, while Z.B. stayed. K2 called S.Ak. who told him that they put some yellow balls inside the car. Then he called K1 to find out what was going on. K1 told him that money was in these balls.²⁰⁸⁹

S.Ak., H.Mu., H.Me.

1487. **S.Ak.** confirmed that he drove Mercedes from Tuzla to Istanbul. It was loaded with ecstasy; he did not know the exact amount of it. He took the car from the house of F.K. S.Ak. was supposed to receive 10.000 euro and he was tasked to bring heroine from Istanbul. He was travelling alone.²⁰⁹⁰

1488. When S.Ak. came to Istanbul he was contacted by the man called “Ad.”. They met in the hotel Zagreb or Santa Maria. S.Ak. gave him car keys. S.Ak. could have met also H.Me. there but he was not sure about it. He confirmed that a man from Tuzla came by plane to remove the reservoir because he was the only one able to disassemble it and place heroine inside.²⁰⁹¹ After 2 or 3 days “Ad.” brought him the car. He did not know what was inside, however he had to fill it again every 100-150 km. The trunk was also loaded with attractive wardrobe which he used to bribe custom officers when crossing borders.²⁰⁹²

²⁰⁸⁷ 28.02.2017, p. 23

²⁰⁸⁸ 28.02.2017, p. 24

²⁰⁸⁹ 28.02.2017, p. 25

²⁰⁹⁰ 30.01.2017, p. 21

²⁰⁹¹ 30.01.2017, p.21

²⁰⁹² 30.01.2017, p. 22

1489. **H.Mu.** confirmed that he took the man who made a reservoir to the airport from where he flew to Turkey, while S.Ak. drove there with Mercedes. The presence of the mechanic was necessary because he was the only one who could have assemble and disassemble the reservoir. He only heard that they were to transport drugs.²⁰⁹³ According to H.Mu., S.Ak. was instructed to go to Turkey by K2 and most probably also by K1.²⁰⁹⁴ To the leading question, H.Mu. answered that it was possible that the mechanic's name was Z.B.²⁰⁹⁵
1490. **H.Me.** testified that ecstasy tablets were procured in the Netherlands. H.Me. did not remember exact dates; maybe it was 2001 or 2002.²⁰⁹⁶
1491. H.Me. confirmed that S.Ak. from Tuzla travelled to the Netherlands. He brought from Amsterdam to Tuzla 100.000 ecstasy tablets. Later, he transported them to Turkey, Istanbul. They paid 60 cents per tablet in Holland, while in Turkey it costed 2,50 euro. S.Ak. transported it in a special compartment hidden in Mercedes "Okac".²⁰⁹⁷
1492. He also underlined that he did he did not remember exact dates because he did not make notes or entries when he was doing this or that robbery.²⁰⁹⁸
1493. H.Me. was informed by K2 about the delivery of ecstasy. He did not know how K2 obtained it, however H.Me. knew that K2 was assisted by K1 who had some family ties in Holland, he had a brother there. K2 was the one to pay for part of the ecstasy and after the deal with heroine was finished he was obliged to pay the

²⁰⁹³ 27.01.2017, p. 13

²⁰⁹⁴ 27.01.2017, p. 13

²⁰⁹⁵ 27.01.2017, p. 14

²⁰⁹⁶ 07.04.2017, p. 10

²⁰⁹⁷ 07.04.2017, p. 10

²⁰⁹⁸ 07.04.2017, p. 10

rest.²⁰⁹⁹ One of the guarantors that the ecstasy would be paid was F.K.²¹⁰⁰ The other one was the brother of K1. The other things like transport, accommodation was paid by K2.²¹⁰¹

1494. H.Me. was confronted with his previous statements from 2013-2014 (pages 273, 274 and 332) when he said that he saw N.K. shaking hands with K2, heard K2 calling N.K. He denied this.²¹⁰² He also denied his previous statement (p. 263) that N.K. gave K2 60.000 euro to pay for ecstasy.²¹⁰³ He explained that he did not testify freely then, he was pressured by K2 who also sent some people to influence on him.²¹⁰⁴

Conclusion

1495. The Court concluded that N.K. was not present at the garages in Hrasnica when the ecstasy from the Netherlands was delivered. The only evidence to support this claim it was testimony of K1, co-operative witness, which was not supported by any other piece of evidence. Especially, K1 clearly stated that N.K. was not present then and had nothing to do with this delivery of ecstasy. Witnesses S.Ak. and H.Mu. never testified about any involvement in drug transactions with N.K.

1496. The Court noted that H.Me. withdrew from his previous statement that N.K. was involved in payment for the ecstasy. The Court found his testimony given during this trial as truthful because they were in accordance with the statements of other witnesses, especially S.Ak. and K1. Additionally, it was proven that earlier

²⁰⁹⁹ 07.04.2017, p. 11

²¹⁰⁰ 07.04.2017, p. 11

²¹⁰¹ 07.04.2017, p. 12

²¹⁰² 11.04.2017, p. 7

²¹⁰³ 11.04.2017, p. 7

²¹⁰⁴ 11.04.2017, p. 8

H.Me. was involved in many actions aimed on reopening of the proceedings against K2, which are presented in details in p. 4.17 of the judgment.

4.15.3. Heroin mixed with coffee

1497. According to **K2**, the driver came to Tuzla with Mercedes to the house of F.K. K2 did not know that he came, he found it by coincidence. He saw his Mercedes with removed wheels and shock absorbers. It was done by A.Ka., S.Ak., F.K. and K1. The fuel tank could not have been removed without knowledge of the mechanic who built it. He was still in Turkey.²¹⁰⁵
1498. **S.Ak.** in his testimony confirmed that he brought the car to Tuzla. K1 and K2 were present then and they removed the tank themselves, not waiting for the mechanic to return from Turkey. K1 and K2 were shouting and quarrelling what S.Ak. heard when he was outside the house of K2. K1 called “Ad.” because goods were of bad quality. K2 was out of his mind. S.Ak. was not paid for this trip. He did not know exactly what was wrong with this heroin, he only heard that it was of bad quality.²¹⁰⁶ During cross-examination, he clarified that it was done in the garage of F.K. K1 and K2 were present.²¹⁰⁷
1499. According to **K2**, on this occasion there was a little argument between him and others. They took out from the tank 25 balls filled with coffee mixed with heroine. A.Ka., K1 and F.K. concluded like this. Apart from them there was S.Ak. who was not familiar with it.²¹⁰⁸

²¹⁰⁵ 28.02.2017, p. 25 -26

²¹⁰⁶ 30.01.2017, p. 22

²¹⁰⁷ 30.01.2017, p. 34

²¹⁰⁸ 28.02.2017, p. 26

1500. K2 did not understand what was going on. He called N.K. and told him that it did not arrive of the same kind as when it arrived on the first occasion but it came something of different colour. N.K. was noisy and he said “why do you say this to me it is none of my business. I gave you money and I want you to bring back money to me.”²¹⁰⁹
1501. K2 did not find who was responsible for this delivery of coffee mixed with heroine.²¹¹⁰
1502. **K1** testified about this situation both before and after the situation with the immunity. Once again it is clearly visible that he changed his testimony.
1503. When K1 testified after he was properly instructed about the scope of the immunity he said that before the shipment went to Turkey, K2 informed that he already done a deal with H.K. for its sale and that he would receive money for it. According to K1, K2 wanted to get drugs from there; he did it covertly and was later deceived.²¹¹¹ K2 said also that he had a deal in Turkey as to the price which was 7-8 dollars per ecstasy pill. He did such arrangements on his own, and K1 really did not know details.²¹¹²
1504. S.Ak. brought from Turkey heroin.²¹¹³ He came with Mercedes to the apartment of F.K. It was lifted to take out heroin. Present were: S.Ak., K2, A.Ka., H.Me. and many other people.²¹¹⁴

²¹⁰⁹ 28.02.2017, p. 27

²¹¹⁰ 09.03.2017, p. 23

²¹¹¹ 02.11.2016, p.32

²¹¹² 07.11.2016, p. 7

²¹¹³ 02.11.2016, p.31

²¹¹⁴ 07.11.2016, p.6-7

1505. K1 knew that ecstasy came to Turkey, because later it occurred that S.Ak. did not bring money but 10 kg of something that looked like coffee. He brought it to Tuzla, and K1 was present there. Heroine was packed in shape of balls, then in plastic foil and placed in the reservoir.²¹¹⁵ No one could separate heroin from coffee. K1 was sure that there was heroin.²¹¹⁶ They made test of this heroin and established that there was not so much heroin in it. K1 did not know what they did with this mixture.²¹¹⁷
1506. K1 testified that K2 said that it was N.K. who created this problem in Turkey.²¹¹⁸ K1 did not know who cheated K2; once again he suggested that K2 should be asked about this.²¹¹⁹
1507. During cross-examination K1 clearly stated that N.K. had nothing to do with this delivery of heroine.²¹²⁰
1508. Before the proper instruction on immunity, K1 testified quite similarly about the circumstances connected with delivery of heroin mixed with coffee, however that time he described involvement of N.K. in the events.
1509. The load was brought at F.K.'s place by S.Ak. There were present: A.Ka., H.Me., F.K., Z.B., and he did not remember who else.²¹²¹
1510. When the tank was removed, they found coffee and very small amount of heroin, wrapped in nylon bags, in a shape of small round balls. It was approximately

²¹¹⁵ 02.11.2016, p.31-32

²¹¹⁶ 07.11.2016, p. 7

²¹¹⁷ 07.11.2016, p.8

²¹¹⁸ 07.11.2016, p.7

²¹¹⁹ 02.11.2016, p.31-32

²¹²⁰ 10.11.2016, p. 11, 14

²¹²¹ 15.03.2016, p. 3-4

1 kg of heroin mixed with 15 kg of coffee. K1 did not care too much about this delivery, it was important for K2 who was supposed to pay money to N.K.²¹²²

1511. The heroin was thrown away because it was not possible to separate it from coffee.²¹²³ K2 reacted badly when he found out what was delivered. K1 did not want to explain what problems occurred.²¹²⁴

1512. K2 got into argument with N.K., R.K., A.Ka. and all others because he was supposed to bring money and he did not do it.²¹²⁵ When asked why N.K. framed K2 with heroin, K1 said that he had a very low opinion of him, he was a fraudster and a con man.²¹²⁶ N.K. and others did not get upset, it was only K2 who did.²¹²⁷ K2 was in conflict with everybody, not only with N.K.²¹²⁸

1513. K1 did not write about this problem in his notebook, because it was just 1 kg of heroin, there was nothing for him to write.²¹²⁹

1514. **H.Mu.** admitted that he heard that they were deceived and got some coffee instead of drugs.²¹³⁰ He heard it from K2 who said that he had to give as a collateral two apartments owned by his wife to pay for the drugs, and then he was deceived. During the trial, H.Mu. learnt that he was deceived by K1²¹³¹ or his relatives, as he testified during the cross examination.²¹³²

²¹²² 15.03.2016, p. 4

²¹²³ 15.03.2016, p. 5

²¹²⁴ 15.03.2016, p. 8

²¹²⁵ 15.03.2016, p. 8

²¹²⁶ 15.03.2016, p. 8`

²¹²⁷ 15.03.2016, p. 8

²¹²⁸ 15.03.2017, p. 9 - 10

²¹²⁹ 15.03.2016, p. 31

²¹³⁰ 27.01.2017, p. 13

²¹³¹ 27.01.2017, p. 15

²¹³² 27.01.2017, p. 18

1515. According to **S.Ak.**, K2 got into troubles because of this delivery. K2 was not able to pay K1, also for the money he borrowed from him. He did not know if this problem was finally resolved ²¹³³ After this situation S.Ak. never worked for K2 again. ²¹³⁴

Conclusion

1516. There is no evidence to support K2's claims that N.K. was involved in the delivery of heroine mixed with coffee which was brought by S.Ak. from Turkey. He was the only one who testified in this way. K1 denied categorically that N.K. had any connection with this situation.

4.16. Count: 8 and 9

Summary of Allegations

In summer 2003, K2 agreed to drive to Austria in a particular VW Caddy vehicle to pick up a large truck tarpaulin there for Defendant N.K. While K2 suspected there were drugs in the VW Caddy, his mechanic was unable to find any. After driving the car to Austria, K2 sees drugs being taken out of the lining of the interior roof of the car in square shaped packages, wrapped up by light scotch tape. K2 described this shipment as "a much bigger quantity than the one I have transported from Turkey" (the earlier shipment contained 25 kilograms of Heroin). When asked by K2, two Albanian men present at the scene confirmed that the packages contained Heroin. When K2 later asked N.K. back in Sarajevo regarding the Heroin stashed in the VW Caddy's roof, N.K. confirmed that he had arranged for this drug transfer.

²¹³³ 30.01.2017, p. 23

²¹³⁴ 30.01.2017, p. 24

After K2 brought the aforementioned truck tarpaulin from Austria to Sarajevo where Defendant N.K. supervised the process of transferring over 2 tons of acetic anhydride acid from a large number of blue barrels through a white tube into hidden pockets built into the tarpaulin which had been set up to cover a truck. Not knowing what substance was pumped into the hidden tarpaulin pockets, K2 burned his hand when touching the acid. This acid is used for the process of “washing” Heroin in order to enhance its level of purity, finally becoming so-called “White Heroin,” a significantly more concentrated form of the drug. The acid-loaded tarpaulin was then transported to a location unknown to K2, most probably, however, to Turkey.

1517. In the context of these counts the Court finds necessary to address some situations which preceded the events presented in these charges.

4.16.1 Meeting in the forest

1518. Despite visible animosity between K1 and K2 who on many occasions spoke only pejoratively about each other and despite the fact that K1 withdrew from a relevant part of his testimonies given before the proper instruction on immunity was granted to him, they both testified in a similar way about the event in Ingman forest in Sarajevo.

1519. According to **K2**, after the heroin mixed with coffee was delivered, meeting in a forest on the road towards Mostar took place. K1 and A.Ka. took him there.²¹³⁵

1520. N.K. came there with his jeep. People who accompanied him took off K2’s jacket and took the cell phone from him. As far as he remembered they also took

²¹³⁵ 28.02.2017, p. 28

the cell phones from K1 and A.Ka. K1 was crying and explaining situation. He said that it was more his fault than K2.²¹³⁶

1521. K2 agreed to pay N.K. 11.000 euro in monthly instalments. It was agreed to be paid until whole amount of 110.000 euro will be returned. The first instalment was due immediately. Ha paid it but not in cash.²¹³⁷

1522. According to **K1**, this situation took place in Ingman forest close to Sarajevo in summer 2003.²¹³⁸ The meeting was organized by N.K., A.Ka., R.K., Su.Ku., and K.Ku. They all were armed.²¹³⁹ K1 was called to come, because he was present when the heroine mixed with coffee came. Also F.K. was present.²¹⁴⁰ K1 came there with A.K. and R.K. They picked him from the restaurant Brajlovic.²¹⁴¹

1523. During this meeting N.K. asked K2 when he would return him his money. He told him that he exceeded all the limits. K2 swore that he would return money, and he was making promises.²¹⁴² It even happened that N.K. pulled out a gun and threatened that K2 should stop lying and return his debt. The others stood between them and tried to calm down the situation.²¹⁴³ K2 was afraid, he did not feel well. He was lying, making promises, telling stories.²¹⁴⁴ He also promised to pay all his debts.²¹⁴⁵ N.K. accepted this promise.²¹⁴⁶

²¹³⁶ 28.02.2017, p. 28 -29

²¹³⁷ 09.03.2017, p. 5

²¹³⁸ 15.03.2017, p. 11, 07.11.2016, p.8

²¹³⁹ 07.11.2016, p.11, 07.11.2016, p.8

²¹⁴⁰ 15.03.2017, p. 11- 12

²¹⁴¹ 15.03.2017, p. 12

²¹⁴² 07.11.2016, p.9

²¹⁴³ 07.11.2016, p.11, 15.03.2017, p. 10

²¹⁴⁴ 07.11.2016, p.10, 11

²¹⁴⁵ 15.03.2017, p. 11

²¹⁴⁶ 15.03.2017, p. 13

1524. Debts of K2 towards N.K. resulted from the time when K1 was in Germany and they were connected with their work they both had together in relation to weapon. K1 did not know how much K2 owed N.K., however it was high amount, and increasing because there was an interest on it.²¹⁴⁷
1525. After this situation in the forest, K1 took 60.000 euro from his sister and lent it to K2 to repay at least part of this debt. It was 15 days-1 month after the situation in the forest.²¹⁴⁸ K1 decided to lend money K2 because he was making promises to him, and he was also convinced by A.Ka. and R.K. saying that they would take responsibility for this debt. However, later it occurred that K1 did not get his money back.²¹⁴⁹ Instead of paying the debt, K2 used the money received from K1 to buy some leather jackets for his boutique.²¹⁵⁰ During cross-examination, K1 admitted that he invested 60.000 euro in the business of K2 however a moment later, he said again that he lent it.²¹⁵¹
1526. K1 did not know if K2 paid his debts towards N.K. He paid something, he did not return his debt, and he was hiding for some time.²¹⁵² He did not return money to K1, and then on one occasion in Sarajevo K1 took K2's ML Jeep, then drove to his boutique and took 200-300 leather jackets. It was month or two month after lending the money. K1 did not return jeep.²¹⁵³
1527. K1 only heard from K2 that he was working for N.K., he blamed him for all his problems. He heard all these stories when he met K2 in Ilidza, already in

²¹⁴⁷ 07.11.2016, p.8, 10

²¹⁴⁸ 07.11.2016, p. 9, 12 - 13

²¹⁴⁹ 07.11.2016, p.13

²¹⁵⁰ 07.11.2016, p.13

²¹⁵¹ 10.11.2016, p. 15

²¹⁵² 07.11.2016, p.12

²¹⁵³ 07.11.2016, p.13

2002.²¹⁵⁴ He also heard from A.Ka. and R.K. that K2 was part of their team. However, K2 never respected any agreements.²¹⁵⁵

1528. During this meeting K2 promised that he would be correct and honest, but he continued to do dirty things.²¹⁵⁶ After this, he killed F.K., abducted M.K. and all the worst things.²¹⁵⁷

Conclusion

1529. In the light of the testimonies of witnesses K1 and K2, the Court found proven that there was the meeting in the Ingman forest during which K2 promised to pay his debts to N.K. The debt was not connected with drugs but it was a result of another business relation between N.K. and K2. However it was not possible to establish the cause of the debt because testimonies of K1 and K2 significantly differ between each other. One of them said that it was related with weapon, the other said – with drugs. There was no corroborating evidence to support one of the versions.

1530. This part of mutually corroborating statements of K1 and K2 confirms that N.K. and K1 knew each other. Therefore, the Court did not believe the Accused he denied to have any contact with K1 despite the one situation when he came to warn him about the attempt of Z.T. to put an explosive during the wedding of his son.²¹⁵⁸

1531. In this context, the Court notes that the testimony of M.Ko., lawyer of N.K., about his contacts with K1 was assessed as truthful and reliable. This witness

²¹⁵⁴ 07.11.2016, p.15

²¹⁵⁵ 07.11.2016, p.15, 16

²¹⁵⁶ 15.03.2017, p. 10

²¹⁵⁷ 15.03.2017, p. 13

²¹⁵⁸ 18.01.2018, p. 41 - 42

described in details his meetings with K1 which took place on occasions when M.Ko. visited prison facility where he was performing his professional duties. He also presented the situation when K1 contacted him to inform about the attack against N.K. planned by Z.T. He admitted that he took K1 to N.K., however he did not stay during their conversation because of other obligations. He did not notice that they knew each other.²¹⁵⁹ In the light of the evidence of K1 and K2, the Court established that N.K. did not inform M.Ko. that he knew K1.

1532. While assessing the credibility of witnesses K1 and K2 in this context the Court noted that it was the only situation where according to them N.K. was involved and both of them were describing what was happening in a very similar way. The difference referred to description of emotional state of each of them because K2 claimed that K1 was crying, while K1 testified that it was K2 who was very frightened and felt bad. It must be also underlined that despite this accordance of version, K1 found necessary to mention that after this situation in the forest K2 started to behave dishonestly.

4.16.2. Payment of instalments

1533. **K2** testified that K2 paid the first instalment in the following way: an Albanian (M.Le. from Gjilan²¹⁶⁰) from Kosovo came to K2 in a company of another person. M.Le. said that he had some drugs in Croatia and that he was supposed to pay 85000 euro to the driver to bring it to Bosnia. K2 was supposed to give his

²¹⁵⁹ 08.12.2016,p. 4 - 11

²¹⁶⁰ 16.03.2017, p. 8

Mercedes as collateral in order to get 8,000 euro to pay for 7.5 kg of drugs to be brought from Croatia.²¹⁶¹

1534. When drugs came K2 asked K1 and A.K. to check the quality of it. He brought it to them, they took one kg and paid for it 12.000 euro. Then they called N.K. to inform him that they had money for the first instalment. Money remained with K1 and A.Ka.²¹⁶²

1535. The second payment K2 did in the same way. A.Ka. and K2 contacted him with a person from Banja Luka who was interested to buy heroin. He took there a sample of the drug. Afterwards, he sent 2 kg of heroine to V.Pa. in Banja Luka by his driver H.Mu. Then a problem occurred, because V.Pa. was not satisfied with a quality of heroin and wanted money back. It was too late because K2 already gave money to K1 and A.Ka. and 2,5 kg heroine as well. The problem was not resolved because K2 did not have money, and V.Pa. was arrested.²¹⁶³

1536. **H.Mu.** confirmed that he brought a parcel from K2 to Banja Luka and he gave it to the man nicknamed "Do.". K2 told him that the content of this parcel was secret. H.Mu. got from "Do." 8000 euro which he gave K2. On the next day after the delivery "Do." opened the box and showed H.Mu. what was inside. "Do." showed H.Mu. two packages wrapped in plastic with powder inside.²¹⁶⁴ On his way to Tuzla where "Do." wanted to meet with K2. He was stopped by the police.²¹⁶⁵

²¹⁶¹ 09.03.2017, p. 5

²¹⁶² 09.03.2017, p. 5 - 6

²¹⁶³ 09.03.2017, p. 7

²¹⁶⁴ 27.01.2017, p. 9-10

²¹⁶⁵ 27.01.2017, p. 10

1537. K2 paid the third instalment in a way that he gave 11.000 euro to an Albanian named “Ln.” in Sarajevo, Stup. He was told by N.K. to do it.²¹⁶⁶

1538. K2 paid one more instalment with money which he got for 2 kg heroin which he sold to H.N. and M.Ha. for 12.000 euro.²¹⁶⁷

Conclusion

1539. The Court concluded that there was evidence presented to corroborate K2’s testimony about drug transactions which he described in this part. These facts were confirmed by witnesses M.Ha. and H.Mu. Therefore the Court found proven that the said transactions really happened. It must be stressed out that the course of those transactions did not confirm either N.K.’s participation or any other involvement.

1540. At the same time, there was no evidence to support K2’s statement that money obtained through these drug transactions were used to pay at least few instalments of his debt for N.K. Especially K1, the only witness who confirmed existence of this debt, did not have knowledge about payments allegedly done by K2. Therefore, the Court found the part of the testimony of K2 not substantiated.

4.16.3 Travel to Austria

1541. **K2** testified that in July/August 2003, N.K. proposed him to go to Austria to bring tarpaulin for a long vehicle. As remuneration for this service, K2 would not have to pay one interest rate and it was more than a month and a half. K2 asked

²¹⁶⁶ 09.03.2017, p. 8

²¹⁶⁷ 09.03.2017, p. 7-8

N.K. if it had anything to do with drugs, but N.K. ensured him that it did not. K2 accepted the offer.²¹⁶⁸

1542. K2 collected VW Caddy with which he was supposed to drive to Austria from the gas station in Zivinice. He received an international authorization to drive this car abroad. According to K2, it could have been that also A.Ka. was present.²¹⁶⁹

1543. **A.Ka.** denied that he knew K2 and participated in any actions with him.²¹⁷⁰

1544. K2 took the car to the mechanic to check if there was something hidden in it. He told the mechanic that that there could be weapon hidden. The mechanic checked the car and found nothing.²¹⁷¹

1545. K2 set off to Austria. He stayed in a phone contact with an Albanian man whom he was supposed to meet in Slovenia. He met him in Slovenia at a gas station and K2 was told that he should follow him. In this way they travelled to Austria to a place with hangars.²¹⁷²

1546. There were two men of German nationality in one of the hangars. K2 left the car there. He was taken to a hotel, and only then he realized that he left a phone in the car. Therefore, he took taxi and returned to the hangars. When he entered there, he noticed that the Albanian and two Germans removed the roof of the truck and unloaded packages which were similar to the packages containing 25 kg of heroine which he brought from Turkey on previous occasion.²¹⁷³

²¹⁶⁸ 09.03.2017, p. 8-9

²¹⁶⁹ 09.03.2017, p. 9

²¹⁷⁰ 27.02.2017, p. 19

²¹⁷¹ 09.03.2017, p. 10

²¹⁷² 09.03.2017, p. 10

²¹⁷³ 09.03.2017, p. 10 - 11

1547. After his return to Sarajevo, N.K. confirmed that these were drugs. He told to K2 “what did you expect, to bring only tarpaulin for 11.000 euro?”²¹⁷⁴
1548. On the day after the situation in the hangar, K2 returned with VW Caddy loaded with the tarpaulin to Sarajevo. Before he left, he checked with the men if there was anything hidden in the tarpaulin.²¹⁷⁵
1549. In Sarajevo K2 met A.Ka. They went to a huge warehouse and waited for a truck to come. There were several young men. The truck came, and then they placed the tarpaulin which was brought by K2 on that truck. The tarpaulin was equipped with pockets that served as a reservoir for liquid. They brought some blue barrels from the warehouse and they pumped some kind of a liquid from the barrels into the tarpaulin’s pockets. K2 was convinced that liquid was a precursor designated for drug processing, some kind of an acid.²¹⁷⁶
1550. K1 confirmed that K2 met with N.K. in relation to a plastic cover which was planned to be transported to Austria.²¹⁷⁷ K2 told K1 that N.K. sent him to Austria to pick a tarpaulin for a long vehicle truck. K2 went there with VW Caddy. He was not aware that there was heroin hidden in the vehicle.²¹⁷⁸

Conclusion

1551. The Court found proven that K2 upon the request of N.K. transported to Austria 25 kg of heroine hidden in a compartment build in VW Caddy on its roof. This finding results from the part of the testimony of witness K2 which was also

²¹⁷⁴ 09.03.2017, p. 11

²¹⁷⁵ 09.03.2017, p. 11

²¹⁷⁶ 09.03.2017, p. 12 - 13

²¹⁷⁷ 07.11.2016, p.10

²¹⁷⁸ 07.11.2016, p.12, 15.03.2017, p. 9

corroborated by the statement of K1. N.K. was fully aware of the load which K2 delivered to Austria,

1552. After being given a proper instruction on immunity, K1 withdrew from majority of his statements regarding cooperation in drug trafficking between N.K. and K2. K1 consistently denied any involvement of N.K. into K2's smuggling of ecstasy pills. Despite this he was persistent in confirming that N.K. sent K2 to Austria with VW Caddy with the load of heroin hidden in it.
1553. The testimony of K1 about the transport of heroin to Austria was based on the story presented to him by K2. K1 quoted utterances of K2 which constituted declaration against his own interest at the time. This declaration was made before the trial started and it was contrary to the declarant's personal interest as it could expose him to the risk of criminal liability. The Court concluded that a reasonable man in his position would not have made the statement unless it was true. At the same time K2 confirmed the story in front of the Court.
1554. The Court assessed as unreliable the allegations of K2 that he was not aware of heroin hidden in the vehicle. This part of his testimony was aimed on supporting his version that he was fighting against drug trafficking and not a drug dealer himself. First of all, it contradicted common sense to expect a payment of 11.000 euro for such a service like transporting a tarpaulin from Austria. Secondly, any mechanic, especially a very professional as the one who checked the VW Caddy for K2, must have noticed a welded roof, especially after a thorough examination.

1555. The Court established that the load hidden in the vehicle was 25 kg of heroine. This findings was made on a ground factual presumption based on following premises:

- (1) the load was concealed in a sophisticated way so it had to be illegal;
- (2) the load was of significant value because the sole remuneration for transportation was 11000 euro;
- (3) K2 had experience with heroine therefore the Court is convinced that he properly recognized the substance that was hidden in the roof of VW Caddy and the weight of the package.

1556. While assessing the volume of the heroine the Court took into consideration that K2 was not able to recollect how many packages he actually saw. All doubts as to the number of packages had to be taken into advantage of the Accused. The logical assumption was that K2 must have seen at least one package since he was able to recognize it. Therefore the total weight of the load was established by the Court as 25 kg.

1557. There was no sufficient evidence to support the count 9 of the indictment. The testimony of K2 about presumed precursor being pumped into the pockets inside tarpaulin was not corroborated by any other piece of evidence. In particular, it was not supported by K1.

1558. On 14 September 2017, the Defence filed an evidentiary motion to obtain copies of authorization for VW Caddy which was used by K2. The Court found it irrelevant who the owner of this car was.²¹⁷⁹

4.16.4 After the situation with tarpaulin

1559. **K2** testified that after the situation with tarpaulin, he met with N.K. in Tirana in presence of “Sm.” and B.Ku.. There was also R.L. He wanted to arrange with N.K. that he would pay off the debt until August 2004. B.Ku. as an old man was supposed to be a moral guarantor of this agreement.²¹⁸⁰

1560. On this occasion, N.K. allegedly offered K2 to move to Holland where he would deal with heroine to be transported to England. Every month he would get 100 kg of heroine. K2 did not accept the offer. However, he agreed with N.K. that he would return him the money till August 2004.²¹⁸¹ In principle, N.K. agreed to postpone the payment of the rest of the debt, but according to K2 he did not believe that he would succeed.²¹⁸² According to K2, he still owes N.K. about 50.000 euro.²¹⁸³

1561. K2 claimed that he would accept this offer of N.K. if it would be in Italy because he had more trust in Italian police. Then he would report this activity to the authorities. He was a fighter against drugs.²¹⁸⁴

1562. **Sa.Ku.** denied knowing N.K. He excluded that the situation in Tirana took place. His father B.Ku. did not know N.K.²¹⁸⁵

²¹⁷⁹ 03.10.2017

²¹⁸⁰ 09.03.2017, p. 13-15

²¹⁸¹ 09.03.2017, p. 15

²¹⁸² 09.03.2017, p. 25

²¹⁸³ 09.03.2017, p. 25

²¹⁸⁴ 09.03.2017, p. 24 - 25

Conclusion

1563. The Prosecutor did not present any credible piece of evidence to support the statement of K2 that there was meeting in Tirana between him and N.K. facilitated by B.Ku. and Sa.Ku. The issue whether N.K. and Sa.Ku. knew each other will be discusses in the further part of the judgment.

4.17. Additional comments on testimony of K2

1564. K2 was convicted for 26 years of imprisonment in Bosnia, and this judgment is already final.

1565. From the evidence collected in this trial it became obvious that since the very beginning he was making efforts to earn advantages that would improve his situation as a convict. This observation was made by the Court also on the basis of the testimonies presented by defence' witnesses: M.Ha., H.Mu., M.A.G., Sa.Ku. and partially I.H. The testimonies appeared as logical and complimenting each other and therefore they were convincing.

1566. According to M.A.G., K2 was telling around that when N.K. would be sentenced, he would be released. Everybody knew that K2 was a witness in this trial. According to him, K2 was still dealing with drugs, even when he was in prison.

1567. From the collected evidence results that K2 was getting in touch with his former accomplices and acquaintances in relation to his potential statements against N.K. He alleged that there were attempts to influence on him not to testify, while

other witnesses claimed that it was him who instructed them what to say in the proceedings against N.K.

Attempt to approach K2 in prison

1568. **K2** claimed that in 2005, I.H., who according to him worked for N.K., visited him accompanied by another man and told him not to testify against N.K. so all his debts would be repaid. K2 did not know I.H. then, however he promised that he was not going to mention N.K.²¹⁸⁶

1569. During cross-examination K2 explained that these people who visited him in detention were unknown to him and they introduced to him with false names. He read their names only later in the newspaper. These people were I.H. and M.Be. When they visited him, they got permission from the court. Almost from the beginning they were talking how to resolve the problem with N.K. connected with the debt.²¹⁸⁷ When asked how it was possible that he spoke with completely unknown people about his problems with allegedly a very dangerous man as N.K. was portrayed by him, K2 avoided to answer. He just said that they told him not to mention N.K.²¹⁸⁸

1570. **I.H.** admitted that he knew K2. He met him in prison in Zenica in 2009. I.H. was sentenced for 2 years and 9 months. First 6 months he served in Sarajevo, afterwards he was taken to Zenica which he left in 2010. He met K2 during breaks.²¹⁸⁹ They made friends in prison.²¹⁹⁰

²¹⁸⁹ 28.03.2017, p. 22-23

²¹⁹⁰ 28.03.2017, p. 30

1571. Only later I.H. mentioned that he met K2 earlier, and it was already in 2007. He came to visit him together with his friend M.Meh. I.H. did not know K2 then, he visited him as an Albanian. K2 was already convicted then. Initially he said that M.Meh. knew K2 through Sa.Ku., however a moment later he said that he did not know if M.Be.i knew him, but he believed that yes.²¹⁹¹
1572. This visit lasted about 45 minutes. There was no specific subject, they were talking generally about life in prison.²¹⁹² When asked about the reasons for this visit he said that he did not recall why M.Meh. wanted to go there, but he added that he visited K2 because the family of Sa.Ku. stayed at his place during the war and because he was Albanian. It was their joint initiative to go there.²¹⁹³ They did not offer K2 anything. He did not remember if he visited K2 again. He denied talking about anything related to his trial.²¹⁹⁴
1573. I.H. was confronted with the statement of K2 who said that two unknown men visited him in 2005 when he was still in detention and asked him not to testify against N.K. In return he was expected to help him and his family. With one of these people he ended up later in prison. I.H. denied it.²¹⁹⁵

Conclusion

1574. The Court found proven that K2 was visited by I.H. and M.Meh. However it occurred only in 2007 as testified witness I.H. The reason for assessing the statement of I.H. as more credible as to the year when the situation took place results from the fact that in 2005 the trial against K2 was still pending. The law

²¹⁹¹ 28.03.2017, p. 24 - 25

²¹⁹² 28.03.2017, p. 25

²¹⁹³ 28.03.2017, p. 25

²¹⁹⁴ 28.03.2017, p. 4 - 5

²¹⁹⁵ 28.03.2017, p. 26-27

of Bosnia and Herzegovina is strict when it comes to visit permits for detainees. It was not possible that a person unknown to a detainee and not related with him would get a permission to visit.

1575. The fact that the Court established that the visit took place later year than it was alleged by K2 contradicts probability of an attempt to convince K2 not to incriminate N.K. In 2007, the trial against K2 was already finished with the final judgment and there was no indication yet that there would be the proceedings against N.K.

Phone call from Sa.Ku. and B.Ku.

1576. K2 testified that he was called by Sa.Ku. and his father B.Ku. who asked him not to testify against N.K. This situation took place at the beginning of 2016. He claimed that he talked few times with B.Ku. and Sa.Ku., also through the phone belonging to I.H.²¹⁹⁶

1577. **Sa.Ku.** denied that such conversation took place. First of all, neither him, nor his father knew N.K. Secondly, his father died in the 4th month of 2015.²¹⁹⁷

1578. **I.H.** knew that B.Ku. died in 2015, according to his knowledge – in August or September. In this period he was already in detention.²¹⁹⁸

Conclusion

1579. In the light of this evidence, the Court found not proven that such a conversation took place at all.

²¹⁹⁶ 09.03.2017, p. 15 - 16

²¹⁹⁷ 17.03.2017, p. 32-33

²¹⁹⁸ 28.03.2017, p. 42

Letter sent to B.Ku.

1580. Sa.Ku. used to speak with K2 when he called I.H. He did not remember exactly when they talked for the last time, because first he said it was 2013,²¹⁹⁹ then - in 2011 or 2012.²²⁰⁰ When asked again by the defence, Sa.Ku. said that K2 used to call him in 2014-2015, he arranged the time of conversation in advance because he called him a day before to schedule the time of contact with him. During the conversation which took place in 2014 or 2015, the subject of N.K. came up.²²⁰¹
1581. K2 asked Sa.Ku. to contact N.K.'s son and to tell him that if he did not want him to be a witness for his father then he needs to help him. I.H. was present during this phone conversation and convinced Sa.Ku. to do so.²²⁰²
1582. K2 sent a letter with instructions which came to the address of I.H. Sa.Ku. took this letter, it was in Bosnian language which was not known to him, and therefore I.H. translated it. K2 asked for 500.000 euro for not testifying against N.K.²²⁰³ He needed the money to bribe judges.²²⁰⁴
1583. Sa.Ku. went to "Bs.", N.K.'s son. He got contacted with him through their common friend, E.G. who only introduced them to each other and left when they started talking. Sa.Ku. told B.K. that he had a message for him – the letter from K2. "Bs." refused to forward the letter and he said that he would not pay ransom because he had nothing to do with it, and he did not have any contacts with his

²¹⁹⁹ 17.03.2017, p. 28

²²⁰⁰ 17.03.2017, p. 29

²²⁰¹ 17.03.2017, p. 31

²²⁰² 17.03.2017, p. 28 - 29, p. 31

²²⁰³ 17.03.2017, p. 28 - 29

²²⁰⁴ 17.03.2017, p. 29

father.²²⁰⁵ Sa.Ku. did not remember what happened with this letter, whether he took it or left it with B.Ku.²²⁰⁶

1584. Three days later K2 called Sa.Ku. again. Sa.Ku. informed him that he delivered the letter, however they would not pay any money to him.²²⁰⁷

1585. Sa.Ku. denied knowing N.K. in person. He only saw him on TV. He heard about S.Ni.²²⁰⁸

1586. **I.H.** confirmed that he stayed in touch with K2 who called him, sometimes once a week, sometimes once a month. They talked about their families. Sometimes K2 asked about Sa.Ku.²²⁰⁹ Beside of phone calls they did not use another way of communication.²²¹⁰ He did not remember if somebody was present during these phone conversations.²²¹¹ He did not know if K2 called somebody else in Kosovo, however he did not believe that he would call Sa.Ku. because K2 had limits on a number of people whom he could call.²²¹²

1587. When asked about the letter, I.H. said that K2 sent him once. He believed it was in 2014, it came from Bosnia on his name via DHL. He did not know the content of this letter because he did not open as it was for Sa.Ku. He did not know what Sa.Ku. did with this letter. Sa.Ku. never told I.H. what was written in it.²²¹³ He

²²⁰⁵ 17.03.2017, p. 28, 30

²²⁰⁶ 17.03.2017, p. 31

²²⁰⁷ 17.03.2017, p. 29

²²⁰⁸ 17.03.2017, p. 31

²²⁰⁹ 28.03.2017, p. 27

²²¹⁰ 28.03.2017, p. 28

²²¹¹ 28.03.2017, p. 30

²²¹² 28.03.2017, p. 31

²²¹³ 28.03.2017, p. 28 - 29

received this letter 3-4 months before his arrest.²²¹⁴ The letter was not sent from Zenica but through a friend of K2.²²¹⁵

1588. I.H. handed the letter over to Sa.Ku. because K2 asked him for this. It was sent on Isuf's address because K2 had it. He did not ask K2 what he wanted from Sa.Ku., K2 did not tell what the letter was about.²²¹⁶

1589. I.H. denied that he read Sa.Ku. the letter from K2 in which it was written that K2 demanded 500.000 euro for not testifying against N.K.²²¹⁷ He also denied that K2 called on his phone and talked with Sa.Ku. and B.Ku. who were to offer him 500.000 euro for not testifying against N.K.²²¹⁸

1590. I.H. admitted that he sent a letter to K2. It must have been after he was detained, in August or September 2015. He asked about his health, informed him about being in prison. I.H. asked K2 if he managed to be released from prison after half of the sentence.²²¹⁹ It was the last contact between them, K2 did not respond.²²²⁰

1591. I.H. recognized the letter that he sent to K2. His memory was refreshed with its content. He said that he wrote about "Ba." (which was a nickname of Sa.Ku.) in a context of another fraud. K2 wanted to send some people from Bosnia with drugs, I.H. did not want to be involved in it.²²²¹ The letter he sent K2 had nothing to do with the offer of 500.000 euro.²²²²

²²¹⁴ 28.03.2017, p. 43

²²¹⁵ 28.03.2017, p. 44

²²¹⁶ 28.03.2017, p. 31

²²¹⁷ 28.03.2017, p. 32-33

²²¹⁸ 28.03.2017, p. 30

²²¹⁹ 28.03.2017, p. 29

²²²⁰ 28.03.2017, p. 33

²²²¹ 28.03.2017, p. 35 - 36

²²²² 28.03.2017, p. 44-45

1592. He did not remember if K2 ever mentioned N.K. Perhaps he did, but I.H. did not know who it was. K2 never spoke about bribing judges.²²²³
1593. He did not remember if Sa.Ku. talked with K2 through his phone. When he was confronted with the statement of Sa.Ku. who mentioned two times when he talked in this way with K2, I.H. said that he stayed a lot with Sa.Ku. so it was likely but he did not know about it.²²²⁴ He did not remember that K2 told Sa.Ku. that he would testify in the trial against N.K.²²²⁵
1594. He denied that he translated for Sa.Ku. the letter sent by K2.²²²⁶ He denied that he heard a conversation between Sa.Ku. and K2 about 500.000 euro for not testifying against N.K.²²²⁷
1595. He did not know that Sa.Ku. went to N.K.'s son. He saw Sa.Ku. staying with N.K.'s son. He did not remember how often, however he saw them together in a restaurant Zahac close to "Sm."s village. He saw them more than once, according to him they were friends.²²²⁸

Conclusion

1596. The Court found proven that in 2015 K2 sent a letter through I.H. and Sa.Ku. addressed to B.Ku. in which he offered not to testify against N.K. for money. The fact that the letter was sent was corroborated by witness K2, I.H. and Sa.Ku. The latter two confirmed that the letter was delivered to B.K.

²²²³ 28.03.2017, p. 39

²²²⁴ 28.03.2017, p. 39

²²²⁵ 28.03.2017, p. 39-40

²²²⁶ 28.03.2017, p. 40

²²²⁷ 28.03.2017, p. 43

²²²⁸ 28.03.2017, p. 41

1597. The Court did not believe that Sa.Ku. did not know B.K., because it is in contradiction with the statement of I.H. who even called them friends. It seems that Sa.Ku. avoided any answer which could indicate that he knew K. family.
1598. The Court found also untrue the statement of I.H. when he testified that he did not open the letter. It was sent on his address and on his name so it is natural and logical to open it and check what was inside. Furthermore, Sa.Ku. said that it was read to him by I.H. because himself he did not know the language.
1599. The Court was not provided with the letter sent by K2, because Sa.Ku. claimed that he left it with B.K. However, it was not the only case when K2 was trying to influence on people to convince to testify them in his interest. Therefore, in the light of other evidence, also presented below, the Court established that it was K2 who was trying to obtain profit from N.K. for not testifying against him. Such finding is also justified with the principle *in dubio pro reo*.

Letters of K2 to M.Ha.and H.Me.

1600. **K2** testified that he got one letter from M.Ha. which contained a statement signed by her in which she admitted that she testified falsely in his trial. He claimed that he did not write any letters to her.²²²⁹ On the base of the letter received from M.Ha. his lawyer filed a motion for reopening of the proceedings against him, the case is still pending.²²³⁰
1601. **M.Ha.** testified that she received letters from K2 with instructions what she should do.²²³¹ In 2012, she also received from K2 a statement which she signed and sent back to his lawyer in which she withdrew from her previous testimonies

²²²⁹ 09.03.2017, p. 28 - 29

²²³⁰ 09.03.2017, p. 29

²²³¹ 31.01.2017, p. 15, 26

against him. There were 4 copies, one she left for herself to learn the content of the statement by heart.²²³²

1602. She received also letters with instructions how to testify against N.K.²²³³ These letters were not written by K2 but by his colleague. M.Ha. responded to them also through a colleague.²²³⁴ K2 did it because he wanted to be released for any price from prison. He needed somebody to confirm his thesis, without confirmation his testimony meant nothing.²²³⁵

1603. **H.Me.** testified that he talked with S.Ak. about K2 who sent letters to both of them and also to M.Ha. They all received instructions how to testify against N.K. what would help K2 to get the same status as K1, or at least a serious reduction of his punishment.²²³⁶

1604. H.Me. got this letter probably in 2006 when he was in prison in Tuzla. K2 signed this letter, it was his handwriting. When they were together in prison (most probably in 2009²²³⁷) they also discussed what would be the best to do with this letter. The aim of all actions was to reopen the proceedings against K2. During this conversation the name of N.K. also appeared.²²³⁸

Conclusion:

1605. The Court found proven that K2 sent to M.Ha. a statement which she sent back to him, in which she withdrew from her previous testimony against K2. Both of them testified about the content of the statement, and the only difference between

²²³² 31.01.2017, p. 18

²²³³ 31.01.2017, p. 19

²²³⁴ 31.01.2017, p. 21

²²³⁵ 31.01.2017, p. 40, 41

²²³⁶ 07.04.2017, p. 19 - 21

²²³⁷ 07.04.2017, p. 22

²²³⁸ 07.04.2017, p. 21

their versions was about an author of this initiative. In the light of other evidence collected in this case (I.H., Sa.Ku., H.Mu.) showing that K2 was ready to undertake different actions to get outside from prison, the Court found that he was the author of the statement sent to M.Ha. and signed by her.

1606. It was also established that H.Me. received letters from K2 as mentioned by the witness. This finding is additionally corroborated by other actions undertaken by H.Me. and K2 in the same purpose – to reopen the proceedings against K2 or – at least – to obtain mitigation of punishment.

1607. In the same time, there is no evidence that S.Ak. received such letters as he did not mention it in his testimony.

H.Me.'s confession

1608. H.Me. testified that he was transferred to Zenica prison on his own request because he wanted to be in the same place as K2. When he was staying in prison together with K2, they were mainly discussing about the ways of reopening criminal proceedings against K2. They discussed many solutions one by one. One of them was a letter sent to the prosecution in which K2 offered to testify against N.K. This idea appeared little later when the name of N.K. appeared in the media. Other solutions appeared to be not successful.²²³⁹ The idea to use N.K. as an argument to reopen the case appeared in 2005 or 2006.²²⁴⁰

1609. K2 told H.Me. how he should testify in the case. The idea was to try to lie and smear about N.K. and as a result FBI prosecutors or other agencies would get interested in this case. K2 saw it as one of the possibilities to get out from prison

²²³⁹ 11.04.2017, p. 4-5

²²⁴⁰ 11.04.2017, p. 6

or at least to get reopening of the case. They also talked about names of other people to be used in the same context.²²⁴¹

1610. H.Me. testified that the other way how they wanted to take K2 out of the prison was to use an eye-witness in the case of F.K.'s murder for which K2 was also convicted. They contacted with this witness and asked her to testify that she saw H.Me. on the crime scene. Finally, the woman did not decide to testify because she was afraid of consequences.²²⁴²

1611. H.Me. even confessed that it was him who killed F.K. He did it after consultation with K2's lawyer who said that it was not dangerous for him because he was already acquitted from the charge of the murder of F.K. H.Me. also gave his statement to journalists in which he admitted that it was him who have committed this murder. The statement was video – recorded and shown on TV, in the program titled "X-files".²²⁴³ There was no reaction from the prosecution, the proceeding against K2 was not reopened as a result of the statement of H.Me.²²⁴⁴

1612. K2 also took part in this TV program where he claimed that he was not guilty of the criminal offences which he was convicted for.²²⁴⁵

1613. When asked why he was so determined to help K2, H.Me. said that he was just a sensitive and compassionate person. He did not expect any reward for his

²²⁴¹ 07.04.2017, p. 23

²²⁴² 07.04.2017, p. 23

²²⁴³ 07.04.2017, p. 24; video from the program played during the main trial session held on 03 October 2017

²²⁴⁴ 07.04.2017, p. 25

²²⁴⁵ video from the program played during the main trial session held on 03 October 2017

assistance. H.Me. felt that he contributed to this severe sentence for K2 and in this way he was fighting with injustice.²²⁴⁶

1614. To the question if he reported to the police that K2 instructed him to lie against N.K. H.Me. answered that it was not the way how “they” (meaning criminals) functioned. They tended to solve things between them and not to involve the police.²²⁴⁷

1615. **K2** confirmed that he spent almost a year in one cell with H.Me. Few sentences later, he said that he did not spend too much time with him, they just talked casually. They were in different collectives. He claimed that they did not discuss what to do to reopen the proceedings against him.²²⁴⁸

Conclusion

1616. The Court found the testimony of H.Me. as relevant, and in the main part – truthful and reliable. The witness described in details his involvement in criminal operation with K2, and activities which were performed by them. He also was sincere when it came to presentation of all actions which he undertook with K2 to help him in reopening the case and/or getting the immunity or mitigation of punishment. These were not only letters with instructions how and what to testify which K2 sent to H.Me. and M.Ha., but also a more sophisticated way to resolve this situation which was accepting by H.Me. the liability for the murder of F.K. They were so determined to obtain this purpose that they not only contacted prosecution, but also were able to reach journalist who made reportage about them.

²²⁴⁶ 07.04.2017, p. 25 - 26

²²⁴⁷ 07.04.2017, p. 27

²²⁴⁸ 09.03.2017, p. 39

1617. In the light of his testimony, corroborated by other witnesses (including M.Ha. and S.Ak.), and also supported by the evidence – the tv program in which he admitted that it was him and not K2 who killed F.K., the Court found as reasonable his explanation that he did it to help K2 to obtain a better legal position in Bosnia.

1618. Therefore, the Court found the statements of K2 who denied any talks with H.Me. about the possibilities to obtain a better legal position for him as unreliable.

Meeting of S.Ak. with H.Me.

1619. **S.Ak.** testified that five or six months before his testimony in Kosovo, he met with H.Me. who told him that N.K.'s brother wanted him to sign something in the office of V.V. He refused to meet with this lawyer and sign anything. H.Me. did not tell him what this statement was about.²²⁴⁹

1620. **H.Me.** confirmed that he met S.Ak. in the mosque in 2016. On this occasion he told him that he did not want to take a revenge on him for denouncing them. After this situation it happened that they saw each other but for a minute or two.²²⁵⁰

1621. H.Me. denied that the he told S.Ak. about the offer of V.V. who allegedly promised to pay him for a statement.²²⁵¹ He said that he talked with him that it was not possible or proper to tell something so serious against the person who

²²⁴⁹ 30.01.2017, p. 23

²²⁵⁰ 07.04.2017, p. 18

²²⁵¹ 07.04.2017, p. 28

had family, when they did not know anything.²²⁵² H.Me. admitted knowing V.V. who defended N.O.²²⁵³

1622. H.Me. initially denied that he had any contacts with the brother of N.K.²²⁵⁴ However, a moment later he admitted knowing him. N.K.'s brother had a juice factory and H.Me. met with him to talk about starting similar activity. He admitted that the subject of the trial against N.K. appeared during his conversation with his brother.²²⁵⁵ It was in 2015.²²⁵⁶

Conclusion

1623. The Court noted that H.Me. admitted that he was in contact with the brother of N.K. with whom he was planning to undertake some business activities. However, it was not sufficient yet to conclude that there was an impact or pressure from this side on a witness to affect his testimony in the proceedings.

1624. There are also no doubts that H.Me. met with S.Ak. and they spoke about testifying in the case of N.K. However there is no evidence to prove that H.Me. put any kind of pressure on S.Ak. to make him testifying in favour of N.K. Additionally, it must be mentioned that S.Ak., despite being a witness already in the trial against K2, never mentioned N.K. Therefore the accused had no reason or need to influence in any way and through anybody on this witness.

²²⁵² 07.04.2017, p. 28

²²⁵³ 07.04.2017, p. 32

²²⁵⁴ 07.04.2017, p. 28

²²⁵⁵ 07.04.2017, p. 30 - 31

²²⁵⁶ 11.04.2017, p. 14

Part. 5 Legal classification and punishment

5.1 Description of the criminal act attributed to the Accused

1625. As a result of the assessment of the facts that have been established by the Court only the action that was a subject of Count 8 of the indictment has been attributed to the Accused. However, the allegations that the Accused performed this action as a member of organized criminal group (OCG) were rejected as not proven.
1626. The relevant charge was presented by the Prosecutor by verbatim quotation of legal provisions containing definition of the crime of Unauthorized Possession with Intent to Distribute, Distribution or Sale; and/or Export/Import of Dangerous Narcotic Drugs in violation of Article 228 Paragraphs 1,2, and 3 of the CCK that the Prosecutor used for legal classification. The quotation was supplemented by summary of narrative allegations that substantiated the charge.
1627. Pursuant to Article 360 Paragraphs 2 of the CPC the legal classification of the charge presented by the prosecutor was not binding for the court. At the same time the judgment may relate only to the accused and only to an act which is the subject of a charge contained in the indictment as initially filed or as modified or extended in the course of the proceedings.
1628. It was the duty of the Court to present the act that was attributed to the Accused in the way that complies with requirement set up in the Article 365 (1.1) of the CPC. Therefore, for the purpose of clarity and precision it was necessary to compose a description of the act in a way that would eliminate alternative facts, alternative elements of crime, and alternative specifics expressed inter alia in the

indictment by the use of grammatical conjunction “and/or”. Needless to say that the description containing alternatives does not specify what particular actions was performed. Similarly expression “more than 25 kg” is undefined as any doubts to the quantity could not be taken into the detriment of the Accused. Moreover, since some elements of the act at hand were not proven, they had to be eliminated from the description presented in the convicting part of the enacting clause.

1629. The principle of subjective identity of the judgement over indictment which is declared in the Article 360 (2) of the CPC does not mean that the Court is bound by the indictment’s literal wording when it comes to the elements of the crime. The Court cannot deem elements that are not included in the indictment proven, but may deviate from the indictment’s factual description thereof. Such a practice is commonly referred to in the theory of criminal procedure as *framing of indictment*.

1630. The description of the act that was attributed to the Accused is presented under item I of the enacting clause of this Judgment.

5.2. Legal classification of the criminal act attributed to the Accused

1631. According to the Article 360 Paragraph 2 of the CPC the court is not bound by the motions of the Prosecutor regarding the legal classification of the act.

Application of the most favorable law

1632. There have been following pieces of legislation that penalized the act that the Accused was attributed with applicable in Kosovo in the period from the commission of this act to the sentencing:

- a) Criminal Code of the Socialist Federal Republic of Yugoslavia (hereinafter: CCSFRY) that entered into force on 1 July 1977 whereas all these provisions were retained in force by Paragraph 1.1 (b) of the United Nations Interim Administration Mission in Kosovo Regulation 1999/24 of 12 December 1999;
- b) Provisional Criminal Code of Kosovo (PCKK) that entered into force on 4 June 2004 that was subsequently renamed as Criminal Code of Kosovo (amendment effective from 12 December 2008);
- c) Criminal Code of the Republic of Kosovo (CCRK) that entered into force on 1 January 2013.

1630. The crime was committed in May 2003 and the investigation was initiated in August 2013. The analysis of the statute of limitation under all relevant pieces of legislation led to conclusion that the statutory period of the ban on prosecution has not elapsed.

1631. Under CCSFRY the act committed by the Accused meets characteristics of the crime defined in Article 245:

(1) Whoever without authority manufactures, processes, sells or offers for sale, or purchases, keeps or transfers for sale, or intercedes in a sale or purchase, or otherwise puts into circulation substances or preparations which are declared intoxicating drugs or psychotropic substances, shall be punished by imprisonment for a term exceeding six months but not exceeding five years.

(2) If any offence described under paragraph 1 of this article has been committed by several persons who joined for the purpose of committing the

offence, or if the perpetrator of the act has organized a network of middlemen or re-sellers, or if the offence has been committed using a particularly dangerous narcotic or psychotropic substance, shall be punished by imprisonment for a term exceeding one year but not exceeding 10 years.

1632. The Court came to conclusion that the action that N.K. performed is to be considered as putting narcotic substance into circulation. There were no direct proofs of his intent to sell or to offer to sell which means to exchange a commodity for money or other commodity. No proof of such exchange or offer was presented. However, transfer of possession of the drugs meets the essence of the concept of putting into circulation. This act was committed jointly by several persons: N.K., K2 and men who unloaded the drugs. Each of them performed an essential role and their actions were coordinated and complimented each other. There was no legal definition of particularly dangerous narcotic or psychotropic substance. It is a notorious fact given in the CCSFRY. Therefore the Court took a judicial notice of the common understanding that heroin constitutes a particularly dangerous narcotic. For these reasons the Court came to conclusion that the act committed by N.K. meets characteristics of the crime defined by Article 245 Paragraphs 1 and 2 of CCSFRY and should be punished according to the sanction provided by Paragraph 2.

1633. With reference to Prosecution allegations to classify the act at hand as committed in the course of activity of organized criminal group it must be noted that CCSFRY did not recognized such a concept although certain form of coordinated co-perpetration were criminalized. Article 253 Paragraph 1 of the

CCSFRY defined a crime of conspiracy for the purpose of the commission of a criminal act defined in the federal law:

Whoever plots with another to commit a criminal act defined in the federal law, for which a punishment of five years or a heavier penalty might be imposed, unless the federal law threatens a heavier penalty for such conspiracy, shall be punished by imprisonment for a term not exceeding one year.

However, plotting with another person to commit an offense is inevitably embedded in joining for the purpose of commission of the offence defined in Article 245 Paragraph 2 which excluded considering the plotting as a separate crime since plotting is consumed by the crime defined by Article 245 Paragraphs 1 and 2 of the CCSFRY as a lesser included offence. In this particular case all of the elements necessary to impose liability for conspiracy are also elements found of a more seriously punishable crime

1634. It must be also noted that Article 254 Paragraph 1 of the CCSFRY defined a crime of Joining for the purpose of the commission of criminal acts defined in the federal law:

(1) Whoever organizes a group of persons for the purpose of the commission of criminal acts defined in the federal law, for which a punishment of five years or a heavier penalty might be imposed, unless the federal law threatens a heavier penalty for such organizing, shall be punished by imprisonment for a term exceeding three months but not exceeding five years.

However, there was no evidence that N.K. was the one who organized the group, what means that he was the one who assigned tasks to all the people who were involved in the contraband.

1635. Pursuant to Article 95 Article 95 Paragraph 1.3 of the CCSFRY in the case of the commission of a criminal act for which the law provides imprisonment for a term exceeding 5 years and not exceeding 10 years as it provided for the crime under Article 245 Paragraphs 1 that is being considered the prosecution is barred after 10 years from the commission of the crime

PCCK

1636. Under PCCK the act committed by the Accused meets characteristics of the crime of Unauthorised Purchase, Possession, Distribution and Sale of Dangerous Narcotic Drugs and Psychotropic Substances defined in Article 229

(1) Whoever, without authorisation, purchases or possesses with the intent to sell or distribute or offers for sale substances or preparations which have been declared to be dangerous narcotic drugs or psychotropic substances shall be punished by a fine and by imprisonment of one to five years.

(2) Whoever, without authorisation, distributes, sells, transports or delivers substances or preparations which have been declared to be dangerous narcotic drugs or psychotropic substances, with the intent that that they shall be distributed, sold or offered for sale shall be punished by a fine and by imprisonment of one to eight years.

(3) Whoever, without authorisation, exports or imports substances or preparations which have been declared to be dangerous narcotic drugs or

psychotropic substances shall be punished by a fine and by imprisonment of three to ten years.

(4) When the offence provided for in paragraphs 1, 2 or 3 of the present article is committed under one or more of the following circumstances, the perpetrator shall be punished by a fine and by imprisonment of three to fifteen years:

1) The perpetrator is acting as a member of a group;

1637. The Court assessed that action performed by N.K. meets characteristic of export of narcotics as it involved trans border transportation of heroin. It must be noted that the PCCK did not contain definition of the term “group” although it defined “structured group” and terrorist group”. For this reason a literal understanding of this term has to be applied which means a number of people which are considered or classed together. For these reasons the action performed by N.K. should be classified as a crime defined by Article 229 Paragraph 3 and 5 and should be punished according to Paragraph 4.1.

1638. Commission of a crime a crime jointly with several other persons should be classified in the PCCK as Participation in the organized criminal group under Article 274 Paragraph 1 of the CCRK. This crime was punishable by a fine of up to 250,000 EUR and imprisonment of at 7 seven years

1639. Pursuant to Article 90 Paragraph 2 of the PCCK the prosecution of the crime attributed to the Accused would be barred after 15 years from its commission.

CCRK

1640. Under CCRK the act committed by the Accused meets characteristics of the crime defined by Article 273 Paragraph 3:

Whoever, without authorization, exports or imports substances or preparations which have been declared by law to be narcotic drugs, psychotropic substances or analogues, shall be punished by a fine and by imprisonment of 3 to 10 years.

1641. Commission of a crime a crime jointly with several other persons meets characteristics of Participation in or organization of an organized criminal group under Article 283 Paragraph 1 of the CCRK which is punishable by a fine of up to 250,000 EUR and imprisonment of at 7 seven years

1642. Article 106 Paragraphs 1.2 of the CCRK provides for statutory limitation after 10 years from the commission of the crime punishable with more than 10 years of imprisonment and provides for statutory limitation after 20 years from the commission of the crime punishable with more than 10 years of imprisonment

Determination of the most favorable law

1643. There has been a firmly established principle of mandatory application of the most favourable substantive law applicable in Kosovo in the period from the commission of the acts to the sentencing.

1644. According to Article 4 of the CCSFRY:

“1. The law that was in power at the time when a criminal act was committed shall be applied to the person who has committed the criminal act.

2. If the law has been altered one or more times after the criminal act was committed, the law which is less severe in relation to the offender shall be applied.”

1645. The same principle was repeated in subsequent legislation i.e. in Article 2 Paragraphs 1 and 2 of the PCCK and in Article 3 Paragraphs 1 and 2 of the CCRK.

1646. The law does not stipulate any criteria for indication of the most favorable law. The Court followed the interpretation that dictates consideration of the specific situation of the Accused. It made necessary a simulation of sentencing in accordance with both relevant pieces of legislation.

1647. The comparison of sanctions provided by relevant pieces of legislation indicates CCSFRY as the less severe in the situation of the Accused. Not only it provides for the most lenient sanction for putting narcotic substance into circulation but it also excludes imposition of separate punishment for commission of this offense jointly with several other persons.

5.3. Determination of guilt

1648. The Court found that N.K. was fully aware of actions of all other people involved in putting into circulation the dangerous narcotic drugs, as it was presented in the point I of the enacting clause. It must be presumed that he knew that there would be people to collect the delivery form K2. Therefore, he acted with the direct intent to commit this criminal offence. There are no circumstances which would exclude his guilt for this act.

5.4. Determination of the punishments

1649. While determining the punishments for the Accused the Court kept in mind the goals listed in 33 of the CCSFRY. The priority was given to the need to express the judgment of society for criminal offenses, increase morality and strengthen

the obligation to respect the law. The panel was also governed by the principle of general prevention having in mind that the judgment should discourage other people from committing criminal offenses.

1650. The Court followed its obligation to evaluate all mitigating and aggravating factors, as required by Article 41 of the CCSFRY.

1651. As the aggravating circumstances in relation to the crime of putting narcotics into circulation the Court took into consideration quantity of contraband, the involvement of many people, sophisticated method used for concealing the drugs, trans - border context of criminal activity.

1652. As the mitigating factor the Court kept in mind the distant time of commission of the crime. Since that time N.K. was not convicted for any other violation of law which dictates presumption that he chose to obey to legal order. Additionally, the Court into account behaviour of the Accused in the course of the proceedings against him where he fully respected all restrictions imposed on him.

1653. Having considered the above, the Court decided to impose on the Accused the punishment of 6 (six) years of imprisonment.

1654. Pursuant to Article 50 Paragraph 1 of the CCSFRY the period of deprivation of liberty of N.K. from 13 May 2013 until 27 June 2017 was credited for the punishment of imprisonment imposed on him.

5.4. The Costs

1655. The Court based its decision related to the costs of criminal proceedings on legal provisions quoted in the enacting clause.

1656. The extent and proportion between scheduled amounts that the Accused is obligated to reimburse and the total cost of the proceedings has been determined with consideration to the number of the charges that he was acquitted and investigatory and evidentiary actions that were taken in order to prove these charges.

1657. Taking into account all the expenses incurred in the course of the proceedings, the Court decided that the Accused shall pay them in the amount of 5000 (five thousand) euro.

EULEX Judge Anna Adamska-Gallant

Presiding Trial Judge

Murlan Prizreni

Recording Clerk

Authorized persons may file an appeal against this judgment to the Court of Appeal through the Basic Court of Pristina within fifteen (15) days of the day the copy of the judgment has been served, pursuant to Article 380 Paragraph (1) of the CPC.