

IN THE BASIC COURT OF PEJË/PEĆ

P. number 346/12

Date 23 May 2013

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 Peja, in the trial panel composed of Judge Malcolm Simmons as Presiding Judge and Judges Dariusz Sielicki and Elmaze Syka as Panel members and Court Recorder Christine Sengl in the criminal case against;

N.M.;

R.Z.;

X.Z. and

M.N.

charged in the Indictment of the Prosecution Office PP. 114/12 dated 31 July 2012, confirmed on 17 September 2012, as amended by a Ruling of this Court on 4 December 2012 whereupon, pursuant to Article 34 of the Criminal Procedure Code of Kosovo (hereinafter the "KCCP"), counts 3 and 4 against **R.Z.** and **X.Z.** were severed, with the following counts:

1. **N.M.**

Count 1: In the period between June 2010 and 27 April 2011 in X, acting in the capacity of an official person - Public

Prosecutor of the Special Prosecution Office of the Republic of Kosovo - and with the intent to obtain an unlawful material benefit for himself, **X.Z.** and **R.Z.** amounting to 50.000 Euros, he abused his official position in that within the framework of the investigation in case number PPS 87/10 he had conducted against **P.M.** in relation to the offences of Abusing Official Position or Authority (Article 339 of the Criminal Code of Kosovo (hereinafter the "CCK")), Fraud (Article 261 of the CCK) and Falsifying Official Documents (Article 348 of the CCK) allegedly committed by this suspect in 2006 and 2009, he took the following unlawful steps in exchange for the payment by **P.M.** of the aforementioned amount of money: (1) secured the termination of the measure of House Detention imposed on **P.M.**; (2) offered to terminate the investigation in case number PPS 87/10; (3) revealed official information from investigation in case number PPS 87/10 to **X.Z.** and **R.Z.** enabling them to extort money in the amount of 30.250 Euros from **P.M.**; and (4) at the request of **R.Z.** and **X.Z.** he allowed **P.M.** to leave his house despite the fact that he was under House Detention;

Thereby he committed the criminal offence of Abusing Official Position or Authority under Article 339 (1) and

(3) of the CCK.

Count 2: In the period before 11 September 2011 in X, acting in the capacity of an official person - Public Prosecutor of the Special Prosecution Office of the Republic of Kosovo - and with the intent to obtain an unlawful material benefit for himself and another person, **M.N.**, he abused his official position in that he revealed to **M.N.** information from the investigations in case number PPS. 99/10 conducted against **V.L.**, **A.L.** and **L.K.** and case number PPS. 65/10 conducted against **V.L.**, **A.G.** ET AL, that the Police investigations were ongoing and would soon be formally initiated against these suspects by the Prosecutor and also that their arrest was planned, in order to enable her to approach these suspects and make them pay an unspecified amount of money in return for the termination of the investigation;

Thereby he committed the criminal offence of Abusing Official Position or Authority under Article 339 (1) of the CCK.

Count 3: On 2 April 2012 in X in his premises at X he possessed a weapon - pistol 'Crvena Zastava', model M-

70, caliber 7.65 x 17mm with no serial number, one magazine with 8 bullets 7.65 x 17mm and a single revolver bullet 7.65 x 17mm - without a valid Weapon Authorization Card for that weapon;

Thereby he committed the criminal offence of Unauthorised Ownership, Control, Possession or Use of Weapons under Article 328 (2) of the CCK.

2. **R.Z.**

Count 1: In the period between June 2010 and 27 April 2011 in X and X, acting in co-perpetration **R.Z.** and **X.Z.** requested from **P.M.** an undue advantage amounting to 50.000 Euros and then received the amount of 30.250 EUR from **L.N.** (20.000 EUR), **P.M.** (5.250 EUR) and **G.H.** (5.000 EUR), in consideration of the exertion of their improper influence over the decision making of an official person, Public Prosecutor of the Special Prosecution Office of the Republic of Kosovo **N.M.**, in that they offered **P.M.** to liaise with this Prosecutor in order to: (1) secure the termination of the measure of House Detention imposed on **P.M.**; (2) secure the termination of the investigation in case number PPS 87/10; (3) enable the reinstatement of **P.M.**

to his previous post of the liquidator of X in X and (4) allow **P.M.** to leave his house despite the fact that he was under House Detention;

Thereby he committed the criminal offence of Trading in Influence under Article 345 (1) in conjunction with Article 23 of the CCK.

Count 2: In the period between June 2010 and 27 April 2011 in X and X, acting in co-perpetration **R.Z.** and **X.Z.** intentionally incited another person, Public Prosecutor of the Special Prosecution Office of the Republic of Kosovo **N.M.**, to commit the criminal offence of Abuse of Official Position or Authority in that he, acting with the intent to obtain an unlawful material benefit for himself and **X.Z.** and **R.Z.** amounting to 50.000 Euros, abused his official position in that within the framework of the investigation in case number PPS 87/10 he had conducted against **P.M.** in relation to the offences of Abusing Official Position or Authority (Article 339 CCK), Fraud (Article 261 CCK) and Falsifying Official Documents (Article 348 CCK) allegedly committed by this suspect in 2006 and 2009, he took the following unlawful steps in exchange for the payment by **P.M.** of the aforementioned amount of money: (1) secured the

termination of the measure of House Detention imposed on **P.M.**; (2) offered to terminate the investigation in case number PPS 87/10; (3) revealed official information from investigation in case number PPS 87/10 to **X.Z.** and **R.Z.** enabling them to extort money in the amount of 30.250 Euros from **P.M.** and (4) allowed **P.M.** to leave his house despite the fact that he was under House Detention;

Thereby he committed the criminal offence of Incitement to Abusing Official Position or Authority under Article 339 (1) and (3) in conjunction with Articles 23 and 24 of the CCK.

3. **X.Z.**

Count 1: In the period between June 2010 and 27 April 2011 in X and X, acting in co-perpetration **R.Z.** and **X.Z.** requested from **P.M.** an undue advantage amounting to 50.000 Euros and then received the amount of 30.250 EUR from **L.N.** (20.000 EUR), **P.M.** (5.250 EUR) and **G.H.** (5.000 EUR), in consideration of the exertion of their improper influence over the decision making of an official person, Public Prosecutor of the Special Prosecution Office of the Republic of Kosovo **N.M.**, in that they offered **P.M.** to

liaise with this Prosecutor in order to: (1) secure the termination of the measure of House Detention imposed on **P.M.**; (2) secure the termination of the investigation in case number PPS 87/10; (3) enable the reinstatement of **P.M.** to his previous post of the liquidator of the X in X and (4) allow **P.M.** to leave his house despite the fact that he was under House Detention;

Thereby he committed the criminal offence of Trading in Influence under Article 345 (1) in conjunction with Article 23 of the CCK.

Count 2: In the period between June 2010 and 27 April 2011 in X and X, acting in co-perpetration **R.Z.** and **X.Z.** intentionally incited another person, Public Prosecutor of the Special Prosecution Office of the Republic of Kosovo **N.M.**, to commit the criminal offence of Abuse of Official Position or Authority in that he, acting with the intent to obtain an unlawful material benefit for himself and **X.Z.** and **R.Z.** amounting to 50.000 Euros, abused his official position in that within the framework of the investigation in case number PPS 87/10 he had conducted against **P.M.** in relation to the offences of Abusing Official Position or Authority (Article 339 CCK), Fraud (Article 261 CCK) and

Falsifying Official Documents (Article 348 CCK) allegedly committed by this suspect in 2006 and 2009, he took the following unlawful steps in exchange for the payment by **P.M.** of the aforementioned amount of money: (1) secured the termination of the measure of House Detention imposed on **P.M.**; (2) offered to terminate the investigation in case number PPS 87/10; (3) revealed official information from investigation in case number PPS 87/10 to **X.Z.** and **R.Z.** enabling them to extort money in the amount of 30.250 Euros from **P.M.** and (4) allowed **P.M.** to leave his house despite the fact that he was under House Detention;

Thereby he committed the criminal offence of Incitement to Abusing Official Position or Authority under Article 339 (1) and (3) in conjunction with Articles 23 and 24 of the CCK.

4. M.N.

Count 1: On 11 September 2011 in Hotel 'X' in X, intentionally assisted another person - Public Prosecutor of the Special Prosecution Office of the Republic of Kosovo (SPRK) **N.M.** - to commit a criminal offence of Abusing of Official Position or Authority in that she first obtained

from **N.M.** information on the investigations in case number PPS. 99/10 conducted against **V.L., A.L., L.K.** and in case number PPS. 65/10 conducted against **V.L., A.G.** et al, that the investigations were ongoing, would be soon formally initiated against them by the Prosecutor and that their arrest was planned, and then she conveyed this information to **V.L.** and told him that the investigations could be terminated if all the suspects went with her to X and arranged payments of an unspecified amount of money to her and **N.M.**;

Thereby she committed the criminal offence of Assistance to Abusing Official Position or Authority under Article 339 (1) in conjunction with Article 25 of the CCK.

after holding a public trial on 3, 4, 5, 12 and 13 December 2012, 8, 9, 10, 15, 16 and 17 January 2013, 12, 13, 14 and 19 February 2013, 11, 13 and 18 March 2013, 3 April 2013 and 16, 17 and 23 May 2013 at which **C.M.** appeared for the Prosecution, the Injured Parties **P.M.** and **V.L.** were either present or summonsed, **B.T.** appeared for **N.M.**, **Z.B.** appeared for **R.Z.**, **K.S.** appeared for **X.Z.** and **H.M.** appeared for **M.N.** and at which the defendants were present throughout, after deliberation and voting on 16 and 23 May 2013 announced in

public the following:

J U D G M E N T

1. N.M.

Under Count 1

is

GUILTY

Because

Between June 2010 and 27 April 2011 in X, **N.M.**, at all material times a prosecutor of the Special Prosecution Office of the Republic of Kosovo, while acting in the capacity of an official person, in case number PPS 87/10, an investigation involving **P.M.**, took advantage of his official position and authority thereby exceeding the

limits of his authorisations, with intent to obtain an unlawful material benefit in the sum of 50,000 Euros for himself, **R.Z.** and **X.Z.**, offered to terminate the investigation in case number PPS 87/10 against **P.M.**, secured the termination of house detention against **P.M.** and revealed to **R.Z.** and **X.Z.** confidential information from case file PPS 87/10 thereby enabling **R.Z.** and **X.Z.** to extort from **P.M.** a material benefit in the sum of 30,250 Euros and in the course of which further abused his official position by allowing **P.M.** to leave the address at which he was then residing under the conditions imposed in a ruling on house detention, in breach of the terms of that ruling.

THEREBY committing the criminal offence of Abusing Official Position or Authority under Article 3 (2) and Article 422 (1) of the Criminal Code of the Republic of Kosovo (hereinafter the "CCRK")¹.

¹ Law number 04/L - 082 in force since 1 January 2013.

Under Count 2:

is

GUILTY

Because

Before 11 September 2011 **N.M.**, at all material times a prosecutor of the Special Prosecution Office of the Republic of Kosovo, while acting in the capacity of an official person, with intent to obtain an unlawful material benefit for himself, abused his official position and authority in that he revealed to **M.N.** official information from case file number PPS 99/10, an investigation involving **V.L.**, **A.L.** and **L.K.** and further he revealed to **M.N.** official information from case file number PPS 65/10, an investigation involving **V.L.** and **A.G.**, with the intention that **M.N.** would contact the suspects in those investigations, whereupon she contacted **V.L.** and, upon his instructions, offered to terminate the investigations in return for them paying an unspecified and undetermined sum of money.

THEREBY he committed the criminal offence of Abusing Official Position or Authority under Article 3 (2) of the CCRK and Article 339 (1) of the CCK.

Under Count 3

is

GUILTY

Because at approximately 6 p.m. on 2 April 2012 at X he was unlawfully in possession of a 'Crvena Zastava' pistol, model M-70 of 7.65 x 17mm caliber with no serial number, one magazine with 8 bullets of 7.65 x 17mm caliber and a single bullet of 7.65 x 17mm caliber for which he did not possess a valid Weapon Authorisation Card as required by law².

THEREBY he committed the criminal offence of Unauthorized Ownership, Control, Possession or Use of Weapons under Article 3 (2) and Article 374 (1) of the CCRK.

² Law No. 03/L-143.

2. R.Z.

Under Count 1

is

GUILTY

Because

Between June 2010 and 27 April 2011 in X, **R.Z.**, acting in co-perpetration with **X.Z.**, requested from **P.M.** an undue advantage in the sum of 50,000 Euros and received a material benefit in the total sum of 30,250 Euros comprising a payment of 20,000 Euros from **L.N.**, 3,000 Euros from **P.M.**, 5,000 Euros from **G.H.** and from **P.M.** a significant quantity of flour that realised a retail value of 2,350 Euros, all in consideration for the exertion of an improper influence by **R.Z.** and **X.Z.** over the decision-making of **N.M.**, a prosecutor of the Special Prosecution Office of the Republic of Kosovo and an official person, in order to achieve on behalf of **P.M.** the termination of house detention that had been imposed by the court on **P.M.** as well as the termination of the investigation against **P.M.**

in case number PPS 87/10; the re-instatement of **P.M.** to his previous position as Liquidator of X in X and, further, to allow **P.M.** to leave the address at which he was residing under the conditions imposed in a ruling on House Detention.

THEREBY he committed the criminal offence of Trading in Influence under Article 3 (2) of the CCRK and Article 345 (1) in conjunction with Article 23 of the CCK.

Under Count 2

is

GUILTY

Because

Between June 2010 and 27 April 2011 in X and X, **R.Z.**, acting in co-perpetration with **X.Z.**, intentionally incited **N.M.**, a Prosecutor of the Special Prosecution Office of the Republic of Kosovo and an official person, to commit the offence of Abuse of Official Position or Authority whereby the said **N.M.** took advantage of his official position and authority thereby exceeding the limits of his authorisations with intent to obtain an unlawful material

benefit in the sum of 50,000 Euros for himself, **R.Z.** and **X.Z.** in that, within the context of his investigation in case number PPS 87/10, he secured the termination of House Detention imposed upon **P.M.**; offered to terminate the said investigation; revealed to **R.Z.** and **X.Z.** confidential information from the case file thereby enabling **R.Z.** and **X.Z.** to extort from **P.M.** an unlawful material benefit in the sum of 30,250 Euros and allowed **P.M.** to leave the address at which he was residing under the conditions imposed in a ruling on House Detention.

THEREBY he committed the criminal offence of Incitement to Abusing Official Position or Authority under Article 3 (2) and Article 422 (1) in conjunction with Articles 31 and 32 (1) of the CCRK.

3. X.Z.

Under Count 1

is

GUILTY

Because

Between June 2010 and 27 April 2011 in X and X, **X.Z.**, acting in co-perpetration with **R.Z.**, requested from **P.M.** an undue advantage in the sum of 50,000 Euros and received a material benefit in the total sum of 30,250 Euros comprising a payment of 20,000 Euros from **L.N.** 3,000 Euros from **P.M.**, 5,000 Euros from **G.H.** and from **P.M.** a significant quantity of flour that realised a retail value of 2,350 Euros, all in consideration for the exertion of an improper influence by **X.Z.** and **R.Z.** over the decision-making of **N.M.**, a prosecutor of the Special Prosecution Office of the Republic of Kosovo and an official person, in order to achieve on behalf of the said **P.M.** the termination of house detention that had been imposed by the court on **P.M.** as well as the termination of the investigation

against **P.M.** in case number PPS 87/10; the re-instatement of **P.M.** to his previous position as Liquidator of X in X and, further, to allow **P.M.** to leave the address at which he was residing under the terms of a ruling on House Detention.

THEREBY he committed the criminal offence of Trading in Influence under Article 3 (2) of the CCRK and Article 345 (1) in conjunction with Article 23 of the CCK.

Under Count 2

is

GUILTY

Because

Between June 2010 and 27 April 2011 in X and X, **X.Z.**, acting in co-perpetration with **R.Z.**, intentionally incited **N.M.**, a Prosecutor of the Special Prosecution Office of the Republic of Kosovo and an official person, to commit the offence of Abusing of Official Position or Authority whereby the said **N.M.**, took advantage of his official position and authority thereby exceeding the limits of his

authorisations with intent to obtain an unlawful material benefit in the sum of 50,000 Euros for himself, **X.Z.** and **R.Z.**, abused his official position in that, within the context of his investigation in case number PPS 87/10, secured the termination of House Detention imposed upon **P.M.**; offered to terminate the investigation; revealed to **X.Z.** and **R.Z.** confidential information from the case file thereby enabling **X.Z.** and **R.Z.** to extort from **P.M.** an unlawful material benefit in the sum of 30,250 Euros and allowed **P.M.** to leave the address at which he was residing under the terms of a ruling on House Detention.

THEREBY he committed the criminal offence of Incitement to Abusing Official Position or Authority under Article 3 (2) and Article 422 (1) in conjunction with Articles 31 and 32 (1) of the CCRK.

4. M.N.

Under Count 1

is

GUILTY

Because

On 11 September 2011 in the X Hotel in X she intentionally assisted **N.M.**, a prosecutor of the Special Prosecution Office of the Republic of Kosovo, to commit the criminal offence of Abusing Official Position or Authority in that the said **N.M.**, while acting in the capacity of an official person, with intent to obtain an unlawful material benefit for himself, abused his official position and authority in that he revealed to **M.N.** official information from case file number PPS 99/10, an investigation involving **V.L.**, **A.L.** and **L.K.** and, further, revealed to **M.N.** official information from case file number case file PPS 65/10, an investigation involving **V.L.**, **A.G.** (and others), whereupon he agreed with **M.N.** that she would contact the suspects in those investigations and, upon his instructions, offer to

terminate the respective investigations in return for a material benefit, where after she contacted **V.L.**, a person she knew, informed him of the investigations and suggested that he and the other suspects meet her in X where, in return for the payment of an unspecified and undetermined amount of money, **N.M.** would terminate the said investigations against them, thereby enabling **N.M.** to commit the criminal offence.

THEREBY she committed the criminal offence of Assistance to Abusing Official Position or Authority under Article 3 (2) of the CCRK and Article 339 (1) in conjunction with Article 25 of the CCK.

THEREFORE, by reason of the aforementioned the court imposes the following sentences:

1. N.M.

Having been convicted of the said criminal offence under Count 1 is sentenced to a period of Imprisonment of 4 (four) years.

Having been convicted of the said criminal offence under

Count 2 is sentenced to a period of Imprisonment of 1 (one) year and a fine in the sum of 10,000 (ten thousand) Euros.

Having been convicted of the said criminal offence under Count 3 is sentenced to a term of Imprisonment of 3 months.

Pursuant to Article 71 (1) and (2) subparagraphs (2) and (4) of the CCK, the aggregate punishment is 5 (five) years Imprisonment and a fine in the sum of 10,000 (ten thousand) Euros to be paid within 30 (thirty) days.

2. R.Z.

Having been convicted of the said criminal offence under Count 1 is sentenced to a period of Imprisonment of 1 (one) year and 6 (six) months and a fine in the sum of 10,000 (ten thousand) Euros.

Having been convicted of the said criminal offence under Count 2 is sentenced to a period of Imprisonment of 3 (three) years.

Pursuant to Article 71 (1) and (2) subparagraphs (2) and (4) of the CCK, the aggregate punishment is 4 (four) years

Imprisonment and a fine in the sum of 10,000 (ten thousand) Euros to be paid within 30 (thirty) days.

3. X.Z.

Having been convicted of the said criminal offence under Count 1 is sentenced to a period of Imprisonment of 1 (one) year and 6 (six) months and a fine in the sum of 10,000 (ten thousand) Euros.

Having been convicted of the said criminal offence under Count 2 is sentenced to a period of Imprisonment of 3 (three) years.

Pursuant to Article 71 (1) and (2) subparagraphs (2) and (4) of the CCK, the aggregate punishment is 4 (four) years Imprisonment and the fine in the sum of 10,000 (ten thousand) Euros to be paid within 30 (thirty) days.

4. M.N.

Having been convicted of the said criminal offence under Count 1 is sentenced to a period of Imprisonment of 6 (six) months and a fine in the sum of 10,000 (ten thousand) Euros

to be paid within 30 (thirty) days.

Pursuant to Article 73 (1) of the CCK the time spent in detention on remand by **N.M.** from 2 April 2012 until 19 February 2013 and from 8 March 2013 until 15 March 2013, **R.Z.** from 2 April 2012 until the Judgment becomes final and **X.Z.** from 3 April 2012 until the Judgment becomes final shall be credited against the punishment.

Pursuant to Article 56 (2) of the CCK **N.M.** is prohibited from exercising any public administration or public service function for a period of three years after the term of Imprisonment imposed herein has been served.

Pursuant to Article 69 (3) and Article 374 (3) of the CCRK the 'Crvena Zastava' pistol, model M-70, caliber 7.65 x 17mm with no serial number, one magazine with 8 bullets 7.65 x 17mm and a single revolver bullet 7.65 x 17mm found in the possession of **N.M.** shall be confiscated forthwith.

Pursuant to Article 493 of the KCCP items 1 (one) to 14 (fourteen) and 24 (twenty four) inclusive which were seized during a search of **R.Z.** and **X.Z.** house on 2 April 2012 can be realized to satisfy the unlawful material benefit that

accrued to **R.Z.** and **X.Z.**

Pursuant to Article 102 (1) of the KCCP the defendants shall pay the costs of the proceedings in an amount to be determined by the court in a separate ruling.

The Injured Parties may pursue any claims for compensation through the civil courts.

REASONING

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ANNEX I Witnesses who gave evidence before the Court

ANNEX II Evidence submitted by the Parties

The annexes hereto comprise an integral part of this Judgment.

I. Introduction

i. Applicable Criminal Code

Article 3 (2) of the Criminal Code of the Republic of Kosovo provides that in the event of a change in the law applicable to a given case prior to a final decision, the law most favorable to the perpetrator shall apply.

ii. Applicable Criminal Procedure Code

In its session on 7 January 2013 the Supreme Court of Kosovo issued a Legal Opinion³ wherein it stated that in all criminal proceedings in which the main trial commenced prior to the entry into force of the new Code of Criminal Procedure, the old Criminal Procedure Code would apply. This position was confirmed in the Amendment to the Opinion⁴ dated 23 January 2013.

³ 93/2013.

⁴ 56/2013.

iii. Jurisdiction of the Court and Competence of the Trial Panel

In accordance with Article 23 (1) of the KCCP, District Courts have jurisdiction to adjudicate at first-instance criminal offences punishable by Imprisonment of at least five years or those offences punishable by Long-Term Imprisonment.

In the present case the defendants were charged with offences that included Abuse of Official Position contrary to Article 339 paragraph 3 of the CCK, an offence punishable by Imprisonment of one (1) to eight (8) years.

According to the Indictment the criminal offences were committed within the jurisdiction of the District Court of Peja.

No issue was raised by the parties at the commencement of the trial regarding the jurisdiction of this Court.

On 3 January 2012 the President of the Assembly of Eulex Judges, pursuant to Article 3 of the Law on Jurisdiction, Case Selection and Case Allocation of Eulex Judges and Prosecutors (Law nr. 03/L053), issued a Ruling to take over this case.

By reason thereof, the Trial Panel of the District Court of Peja/Pec was correctly composed of a mixed panel of two EULEX Judges and one Local Judge in accordance with Article 4.7 of the Law on Jurisdiction.

No issue was raised by the parties at the commencement of the trial regarding the composition of the panel. However, at the end of the trial **R.Z.** and **X.Z.** filed an application to disqualify the Eulex judges on the trial panel on the basis that Eulex judges have no jurisdiction in Kosovo. That application was dismissed.

II. INDICTMENT

i. Amendment of the Indictment

The indictment was amended by a Ruling of this Court whereby on 4 December 2012 pursuant to Article 34 of the KCCP the Presiding Judge severed counts 3 and 4 against **R.Z.** and **X.Z.**

ii. Amended Indictment

N.M. was charged with three counts in the amended Indictment.

Count 1: Abusing Official Position or Authority under Article 339 § 1 and 3 of the Criminal Code of Kosovo.

Count 2: Abusing Official Position or Authority under Article 339 § 1 of the Criminal Code of Kosovo.

Count 3: Unauthorized Possession of Weapons under Article 328 § 2 of the Criminal Code of Kosovo.

R.Z. was charged with two counts in the amended Indictment.

Count 1: Trading in Influence under Article 345 § 1 in conjunction with Article 23 of the Criminal Code of Kosovo.

Count 2: Incitement to Abuse Official Position or Authority under Article 339 § 1 and 3 in conjunction with Article 23 and 24 of the Criminal Code of Kosovo.

X.Z. was charged with two counts in the amended Indictment.

Count 1: Trading in Influence under Article 345 § 1 in conjunction with Article 23 of the Criminal Code of Kosovo.

Count 2: Incitement to Abuse Official Position or Authority under Article 339 § 1 and 3 in conjunction with Article 23 and 24 of the Criminal Code of Kosovo.

M.N. was charged with one count in the amended Indictment: Assistance to Abusing Official Position or Authority under Article 339 § 1 in conjunction with Article 25 of the Criminal Code of Kosovo.

iii. Charges

Article 339

Abusing Official Position or Authority

(1) An official person who, with the intent to obtain an unlawful material benefit for himself, herself or another person or a business organization or to cause any damage to another person or business organization, abuses his or her

official position, exceeds the limits of his or her authorisations or does not execute his or her official duties shall be punished by Imprisonment of up to one year.

(2) When the offence provided for in paragraph 1 of the present article results in a damage exceeding 2.500 EUR or a grave violation of the rights of another person, the perpetrator shall be punished by Imprisonment of up to three years.

(3) When the offence provided for in paragraph 1 of the present article results in a material benefit exceeding 5.000 EUR, the perpetrator shall be punished by Imprisonment of one to eight years.

Article 345

Trading in Influence

(1) Whoever requests, receives or accepts an offer or promise of any undue advantage for himself, herself or another person in consideration of the exertion of an improper influence by the perpetrator over the decision-making of an official person, whether or not the influence is exerted or whether or not the supposed influence leads to the intended result, shall be punished by a fine or by Imprisonment of up to two years.

Article 328

Unauthorised Ownership, Control, Possession or Use of Weapons

(2) Whoever owns, controls, possesses or uses a weapon without a valid Weapon Authorisation Card for that weapon shall be punished by a fine of up to 7.500 EUR or by Imprisonment of one to eight years.

III. CONSIDERATIONS REGARDING THE EVALUATION OF EVIDENCE

i. Burden and standard of proof

Article 6(2) of the ECHR enshrines the presumption of innocence to which Accused are entitled. This is mirrored in Article 3(1) of the KCCP. This presumption places on the Prosecution the burden of establishing the guilt of the Accused, a burden which remains on the Prosecution throughout the entire trial.

Article 396(7) of the KCCP stipulates that *'the court shall state clearly and exhaustively which facts it considers proven or not proven, as well as grounds for this'*. Accordingly, the Trial Panel must determine in respect of each of the counts charged against each of the Accused, whether it is satisfied on the basis of the whole of the evidence so that it is sure (emphasis added) that every element of that crime has been established.

The Trial Panel pursuant to Article 7(1), (2) KCCP *'... must truthfully and completely establish the facts which are important to rendering a lawful decision'* and *'... has a duty to examine carefully and with maximum professional devotion and to establish with equal attention the facts against the defendant as well as those in ... favour ...'*.

ii. COOPERATIVE WITNESS EVIDENCE

On 1 June 2012 pursuant to Article 300 of the KCCP, **P.M.** was declared a Cooperative Witness.

Article 157(4) of the KCCP, provides that '*the court shall not find any person guilty based solely on the evidence of testimony given by the cooperative witness*'.

IV. MAIN TRIAL

Case of **P.M.**

Witnesses of Fact

The Prosecution called **P.M.** He gave a statement to police on 11 March 2011. He made a further statement on 15 April 2011. He was examined by the prosecutor on 1 February 2012. He was examined before the Pre-Trial Judge on 22 May 2012 when an order was made declaring him a Cooperative Witness. He gave evidence before this Court on 4, 5, 12 and 13 December 2012.

In 2008 he was appointed Acting Liquidator of X. In 2009 he was appointed Liquidator of X. He remained in that position until 30 April 2010 when he was dismissed.

In his capacity of Liquidator of X he gave evidence for the prosecution in 2010 against eight (8) defendants who were board members of X. The prosecutor in that case was **N.M.**

A few months after giving evidence in that case **P.M.** was called to a meeting at X and summarily dismissed. He was told the decision to dismiss him was made by the Board of X. The decision was signed by the Governor of X, **H.R.** He appealed that decision and commenced proceedings in the Municipal Court of Prishtina seeking his re-instatement⁵.

He believed the decision to dismiss him was related to the fact that he had given evidence for the prosecution in the aforesaid criminal proceedings.

He said that in July 2010 he was having coffee in a restaurant in X, when he received a telephone call. He did not recognize the number. The caller introduced himself as **X.Z.**

P.M. said had known **R.Z.** and **X.Z.** before the war. At that time he was the owner of a company that did business with the **Z.** brothers for about one year. He had not seen **R.Z.** or **X.Z.** since 1999. It appears that at that time their relationship was a cordial, business relationship.

Throughout much of his evidence **P.M.** referred to "the **Z.** brothers" or "they". He said that any meeting was usually attended by both **R.Z.** and **X.Z.** He said that his usual point of telephone contact was **R.Z.** He said there were many occasions when he contacted or was contacted by one brother but the phone was then passed to the other brother. However, he said that if he were unable to speak with **R.Z.** he would telephone **X.Z.** instead. There was a third **Z.**

⁵ Page 18 of the minutes of 4 December 2012.

brother, **B.Z.** but **P.M.** rarely had any contact with him.

P.M. confirmed that at all material times his telephone number was X. He could not recall if he also used another number at that time.

When he gave evidence before this court he said he could not recall the telephone numbers of either **R.Z.** or **X.Z.** However, in his previous evidence he gave the telephone number used by **R.Z.** as X⁶ and the telephone number used by **X.Z.** as X⁷.

He said **X.Z.** requested a meeting. **P.M.** told **X.Z.** he was having coffee and suggested they join him. He was subsequently joined in the restaurant by **R.Z.** and **X.Z.**.

Before the trial panel on 4 December 2012 **P.M.** gave evidence that when they met **R.Z.** and **X.Z.** asked him for a loan in the sum of 240,000 Euros.

They said they wanted to build a bottling plant. **P.M.** told them he was unemployed and that he could not help them. In response, they told **P.M.** an accusation was being filed against him and that *'We have a very powerful person, a friend of ours and that you should cooperate with that person and see how you could help us with that loan, but also with regards to a cooperation that person may want from you.'*⁸

⁶ Minutes of interview with prosecutor on 1 February 2013.

⁷ Do.

⁸ Page 19 of the Minutes of 4 December 2012.

He said **R.Z.** and **X.Z.** asked him about the former Governor of X. They told him their friend could help him be re-appointed to his position as Liquidator of X. However, **P.M.** gave evidence the **Z.** brothers did not say who this friend was at this first meeting or what type of assistance this person required.

It was **P.M.** evidence to the trial panel that a few days after this first meeting he received a telephone call from **R.Z.** who requested they meet again.

P.M. gave evidence he subsequently met **R.Z.** and **X.Z.** When he was examined by the prosecutor on 2 February 2012 **P.M.** stated this meeting took place two days after the initial meeting but his evidence to the trial panel was that it took place two to four days later. The **Z** brothers told him they had spoken with their friend who had confirmed he could help **P.M.** but that in return he must help their friend with a case. They described their friend as "*very strong and powerful*". They also told him a Criminal Report would be filed against him containing allegations he had received an unlawful material benefit in the sum of approximately 200,000 Euros. **R.Z.** and **X.Z.** said their friend "*is going to help you*". **P.M.** gave evidence before this Court the **Z.** brothers told him that the friend to whom they referred and the person from whom they had received the information was the special prosecutor **N.M.** They suggested a meeting with **N.M.** **P.M.** testified he informed **R.Z.** and **X.Z.** that he did not think he could assist the special prosecutor but that he would meet him as he had requested.

P.M. gave evidence that this was the first time he became aware of an investigation against him.

When interviewed by the prosecutor on 1 February 2012 **P.M.** gave evidence that approximately two days after his second meeting with **R.Z.** and **X.Z.**, when they had discussed a possible meeting with **N.M.**, he received a telephone call from **R.Z.** who told him *"The prosecutor is threatened too and he is not moving anywhere without close protection, he has no possibility to meet you outside his office but you need to go to his office"*.⁹

Several days after that telephone conversation he received a telephone call from a person who introduced herself as the secretary of **N.M.** who invited him for a meeting with the prosecutor. He did not receive a formal summons to attend the prosecutor's office.

In his evidence to the trial panel **P.M.** stated he subsequently spoke with **R.Z.** by telephone and informed him of the proposed meeting with the prosecutor the following day. He stated he spoke with **R.Z.** but he had the impression **X.Z.** was also present and he was in fact informing both **Z.** brothers.

P.M. attended the offices of the Special Prosecutor at 09:58 on 8 September 2010¹⁰.

The secretary took him to the office of **N.M.** where he was asked to wait. He waited for approximately 15 minutes

⁹ Page 22 of the Minutes of 4 December 2012.

¹⁰ Pages 795 to 814 of the main trial bundle.

before **N.M.** arrived together with a police investigator by the name of **Z.I.** The three men remained in the room.

It was **P.M.** evidence that during that meeting **N.M.** told him he needed his assistance in their case against the former Governor of X. **N.M.** told him that in return for his help he would be re-appointed to his former position of Liquidator of X.

In reply **P.M.** stated he was willing to assist but that he did not have any relevant information and he was not prepared to give false testimony against the former Governor.

In response **N.M.** told him *"OK, but don't forget a criminal report is about to be filed against you"*¹¹.

P.M. stated he was not afraid of this as he had done nothing wrong and had nothing to hide. **N.M.** told **P.M.** to *"think about it"*¹². He was told that in due course he would be asked to return to the prosecutor's office.

P.M. gave evidence that during his meeting with **N.M.** no minutes were taken and he was not asked to sign any document. He thought the meeting lasted approximately 20 minutes. That is consistent with the record of his entering and leaving the premises. The security records record that he left the offices of the SPRK at 10:50¹³.

¹¹ Page 23 of the Minutes of 4 December 2012.

¹² Do.

¹³ Pages 795 - 814 of the main trial bundle.

During that initial meeting no reference was apparently made by **N.M.** to either of the **Z.** brothers.

Upon leaving the prosecutor's office **P.M.** again called **R.Z.** to tell them what had happened. During that conversation **R.Z.** said "*Didn't we tell you it was going to be good*".¹⁴

P.M. gave evidence that a few days later he received another telephone call from the secretary of **N.M.** who asked him to attend the prosecutor's office a second time. Again, he did not receive a formal summons to attend.

P.M. attended the offices of the Special Prosecutor at 09:42 on 15 September 2010. He left the prosecutor's office at 11:50¹⁵.

He gave evidence that, upon entering the prosecutor's office, he saw **N.M.** typing at his computer. He was alone. **N.M.** then took a document off his printer and handed it to **P.M.**. He told him it was the list of persons who were to be arrested in the X case. **P.M.** saw that his name was on the list.

N.M. told **P.M.** he too should have been arrested but that he had not done so "*because of our mutual friends*"¹⁶.

P.M. gave evidence that during that meeting **N.M.** asked **P.M.** if he had thought any more about the case against the former Governor of X. **P.M.** stated he had no evidence to

¹⁴ Page 25 of the Minutes of 4 December 2013.

¹⁵ Page 739 of the main trial bundle.

¹⁶ Page 25 of the Minutes of 4 December 2012.

give that, in his opinion, might assist the prosecution. In response he said **N.M.** told him that he had received a criminal report implicating **P.M.** in a criminal offence. He said that he had only glanced through the report. He told **P.M.** he should *"...go on helping and assisting our friends the **Z.** brothers everything will be alright"*¹⁷. During that meeting they were alone in the office. Later they were briefly joined by **Z.I.**

After the second meeting with **N.M.** **P.M.** telephoned **R.Z.** and informed him he had left the prosecutor's office. **R.Z.** said *"Very well, we are going to meet"*¹⁸.

A day or two later **P.M.** met **R.Z.** and **X.Z.** in X. During that meeting **R.Z.** and **X.Z.** asked **P.M.** for 50,000 Euros in order for the investigation against him to be terminated and for him to be re-instated in his former position as Liquidator of X.

R.Z. and **X.Z.** said the sum of 50,000 Euros was to be given to **N.M.** They said **N.M.** needed the money to send his son abroad for medical treatment.

Referring to **N.M.** sons' medical condition they told **P.M.** *"he screams a lot when seated at a table he throws what he can grab without any control"*¹⁹.

P.M. asked the **Z. brothers** how he could be re-appointed to his former position as liquidator. The **Z. brothers** told him

¹⁷ Page 26 of the Minutes of 4 December 2012.

¹⁸ Page 27 of the Minutes of 4 December 2012.

¹⁹ Page 29 of the minutes of 4 December 2012.

that all of the central characters in X case, including **N.K.**, the Deputy Governor of X would shortly be summoned to appear before the prosecutor. They said the Prosecutor would have them all "*in his hands*".²⁰

P.M. told **R.Z.** and **X.Z.** he could not assist the prosecutor because he had no evidence that might assist him. He said he was, however, interested in being re-appointed to his former position as Liquidator of X.

P.M. gave evidence he offered the **Z. brothers** 20,000 Euros. The minutes of his examination on 1 February 2012²¹ refer to the sum of 27,000 Euros. Referring to the **Z. brothers P.M.** said "*nothing was for them*".²²

In response to his offer to pay 20,000 Euros **R.Z.** and **X.Z.** said "*OK, we will talk to the Prosecutor, and we will let you know how to proceed*".²³

Two or three days after that meeting, **R.Z.** contacted **P.M.** requesting a meeting. Present at the meeting was **P.M.**, **R.Z.** and **X.Z.**.. **R.Z.** told **P.M.** that **N.M.** had rejected his offer of 20,000 Euros and had repeated his previous demand of 50,000 Euros. **P.M.** gave evidence the **Z. brothers** told him **N.M.** needed that amount because the money would be divided between three people including a lawyer from X as well as someone from X whose names were not mentioned.

²⁰ Page 27 of the minutes of 4 December 2012.

²¹ Page 11 of the English version.

²² Page 22 of the English version of the Record of Examination by the prosecutor on 1 February 2012.

P.M. informed the **Z. brothers** he could not obtain that amount of money. They told him the investigation would continue but that they would do what they could to find a solution.

A few days after that meeting **R.Z.** telephoned **P.M.** and requested a further meeting. During that meeting **R.Z.** and **X.Z.** again referred to the fact **N.M.** son was ill and said "we are doing our best to help; we have to find some money in the form of a loan for the Public Prosecutor..."²⁴ They asked him for a loan. **P.M.** could not recall in what amount. He said he had no money to lend.

P.M. gave evidence that, thereafter, **R.Z.** telephoned him constantly for a period of 2 or 3 days. They agreed to meet again.

P.M. gave evidence he spoke with **L.N.** and asked him if he would lend him 20,000 Euros. He said he told him at the time of his request why he needed the money.

L.N. agreed to lend **P.M.** the money. **P.M.** gave evidence the sum of 20,000 Euros was intended as a loan. He stated it was to be given to **N.M.** to treat his son and then **R.Z.** would return it to **L.N.** on 31 December 2010.

It was the intention of the parties that a lawyer would draw-up a loan agreement. He gave evidence no contract was ever drawn-up.

²⁴ Bottom of page 3 of the Minutes of 5 December 2012.

P.M. gave evidence before this court that sometime between 25 and 30 July 2010 he and **L.N.** met **R.Z.** In his statement of 1 February 2012 he said, "*if I am not mistaken*" the meeting took place sometime between 26 and 30 July 2010 in a restaurant beside the cadastral office in X.

He said **X.Z.** was not present during the meeting when **L.N.** gave the money to **R.Z.**

P.M. was asked why he asked **L.N.** to give this money to the **Z. brothers.** He gave evidence the intended recipient was **N.M.** He said he arranged the loan because he saw the risk he was facing with the prospect of trying to defend himself against a baseless criminal charge. He was afraid his situation would deteriorate if he did not cooperate with the **Z. brothers.**

When the loan was not repaid on 31 December 2010 **P.M.** spoke to **R.Z.** and requested the immediate re-payment of the loan. **L.N.** met **P.M., R.Z.** and **X.Z.** in X. **L.N.** agreed a one-month extension for repayment of the loan.

Referring to **R.Z.** and **X.Z., P.M.** gave evidence that at the beginning of August 2010 "they" began calling him again. They said 20,000 Euros was not enough and they needed more money. He said they would not leave him alone. Therefore in addition to the 20,000 Euro loan made by **L.N., P.M.** gave evidence that he then took a loan of 3,000 Euros from the X Bank²⁵ and gave that sum to **R.Z.** **P.M.** put his private motor car and certain household items as security for the loan.

²⁵ pages 740 - 762 of the main trial bundle.

It was agreed between **P.M.** and **R.Z.** that this money was intended as a loan and **R.Z.** said he would pay interest on the loan. The loan was never repaid. Again, no formal loan agreement was drawn-up.

P.M. gave evidence that he called the **Z. brothers** again on 31st January 2011 about their returning the money. He said they informed him they did not have the money and proposed a meeting. He said he did not agree to a meeting as he thought there was no point unless they had the money.

Then, on 24 February 2011 at approximately 3 p.m. **P.M.** received a telephone call from the police instructing him to attend a meeting with the investigating officer at 10am on 28 February 2011. The person with whom **P.M.** spoke told him to attend the office of **Z.I.** He did not receive a formal summons.

Having received that telephone call **P.M.** called **R.Z.**.. The following day he met **R.Z.** and **X.Z.** in X. They told **P.M.** he would be asked to give a statement. They told **P.M.** they would contact their "friend" and that they would obtain "all information". They said "our friend will not do anything that is not good for you". He said they informed him of other persons who would be interviewed.

P.M. gave evidence that when he arrived at the investigator's office on 28 February 2011 at 10am as instructed he was told the meeting had been postponed until 1pm.

Present at the meeting were his lawyer **B.M.** and **Z.I.** The interview lasted for approximately three hours at the conclusion of which he was told by **Z.I.** "you are arrested". When **P.M.** enquired on what grounds he was being arrested **Z.I.** simply stated the decision was that of **N.M.** **P.M.** said **Z.I.** promised he would be released within twenty-four hours.

P.M. was taken to the Detention Centre. During the period of his detention his brother **S.M.** arrived from X. **S.M.** engaged another lawyer, **T.G.** **S.M.** went to the Detention Centre with **T.G.**

P.M. gave evidence he told **T.G.** the whole story, including the request for 50,000 Euros.

On 2 March 2011 **P.M.** appeared before the District Court of X when house detention was ordered for a period of 30 days.

At no time prior to the hearing for detention on remand was **P.M.** interviewed by the prosecutor in the case, **N.M.**

Several days after his release from detention, while still under house detention **P.M.** spoke by telephone with **R.Z.** **R.Z.** and **X.Z.** came to his home. Also present at that meeting was **S.M.**. Referring to the conversation with **S.M.**, **R.Z.** said he had informed **N.M.** of the threats made **S.M.** and that, in reply, **N.M.** had stated "if that is the case then he will stay for another 24 hours".²⁶ **P.M.** gave evidence **R.Z.** insinuated it was **S.M.** fault his brother had been in

²⁶ Page 16 of the minutes of 5 December 2013.

detention. **P.M.** gave evidence of his brother becoming enraged by this and of his having to calm him down.

Approximately 2 - 3 days after that meeting **P.M.** contacted the police to inform them of the whole story involving **R.Z.**, **X.Z.** and **N.M.**

P.M. gave evidence that one evening during his house detention **R.Z.** and **X.Z.** arrived at his home and invited him to join them for coffee. **P.M.** told them he could not leave home because he was under house detention. **P.M.** gave evidence that **R.Z.** purported to telephone **N.M.** **R.Z.** said to the person on the telephone "*we are at our friends house, can we take him out and have coffee?*"²⁷ He could not hear the person with whom **R.Z.** was talking. **R.Z.** informed him he could leave the house. He said **N.M.** had stated "*inform me when you finish*". **P.M.** said he refused to leave the house.

A few days after that visit **P.M.** telephoned "them" and asked the **Z. brothers** to arrange for him to give a statement to the prosecutor. He said "*they*" contacted him and said he should make a formal request through his counsel. He did and received a formal summons dated 13 April 2011 from the prosecutor.

Upon receipt of the prosecutors summons **P.M.** contacted **R.Z.** and informed him of the summons. He asked **R.Z.** how he could attend the prosecutor given the order for house detention. He was told this would be arranged but **P.M.** would have to

²⁷ Page 17 minutes of 5 December 2012

pay 5,000 euros as "compensation".²⁸

On 19 April 2011 unaccompanied and in his own vehicle, **P.M.** went first to the offices of his lawyer **T.G.** and from there they both went to the office of **N.M.**

P.M. gave evidence that on that occasion **N.M.** asked him "*How are our friends?*"²⁹

During that interview **N.M.** received a telephone call. **P.M.** heard **N.M.** say "*He is here. Everything is all right.*"³⁰

The official records show that he arrived at the offices of the SPRK at 10:25 on 19 April 2011. He left the offices of the SPRK at 13:25³¹.

When he left the prosecutor's office he called **R.Z.** It was clearly his impression that it was **R.Z.** with whom **N.M.** had spoken during his interview.

P.M. gave evidence that sometime at the end of March 2011³² he contacted **R.Z.** and requested they repay the loans in the total sum of 28,000 Euros before 5 April 2011.

On 28 March 2011 **N.M.** filed in court a request to extend the house detention. The application was granted by a ruling of the District Court of Prishtina dated 31 March 2011 and subsequently confirmed by the Supreme Court of

²⁸ Page 17 of the Minutes of 5 December 2012.

²⁹ Page 19 of the Minutes of 5 December 2013.

³⁰ Do.

³¹ page 739 of the trial bundle.

³² Page 19 of the Minutes of 5 December 2012.

Kosovo.

P.M. gave evidence he contacted **R.Z.** Both **R.Z.** and **X.Z.** went to his house. During that meeting he told them to keep the money but terminate the house detention.

He subsequently spoke with **R.Z.** who informed him house detention had been terminated. He said the following day he received the decision terminating house detention.

He subsequently spoke with **X.Z.** and thanked him for arranging termination of house detention.

When house detention was terminated **R.Z.** requested a further loan. **P.M.** told him he did not have the money. However, **P.M.** son was the owner of a flour mill. **P.M.** agreed to give **R.Z.** flour to the value of approximately 2,250 - 2,350 Euros.

P.M. gave evidence the **Z. brothers** told him they were doing everything possible to help **N.M.** to take his son for medical treatment.

Having given a statement to police disclosing the course of events involving the **Z. brothers**, in consultation with police, **P.M.** contacted **R.Z.** and told him he would offer 50,000 Euros to see an end to the investigation against him. **R.Z.** said they would contact **N.M.** Two days later **R.Z.** contacted **P.M.** and said **N.M.** was unwilling to accept the money because **P.M.** had informed the lawyers of their discussions.

On 10 March 2011 **R.Z.** again contacted **P.M.** and this time requested 5,000 Euros. Both **R.Z.** and **X.Z.** were present when **R.Z.** requested the money. He said he would return the money on 14 March 2010. In order to gain their trust **P.M.** agreed to give them the money that he borrowed from **G.H.** He said he told **G.H.** "briefly" about the circumstances for which he was requesting the money.

G.H. told him that he met **R.Z.** and that he gave him the sum of 5,000 Euros. **P.M.** told **G.H.** that he would repay the money.

P.M. never personally spoke with **N.M.** regarding money either in person or by telephone.

P.M. gave evidence that during some meetings with the **Z. brothers** they showed him SMS messages they said were sent by or to **N.M.** They did not let him read the content. He said that during other meetings the **Z. brothers** would call **N.M.** and refer to the fact they were meeting a "friend". On one occasion the **Z. brothers** showed **P.M.** a photograph recorded on one of their mobile telephones that they said had been taken at the Bektashi temple. The photograph depicted **N.M.** and a young boy.

P.M. said *"in the majority of meetings I had with the **Z. brothers** they spoke to the prosecutor in my presence"*.³³

On one occasion he spoke with one of the **Z. brothers** by telephone who told him they were with a "friend". The

³³ Page 19 of Minutes of 12 December 2012

telephone was then handed to this person who spoke with **P.M.**. This person asked **P.M.** how he was. **P.M.** said he recognized the voice of **N.M.** **N.M.** said to **P.M.** "*Do not worry, all will be alright*".³⁴ He could not recall when this conversation took place.

The prosecution called **L.N.** He was examined by the prosecutor on 23 March 2012. He gave evidence before this Court on 9 January 2013. **P.M.** is his brother in law.

It was **L.N.** evidence that in the summer of 2010 **P.M.** asked him if he would lend him 20,000 Euros. He gave evidence before this Court that **P.M.** told him he needed the money because an "*accusation*" was being prepared against him. He said **P.M.** told him he needed the money to "*get rid of the indictment*".

L.N. gave evidence before this court the reason he lent the money to the **Z. brothers** was because **P.M.** believed they could have him reinstated in his former position at the bank. However, when he was examined by the prosecutor on 23 March 2012 he said **P.M.** "*was afraid to get arrested*". On that occasion he was asked by the prosecutor to explain the reason **P.M.** had requested he make a loan of 20,000 Euros to the **Z. brothers**. In reply he said **P.M.** told him "*They will perform the job for me, and they asked this money from me*". However, later in that examination the prosecutor asked **L.N.** if the money given to the **Z. brothers** was in return for "*some kind of favour*". In reply **L.N.** stated "*P.M. told me **Z. brothers** could return me to my previous position*"

³⁴ Page 21 of the Minutes of 12 December 2012.

through some other people according to him I gave this 20,000 Euros just for this purpose"³⁵.

L.N. agreed and together with **P.M.**, he met **R.Z.** and **X.Z.** in X.

It was his evidence he had not met either **R.Z.** or **X.Z.** prior to that date. Referring to the loan he said "It went through **P.M.** as I did not know them at all. If I would to live 100 years I would not loan money to anyone that I don't know."

L.N. said he did not pay particular attention to the conversation and could not recall precisely what was discussed. There was some discussion regarding the **Z. brother's** business interests. However, he did recall the **Z. brothers** stating they had "influential people in X and they can perform big jobs".³⁶

When he gave evidence before this court he said reference was made to "the public prosecutors"³⁷. However, when he was examined by the prosecutor **L.N.** was asked "Did **Z. brothers** mention what kind of influential people..." In reply he **L.N.** said "Not to me". He said the meeting lasted 15 - 20 minutes.

Indeed, when he was examined by the prosecutor, **L.N.** was asked "Did **Z. brothers** or **P.M.** mention anything about the involvement in this case of any state officials?" In reply

³⁵ Page 373 of the main trial bundle.

³⁶ Page 372 of the main trial bundle.

³⁷ Page 3 of the Minutes of 9 January 2013.

he said "All they said was "we have people in X that they can have the job done" but nothing about the names or the functions of those people".³⁸

He agreed to lend the **Z. brothers** the sum of 20,000 Euros that sum to be repaid before the New Year. **P.M.** was the guarantor for the loan.

L.N. gave evidence it was agreed the arrangements for the loan would be put into a written contract. He denied any provision was made for payment of interest on the loan.

He gave evidence he was to attend the offices of lawyer **P.P.** in order to sign the contract. However, it appears that on the day he was due to attend the lawyers' office he received a phone call from **P.M.** telling him the **Z. brothers** had failed to attend the lawyers' office. He never signed a contract.

L.N. gave evidence that approximately four days after their first meeting in X he gave **R.Z.** 20,000 Euros in cash while sitting in **P.M.** car that was parked in front of the City Museum in X.

He said that when it became clear the money would not be repaid as agreed he and **P.M.** met with **R.Z.** and **X.Z.** This meeting took place before New Year. They agreed an extension of time for repayment of the loan.

L.N. gave evidence no reference was made by the **Z. brothers**

³⁸ Page 373 of the main trial bundle.

to their having given the money to someone else.

L.N. gave evidence his communications with the **Z. brothers** was always through **P.M.** He never met either of the **Z. brothers** without **P.M.** also being present. He said had had not given his contact details to the **Z. brothers**. He said the **Z. brothers** had never refused to return the loan. They had simply failed to do so.

The loan has still not repaid by the **Z. brothers**.

L.N. gave evidence **P.M.** told him *"They have deceived us"*. He said *"They asked for the money to return me to my previous job"*.

The prosecution called **G.H.** He was examined by the prosecutor on 26 March 2012. He gave evidence before this Court on 10 January 2013.

There is a close familial relationship between **P.M.** and the family of **G.H.** They are neighbours.

G.H. gave evidence that in March 2011 **P.M.** telephoned him and said *"I need 5000 Euros to be found immediately, you know how my situation is"*. He was at that time under house detention. **G.H.** told him he did not have the money but that he would find it.

G.H. gave evidence that **P.M.** told him the **Z. brothers** were connected with the prosecutor in the case³⁹ in which he was

³⁹ Record of examination of 26 March 2012.

charged. He said also gave evidence **P.M.** told him the money was to do with his detention. When he gave evidence before this court he said **P.M.** told him the prosecutor in question was **N.M.** He said **P.M.** told him the money was for **N.M.** However, he later conceded he had heard that name mentioned on television. Certainly, when he was interviewed by the prosecutor in March 2012 he did not mention the prosecutor by name. In fact, on that occasion he was asked if he had heard the name **N.M.** In reply he said "*It sounds familiar but I cannot remember*".

G.H. agreed to deliver the money to those persons. **P.M.** told **G.H.** to give the money to **R.Z.** He gave **G.H.** **R.Z.** telephone number. He said he did not know **R.Z.**

On 10 March 2011 **G.H.** withdrew the sum of 6,500 Euros from a Raiffeisen bank account in the name of **P.D.** that was under his control⁴⁰. He said that, of that sum, 1,500 Euros was intended for other purposes.

G.H. gave evidence that as he waited at the bank to withdraw the money he received several calls from **R.Z.** asking him if he had the money. They agreed to meet at the X petrol station in X.

G.H. handed the 5,000 Euros in cash to **R.Z.** During their brief meeting **R.Z.** said to **G.H.** "*I am trying to help **P.M.** in connection to his house arrest*". **R.Z.** wrote and signed a document⁴¹ acknowledging receipt of the money.

⁴⁰ page 737 of the trial bundle.

⁴¹ pages 735 and 736 of the trial bundle.

G.H. knew **X.Z.**, their having worked together at the X factory in X from 1982 to 1990. **G.H.** gave evidence **X.Z.** was not present during that meeting. However, he saw someone seated in **R.Z.** car but was unable to identify this person.

G.H. gave evidence that when they met **R.Z.** said that he was in a hurry. When he was interviewed by the prosecutor in March 2012 **G.H.** said that *he* was in a hurry. When this was put to him at trial he said they were *both* in a hurry.

R.Z. told him that he was going to X for a meeting with someone regarding **P.M.** house detention. He said this person would assist with **P.M.** house detention. He said the money was for that purpose.

He said that during that meeting **R.Z.** mentioned "prosecutor".

He said the meeting with **R.Z.** lasted approximately 10 minutes.

It was **G.H.** evidence **P.M.** told him he needed the sum of 5,000 Euros to give to "them". It was the prosecution case this was reference to **R.Z.** and **X.Z.** **G.H.** gave evidence he did not meet **X.Z.** in connection with the matter in issue in these proceedings. Indeed, when he gave **R.Z.** the money **R.Z.** told him "*I am trying to help P...*" However, **G.H.** gave evidence **P.M.** mentioned both **R.Z.** and **X.Z.** in relation to the matters in issue.

G.H. gave evidence that when he delivered the signed receipt to **P.M.** he again mentioned the fact the **Z. brothers** were connected to the prosecutor in his case. He stated **P.M.** mentioned **N.M.**

Approximately 1-2 months later **P.M.** repaid the sum of 5,000 Euros.

G.H. gave evidence that one one occasion when he visited **P.M.** at his home both **R.Z.** and **X.Z.** were also present. However, they left upon his arrival.

The prosecution called **S.K.** She was examined by the prosecutor on 27 March 2012. She gave evidence before this court on 15 January 2013.

Since June 2007 she has been employed as an assistant to the prosecutors at the SPRK. She was on maternity leave from approximately February to August 2010. After her return from maternity leave and for a period of approximately 3 months she worked for various prosecutors. Thereafter, and prior to his arrest, she worked for **N.M.** She did not work exclusively for **N.M.** but for other prosecutors as well.

Her job involved filing, translation and other administrative duties including summonsing defendants and witnesses. She worked on the case of the former Governor of X. She worked with the files in the case involving **P.M.**

Although it appears it was normal practice to serve written summonses upon defendants and witnesses it was not unusual

to summons persons by telephone. On those occasions the person who had been summoned would normally sign a summons upon his/her arrival at the SPRK offices. She said this was not an unusual practice.

Initially she said she could not recall if she had issued a written summons for **P.M.** Later in her testimony she said that she had. She could not recall how many summonses she had issued for **P.M.**

In her evidence before the court she said she could not be sure if **P.M.** had been summonsed in writing or contacted by telephone. When she was examined by the prosecutor in March 2012 she said she had never telephoned **P.M.** and asked him to attend the offices of the SPRK.

She gave evidence that on one occasion she summonsed **P.M.** to attend before the police investigator, **Z.I.** She thought that was the only occasion she had contacted **P.M.** by telephone.

She gave evidence **P.M.** had met **N.M.** in a "session" at the offices of the SPRK. She thought it was in 2011. She could not recall if **P.M.** had attended the offices of the SPRK more than once. She could not recall if **P.M.** and **N.M.** had spoken outside the session.

S.K. gave evidence she could not recall how many times **P.M.** had attended the offices of the SPRK. She did not recall **N.M.** having ever asked her to contact **P.M.** to attend the SPRK for an informal meeting.

Referring to the case against the Governor of X she said she had never seen a list of persons to be arrested.

S.K. gave evidence she knew **R.Z.** as a friend of **N.M.** She only knew the name **X.Z.** having read it in the newspapers following the arrest of **N.M.**

It was her evidence staff members are assigned a unique telephone number. She said she recalled one occasion when **R.Z.** telephoned the private office number of **N.M.** and asked to speak with him. She said **R.Z.** left his name with her. She could not recall what, if anything, further **R.Z.** had said on that occasion. When she was examined by the prosecutor in March 2012, referring to that occasion she said she asked **R.Z.** if he wished to leave a message and that in reply he stated "*This is R, his friend, tell him to call me back*".

The prosecutor put in evidence extracts from the personal diary of **S.K.** It was her evidence she made the notes as an *aide memoire*. She confirmed two entries in those extracts. The first entry stated "*Per N.M. 13.40 R.Z.*" The handwritten date at the top of the page was 20 September 2010. **S.K.** confirmed it was her handwriting.

S.K. gave evidence that entry related to the occasion when she had taken a message from **R.Z.** when he had telephoned the private official number of **N.M.** to which she had referred in her evidence.

A second entry stated "*R.Z. - 28.03.2012 11.25*". Again, she

confirmed that she made that entry⁴². That visit is confirmed by the official records⁴³.

She said that entry referred to an occasion on 28 March 2012 when **R.Z.** had appeared at the offices of the SPRK requesting a meeting with **N.M.** She said she informed **N.M.** of **R.Z.** appearance and that he agreed to meet him. She was not present during that meeting. She did not know how long that meeting lasted.

According to the official records that meeting lasted 15 minutes.

According to the official records, **R.Z.** also visited the offices of the SPRK at 14:30 on 12 May 2011. He left the offices 7 minutes later⁴⁴.

She recalled **T.G.** visiting the office of **N.M.** on several occasions in relation to the case.

The prosecution called **L.Z-M.** She was examined by the prosecutor on 27 March 2012. She gave evidence before this court on 16 January 2013.

Between August 2006 and September 2010 she was employed by the SPRK as a Legal Officer. She worked for various prosecutors.

⁴² Pages 738 and 739 of the trial bundle

⁴³ page 739 of the trial bundle

⁴⁴ page 739 of the trial bundle

She gave evidence the investigation into the former Governor of X was the main reason she resigned in September 2010.

A decision was taken early in the investigation to proceed against the former Governor and his closest associates. The two legal officers working on the case were **L.Z-M.** and **S.S.** Initially a Eulex legal officer was assigned but later removed from the case.

L.Z-M. gave evidence she was concerned about the direction the case was taking. In her opinion the evidence did not support the allegations. She believed evidence was being manipulated in order to justify the continuing detention of the former Governor of X. She expressed her concerns to **N.M.** and to his superiors. She was instructed to continue working on the case and to follow the instructions of **N.M.** She resigned from her position. It was her evidence that a Eulex legal officer by the name of **F.L.** shared her concerns. She said that when he voiced those concerns he was removed from the case.

She recalled seeing in the case file a list of persons to be arrested. She could not recall the names on the list.

She said she was told by **S.K.** that **P.M.** was summonsed to the offices of the SPRK and that he appeared on two occasions. She said she was told by **S.K.** that **P.M.** had informal discussions with **N.M.** and **Z.I.** prior to the dates on which he was officially summonsed. The official records record **P.M.** visiting the offices of the SPRK on 8 and 15

September 2010⁴⁵.

The prosecution called **S.H.** She was examined by the prosecutor on 10 April 2012. She gave evidence before this court on 16 January 2013.

Between September 2010 and March 2011 she worked as a legal officer in the SPRK. She has worked for various prosecutors including **N.M.**

She worked on the case involving the former Governor of X. She was informed by **L.Z-M.** that **I.A.** had requested a case analysis. Together with **L.Z-M.** she reviewed the case and drafted an analysis of the evidence. In her opinion the evidence was insufficient to support the proposed charges. Their report was given to **N.M.**

S.H. gave evidence that in February 2011 she drafted the Ruling on Initiation of Investigation in the case against **P.M.** She was satisfied there was sufficient evidence against **P.M.** to justify issuing such a Ruling. She said the draft was forwarded to Eulex and subsequently amended.

She could not recall seeing in the case file a list of persons to be arrested. She thought that if there had been such a list she would have seen it.

She said she never saw **P.M.** at the offices of the SPRK. She could not recall any informal meeting taking place with

⁴⁵ Pages 819 and 820 of the trial bundle.

P.M. at the offices of the SPRK.

She left the SPRK in March 2011.

The prosecution called **S.M.** He was examined by the prosecutor on 10 April 2012. He gave evidence before this court on 16 and 17 January 2013.

He is the brother of **P.M.** He described their having a close relationship.

S.M. said he was not aware of any business relationship between **P.M.** and **R.Z.** and/or **X.Z.**

He gave evidence that at all material times and until July 2011 he was living in X. He said he was in daily contact with his family. He kept in touch with his brother. He said that during one conversation with his brother **P.M.** referred to an "initiative" against against him with **N.M.** through the **Z.** "brothers" involving a 50,000 Euro bribe.

It was his evidence that during their telephone conversations **P.M.** informed him that he was being blackmailed by **R.Z.**, **X.Z.** and **N.M.** whom, he said, had demanded 50,000 Euros to make the case against him "disappear".

When he gave evidence before this Court he initially said **L.N.** gave the money to the **Z. brothers.** He was clear the purpose was "to have **N.M.** son treated"⁴⁶.

⁴⁶ Pages 27 and 28 of the minutes of 16 January 2013.

S.M. gave evidence that on 28 February 2011 he received a telephone call from the son of **P.M.** informing him **P.M.** had been arrested. He immediately travelled to Kosovo, arriving on 1 March 2011.

It was his evidence that upon his arrival in X he spoke with **R.Z.** by telephone. He said he "thanked" him for **P.M.** arrest and demanded the return within 24 hours of the money that he had received. **R.Z.** told him that he was in X. He said **R.Z.** denied he had anything to do with **P.M.** arrest. He said he would contact **N.M.**⁴⁷.

S.M. gave evidence that during their telephone conversation **R.Z.** asked him to extend the deadline for repayment of the loan or to "withdraw the accusation". They agreed to meet upon **R.Z.** return from X.

S.M. gave evidence he instructed a lawyer, **T.G.**, to represent **P.M.** He went to the office of **N.M.** but was unable to speak with him.

S.M. attended court on the occasion Detention on Remand was replaced by House Detention. He gave evidence he saw **N.M.** outside the courtroom. He said he ignored **N.M.**

He said that two days after **P.M.** was released into House Detention he was present at a meeting at the home of **P.M.** at which he, **P.M.**, **R.Z.** and **X.Z.** were present. He said **R.Z.** told him that because of the threats he had made to **R.Z.**

⁴⁷ See also email sent by **SM** on 3 April 2012 [pages 763 - 768 of the main trial bundle].

when they had spoken he was to blame for **P.M.** detention being extended by 24 hours. **R.Z.** stated **N.M.** had said "since **S** has threatened you **P** shall suffer another 24 hours of arrest"⁴⁸ **R.Z.** said **N.M.** had said that if **S.M.** made further threats he would have **S.M.** arrested.

S.M. gave evidence **R.Z.** stated that everything would be ok and that "they" would speak with **N.M.** but that they would have to pay 50,000 Euros if the allegations were to "disappear".

It was his evidence that during that meeting both **R.Z.** and **X.Z.** had stated that they had been instructed by **N.M.** to inform **P.M.** that he would terminate the case against **P.M.** for payment of 50,000 Euros. They said they had a close family relationship with **N.M.** They said that because of their friendship they could make the case disappear.

R.Z. mentioned **N.M.** son. He said his son was ill and that **N.M.** proposed sending him to X for treatment. It was for that reason that he needed money. **S.M.** said that he offered to help by finding a suitable expert in X.

S.M. said he asked to meet **N.M.** **R.Z.** said **N.M.** did not wish to meet him because he had apparently offended **N.M.** by not greeting him when they met outside the court on the day of **P.M.** detention hearing.

S.M. gave evidence that at the conclusion of that meeting he told the **Z. brothers** that he would go to X and meet with

⁴⁸Page 471 of the main trial bundle

P.M. lawyer, **T.G.** and another lawyer previously instructed by **P.M.** In response **R.Z.** stated that he and **X.Z.** would travel to X to meet **N.M.** **R.Z.** suggested they meet later in X. **SM** gave **R.Z.** his telephone number. It was a pre-paid number. He thought the number was XXX XXX XXX.

S.G. gave evidence he travelled to X that day where he settled the fees of both lawyers. He said he did not tell the lawyers about the involvement of the **Z. brothers** or **N.M.** in the alleged offences.

While in X he received a phone call from **R.Z.** who requested they meet. They met in a café. He said **X.Z.** was also present.

During that meeting **R.Z.** said he had spoken with **N.M.** **R.Z.** said *"It would have been better to pay the 50,000 to us to make the case go away rather than give that money to the lawyers"*.⁴⁹

S.M. gave evidence **P.M.** told him he had borrowed 20,000 Euros from **L.N.** to give to the **Z. brothers**. This money was to be given to **N.M.** for the treatment of his son. He said it was a loan, to be repaid by the **Z. brothers** within 4 months. He said he did not know if **P.M.** expected to receive anything in return for the loan. However, in answer to a question regarding the status of the 20,000 Euros from **L.N.** **S.M.** said *"This had to do with the disappearing of the case against my brother in which case the money was not to be paid back by **Z. brothers**"*. He also gave evidence that on

⁴⁹ Page 31 of the minutes of 16 January 2013

one occasion when they met, **R.Z.** said the money was to make the case against **P.M.** "disappear". **S.M.** gave evidence **X.Z.** repeated and endorsed everything his brother said and he believed **N.M.** was their "leader".⁵⁰

He said he knew **P.M.** had borrowed 5,000 Euros from **G.H.** He said he was told by **P.M.** this money was intended for the treatment of **N.M.** son.

He said he knew **P.M.** had given the **Z. brothers** the further sum of 3,000 Euros. He said **P.M.** did not tell him if this was a loan or, indeed, why he had given them this money.

The prosecution called **T.G.** He was examined by the prosecutor on 11 April 2012. He gave evidence before this court on 12 February 2013.

He gave evidence that on 4 March 2011 he was instructed by **S.M.** to represent **P.M.** who was at that time in detention. The case against **P.M.** was PPS 87/10.

On 4 March 2011 **T.G.** visited **P.M.** at the detention centre in X. He represented **P.M.** at the subsequent detention hearing when detention on remand was replaced with house detention.

T.G. gave evidence that during the detention hearing **P.M.** had told him "*There are other reasons why the public prosecutor has detained me*". **T.G.** said he told **P.M.** not to mention this to the judge.

⁵⁰Page 32 of the minutes of 16 January 2013.

It was his evidence that at their first meeting **P.M.** had told him that someone acting on behalf of the prosecutor had requested 50,000 Euros.

When **T.G.** was examined in April 2012 he did not say who had asked **P.M.** for 50,000 Euros. However, later in his evidence he said **P.M.** had stated that he did not give 50,000 Euros "*to these brothers*"⁵¹. He said that although **P.M.** had mentioned the names of two brothers he could not now recall their names.

When he gave evidence before this court he said it was the two brothers who had demanded the 50,000 Euros on behalf of the prosecutor.

T.G. gave evidence that during a break in the detention hearing he spoke with **N.M.** He told him **P.M.** had stated "*somebody requested money on behalf of the Public Prosecutor*". **N.M.** denied he had demanded any money.

He could not recall **P.M.** mentioning having given any other sums of money.

During one of their meetings **P.M.** told **T.G.** that **N.M.** had applied pressure on him to give evidence in the case against the former Governor of X. He had refused stating he did not know anything.

It was his evidence that while in House Detention **P.M.**

⁵¹Page 6 of 12 February 2013.

arrived at his office without the usual police escort. **T.G.** told **P.M.** he could be arrested for violating the terms of his house detention. In reply **P.M.** had stated "don't worry this has been taken care of".

T.G. and **P.M.** went together to the prosecutor's office where **P.M.** gave a statement. When he was examined by the prosecutor in April 2012 **T.G.** gave evidence that **N.M.** appeared not to be surprised that **P.M.** had arrived without a police escort⁵². When he gave evidence before this court he said **N.M.** knew **P.M.** had travelled from his home without a police escort.

T.G. gave evidence that when the interview concluded **N.M.** asked **P.M.** about two brothers. When he gave evidence in April 2012 **T.G.** stated **P.M.** replied "ironically" that they were fine. **T.G.** could not recall if **P.M.** had mentioned the names of these "brothers".

T.G. gave evidence **P.M.** told him that he had spoken with the chief prosecutor **I.K.** **P.M.** gave **T.G.** a copy of his application dated 5 October 2011 submitted to the President of EULEX Judges and Chief EULEX Prosecutor to take over the case and disqualify **N.M.** from case PPS. 87/10.

A new case was subsequently initiated against **P.M.** under case number PPS 02/12.

On 13 January 2012 in case PPS number 02/12 a summons was signed by or on behalf of **N.M.** for **P.M.** to appear at the

⁵²Record of examination of 11 April 2012.

offices of the SPRK at 10:30 on 2 February 2012⁵³ in the capacity of a suspect.

On 27 January 2012 case PPS 02/12 was transferred⁵⁴ to the District Prosecution Office and subsequently discontinued.

T.G. said **S.M.** had not told him about the allegations involving **N.M.** or the **Z. brothers**. In fact he said he spoke to **S.M.** for a matter of minutes.

T.G. gave evidence he respected **N.M.** Indeed, he had even recommended **N.M.** for an ambassadorial appointment.

Counsel for **R.Z.** called **P.P.** He had not previously given a statement to police or the prosecutor. He gave evidence before this court on 14 February 2013.

P.P. is a lawyer. He gave evidence that in 2010 he was contacted by **R.Z.** and **L.N.** Each referred to a contract it was proposed **P.P.** should draw-up relating to a loan in the sum of 20,000 Euros from **L.N.** to **R.Z.**

P.P. gave evidence that he did not discuss the terms of the proposed contract with either **R.Z.** or **L.N.**

He said he asked **R.Z.** to provide him with a Property Certificate. When he came to court **P.P.** brought with him a sealed Property Certificate. He could not recall who had given it to him.

⁵³ Page 2914 of the main trial bundle.

⁵⁴ Page 2915 of the main trial bundle.

P.P. gave evidence he heard nothing further from either **R.Z.** or **L.N.** and a contract was never drawn-up.

He did give evidence that he was contacted by **P.M.** who enquired about the draft contract. He said **P.M.** asked him if he had drafted a contract between **R.Z.** and **L.N.** However, he said he had the impression **P.M.** had brought **L.N.** and **R.Z.** together. He could not explain how he had formed that impression.

2. **V.L., A.L., L.K.** case

On 28 May 2010 a Criminal Report signed by various shareholders of X for Business was sent to police. The persons accused in that report included **A.G.** and **V.L.** This file was given case number PPS 65/10.

On 23 June 2010 **N.M.** sent to the then Head of the SPRK **I.A.** a memo entitled 'Information for the actions taken on Case PPS 23/09'. In this document **N.M.** informed his superior about the investigative steps that had already been taken. He concluded that separate investigations should be initiated against all of the suspects that had been identified in Police criminal reports. In his view, one of such separate cases should be the case against **V.L., L.K.** and **A.L.**

On 20 July 2010 Kosovo Police submitted to **N.M.** an Official Memorandum No 017-TFAK/2010. That report contained allegations against **V.L., L.K.** and **A.L.** This file was given case number PPS 99/10.

On 4 October 2011 **N.M.** issued the Ruling on Initiation of Investigation in case number PPS 99/10 against **V.L.**, **A.L.** and **L.K.** wherein they were suspected of having committed the criminal offences of Abusing of Official Position and Authority (Article 339 of the CCK) and Misappropriation in Public Office (Article 340 of the CCK).

On 2 December 2011 **N.M.** issued the Ruling on Initiation of Investigation in case number PPS 65/10 against **V.L.**, **A.L.** and **L.K.**

The prosecution called **V.L.** He was examined by the prosecutor on 12 April 2012. There was a confrontation between **V.L.** and **M.N.** on 29 May 2012. **V.L.** gave evidence before this court on 8 January 2013.

V.L. stated that in 2005, together with **A.L.** and **L.K.** he took over the management of X, also known as X. In 2007 X acquired X and X. These two banks were subsequently merged and they became X. Until July 2009 he was a Board member of X in X. He has been the Managing Director of X since 1 August 2009.

In 2009 **V.L.** heard rumours of a SPRK investigation into alleged unlawful practices during the acquisition of X and its subsequent sale to X. It was his understanding that investigation concerned himself, **A.L.** and **L.K.** He was also aware of complaints having been made by some shareholders about the manner of his selection.

V.L. gave evidence that investigators visited X on numerous occasions. He instructed his staff to cooperate fully. He

said investigators interviewed the Heads of various departments within the Bank.

V.L. gave evidence he met **M.N.** in the summer of 2011 when they had discussed certain financial arrangements relating to a project involving a company called X. That meeting took place in his office. Also present was the Director of X. They did not agree to meet again.

Later that day he met by chance **M.N.** and the Director of X. He again spoke with the Director of X and reiterated the interest of the bank in assisting the project. He could not recall what, if any, conversation he had had with **M.N.** during that subsequent brief encounter.

In September 2011 he received a telephone call from **M.N.** She requested a meeting. **V.L.** suggested **M.N.** come to his office. However, **M.N.** requested a meeting outside his office. She said she wanted to discuss a "confidential" issue. It was apparently for that reason she suggested meeting at the X Hotel.

When they met at the Hotel **M.N.** stated she knew **V.L.** was "professional". She said she also believed he was "stubborn". She said she knew he had problems and said he was to be arrested.

V.L. gave evidence that during their meeting **M.N.** referred to allegations involving the acquisition of X by X and complaints made by shareholders of the X.

During their meeting **M.N.** suggested that **V.L.** contact **A.G.**,

Chairman of the Board of X, and tell him not to telephone **N.M.** **V.L.** knew that **A.G.** had tried several times to meet **N.M.** and had tried to contact him by telephone. In his opinion **M.N.** had made this comment in order to convince him of her relationship with **N.M.** Indeed, he suspected that **N.M.** was behind the meeting with **M.N.** Further, during that meeting **M.N.** said several times that she had a very good relationship with **N.M.** She said that because of her relationship with **N.M.** she could "*bring the case to a close*".

Interestingly, during that meeting **M.N.** also referred to **N.M.** working with a German prosecutor.

During that meeting **M.N.** presented **V.L.** the business card purportedly of a Swiss Prosecutor and told him that he had flown from X for the sole purpose of discussing his case.

M.N. suggested that **V.L.** and his "friends" should travel to X to "*finish the job*". It was his understanding they would meet **M.N.** in X. **V.L.** gave evidence **M.N.** did not specifically mention names but, given the subject of their discussion, he understood her to be referring to **A.L.** and **L.K.**

It appears the meeting lasted 45 minutes - one hour.

V.L. gave evidence he informed **A.L.**, **L.K.** and **A.G.** of his meeting with **M.N.**

On 11 February 2012 **V.L.** received a summons to appear at the offices of SPRK.

On 30 March 2012 he was interviewed by **N.M.** Also present at that examination was an expert, his lawyer, **T.R.**, a minute-taker and **Z.I.**

V.L. gave evidence that during that examination he was asked by **N.M.** questions relating the X allegations. The examination lasted some four hours.

V.L. met **N.M.** only once.

V.L. gave evidence he reported the substance of the meeting with **M.N.** to the District Public Prosecutor, **A.Lu.**

On 13 February 2012 a request⁵⁵ to disqualify **N.M.** from the prosecution of cases numbered PPS number 99/10 and 65/10 against **V.L.**, **A.L.** and **L.K.** was sent to the Special Prosecution Office of the Republic of Kosovo, addressed for the attention of **S.J.** and copied to **I.K.**, Chief State Prosecutor, and **J.N.**, Chief Eulex Prosecutor. That request arrived at the prosecutor's office on 15 February 2012.

The prosecution called **A.L.** He was examined by the prosecutor on 13 April 2012. He gave evidence before this court on 13 February 2013.

He gave his occupation as General Director of X.

It was his evidence⁵⁶ that in May or June 2010 his brother **A.Lu.** asked him about a loan application that had been made

⁵⁵ Pages 729 - 734 of the trial bundle.

⁵⁶ Record of Examination on 13 April 2012.

by **R.Z.** and **X.Z.** The loan was for their company **X.** **A.Lu.** told him that he had been approached by **N.M.** in relation to the loan.

On the evidence it appears the loan was approved by the X branch of X bank but not approved by the credit committee of the Bank. **A.L.** said he informed the **Z. brothers** of the bank's decision.

In early 2010 he discovered he was the subject of a criminal investigation.

In September 2010 police officers interviewed him at his office at X. In October 2010 he received a telephone call from police who asked him to attend a police station in order to give a statement. He subsequently gave a statement in the capacity of a witness.

It was his evidence that during 2010 the bank received numerous requests from police for the disclosure of financial and other data. He was concerned by the public nature of the police investigation into the activities of the Bank that might, in his opinion, have a negative impact on the stability of the bank. He said he asked to meet **N.M.**

He gave evidence he met **N.M.** in November 2010. He asked **N.M.** to instruct a financial expert to review the financial transactions of X. During that conversation **N.M.** told **A.L.** *"I have got the arrest warrant for you which was in my possession when **H.R.** was arrested, even though I was under pressure to arrest you as well but didn't do this due to*

the consideration that I have for your family”⁵⁷

A.L. was never formally interviewed by **N.M.**

In late 2011 or early 2012 he was told by **V.L.** that he had been contacted by **M.N.** who had offered her help to terminate the investigation. There was to be a meeting in X.

He had never met **M.N.**

He signed the Request dated 13 February 2012 for the exclusion of **N.M.** from the investigation into his case. It was his evidence all three signatories were involved in the drafting. The final draft was compiled on his computer.

The prosecution called **L.K.** He was examined by the prosecutor on 24 April 2012. He gave evidence before this court on 13 February 2013.

He is currently in a member of the Management Board of X. He was a member of the said Management Board in 2011.

It was his evidence that in 2011 he discovered that he was under investigation. It was his understanding a complaint had been made by shareholders of the bank following its sale in 2007. He said **N.M.** was the prosecutor leading the investigation. Investigators had visited the Bank and interviewed staff.

⁵⁷ Record of Examination on 13 April 2012

He was not personally contacted by **N.M.** in 2011. He did not attempt to contact **N.M.**

L.K. gave evidence that in or about September 2011 **V.L.** told him that he had received a telephone call from **M.N.** who had requested that they meet. He said he spoke with **V.L.** a matter of days after that meeting.

Referring to that meeting **V.L.** told him that **M.N.** wanted to meet in what he described as a "*discreet way*" at the X Hotel. He understood this to mean she wanted to have a confidential meeting. **M.N.** was aware of the investigation involving them and had wanted to present herself as having a "close relationship" with **N.M.**

During that conversation **M.N.** referred to a prosecutor from X. **M.N.** told **V.L.** to tell **A.G.** not to contact **N.M.**. **M.N.** invited **V.L.** and **A.G.** to meet her and **N.M.** in X for the purpose of having the investigation "terminated".

He said it was his impression the investigation would be terminated in return for some material benefit. He said **V.L.** did not mention any specific sum of money having been mentioned. When he was interviewed in April 2012 he did not mention money or, indeed, any material benefit. In fact, when asked by the prosecutor on that occasion if any specific benefit had been mentioned he said "I am not sure". When he testified before this court and this inconsistency was put to him he said he simply assumed there would be some financial reward for terminating the proceedings.

He said he was never interviewed by **N.M.**

He signed the Request dated 13 February 2012 for the exclusion of **N.M.** from the investigation into his case. He said each of the three signatories contributed to drafting the letter.

The prosecution called **A.Lu.** He was examined by the prosecutor on 6 April 2012. He gave evidence before this court on 13 February 2013.

Since June 2010 he has been Chief Prosecutor of the Municipal Prosecutors Office, now Chief District Prosecutor in X. He is the brother of **A.L.**

It was his evidence that in May 2010 he received a telephone call from **N.M.** He knew **N.M.** as a colleague and had attended several training courses with him. Upon **N.M.** request they met for coffee.

A.Lu. gave evidence that **R.Z.** and **X.Z.** were present at this meeting and that **N.M.** introduced them to him. He told **A.Lu.** that they had applied for a loan at X. **N.M.** presumably knew his brother **A.L.** worked at X because he asked **A.Lu.** if he would speak to **A.L.** and ask him to approve the loan. The sum in issue was approximately 2 million Euros. It was his evidence he told **N.M.** that he would speak with his brother.

N.M. described the **Z. brothers** as like his brothers.

Several days after this meeting he received a telephone call from one of the **Z. brothers** who told him that **N.M.** had

suggested he contact him. He identified **X.Z.** as the person he subsequently met. He told **X.Z.** that he had discussed the matter with his brother who had informed him the loan could not be approved. He was disappointed and again requested that **A.Lu.** speak with **A.L.**

Sometime after his meeting with **X.Z.**, **A.Lu.** received a telephone call from **N.M.** who asked him why the loan had not been approved. **A.Lu.** said he explained the reasons.

It was his evidence that **N.M.** told him that, if necessary, he could mortgage his property as security for the loan.⁵⁸

A.Lu. gave evidence that some months after that discussion he met **N.M.** who, referring to the issue of the loan, said he did not realize that at that time **A.L.** was under investigation.

It was his evidence⁵⁹ that in or about May 2011 **A.Lu.** telephoned **N.M.** and asked him if he would meet **A.L.** **N.M.** agreed. **A.Lu.** gave evidence he spoke with **A.L.** following their meeting. He could not recall the date. **A.Lu.** told **A.L.** that during that meeting **N.M.** told him he had a warrant for his arrest.

A.Lu. gave evidence⁶⁰ that he met **N.M.** on 17 July 2011. During that meeting **A.Lu.** asked **N.M.** about the investigation involving his brother. **N.M.** told him he could have had **A.L.** arrested but that because of his respect for

⁵⁸ Record of examination with prosecutor on 6 April 2012 [page 433 of main trial bundle]

⁵⁹ Record of examination of 6 April 2012

⁶⁰ Record of examination of 6 April 2012

his family he had not done so.

A.Lu. expressed his concern about the pressure he felt was being applied to his brother and invited **N.M.** to either charge his brother or terminate the investigation⁶¹.

A.Lu. gave evidence that in or about October 2011 **V.L.** went to his office and told him of a meeting with **M.N.** that occurred a few days before. **V.L.** told **A.Lu.** that he had received a telephone call from **M.N.** and that she had requested they meet at the X Hotel. **V.L.** told **A.Lu.** that during that meeting **M.N.** referred to the ongoing criminal investigation against him. **V.L.** told him that **M.N.** appeared to know everything about the case. She referred to **A.G.** but **A.Lu.** could not recall the context. **V.L.** told him that **M.N.** had shown him a business card of a Swiss or German police officer who was working with **N.M.**. She suggested they meet in X in order to discuss how the case should be "closed". **V.L.** told him it would probably be necessary to give money to terminate the investigation again **A.L.**, **A.G.** and **L.K.**

A.Lu. gave evidence he reported this matter to the Chief Prosecutor **I.K.** within a few days of his meeting with **V.L.**

The prosecution called **A.G.** He was examined by the prosecutor on 28 June 2012. He appeared before this court on 13 February 2013. However, the parties agreed his pre-trial testimony could simply be read into the record.

Since 2007 he has been Chairman of X.

⁶¹Do.

It was his evidence that in March 2011 he was interviewed by police who were investigating allegations of corruption at the X. Having heard nothing further regarding the case, in August 2011 he decided to contact the prosecutor **N.M.**

A.G. gave evidence he went to the offices of the SPRK and asked to speak with **N.M.** He was told the prosecutor was not available. He left his business card but heard nothing more. In September 2011 he telephoned **N.M.** **N.M.** told him that he was on holiday and that he would contact him upon his return.

A.G. was subsequently contacted by **V.L.** who told him not to contact **N.M.** **V.L.** told him of his meeting with **M.N.** during which she had asked **V.L.** to tell **A.G.** to not contact **N.M.** During that meeting she had also suggested they meet in X.

Referring to the proposed meeting in X **A.G.** said it was his understanding that **N.M.** would be present for the purpose of discussing terminating the investigation in return for some material benefit.

A.G. and **V.L.** discussed whether they should go to X. **A.G.** gave evidence they agreed that they should not enter into any agreement with the prosecutor.

A.G. said he met **M.N.** in February or March 2012 in connection with a commercial opportunity related to the bank.

It was his evidence that in February 2012 he was summonsed

to the offices of the SPRK. He was examined by **N.M.** in March 2012.

Counsel for **N.M.** called **B.B.** He gave evidence before this court on 19 February 2013.

It was his evidence that he has known **N.M.** since 2010 when he was assigned a police escort.

B.B. gave evidence that whenever an escort is assigned to an individual a security assessment is carried-out. In the case of **N.M.** the risk was assessed at "zero". Throughout the time that Officer **B.** was responsible for **N.M.** he could not recall any occasion when **N.M.** informed him of any event that might cause his risk assessment to be raised.

He gave evidence regarding an occasion he had accompanied **N.M.** to X Restaurant. He described how he had sat at a table with **N.M.**, **F.S.** and a person he knew as **L.** He could not recall his first name. He said that during their discussion **Mr. L.** referred to his brother who worked at X.

He said that two or three days after that meeting **N.M.** asked him to go to his office at a particular time because he was expecting a visitor. He said this was not usual. However, **N.M.** did not tell him why he wanted him to be present. He said that he arrived in the ante chamber of **N.M.** office a few minutes before the appointed time. He said a person wearing a suit and tie arrived. He spoke briefly with **N.M.** who told him they had nothing to discuss. He said the person in question was **A.L.** He said they did not enter **N.M.** office. He said he could not recall seeing

any document in **N.M.** hand. He said **A.L.** was not abusive or threatening in any way.

B.B. gave evidence that in the autumn of 2011 he was with **N.M.** when he received a telephone call from one of the **Z. brothers**. He did not know which. He said the same brother called him twice. **N.M.** told **B.B.** the brothers had requested his help in connection with a company. **N.M.** met the brothers between X and X. He said he thought they were in difficulty. He never heard them mention **P.M.**

B.B. gave evidence **N.M.** told him the **Z. brothers** had offered to help him with the treatment of his son.

It was his evidence that in his presence **N.M.** met **M.N.** a few times. **N.M.** told him she was a friend. He accompanied **N.M.** when he met **M.N.** in the X Hotel or X. It appears most meetings took place at X. He could not recall **M.N.** coming to **N.M.** office.

B.B. gave evidence he was escorting **N.M.** on the day of his arrest. He did not see **M.N.**

3. Defendants

N.M., R.Z. and M.N. exercised their right to remain silent and not to give evidence before this Court.

N.M. was examined by the prosecutor on 19 April 2012 and 10 July 2012.

R.Z. was examined by the prosecutor on 17 April and 3 July

2012.

M.N. was examined by the prosecutor on 12 July 2012.

X.Z. gave evidence before this court on 11, 13 and 18 March 2013. He was examined by the prosecutor on 18 April and 5 and 12 July 2012.

V. EVALUATION OF EVIDENCE

1. The Defendants

N.M. exercised his right to remain silent and did not give evidence before this Court. He was examined by the prosecutor on 19 April 2012 and 10 July 2012.

He admitted that he knew **R.Z.** and **X.Z.** He described their relationship as family friends. When he was interviewed by the prosecutor in April 2012 he described his relationship with the **Z. brothers** in 2010 and 2011 as being quite unfriendly. He described his becoming increasingly frustrated by the constant demands from the **Z. brothers** for financial assistance. He said that at one stage he even threatened to take legal action against **R.Z.** to stop his persistent requests for a meeting.

As a Special Prosecutor it should have been very easy for him to avoid communicating with **R.Z.** or **X.Z.** He was assigned a protection officer. Indeed, the evidence of the telephonic communications between **N.M.** and **R.Z.** and **X.Z.** proves that they were in frequent contact. Indeed, many of

those communications were initiated by **N.M.** himself.

When he was interviewed by the prosecutor in April 2012 he said **R.Z.** and **X.Z.** would contact him often regarding problems they had with the authorities. He said he did not offer to help them but they persisted in calling him. He admitted making telephone calls to the **Z. brothers** but said that these related to his son.

N.M. confirmed his son had been diagnosed with autism. It is possible that some communications were for the purpose of discussing his son. Indeed, in some intercepted communications specific reference was made to **N.M.** son. However, those tended to be passing references. During at least one conversation there was reference to a doctor. That too was a passing reference.

It was his evidence **R.Z.** and **X.Z.** had also contacted him in relation to a factory they wished to construct. They told **N.M.** they wanted his personal support.

When he was examined in April 2012 **N.M.** was asked if he had considered any particular countries to which he could send his son for treatment. In reply he said no.

However, when pressed on this issue he said it had been suggested he take his son to X or X. He then conceded that, in fact, he had been in communication with a hospital in X regarding the treatment of his son and that he was awaiting confirmation of the appointment.

N.M. denied he had discussed with **R.Z.** or **X.Z.** the

possibility of sending his son to X for treatment. He said it was the **Z. brothers** who suggested a doctor in X. **N.M.** stated previously they had brought a *sheh* (natural healer) to his house.

N.M. denied that he had taken money from **R.Z.** or **X.Z.** in 2010 or 2011 - either in the form of a loan or in payment for the treatment of his son. Indeed, he denied he had received any material benefit from **R.Z.** and **X.Z.** He further denied that during that period he had received any money or other financial benefit from any other person.

N.M. was asked *"Do you know if the Z. brothers also knew P.M....[in] 2010 and 2011"* In reply he said *"No, I didn't know that they knew him"*. However, in response to the next question, referring to the **Z. brothers** and **P.M.**, **N.M.** said *"They had mentioned him, they said they knew him..."* Those answers were entirely contradictory.

Indeed, his initial denial **R.Z.** and **X.Z.** knew **P.M.** is contradicted by his subsequent evidence.

N.M. then gave evidence the **Z. brothers** were *"...insisting that I help P.M. in not to accusing him because P.M. had the intention to return to his previous work place."*

Despite his initial denial that he was aware the **Z. brothers** knew **P.M.** in 2010 and 2011 it was his evidence that either before or during **P.M.** house detention in 2011 **R.Z.** had visited his house and told him *"N. please help P., he has some friends in X or X, they will help you in regards to your son. They have money and they are offering money*

50,000 Euros". He said that in reply he said "Leave my house; I don't want to see your eye again, if you do come for such a reason". He said **R.Z.** told him **P.M.** had sent him.

That contradicted what **R.Z.** said. **P.M.** was in house detention from 2 March to 27 April 2011. When he was examined by the prosecutor in April 2012 **R.Z.** gave evidence that during a meeting with **P.M.** after his release from house detention they had discussed the illness of **N.M.** son. He said **P.M.** had offered to pay 50,000 Euros for the treatment of **N.M.** son. He made no mention of having visited **N.M.** and conveyed this offer to him.

X.Z. gave evidence that he had informed **N.M.** by telephone of the offer allegedly made by **P.M.**

The evidence of both **N.M.** and **R.Z.** regarding the sum of 50,000 Euros that they said had been offered by **P.M.**, while inconsistent, is contradicted by **P.M.** The evidence of **P.M.** is corroborated by his lawyer **T.G.**

Firstly, **T.G.** gave evidence that at his first meeting with **P.M.** in March 2011 **P.M.** told him that someone acting on behalf of the prosecutor had requested 50,000 Euros. When **T.G.** was examined in April 2012 he did not say who had asked **P.M.** for 50,000 Euros. However, later in his testimony he said he did not give 50,000 Euros "to these brothers". The court finds that he was referring to **R.Z.** and **X.Z.** **T.G.** had this conversation with **P.M.** several months before **R.Z.** said **P.M.** had offered 50,000 Euros for the treatment of **N.M.** son.

Secondly, **R.Z.** gave evidence that approximately 4 days after **P.M.** was detained in custody he met **N.M.** who told him that **T.G.** had informed him that **P.M.** had accused **N.M.** of demanding a 50,000 Euro bribe. That discussion took place before **R.Z.** said **P.M.** had, in fact, offered 50,000 Euros for the treatment of **N.M.** son and before **N.M.** said **R.Z.** came to his house with the same offer.

When he was examined by the prosecutor in April 2012 **N.M.** was asked if **T.G.** had mentioned the allegation made by **P.M.** that he had demanded money. He said that **T.G.** told him that someone was taking money on his behalf. He said "I said to **T.G.** 'do this in writing if it is true, I have informed my superiors about this'". He said "I believe I reported this to **A.**, who is the secretary of the chief of the special prosecution office". He qualified this by stating "I believe I reported this to **A.** who is the secretary of the chief of the Special Prosecution office...". He said this was in 2012.

The evidence of **T.G.** was that someone was taking money "on his behalf". **N.M.** gave evidence that if the allegation had been that he had personally taken money he would have acted differently. However, that was precisely the allegation. When he was examined in April 2012 **N.M.** referred to a meeting with **L.B.** during which reference was made to the case of **P.M.** and **L.B.** told him "There are rumours that you have taken money to terminate the case".

Given the various serious nature of these allegations it is very surprising that no official report was made by **N.M.**

informing his superiors.

In fact, there is no record of any report having been filed by or on behalf of **N.M.** or any official person wherein it is stated that **N.M.** has reported the fact of him being offered a bribe or any material benefit in any case in which he was personally involved.⁶²

Indeed, **P.M.** was a suspect in a criminal investigation conducted by **N.M.** **N.M.** gave evidence he was outraged when **R.Z.** went to his house with an offer of 50,000 Euros that **R.Z.** told him had been made by **P.M.** If the evidence of **N.M.** were true it is inconceivable that he would not file a criminal charge against **P.M.** or, at the very least, file an official report.

N.M. gave evidence he had only met **P.M.** in an official capacity at the offices of the SPRK and *"in no other circumstances apart from official interviews"*.

In addition to that visit **P.M.** also attended the offices of the SPRK and met with **N.M.** on 8 and 15 September 2010. The first meeting lasted approximately 20 minutes. The second meeting lasted more than two hours. On neither occasion was any official record taken.

N.M. denied he had asked **P.M.** to cooperate in the case of the former Governor of X. In fact, he said he *"...as far as it goes for cooperation I had lots of others"*.

⁶² See reply from the current head of the SPRK at Tab A of Volume V of the main trial case file.

P.M. gave evidence that during one meeting **N.M.** showed him a list of persons who were to be arrested. His name was on that list.

N.M. gave evidence that in June or July 2010 he had compiled a list of persons to be arrested in the case of the former Governor of X. He denied that he had shown the list to **P.M.** That cannot be correct. How would **P.M.** know of the existence of such a list unless it had been shown to him?

N.M. denied he had ever discussed the case of **P.M.** with the **Z. brothers**. That was a lie. The **Z. brothers** were aware about the facts of the case including the fact a Criminal Report was about to be filed against **P.M.** That information could only have come from someone closely connected with the case. Having regard to the evidence in this case, including the telephonic evidence, the Court finds that **N.M.** abused his official position and authority by revealing this information to the **Z. brothers**.

N.M. gave evidence that he had been contacted by the **Z. brothers** who had requested House Detention be terminated. **N.M.** recalled them referring to a wedding **P.M.** wished to attend. **N.M.** gave evidence he refused their request. He denied that he had informed either of the **Z. brothers** that house detention had been imposed or that it had subsequently been lifted. That was a lie.

It is clear on the evidence that **N.M.** had discussed with both **R.Z.** and **X.Z.** the fact of **P.M.** house detention and that, at their request or with their connivance, he had

filed a request to terminate house detention in the court.

N.M. denied that he said that he would help **P.M.** in the investigation if he helped the **Z. brothers**. That was also a lie.

N.M. gave evidence that, initially, he was unaware of the financial circumstances of the **Z. brothers**. He said he was aware the **Z. brothers** had made various loan applications. He said they told him those loan applications had been refused.

N.M. displayed a degree of irritation when describing his relationship with the **Z. brothers**.

N.M. admitted that he had met with **A.Lu.** and that he had asked him if he would inquire into the status of a loan application made by the **Z. brothers**. It was his evidence he simply asked **A.Lu.** to determine if the loan application satisfied the necessary legal criteria. He gave the appearance of his being ambivalent about the outcome of those loan applications.

However, three aspects of the account given by **N.M.** are contradicted by the account given by **A.Lu.**

Firstly, **N.M.** described his meeting with **A.Lu.** being pure chance. He denied they had arranged to meet. **N.M.** said he was sitting in a restaurant and **A.Lu.** was walking towards the same restaurant. However, **A.Lu.** gave evidence that **N.M.** telephoned him and requested they meet.

Secondly, **N.M.** described sitting in the restaurant with another prosecutor, **F.H.** He said that in conversation with **A.Lu.** he referred to "two brothers from X". However, it was **A.Lu.** evidence that **R.Z.** and **X.Z.** were also sitting in the restaurant with **N.M.** In fact, it does not make any material difference if **R.Z.** and **X.Z.** were present at that meeting. **N.M.** admitted he spoke with **A.Lu.** about the loan application made on behalf of X Impex.

Thirdly, if, as he attempted to portray in his evidence, **N.M.** was ambivalent about the outcome of **A.Lu.** enquiry about the bank loan, it is odd that he would telephone **A.Lu.** after the meeting between **X.Z.** and **A.Lu.** when **A.Lu.** informed **X.Z.** the loan had not been approved to enquire why the loan had not been approved. He even offered to put his own home as security for the loan.

N.M. denied **P.M.** had attended the premises of the SPRK without a police escort. However, he conceded he might have given authorization for **P.M.** to travel to his office without a police escort.

N.M. gave evidence he met **M.N.** in X 5 - 6 years before his arrest. He and **M.N.** described their relationship as intimate. He said she would contact him very often, occasionally sending 20 - 30 SMS messages a day.

He said he tried to avoid being alone with her. If they did meet he would ensure his close protection officers were also present. He said she might have visited him at the offices of the SPRK in 2011 and 2012. He said she would stay for approximately 20 - 30 minutes.

The security records show that between 11 October 2011 and 30 March 2012 **M.N.** visited the offices of the SPRK on 8 occasions. On 11 October 2011 she was in the building for 40 minutes. On 26 October 2011 she was in the building for 1 hour. On 29 December 2011 she was in the building for 30 minutes. On 22 February 2012 she was in the building for 2 minutes. On 24 February 2012 she was in the building for 35 minutes. On 28 February 2012 she was in the building for 50 minutes. On 9 March 2012 she was in the building for 1 hour and 35 minutes. On 30 March 2012 she was in the building for 15 minutes.

The prosecution also put in evidence flight tickets and an invoice from X for five flight tickets from X to X. According to the invoice the reservation was made by **M.N.** There was no evidence **M.N.** had actually paid for the tickets. However, the fact that she was making a reservation for flight tickets on behalf of **N.M.** and his family suggests the extent of their relationship.

N.M. gave evidence **M.N.** wanted to meet every day, always on the pretext of discussing the treatment of his son.

Arrangements were made for **N.M.** to travel to X with his son. He said the "deadline" was 4 April 2012. That was the day he was arrested.

He was asked about funding of the proposed treatment. In reply he said that **M.N.** had told him the cost would be met through the Catholic Church.

He said he had never discussed any of his cases with **M.N.** He denied that he had ever mentioned to her the investigation involving **V.L.**, **A.L.**, **L.K.** or **A.G.** He denied he had ever spoken with **M.N.** about meeting the aforementioned. He denied that he had told her the names of the Eulex prosecutors monitoring the case.

N.M. admitted that the Eulex prosecutors monitoring the case involving **V.L.**, **A.L.**, **L.K.** and **A.G.** were **E.G.** and **J.S.**, both X nationals.

N.M. denied he had told **M.N.** that arrest warrants had been issued against **V.L.**, **A.L.**, **L.K.** or **A.G.**

It was his evidence that **A.G.** contacted him several times. He said **A.G.** initially left a business card for him at his office and subsequently called him by telephone while he was on leave. He said he was quite terse and told **A.G.** not to call him again.

N.M. was asked by the prosecutor if he had ever informed **M.N.** about the fact **A.G.** had tried to contact him. In reply he said "...I asked her whether she had told **A.** to call me..." He said he thought she might know him. He said that he asked **M.N.** to tell **A.G.** not to contact him.

He denied he had suggested to **M.N.** that she contact **V.L.**, **A.L.**, **L.K.** and **A.G.** with the intention of arranging any meeting in X.

R.Z. did not give evidence before this court. He was examined by the prosecutor on 17 April and 3 July 2012.

He is the sole Director of X Impex.

He admitted that in 2010 and 2011 his mobile telephone number was XXX XXX XXX. He said only he used that number.

It was his evidence he was contacted by **P.M.** and not, as **P.M.** avered, that he had been contacted by **R.Z.**

R.Z. admitted that he had a "friendly relationship" with **N.M.**

He said that he had reached an agreement with **L.N.** that he would lend him 20,000 Euros, to be repaid within 4 months. He said that loan was related to his business, X Impex. He said the money was to be repaid with interest. The first interest payment of 1,600 Euros was deducted by **L.N.** upon his receiving the principle sum. He said he met **L.N.** in June of the following year regarding a second interest payment. He said he met **L.N.** on three occasions. On two occasions it was only him and **L.N.** He said **X.Z.** was not present at those meetings. On the third occasion **P.M.** was also present.

It was his evidence that when he took the money from **L.N.** he had no idea about the case conducted against **P.M.** He said this was a private arrangement between him and **L.N.** and did not involve **P.M.** That was a lie. **L.N.** gave evidence that he gave 20,000 Euros to **R.Z.** at the request of **P.M.** It was his evidence that, through a third party, the investigation against **P.M.** would be terminated and he would be re-instated as Liquidator of X.

R.Z. gave evidence he had not signed a loan agreement with **L.N.** He said **L.N.** "trusted me". However, **R.Z.** evidence regarding the existence of any contract was entirely contradictory. During the court hearing on 9 January 2013 **R.Z.** made a submission to the court wherein he said a contract had been drawn-up and that his copy was in a green folder which had been seized by police on 2 April 2012. However, the official document regarding the seizure of evidence simply referred to a green folder containing documentation. The contents of the folder are not individually itemized. Indeed, **P.P.** gave evidence he had not drawn-up a contract. The assertions made by **R.Z.** that the draft contract was in the green folder seized by police was a lie.

Further, **L.N.** gave evidence that *"We were supposed to draft one [a contract] but they never appeared. P.M. would confirm about drafting a contract but they never appeared and we never drafted one and it is my big mistake."*

The court finds there was no contract. This was a lie concocted by **R.Z.** to give the appearance of this being a legitimate business arrangement. It was anything but that. The court chose to accept the testimony of **L.N.** rather than that of **R.Z.** regarding the payment of the loan. The court finds that **L.N.** gave **R.Z.** 20,000 Euros and not 18,400 as averred by **R.Z.**

R.Z. gave evidence the money was never paid back. He said he did speak with **L.N.** and he asked him if he would wait for the money to which, he said, **L.N.** replied "no problem".

That was a lie. **L.N.** gave evidence he demanded the return of the loan. That evidence was corroborated by **P.M.** Indeed, it was the demands for the repayment of the loan that had resulted in **P.M.** being held longer in custody.

R.Z. gave evidence **P.M.** approached him and, referring to the fact he had lost his job at the bank and an ongoing investigation, requested his help by contacting **N.M.** and having him terminate the investigation and his being reinstated in his former position. He said that in return he would ask **L.N.** to assist him financially. He said he refused this offer because he had already entered into an agreement with **L.N.** He thought this was in November 2010. That was a lie. Referring to the loan **L.N.** gave evidence that *"It went through **P.M.** as I did not know them at all. If I would to live 100 years I would not loan money to anyone that I don't know"*.

R.Z. gave evidence he was contacted by **P.M.** while he was in house detention. He said that he and **X.Z.** visited **P.M.** at his home. **R.Z.** gave evidence **P.M.** again invited them to contact **N.M.** He said **P.M.** asked him if he would ask **N.M.** to allow him to travel to X without a police escort.

R.Z. gave evidence he did meet with **N.M.** and that he asked him to meet with **P.M.** and to allow him to travel to X without a police escort. He said **N.M.** agreed. **N.M.** denied that he had ever discussed the case of **P.M.** with the **Z. brothers.**

R.Z. admitted that he borrowed 5000 Euros from **G.H.** He denied that the sum of 20,000 Euros that he received from

L.N. or the sum of 5,000 Euros he had received from **G.H.** were connected to the case involving **P.M.** That was a lie. **L.N.** gave evidence that during the meeting with **R.Z.** and **X.Z.** he recalled the **Z. brothers** stating they had "*influential people in X and they can perform big jobs*". The evidence the money was not connected to the case of **P.M.** was also contradicted by **G.H.** who gave evidence that **R.Z.** told him "*I am trying to help P.M. in connection to his house arrest*".

He said the money he received from **L.N.** was not given to **N.M.**

R.Z. gave evidence that the sums of 18,400 Euros and 5,000 Euros that he received from **L.N.** and **G.H.** respectively were immediately paid into the company. In fact, it was his evidence both sums were paid into the company account "*...on the very same day or the next day*". The company had several operating accounts at the Raiffeissen bank. **R.Z.** gave evidence the only accounts of X Impex were held at the Raiffeissen Bank.

R.Z. gave evidence the amounts were paid into that account in the amounts he had received. In other words, he paid into the account the sums of 18,400 Euros (on his evidence) and 5000 Euros respectively.

It is unclear precisely when **L.N.** gave **R.Z.** the loan. **L.N.** referred in his evidence to the summer of 2010. Having reviewed all bank accounts seized relating to X Impex and the personal accounts of **R.Z.** and **X.Z.** for 2010 and 2011 the Court could find no deposit of either 18,400 Euros or

20,000 Euros. Indeed, the court could find no evidence of a deposit in a similar amount during the period in issue.

G.H. withdrew the sum of 5,000 Euros on 10 March 2011. He gave that sum to **R.Z.** the same day. Having reviewed the bank accounts for 2011 the Court could find no deposit of 5,000 Euros. Again, the court could find no evidence of a deposit in a similar amount during the period in issue.

If this money had been used for any lawful purpose there is no reason why **R.Z.** or, indeed, **X.Z.** would have lied about the purpose for which the money was intended or the recipient.

R.Z. denied he had received any other money from **P.M.** **P.M.** gave evidence that he took a loan of 3,000 Euros and gave the money to **R.Z.** The evidence shows that on 10 September 2010 **P.M.** took a loan in the sum of 3,000 Euros from the Bank X..

The court finds that **R.Z.** did receive from **P.M.** the sum of 3,000 Euros.

Again, if this money had been used for any lawful purpose there is no reason why **R.Z.** would have lied about his receiving it and/or attempted to conceal the purpose for which the money was intended.

R.Z. denied he had taken any flour from **P.M.** That was a lie and contradicted by the evidence of **X.Z.** Referring to the flour **X.Z.** stated "*[it] was taken as a loan that had to be returned in a certain time, a time made in agreement with*

R.Z.”.

R.Z. admitted that he was often in telephonic communication with **N.M.** He said these communications intensified in 2010 due to the illness of **N.M.** son.

He gave evidence that in 2010 he contacted **P.M.** once by telephone although he said **P.M.** had contacted him.

It was his evidence that whenever he met **P.M.** **X.Z.** was present.

It was his evidence that **P.M.** had never offered him or **X.Z.** any money in order to have the investigation terminated.

He denied that he had ever exchanged any telephonic communication with **P.M.** regarding the investigation. That was a lie.

It was his evidence that the only telephone conversation he had with **P.M.** was to congratulate him on the termination of his house detention. He denied that he had contacted **P.M.** by telephone during his house detention. It was his evidence **X.Z.** had not contacted **P.M.** during that period. That was a lie. During the period of **P.M.** house detention **R.Z.** contacted **P.M.** on 29 occasions. During the same period there were 39 telephonic communications between **P.M.** and **X.Z.**

He gave evidence that he had never spoken with anyone about lifting **P.M.** house detention. That was a lie and contradicted by the telephone evidence.

R.Z. denied that he had ever discussed with **N.M.** the matter of **P.M.** attending a wedding. That was a lie and contradicted by the evidence of the telephone interceptions.

R.Z. denied that he had ever spoken by telephone with **N.M.** regarding the investigation.

He gave evidence that approximately 4 days after **P.M.** was detained in custody he met **N.M.** who told him that **T.G.** had informed him **P.M.** had accused **N.M.** of demanding a 50,000 Euro bribe.

R.Z. gave evidence that during a meeting with **P.M.** after his release from house detention they had discussed the illness of **N.M.** son. He said **P.M.** had offered to pay 50,000 Euros for the treatment of **N.M.** son.

The evidence of **R.Z.** regarding the alleged offer of **P.M.** to pay 50,000 Euros is contradicted by other evidence, to which reference is made herein.

He gave evidence that on or about 8 March 2011 he received a telephone call from **S.M.** requesting a meeting. He said that at that time he was in X.

R.Z. denied that he had ever met **S.M.** He said "...he doesn't live here but abroad". That was a lie. Indeed, **X.Z.** gave evidence before the court he and **R.Z.** met **S.M.** at the home of **P.M.**

R.Z. gave evidence that he obtained a loan of 1.7 million Euros and a further 200,000 Euros as an approved overdraft from X Bank. However, the money was not released. He spoke with **N.M.** who said he would speak with **A.L.** to see why the money had not been released. He said **N.M.** subsequently told him of his conversation with **A.L.** It is conceivable the **Z. brothers** might ask **N.M.** for legal advice regarding the loan application made by the company operated by **R.Z.** However, the fact they would ask **N.M.** to contact the bank in order to ascertain the status of the loan demonstrates the extent to which their personal affairs were intertwined.

He said that in 2010 and 2011 he visited **N.M.** at the offices of the SPRK "often". It was his evidence **X.Z.** never went with him. That was a lie. The security records of the SPRK record that on 20 September 2010 **R.Z.** entered the building at 14:10 and left at 15:10. **X.Z.** arrived and left at precisely the same time. Indeed, **X.Z.** admitted that he and **R.Z.** had met **N.M.** in the offices of the SPRK in 2010.

He gave evidence that between September and December 2010 he met daily with **N.M.**⁶³ He said these meetings concerned **N.M.** son. It was his evidence that during the same period he had almost daily telephone conversations with **N.M.** He said he usually telephoned **N.M.** He said that in 2011 they met once a week and communicated by telephone almost daily. He said he would nearly always telephone **N.M.**

The telephone records show **N.M., R.Z.** and **X.Z.** were in telephonic communication with each other during 2010 and

⁶³ Page 9 of the Record of Examination with the special prosecutor on 12 July 2012.

2011. Most of the communications were between **R.Z.** and **X.Z.** In 2010 there were frequent telephone communications between **N.M.**, **R.Z.** and **X.Z.** The communications were more frequent in 2010 than in 2011. Indeed, **N.M.** initiated many of the telephone communications.

R.Z. admitted that during 2010 and 2011 he had contacted **N.M.** on his personal number at the offices of the SPRK.

X.Z. gave evidence before this court on 11, 13 and 18 March 2013. He was examined by the prosecutor on 18 April and 5 and 12 July 2012. At the start of his evidence before this court **X.Z.** confirmed the accuracy of his previous evidence.

He described his occupation as driver, employed by **X** Impex. He said he was in charge of "transport issues". He said his brother **R.Z.** was the sole director of **X** Impex. **X.Z.** said he had no involvement in the financial or banking affairs of **X** Impex.

When he was examined by the prosecutor it was his evidence that in 2010 and 2011 he was using the telephone number XXX XXX XXX. He said that in 2010 only he used that telephone number. However, later in the examination, in answer to a question put by his defence counsel, he said other employees of **X** Impex were also using his telephone. When he gave evidence before this court, referring to 2010, he said that "the vast majority" of the time he used that telephone number. He said that in 2011 he was in Albania from March until "the end of the year" and he did not have that telephone with him. He said he did not use that telephone number during that period. He said he did not know where

the telephone was and thought that he might have left it at work. In fact, the telephone was seized during a search of his home on 15 February 2012.

When he was examined by the prosecutor in April 2012 he was asked *"Was anybody else apart from you using your phone in 2010 and 2011, or was it just you?"* In reply **X.Z.** said *"Until the end of 2010 it was myself. Then, in 2011, I did not have it with me at all..."*

It is, of course, possible that the telephone was occasionally used by other persons. However, if that telephone was often or regularly used by other employees of X Impex, it is logical that **X.Z.** would have stated that when he was interviewed on that occasion. The Court finds that in 2010 and 2011 **X.Z.** was the sole or primary user of that mobile telephone number.

He said that in 2011 he did not use that telephone number. That was a lie.

When he gave evidence before this Court he said the telephone number in issue was not operational. He said it was a prepaid SIM card. He said the telephone contract was terminated at the end of 2010. He said it was "impossible" to make calls using that number. He said it was possible to receive calls. That evidence was entirely contradicted by the telephone evidence that proved that telephone calls had been made from that number during 2011 and 2012. The court finds that telephone number was in use throughout 2011 and into 2012.

He said he had known **P.M.** since August 2010. He said **N.M.** became aware they were acquaintances of **P.M.** during the time he was in house detention.

When he gave evidence before this Court **X.Z.** was asked about any telephone communications that he had had with **P.M.** in 2010 and 2011. He said he did not use the telephone to call **P.M.** He said maybe there were occasions when **R.Z.** used his telephone to contact **P.M.** That was a lie contradicted by the evidence of the telephonic interceptions to which reference is made herein.

Further, there were occasions when **R.Z.** would use his telephone to contact **N.M.** and that telephone communication would be immediately preceded or followed by a telephonic communication between **X.Z.** and **P.M.** If both communications had been made by **R.Z.** it is unlikely that he would have used two different telephones. It is even more unlikely given the fact that the numbers in the possession of **R.Z.** and **X.Z.** were used to contact both **N.M.** and **P.M.**

When he was examined by the prosecutor in April 2012 it was his evidence he had never called **P.M.** He said it was always **P.M.** who called him. That was a lie. Between August 2010 and April 2011 he contacted **P.M.** by telephone on approximately 68 occasions.

In 2011 he frequently used his telephone to contact **R.Z.** Using that number he contacted **N.M.** on several occasions. He also used that number to contact **P.M.**

When he was examined by the prosecutor he said that after

February 2011 they had no further contact with **P.M.** Referring to the period after February 2011 he said "...I never heard from him on the phone. He might have spoken with my brother **R** but I was not told about it." In fact, he denied that he had had any conversation with **P.M.** in 2011. That was a lie. According to the telephone evidence, during the period March - April 2011 there were frequent telephonic communications between **P.M.** and **X.Z.**

When he was examined by the prosecutor in April 2012 he referred to a wedding that **P.M.** wanted to attend. At that time **P.M.** was in house detention. **X.Z.** gave evidence that **P.M.** called him 30 times. When he gave evidence before this Court he admitted that he had spoken with **P.M.** about the wedding but said they had not discussed this matter over the telephone. However, that was contradicted by the evidence he gave the prosecutor in April 2012 when he said that he had discussed the wedding with **P.M.** by telephone. Indeed, the evidence he gave before this court is contradicted by the telephone evidence.

It was his evidence that in 2010 he was with **R.Z.** in a restaurant in X when they met **P.M.** and **L.N.** He described this as a chance meeting. They discussed the financial difficulties of X Impex. He said that was the first time he met **P.M.** That was a lie. **L.N.** gave evidence that he and **P.M.** had agreed to the meeting. He said they met **R.Z.** and **X.Z.** **L.N.** said the meeting took place after **P.M.** had asked him for a loan of 20,000 Euros.

X.Z. said **L.N.** had agreed to lend 20,000 Euros to be repaid with interest. He said **L.N.** in fact gave **R.Z.** 18,400 Euros.

The balance was automatically deducted representing an interest payment. The term of the loan was four months. The money was not repaid within that time and it was his evidence **L.N.** became confrontational. His evidence regarding the reaction of **L.N.** to their failure to repay the loan entirely contradicts the evidence given by **R.Z.** on this issue.

It was his evidence interest payments were made to **L.N.** but the full loan was never repaid.

He said **R.Z.** had received 5000 Euros from **G.H.** He said **R.Z.** told him the money was a loan.

When he was examined by the prosecutor he described his relationship with **N.M.** as being "very friendly". When he gave evidence before this Court he said **N.M.** was an "esteemed family friend". He described the relationship between him, **R.Z.** and **N.M.** deteriorating after, he said, they went to **N.M.** with an offer from **P.M.** of a material benefit.

He gave evidence before this court that he had known **N.M.** for "many years". Before 2010 he spoke by telephone with **N.M.** on only a few occasions. He said meetings were rare. He said that in 2010 he spoke with **N.M.** by telephone on perhaps one or two occasions. He said meetings were rare. In 2011 he said he met **N.M.** very rarely and spoke with him by telephone very few times.

When he was examined by the prosecutor in April 2012 he said that he could not recall a single occasion in 2010 and

2011 when **N.M.** had contacted him by telephone. The telephone evidence shows that during the period June 2010 to April 2011 he was in telephonic communication with **N.M.** on approximately 41 occasions. He gave evidence before this court that **R.Z.** might have been present during any meeting he had with **N.M.** When he was examined by the prosecutor in April 2012 he said **R.Z.** was present at all meetings that he had with **N.M.**

He gave evidence that in or about March or April 2011 **P.M.** told him that he was under investigation. He said the prosecutor in the case was **N.M.** It was his evidence before this Court that **P.M.** told him he could pay 50,000 Euros "to be reinstated as liquidator". It appears **P.M.** never asked about the termination of the investigation.

He said that he informed **N.M.** by telephone that **P.M.** had offered this sum. He said **N.M.** told him not to call him again regarding this issue. **N.M.** gave different evidence. He said **R.Z.** had visited his house and told him **P.M.** had offered 50,000 Euros to pay help his son.

He gave evidence that **P.M.** was always making threats. When he was asked about these so-called threats he said that **P.M.** was seeking their help with **N.M.** and that in return he would speak to **L.N.** regarding the money they owed him.

It was his evidence that he never agreed to liaise between **P.M.** and **N.M.** He said **N.M.** had never discussed with him the criminal investigation against **P.M.** He said he had never asked **N.M.** for information regarding **P.M.** He said **N.M.** never mentioned the name **P.M.** He gave evidence he had never

offered to approach the prosecutor or, indeed, anyone in order to terminate the case. That was a lie contradicted by other evidence to which reference is made herein.

He gave evidence before this court that **N.M.** never asked him to contact **P.M.** He said **N.M.** never asked him to to seek money from **P.M.**

He said that he had not been present during any conversation between **P.M.** and **N.M.**

He said **P.M.** knew he was friends with **N.M.** because **P.M.** probably saw him him in a restaurant in X with **N.M.** and **N.M.**'s wife and son.

He was asked about the reason for the communication with **N.M.** He said this related solely to the difficulties with their business, X Impex. He said they didn't discuss anything else.

However, when he was examined by the prosecutor in April 2012 he said he had discussed with **N.M.** issues regarding the treatment of **N.M.** son. He was, on that occasion, asked if he knew the nature of the illness that was inflicting **N.M.** son. In reply he said "*I believe a mental one*". He did not even know the nature of the illness. When he was asked the same question at trial he said he had no idea about the nature of the sons' illness. Indeed, neither **X.Z.** nor **R.Z.** appeared to know the precise nature or extent of the affliction suffered by **N.M.** son. That is surprising given their evidence that communications with **N.M.** could be attributed to discussions relating to proposed treatment of

N.M. son.

When he was examined by the prosecutor he said he met **N.M.** in X. He said he wanted to discuss the case of **P.M.** but that **N.M.** refused.

It is clear on the face of the telephone evidence that **X.Z.** and **R.Z.** did meet with **N.M.** for the purpose of discussing the case of **P.M.** Several such meetings took place.

X.Z. admitted that he and **R.Z.** had visited **P.M.** at the latters' home.

X.Z. gave evidence before this court that **P.M.** never told him that he had been interviewed by the prosecutor. That too was a lie.

On 19 April 2011 **P.M.** was interviewed by **N.M.** at the SPRK. He left the SPRK at 13:25. At 17:40 **X.Z.** called **P.M.** The conversation lasted for 1 minute. **P.M.** stated *"I was there and he received me well and he promised that he would file the request today but I don't know if he did it or he just promised that he will file the request today for the termination of the arrest..."* He was clearly referring to house detention. **X.Z.** replied *'I'm glad that he received you well'. 'We are coming to X'.*

When he gave evidence before this court he said that when he went to the home of **P.M.** he told him he was in house detention.

However, when he was examined by the prosecutor in April

2012, he said he did not know that P.M. was in house detention. That was a lie.

He gave evidence before this Court that he had never discussed the issue of **P.M.** house detention with anyone by telephone. In fact, it was his evidence he did not even know that **P.M.** was in house detention. That too was a lie.

On 19 April 2011 at 22:07 **X.Z.** called **P.M.** and stated "*I just wanted to tell you that it is finished and over.*" *'For the others we will see but nothing is necessary in this direction'*. *'He submitted it today. He said that he wrote it and that tomorrow it goes in its place'*."

On 24 April 2011 at 19:36-19:36 **X.Z.** called **N.M.** and stated "*A friend of ours has a wedding tomorrow, could he go tomorrow?'*" *'Did you look into it?'*, *'Take it. Finish the thing.'*" **N.M.** replied *'I don't know if he can'*. *'Ok'*."

Unless **X.Z.** knew **P.M.** was under house detention why would he be discussing with **N.M.** the issue of authorization for **P.M.** to attend a wedding.

On 26 April 2011 **N.M.** submitted to the District Court in X an application to terminate the House Detention against **P.M.** On 27 April 2011 the court issued the ruling on the termination of house detention.

On 28 April 2011 at 17:27-17:28 **R.Z.** called **P.M.** and stated "*Congratulations. Tomorrow we'll have coffee. I saw it, they signed it. Now wait, somebody will bring it to you home'*". *'I'm now with this man here, He said that he sent it*

but he asked if he could deliver it to you home tomorrow. He said that he is free." At 18:02 **X.Z.** called **P.M.** and stated "Congratulations!", 'Did you get it?'

When he gave evidence before this court **X.Z.** said he did not know when house detention had been terminated. That was a lie. During their telephone conversations on 19 April 2012 **X.Z.** and **P.M.** were clearly referring to the order terminating house detention.

When he was examined by the prosecutor **X.Z.** gave evidence that he had never met **SM.** However, when he gave evidence before this court he said that he had.

When he gave evidence before this court **X.Z.** denied that during any telephone conversation with **P.M.** the name of his lawyer, **T.G.**, had been mentioned. That was a lie.

On 17 April 2011 at 16:35 **P.M.** called **X.Z.** At 18:46 **X.Z.** called **N.M.** At 20:18 **P.M.** called **X.Z.** and stated "I saw T. and called him to come and talk.' 'I was just worried (about our thing?) **X.Z.** replied: 'I called him and we should talk tomorrow once again. We talked.' 'We agreed about that thing, that thing is fixed'.

When he gave evidence before this court **X.Z.** denied that he had told **P.M.** not to discuss their business with **T.G.** That too was a lie.

On 17 April 2011 at 20:24-20:25 **X.Z.** called again **P.M.** and stated "Did you tell Tom about us and about what we told you?' 'For that thing'. 'If he finds out, we lose but you

lose too.' *'It is a catastrophe because he is very sensitive.'* **P.M.** replied: *'No, man'.* *'We agreed about that thing, this is understood'.*

The court finds that during this conversation **X.Z.** and **P.M.** were referring to their discussions regarding the criminal investigation against **P.M.**

X.Z. said that while he was in X he received a telephone call from **S.M.** who made threats if **P.M.** stayed another night in prison. He was asked by the prosecutor if **S.M.** thought he was involved in the case. In reply **X.Z.** said *"No, just because I had the debt, I had the obligation towards X and he insisted we came back from X to X"*. He said he told **S.M.** *"I cannot, I am in hospital here"*. That was one of the more bizarre assertions in this case. It is untenable **S.M.** would, on **X.Z.** evidence, become so agitated about an unrelated contractual business relationship between the **Z. brothers** and **L.N.** However, **R.Z.** and **X.Z.** in fact returned to Kosovo the following day.

That is also entirely consistent with the evidence of **S.M.** who said that on 28 February 2011 he was informed of the arrest of **P.M.** and that he arrived in Kosovo the following day. He said he met **X.Z.** and **R.Z.** at the home of **P.M.** approximately two days after he was released on house detention. **P.M.** was released on house detention on 2 March 2011. According to the border records, both **X.Z.** and **R.Z.** returned to Kosovo on 2 March 2011. That is consistent with the fact that when **S.M.** arrived in Kosovo on 1 March 2011 and spoke by telephone with **R.Z.** the **Z. brothers** were in X. It is also consistent with the evidence of both **P.M.** and

S.M. that they met **R.Z.** and **X.Z.** at the home of **P.M.** two days after **P.M.** release on house detention.

Referring to 2010 and 2011 **X.Z.** gave evidence before this court that **N.M.** had never requested from him any financial assistance.

He said **N.M.** mentioned possible treatment abroad for his son but had never mentioned the cost of that treatment.

When he was examined by the prosecutor **X.Z.** gave evidence the money borrowed from **L.N.** and **G.H.** was deposited in their bank account. He said he was present when the money was deposited in the bank. He denied any money was intended for **N.M.** When he gave evidence before this court, referring to the loan from **L.N.**, he initially said that he was present when the money was paid into the bank account of X Impex. He later said that he had been told the money had been paid into that account but that he had not been present. He later said that he had been "in the vicinity" of the bank when the money was paid in. In any event, the bank records show that neither the money given by **L.N.** nor the money given by **G.H.** were paid into a bank account operated by the **R.Z.** or **X.Z.**

Referring to the flour **X.Z.** gave evidence before the prosecutor "*[it] was taken as a loan that had to be returned in a certain time, a time made in agreement with R*". He said the quantity was approximately 5 tonnes. He thought the sale realized a sum of approximately 300 Euros. He said the money was used to pay a telephone bill. He said the loan was never re-paid.

The evidence **X.Z.** gave regarding the flour totally contradicted the evidence of **R.Z.** When he was examined in April 2012 **R.Z.** denied he had taken any flour from **P.M.**

When he was examined by the prosecutor in April 2012 he confirmed they had applied to X Bank for a loan in the sum of 2.5 million Euros. A loan of 1.7 million Euros had been approved. However, the bank requested additional security for the loan. The money was never advanced. He said that he and **R.Z.** had met with **A.L.** to discuss the loan. He confirmed they had discussed the issue of the loan with **N.M.** It was his evidence that he and **R.Z.** met **N.M.** in a restaurant in X. He said **R.Z.** asked **N.M.** if there was any lawful impediment to their being granted the loan. He said they asked **N.M.** because he is a lawyer.

X.Z. gave evidence that **R.Z.** was informed by **A.L.** that further security was required for the loan. He said they discussed the issue with **N.M.** and that he agreed to put his house as collateral. The fact that **N.M.** was willing to use his house as collateral for a loan requested by **X** Impex gives some indication of their relationship.

When he was examined by the prosecutor in April 2012 it was his evidence that he had never contacted **N.M.** on his official number at the offices of the SPRK. He admitted that in 2010 he had visited **N.M.** at the offices of the SPRK. He said this meeting was the day before they travelled together to Albania. **R.Z.** was also present. He was asked the purpose of the meeting. He said it was "to arrange when we were setting off for the journey". When he

gave evidence before this court he was again asked about that meeting. He said they had only discussed with **N.M.** where they were going to meet. He denied that they had discussed anything else. However, when it was put to him that the meeting had lasted approximately one hour he said they had also been in telephonic communication with a doctor regarding re-arranging an appointment.

When he gave evidence before this court he said that he had visited **N.M.** at the offices of the SPRK twice in 2010 and 2011.

R.Z. said that in 2010 and 2011 he visited **N.M.** at the offices of the SPRK "often". It was his evidence **X.Z.** never went with him. The security records of the SPRK record that on 20 September 2010 he entered the premises at 14:10 and left at 15:10. **X.Z.** arrived and left at precisely the same time.

The Border records for **R.Z.**, **X.Z.** and **N.M.** for the period 1 September 2010 - 1 October 2010 show that none of these defendants left Kosovo between 20 September and 1 October 2010.

M.N. exercised her right to remain silent and did not give evidence before the court. She was examined by the prosecutor on 12 July 2012.

She gave evidence she met **N.M.** in Zagreb approximately 5 - 6 years previously.

She described her relationship with **N.M.** in 2010 and 2011

as intimate.

She referred to **N.M.** autistic son. She said she tried to him find a doctor in X who might be able to help him. She said it was her idea to look abroad.

She gave evidence that the initial diagnostic appointment was free of charge. Thereafter the cost would be met by various religious charities.

The first appointment was arranged for February 2012 but postponed to 10 April 2012. She gave evidence she told **N.M.** the date of that appointment on the day he was arrested.

It was her evidence that in 2011 and 2012 she met **N.M.** approximately once each week. Some of those meetings took place in his office at the SPRK.

She gave evidence that if he did not pick-up the telephone when she rang she would go to his office. She said they occasionally argued about their relationship.

Between 11 October 2011 and 30 March 2012 she visited the offices of the SPRK on no less than 8 occasions.

The security records of the SPRK upon which the prosecution relied show that on 11 October 2011 she entered the premises at 14:50 and left at 15:30. On 26 October 2011 she entered the premises at 13:00 and left at 14:00. On 29 December 2011 she entered the premises at 12:17 and left at 12:46. On 22 February 2012 she entered the premises at 14:30 and left at 14:32. On 24 February 2012 she entered

the premises at 14:05 and left at 14:40. On 28 February 2012 she entered the premises at 14:25 and left at 15:15. On 9 March 2012 she entered the premises at 13:55 and left at 15:30. On 30 March 2012 she entered the premises at 15:35 and left at 15:50.

It was her evidence that in March or April 2011 she met **V.L.** in his office at X. They discussed business opportunities involving X, a company that she was representing. At that time X was engaged in a bidding process.

She gave evidence that in September 2011 she was informed by X that they had won the bid. She said she wanted to share the news with **V.L.** and invited him to meet her at the X Hotel. **V.L.** gave evidence **M.N.** wanted a confidential meeting and suggested they met at the hotel. If the purpose of the meeting were simply to inform **V.L.** of the X success, it is surprising she did not simply go to his office.

M.N. gave evidence they had lunch at the X Hotel and discussed business. She said the meeting lasted approximately one hour.

She denied **N.M.** had ever discussed his ongoing investigations with her. She said he had never mentioned the names of persons involved in any of his investigations. She denied she had ever looked at files in **N.M.** office. She said she never asked him about his job. That was a lie.

She denied that when she met **V.L.** she knew that he was under investigation. She said she did not know the name of

any international judge, prosecutor or police officer. She said she did not know if any investigations conducted by **N.M.** were supervised by an international prosecutor. She denied having discussed any issue involving **L.K.**, **A.L.** or **A.G.** She denied she had discussed any investigation with **V.L.** She denied she mentioned the name **N.M.** She denied that she had suggested to **V.L.** that he, **L.K.**, **A.L.** or **A.G.** travel to X. She denied she had told **V.L.** an arrest warrant had been issued against him. She denied she told **V.L.** to tell **A.G.** not to contact **N.M.** In fact, it was her evidence she "*never knew the existence of A.G.*". That was a lie.

V.L. gave evidence **M.N.** mentioned **A.G.** That evidence is consistent with the evidence of **N.M.** When **N.M.** was examined on 10 July 2012 he was asked by the prosecutor if he had ever informed **M.N.** about the fact **A.G.** had tried to contact him. In reply he said "*...I asked her whether she had told A. to call me...*" He said he thought she might know him. He said that he asked **M.N.** to tell **A.G.** not to contact him.

M.N. denied she had offered to **V.L.** the business card of the chief prosecutor of X or that this prosecutor had travelled to Kosovo in the case of **V.L.**

She denied that she had told **V.L.** that **N.M.** could terminate the case against him. She denied she had told **V.L.** a German prosecutor was working with **N.M.**

It was her evidence she had never had a problem or disagreement with **V.L.**

2. Evidence relating to Telephonic Communications

Pursuant to an order of the Court⁶⁴, PTK, Vala and IPKO were ordered to disclose the content of SMS communications between **R.Z.**, **X.Z.**, **P.M.** and **N.M.** during the period 1 June 2010 to 30 April 2011.

The parties agreed the admission of the evidence of telephonic communications upon which the Prosecution relied and to which reference is made herein, including telephone metering, transcripts of SMS communications and transcripts of telephonic communications.

The court finds that at all material times the following persons were using the following telephone numbers:

P.M. - XXX XXX XXX

R.Z. - XXX XXX XXX

X.Z. - XXX XXX XXX

N.M. - XXX XXX XXX and XXX XXX XXX

No telephone records for **M.N.** were put in evidence.

No telephone records relating to **S.G.** were put in evidence.

⁶⁴ 13 February 2012.

Introductory Comments

In 2008 Kosovo Police received two anonymous complaints wherein corruption was alleged in the Kosovo banking system.

Amongst those alleged to be involved was the then Governor of X, H.R. and other officials. The letters also contained allegations against a former liquidator of X in X, **P.M.** and officials of the X in X - **L.K.** and **A.L.** and an official of the, **V.L.**

Following a police investigation, several criminal reports were filed. These included a report dated 23 March 2009⁶⁵ (No 2008-X.Z.-007) that included allegations against **V.L.**, **L.K.** and **A.L.** That report was sent to SPRK prosecutor, **L.S.** Although allegations were made that concerned, no reference was made in that report to **P.M.**

A second Criminal Report dated 27/03/2009 (No DKKO-NJHF-2008-X.Z.-013) was sent to SPRK prosecutor **R.M.** Again, Although allegations were made that concerned X, no reference was made in that report to **P.M.**

In 2009 a Ruling on the Initiation of Investigation was issued in the so-called 'X' case. This case concerned **P.S.** and **S.K.** and was assigned the number PPS 23/09. Initially this case was dealt with by the SPRK prosecutor **L.S.** but on 25 May 2010 it was assigned to **N.M.**

On 28 May 2010 a Criminal Report signed by various shareholders of X Bank was sent to police. The persons accused in that report included **A.G.** and **V.L.** A Ruling on Initiation of Investigation in that case was issued on 2 December 2011⁶⁶.

On 23 June 2010 **N.M.** sent to the then Head of the SPRK **I.A.** a memo entitled 'Information for the actions taken on Case PPS 23/09.'⁶⁷ In this document **N.M.** informed his superior about the investigative steps that had already been taken. He concluded that separate investigations should be initiated against all of the suspects that had been identified in Police criminal reports. In his view a case should be brought against **V.L.**, **L.K.** and **A.L.** (case No 3). **P.M.** was not mentioned in this memo.

The first telephonic communications between **N.M.** and the **Z. brothers** occurred on 28 June 2010.

On 20 July 2010 Kosovo Police submitted to **N.M.** an Official Memorandum No 017-TFAK/2010⁶⁸. In that report **P.M.** was suspected for abusing his official position when liquidator of X in X. This document contained several other allegations also against **H.R.**, **V.L.**, **L.K.** and **A.L.**

On 21 July 2010 **N.M.** issued the Ruling on the Initiation of Investigation⁶⁹ against **H.R.**, **I.J.**, **I.M.** and **S.Z-H.** The case was given the case number PPS 64/10.

⁶⁶ Page 2184 of the main trial bundle.

⁶⁷ Page 2113 of the main trial bundle.

⁶⁸ Page 2117 of the main trial bundle.

⁶⁹ Page 2126 of the main trial bundle.

In relation to **R.Z.** and **X.Z.**, it is important to note that in 2010 **X** Impex, the company of which **R.Z.** was sole director and **X.Z.** was employed, owed very substantial sums of money to Raifeissen Bank. There was a mortgage on the **Z brother's** property in the region of 1 million Euros⁷⁰.

In addition, the **Z. brothers** had borrowed substantial sums of money from various private individuals.

The Case of P.M.

When **S.K.** returned from maternity leave in August 2010 she worked for **N.M.**

She gave evidence **P.M.** had met **N.M.** in a "session" at the offices of the SPRK. She thought it was in 2011.

P.M. received a formal summons to appear before the prosecutor on 19 April 2011.

When she was examined by the prosecutor in March 2012 she said she had never telephoned **P.M.** and asked him to attend the offices of the SPRK.

She could not recall if **P.M.** had attended the offices of the SPRK more than once.

The court finds that, in fact, **P.M.** also attended the offices of the SPRK on 8 and 15 September 2010 without

⁷⁰ Certificate for the Immovable Property Rights.

having received any formal summons.

S.K. gave evidence she could not recall how many times **P.M.** had attended the offices of the SPRK. She did not recall **N.M.** having ever asked her to contact **P.M.** to attend the SPRK for an informal meeting.

In any event, it appears it was not unusual to summons a witness by telephone.

Referring to the case against the Governor of X she said she had never seen a list of persons who were to be arrested.

S.K. gave evidence she knew **R.Z.** as a friend of **N.M.** She only knew the name **X.Z.** having read it in the newspapers following the arrest of **N.M.**

She said she recalled one occasion when **R.Z.** telephoned the private office number of **N.M.** and asked to speak with him. She said **R.Z.** left his name with her. She could not recall what, if anything, further **R.Z.** had said on that occasion. When she was examined by the prosecutor in March 2012, referring to that occasion she said she asked **R.Z.** if he wished to leave a message. In reply he stated "*This is R., his friend, tell him to call me back*".

S.K. kept a personal record as an aide memoire. These confirmed two occasions when **R.Z.** had attempted to make contact with **N.M.** at the offices of the SPRK.

Between August 2006 and September 2010 **L.Z-M.** was employed

by the SPRK as a Legal Officer. She worked for various prosecutors.

She gave evidence the investigation into the former Governor of X was the main reason she resigned in September 2010. She was concerned about the direction the case was taking. In her opinion the evidence did not support the allegations. She believed evidence was being manipulated in order to justify the continuing detention of the former Governor of X. She expressed her concerns to **N.M.** and to his superiors. She was instructed to continue working on the case and to follow the instructions of **N.M.** She resigned from her position. Of course, it is not unusual for two lawyers to disagree about the assessment of evidence in a case.

She recalled seeing in the case file a list of persons to be arrested. She could not recall the names on the list. **S.H.** could not recall seeing in the case file a list of persons to be arrested. She thought that if there had been such a list she would have seen it.

She said she was told by **S.K.** that **P.M.** was summonsed to the offices of the SPRK and that he had appeared on two occasions. She said she was told by **S.K.** that **P.M.** had informal discussions with **N.M.** and **Z.I.** prior to the dates on which he was officially summonsed. **S.K.** could not recall having witnessed any informal meeting between **N.M.** and **P.M.** However, the court finds that on 8 and 15 September 2010 **P.M.** met **N.M.** at the offices of the SPRK during which no formal interview was conducted. This surprising given the fact the meeting on 15 September lasted more than two

hours.

Between their first recorded telephonic communication on 28 June and 11 August 2010 there was frequent telephonic communication between **N.M.** and the **Z. brothers**⁷¹.

At 22:56 on 11 August 2010 **R.Z.** telephoned **P.M.**. There was a second telephone call from **R.Z.** at 23:02.

The chronology of this, and other, telephonic communications is interesting. At 17:28 **X.Z.** telephoned **N.M.** At 22:10 **N.M.** telephoned **R.Z.** At 22:11 **R.Z.** sent the following SMS to **N.M.** "*Mr. N., it's R. I am in X, can we have coffee. Regards*" At 22:15 **N.M.** telephoned **R.Z.**

It appears on the face of the telephonic communications that a meeting took place between **P.M.** and the **Z. brothers** on 13 August 2010 because at 09:26 on 14 August **R.Z.** sent an SMS to **P.M.** that stated "*Can we have coffee at 10 where we were at yesterday, in X?*"

Again, the chronology of communications between **R.Z.** and **P.M.** is interesting. At 09:42 on 14 August 2010 **R.Z.** sent an SMS to **N.M.** that stated "*Are you ok? Are you on your way or not? R.*".

At 09:46 **N.M.** telephoned **R.Z.** That conversation lasted for 1 minute and 17 seconds.

At 12:10 **R.Z.** sent an SMS to **N.M.** that stated, "*N., I am in*

⁷¹ 28 and 30 June, 9, 15, 17, 19, 21, 22, 23 July and 4 and 7 August 2010.

X. *Whenever you call, we will meet*".

At 12:32 **R.Z.** sent an SMS to **N.M.** that stated "X, *Can we meet at X?*"

At 12:57 **N.M.** telephoned the **Z. brothers**. At 15:08 and 15:44 the **Z. brothers** telephoned **P.M.**

On 13 August 2010 Investigator **Z.I.** sent an Informative Report⁷² to **N.M.** in case PPS 64/10 informing the prosecutor of the progress of the investigation.

P.M. gave evidence that when they met **R.Z.** and **X.Z.** asked him for a loan in the sum of 240,000 Euros.⁷³ They said they wanted to build a bottling plant. **P.M.** told them he was unemployed and that he could not help them. In response, they told **P.M.** an accusation was being filed against him and that *"We have a very powerful person, a friend of ours and that you should cooperate with that person and see how you could help us with that loan, but also with regards to a co-operation that person may want from you."*

He said **R.Z.** and **X.Z.** asked him about the former Governor of X. They told him their friend could help him be re-appointed to his position as Liquidator of X. However, **P.M.** gave evidence the **Z. brothers** did not say who this friend was at this first meeting or what type of assistance this person required.

The Court finds that the first communication between **P.M.**

⁷² Page 2140 of the main trial bundle

⁷³ Page 19 Minutes of 4 December 2012

and the **Z. brothers** was made by **R.Z.** The fact this communication came after a flurry of telephonic communications between **N.M.** and **R.Z.** supports the prosecution averment this contact was made in cooperation with **N.M.** Indeed, it is inconceivable that in August 2010 the **Z. brothers** would be aware of an investigation involving **P.M.** unless they had been so informed by **N.M.**

It was **P.M.** evidence to the trial panel that a few days after this first meeting he received a telephone call from **R.Z.** who requested they meet again. In fact, he was probably mistaken about when that second meeting took place. The telephonic evidence to which reference has been made suggests the first meeting took place on 13 August and the second meeting on 14 August.

P.M. gave evidence that during this second meeting with **R.Z.** and **X.Z.** they told him they had spoken with their friend who had confirmed he could help **P.M.** but that in return he must help their friend with a case. They described their friend as "*very strong and powerful*". They also told him a Criminal Report would be filed against him containing allegations he had received an unlawful material benefit in the sum of approximately 200,000 Euros. **R.Z.** and **X.Z.** said their friend "*is going to help you*".

Again, the **Z. brothers** were aware of detail of the criminal investigation involving **P.M.** and referred to a specific sum of money. This was the sum specifically mentioned in the criminal report filed by the acting receiver of X, **L.B.**⁷⁴

⁷⁴Page 1901 of the main trial bundle.

Further, the **Z. brothers** knew the investigation somehow involved the former Governor of X.

P.M. gave evidence before this Court the **Z. brothers** told him that the friend to whom they referred and the person from whom they had received the information was the special prosecutor **N.M.** They suggested a meeting with **N.M.**

During the period 11 - 15 August 2010 there were 13 telephonic communications between **N.M.** and **R.Z.**

When interviewed by the prosecutor on 1 February 2012 **P.M.** gave evidence that approximately two days after his second meeting with **R.Z.** and **X.Z.**, when they had discussed a possible meeting with **N.M.**, he received a telephone call from **R.Z.** who told him *"The prosecutor is threatened too and he is not moving anywhere without close protection, he has no possibility to meet you outside his office but you need to go to his office."*

On 16 August 2010 the District Prosecution Office received a Criminal Report⁷⁵ against **P.M.** filed by the Acting Receiver of X, **L.B.** The allegations in that report concerned **P.M.**

On 24 August 2010 at 08:16 **N.M.** sent an SMS to **R.Z.** that stated *"Hi. Just to inform you that I came yesterday"*. At 08:17 **R.Z.** sent an SMS to **N.M.** that stated *"Are you OK. Can we have coffee today? Regards R."* At 08:18 **N.M.** sent an SMS to **R.Z.** that stated *"When you come let me know"*.

⁷⁵ Do.

At 14:49 on 24 August 2010 **P.M.** called **R.Z.**, asking about the 'state of affairs'. It is no coincidence that approximately 10 minutes later, at 15:00, **R.Z.** sent an SMS to **N.M.** that stated "**N.** Can we meet in X at 17:00? **R**". At 15:05 **N.M.** sent an SMS to **R.Z.** that simply stated "Yes". At 16:25 **R.Z.** sent an SMS to **N.M.** that stated "Can we meet at X?" Again, it is no coincidence that at 19:13 **R.Z.** sent an SMS to **P.M.** that stated "**P,** please understand. Tonight and tomorrow morning we will have coffee together. **R.Z.**" The Court finds that the purpose of these telephonic communications with **N.M.** and the proposed meeting was to discuss the case of **P.M.**

On 25 August 2010 at 11:11 **R.Z.** sent an SMS to **P.M.** that stated "**P.,** I am in X. I'll be back in an hour and we'll meet. **R.**". At 18:27 **R.Z.** sent an SMS to **P.M.** that stated "**P.,** please understand tonight too. **R.Z.**"

On 26 August 2010 at 19:27 **R.Z.** sent an SMS to **N.M.** that stated "**N.** Can we sit together tonight?" At 19:37 **R.Z.** sent an SMS to **N.M.** that stated "**N.** Can we sit together tonight?"

On 6 September 2010 at 11:27, 14:44 and 16:39 **P.M.** contacted **R.Z.** At 16:42, three minutes after his telephone communication with **P.M.**, **R.Z.** telephoned **N.M.** Again, that is no coincidence.

On 6 September 2010, the same day as the telephone communication between **N.M.**, **R.Z.** and **P.M.**, **N.M.** invited **P.M.** to attend the offices of the SPRK on 8 September 2010

in case number 64/10.

It is no coincidence that **P.M.** was asked to attend the prosecutors office within a relatively short period of time of his having discussed with the **Z. brothers** the possibility of his meeting **N.M.** and the suggestion any meeting took place at the prosecutors office.

On 8 September 2010 **P.M.** attended the offices of the Special Prosecutor for the Republic of Kosovo. He had not received an official summons to appear before the prosecutor. He entered the offices of the SPRK at 09:58.

P.M. gave evidence that during that meeting **N.M.** told him he needed his assistance in their case against the former Governor of X. **N.M.** told him that in return for his help he would be re-appointed to his former position of Liquidator of X.

In reply **P.M.** stated he was willing to assist but that he did not have any relevant information to give evidence against the former Governor.

In response **N.M.** told him *"OK, but don't forget a criminal report is about to be filed against you"*⁷⁶.

P.M. stated he was not afraid of this as he had done nothing wrong and had nothing to hide. **N.M.** told **P.M.** to *"think about it"*⁷⁷. He was told that in due course he would be asked to return to the prosecutor's office.

⁷⁶ Page 23 of the minutes of the main trial from 4 December 2012.

⁷⁷ Do.

P.M. gave evidence that during his meeting with **N.M.** no minutes were taken and he was not asked to sign any document. He thought the meeting lasted approximately 20 minutes. He left the prosecutors office at 10:50⁷⁸.

P.M. gave evidence that upon his leaving the prosecutors office he telephoned **R.Z.** to tell them what had happened. He said that during that conversation **R.Z.** said "*Didn't we tell you it was going to be good*"⁷⁹.

The fact of a telephone communication between **P.M.** and **R.Z.** is supported by the evidence that at 11:01 **P.M.** contacted **R.Z.** At 14:16 **R.Z.** contacted **N.M.** Thereafter, at 14:18 **P.M.** contacted **R.Z.** Again, it is no coincidence that **R.Z.** spoke by telephone with **N.M.** within a matter of minutes of his speaking with **P.M.**

Telephonic communications occurring within a relatively short period of time between **N.M.**, **R.Z.**, **X.Z.** and **P.M.** were not an unusual feature of this case. A similar pattern of communications also occurred on 10, 16 and 26 September 2010.

On 10 September 2010 at 08:45 **P.M.** telephoned **R.Z.** At 08:46 **R.Z.** telephoned **N.M.** Again, **R.Z.** telephoned **N.M.** approximately 1 minute after receiving a telephone call from **P.M.** That communication is interesting because it occurred on the same day that **P.M.** took a bank loan in the sum of 3000 Euros.

⁷⁸ Pages 795 - 814 of the trial bundle.

⁷⁹ Page 25 of the minutes of the main trial from 4 December 2012.

P.M. gave evidence that he received further demands from the **Z. brothers** for money. It was his evidence that on 10 September 2010 he took a loan of 3,000 Euros from the Economy Bank⁸⁰ and gave that sum to **R.Z.** **P.M.** put his private motor car and certain household items as security for the loan. It is clear this was not simply a business arrangement involving a loan made by someone with disposable capital. The fact **P.M.** used his motor car and essential household items as security would suggest this was a desperate attempt to secure funds.

On 11 September 2010 at 15:58 **R.Z.** sent an SMS to **N.M.** that stated "**N.**, can we have coffee? We are in X. **R.**". At 16:33 **R.Z.** sent another SMS to **N.M.** that stated "Can we meet or not? **R.**". At 16:35 **N.M.** sent an SMS to **R.Z.** that stated "I am in downtown".

On 14 September 2010 at 19:32 **R.Z.** sent an SMS to **N.M.** that stated "I am at your house".

On 15 September 2010 **P.M.** was again called to the offices of the SPRK without any official summons. He arrived at the offices of the SPRK at 09:42.

P.M. gave evidence that, upon entering the prosecutor's office, he saw **N.M.** typing at his computer. He was alone. **N.M.** then took a document off his printer and handed it to **P.M.** He told him it was the list of persons who were to be arrested in the X Bank case. **P.M.** saw that his name was on

⁸⁰ Pages 740 - 762 of the main trial bundle.

the list.

N.M. told **P.M.** he too should have been arrested but that he had not done so "*because of our mutual friends*"⁸¹.

T.G. gave evidence that **N.M.** referred to the "brothers" when they met during the period **P.M.** was in house detention.

The Court finds that **N.M.** was referring to **R.Z.** and **X.Z.** It is inconceivable that **N.M.** would refer to the **Z. brothers** unless he knew of the connection between them and he wanted to validate the nature and purpose of the discussions inter se.

P.M. gave evidence that during that meeting **N.M.** asked **P.M.** if he had thought any more about the case against the former Governor of X. **P.M.** stated he had no evidence to give that, in his opinion, might assist the prosecution. In response he said **N.M.** told him that he had received a criminal report implicating **P.M.** in a criminal offence. He said that he had only glanced through the report. He told **P.M.** he should "*...go on helping and assisting our friends the Z. brothers everything will be alright*"⁸².

P.M. left the offices of the SPRK at 11:50⁸³. Again, no formal interview was conducted - despite **P.M.** being at the offices of the SPRK for more than two hours.

⁸¹ Page 25 of the Minutes of 4 December 2012.

⁸² Page 26 minutes of 4 December 2012.

⁸³ Page 739 of the main trial bundle.

It is no coincidence that during a meeting at the SPRK that took place the day after **R.Z.** met **N.M.** in X **N.M.** should state "...go on helping and assisting our friends the **Z. brothers** everything will be alright"⁸⁴.

After the second meeting with **N.M.** **P.M.** telephoned **R.Z.** and informed him he had left the prosecutor's office. **R.Z.** said "Very well, we are going to meet"⁸⁵.

P.M. gave evidence that a day or two after that meeting with **N.M.** he met **R.Z.** and **X.Z.** in X. During that meeting **R.Z.** and **X.Z.** asked **P.M.** for 50,000 Euros in order for the investigation against him to be terminated and for him to be re-instated in his former position as Liquidator of X. It is significant this "request" was made within a matter of days of the meeting between **P.M.** and **N.M.** during which **N.M.** had informed him of the criminal report. The clear inference is that **R.Z.** and **X.Z.** were in communication with **N.M.** and this sequence of events was part of a pre-arranged plan. This meeting followed earlier telephone communications between **R.Z.** and **N.M.** as well and a meeting between **R.Z.** and **N.M.** It came shortly after the meeting between **P.M.** and **N.M.** at the offices of the SPRK during which **N.M.** had stated "...go on helping and assisting our friends the **Z. brothers** everything will be alright"⁸⁶.

P.M. gave evidence **R.Z.** and **X.Z.** said the sum of 50,000 Euros was to be given to **N.M.** They said **N.M.** needed the money to send his son abroad for medical treatment.

⁸⁴ Page 26 minutes of 4 December 2012.

⁸⁵ Page 27 of the minutes of 4 December 2012.

⁸⁶ Page 26 of the minutes of 4 December 2012.

Referring to the sons' medical condition they told **P.M.** he "screams a lot when seated at a table he throws what he can grab without any control"⁸⁷. The **Z. brothers** appeared to have a somewhat rudimentary understanding of the condition that afflicted **N.M.** son.

P.M. asked the **Z. brothers** how he could be re-appointed to his former position as Liquidator. The **Z. brothers** told him that all of the central characters in X case, including **N.K.**, the Deputy Governor of X would shortly be summonsed to appear before the prosecutor. They said the Prosecutor would have them all "in his hands".

This is interesting because it again demonstrates the **Z. brothers'** knowledge of an ongoing criminal investigation and even the timeframe in which it was proposed the prosecutor would interview a key witness. Given the pattern of their communications the Court finds that it was **N.M.** who had disclosed this information regarding the criminal investigation.

P.M. told **R.Z.** and **X.Z.** he could not assist the prosecutor because he had no evidence that might assist him. However, he said he was interested in being re-appointed to his former position as Liquidator of X.

P.M. gave evidence he offered the **Z. brothers** 20,000 Euros. Referring to the **Z. brothers** **P.M.** said "nothing was for

⁸⁷ Page 29 of the minutes of 4 December 2012.

them".⁸⁸

In response to his offer to pay 20,000 Euros **R.Z.** and **X.Z.** said "OK, we will talk to the Prosecutor, and we will let you know how to proceed⁸⁹".

During the period 11 - 18 September 2010 there were 14 telephonic communications between **N.M.** and **R.Z.** and 1 telephonic communication between **N.M.** and **X.Z.**

On 16 September 2010 at 12:54 **N.M.** sent an SMS to **R.Z.** that stated "**Dr. Q.S.**". At 15:54 **X.Z.** telephoned **N.M.**. At 15:46 **P.M.** telephoned **R.Z.**. At 20:17 **N.M.** telephoned **X.Z.**. Again, it is no coincidence that, approximately three minutes later, at 20:20 **R.Z.** telephoned **P.M.** At 20:33 **R.Z.** telephoned **P.M.** At 20:37 **P.M.** telephoned **R.Z.** At 21:22 **X.Z.** telephoned **N.M.**

On 17 September 2010 at 15:57 **R.Z.** sent an SMS to **P.M.** that stated "**P., I am in X. R.Z.**"

P.M. gave evidence that two or three days after the meeting with **R.Z.** and **X.Z.** during which he had offered 20,000 Euros **R.Z.** contacted him requesting a meeting. Present at the meeting was **P.M., R.Z.** and **X.Z.** **R.Z.** told **P.M.** that **N.M.** had rejected his offer of 20,000 Euros and had repeated his previous demand of 50,000 Euros. **P.M.** gave evidence the **Z. brothers** told him **N.M.** needed that amount because the money would be divided between three people including a lawyer

⁸⁸ Page 22 of the English version of the Record of Examination by prosecutor on 1 February 2012.

⁸⁹ Page 11 of the English version of the Record of Examination by prosecutor on 1 February 2012.

from X as well as someone from X Bank whose names were not mentioned.

P.M. informed the **Z. brothers** he could not obtain that amount of money. They told him the investigation would continue but that they would do what they could to find a solution.

A few days after that meeting, **R.Z.** telephoned **P.M.** and requested a further meeting. During that meeting **R.Z.** and **X.Z.** again referred to the fact **N.M.** son was ill and said *"we are doing our best to help; we have to find some money in the form of a loan for the Public Prosecutor..."* They asked him for a loan. **P.M.** could not recall in what amount. He said he told them he had no money to lend.

P.M. gave evidence that, thereafter, **R.Z.** telephoned him constantly for a period of 2 or 3 days. They agreed to meet again.

The evidence of **P.M.** was that in the latter part of August 2010 he had agreed to give the **Z. brothers** the sum of 20,000 Euros. That sum was intended as a loan and was money that he had asked **L.N.** to advance.

In fact, it appears on the evidence this money was given in or about September 2010. In his evidence **L.N.** referred to the "summer" of 2010.

It appeared on the evidence that **P.M.** went along with the scheme, only deviating when the defendants' demands became too great. Clearly that has an impact upon his credibility.

However, in all material respects, his evidence is consistent with and corroborated by other evidence in the case. In all material respects, the court found his evidence reliable.

L.N. gave evidence that **P.M.** told him he needed the money because an "accusation" was being prepared against him. He said **P.M.** told him he needed the money to "get rid of the indictment". When he was examined by the prosecutor he did not mention "indictment". However, he was clearly aware of a criminal investigation against **P.M.**

L.N. gave evidence before this court the reason he lent the money to the **Z. brothers** was because **P.M.** believed they could have him reinstated in his former position at the bank.

However, when he was examined by the prosecutor⁹⁰ he said **P.M.** "was afraid to get arrested". On that occasion he was asked by the prosecutor to explain the reason **P.M.** had requested he make a loan of 20,000 Euros to the **Z. brothers**. In reply he said **P.M.** told him "They will perform the job for me, and they asked this money from me". However, later in that examination the prosecutor asked **L.N.** if the money given to the **Z. brothers** was in return for "some kind of favour". In reply **L.N.** stated "**P.M.** told me "**Z. brothers** could return me to my previous position through some other people" according to him I gave this 20,000 Euros just for this purpose"⁹¹.

⁹⁰ 23 March 2012.

⁹¹Page 4 of Minutes of interview with prosecutor on 23 March 2012.

The evidence of **L.N.** was that the sum of 20,000 Euros would be given to the **Z. brothers** in return for some material benefit. It was his evidence that, through a third party, the investigation against **P.M.** would be terminated and he would be re-instated as Liquidator of X Bank.

L.N. said he met **R.Z.** and **X.Z.** in X.

L.N. said that during that meeting the **Z. brothers** stated they had *"influential people in X and they can perform big jobs"*⁹².

When he gave evidence before this court he said reference was made to *"prosecutors"*. However, when he was examined by the prosecutor **L.N.** was asked *"Did **Z. brothers** mention what kind of influential people..."* In reply he **L.N.** said *"Not to me"*. He said the meeting lasted 15 - 20 minutes.

Indeed, when he was examined by the prosecutor, **L.N.** was asked *"Did **Z. brothers** or **P.M.** mention anything about the involvement in this case of any state officials?"* In reply he said *"All they said was "we have people in X that they can have the job done" but nothing about the names or the functions of those people"*⁹³.

With the passage of time it is inevitable that exterior factors will have a subliminal effect on the coherency of witness testimony. That is certainly true in this case with this and other witnesses. The Court has considered that feature when assessing this and other evidence.

⁹² Page 4 of Minutes of interview with prosecutor on 23 March 2012.

⁹³ Do.

L.N. agreed to lend the **Z. brothers** the sum of 20,000 Euros. That sum was to be repaid before the New Year. **P.M.** was the guarantor for the loan.

L.N. gave evidence that approximately four days after their first meeting in X he gave **R.Z.** 20,000 Euros in cash while sitting in **P.M.**'s car that was parked in front of the X in X.

L.N. gave evidence his communication with the **Z. brothers** was always through **P.M.** He never met either of the **Z. brothers** without **P.M.** also being present. He said had had not given his contact details to the **Z. brothers.**

The Court found **L.N.** to be a credible, reliable witness.

P.P. gave evidence that in 2010 he was contacted by **R.Z.** and **L.N.** Each referred to a contract it was proposed **P.P.** should draw-up relating to a loan in the sum of 20,000 Euros from **L.N.** to **R.Z.**

P.P. gave evidence that he did not discuss the terms of the proposed contract with either **R.Z.** or **L.N.**

He said he asked **R.Z.** to provide him with a Property Certificate. When he came to court **P.P.** brought with him a sealed Property Certificate. He could not recall who had given it to him. The court finds that original sealed certificates are normally given to the registered owner of the property and that the certificate was most probably given to **P.P.** by **R.Z.**

P.P. gave evidence he heard nothing further from either **R.Z.** or **L.N.** and a contract was never drawn-up.

He did give evidence that he was contacted by **P.M.** who enquired about the draft contract. He said **P.M.** asked him if he had drafted a contract between **R.Z.** and **L.N.** However, he said he had the impression **P.M.** had brought **L.N.** and **R.Z.** together. He could not explain how he had formed that impression. Of course, it is very telling that **P.M.** was involved at all. This was not, as portrayed by **R.Z.**, a simple business relationship between him and **L.N.**

When he was examined by the prosecutor on 17 April 2012⁹⁴ **R.Z.** gave evidence a contract had not been drawn-up. Indeed, it appeared to be his evidence the parties had never intended drawing-up a contract. He said **L.N.** "trusted me". It is, therefore, odd that **P.P.** was instructed at all.

On 21 September 2010 at 16:42 **R.Z.** sent an SMS to **P.M.** that stated "*P., please understand until tomorrow I can't do it. Regards, R.Z.*"

On 23 September 2010 at 19:01 **R.Z.** sent an SMS to **P.M.** that stated "*P, please understand we finish the obligation until Saturday. R.Z.*" At 19:04 **P.M.** sent an SMS to **R.Z.** that stated "*I didn't call you for that thing, just wanted to have coffee and to talk about something*".

On 23 September 2010 the then Head of the SPRK **I.A.** signed

⁹⁴ Page 5 of the Minutes or page 101 of the main trial bundle.

a Decision⁹⁵ to take over the case involving **P.M.**

On 25 September 2010 at 10:52 **X.Z.** sent an SMS to **N.M.** that stated *"Hello. How was your day? Is your son OK? Regards, X."* At 16:53 **N.M.** sent an SMS to **X.Z.** that stated *"Fine, thanks for asking. The son's condition not changed so much. Regards"*

On 26 September 2010 at 20:17 **N.M.** telephoned **X.Z.** Again, it is no coincidence that, shortly thereafter, at 20:20 **R.Z.** telephoned **P.M.** At 20:33 **R.Z.** telephoned **P.M.** At 20:37 **P.M.** telephoned **R.Z.** At 21:22 **X.Z.** telephoned **N.M.**

29 September 2010 at 08:51 **R.Z.** sent an SMS to **N.M.** that stated *"Prof. Dr. M.R. no. XXXXXXXXXX"*

During October, November and December 2010 there were frequent telephone communications between **R.Z.**, **X.Z.**, **N.M.** and **P.M.**

On 4 December 2010 at 13:30 **N.M.** sent an SMS to **R.Z.** that stated *"Hi. How are you?"*

On 5 December 2010 at 11:16 **N.M.** sent an SMS to **R.Z.** that stated *"You are done with me"*. At 11:30 **R.Z.** sent an SMS to **N.M.** that stated *"Thanks, you have done a lot for us...while inshallah it never ends for us. Only the devil up in the sky will test our soul. I know well that good things will weigh more. Thanks for the gratitude that you feel with our thing. R.Z."* At 11:31 **N.M.** telephoned **R.Z.**

⁹⁵Page 1912 of the main trial bundle.

At 11:34 **N.M.** sent an SMS to **R.Z.** that stated "You yourself wanted it like that when we met at my place". At 11:54 **R.Z.** sent an SMS to **N.M.** that stated "They call it hardship. Considering you as a brother I thought that we together will surpass it? The essence of this is that we didn't have it, and nothing". At 11:57 **R.Z.** sent an SMS to **N.M.** that stated "Mr. **N.** I came yesterday at 12 to your home with **X** and **B.** You were not there. The thing is that the job is not being accomplished, not with Dr. nor with you. It depends how you understand us. A debt for us is a debt and until we pay it back it is a trouble for the soul. **R.Z.**" At 12:32 **R.Z.** sent an SMS to **N.M.** that stated "Mr. **N.** do you feel better? Inshallah you get better. **N.,** people of the heart don't get spoiled because of money. My best regards to the family. **R.**" At 13:14 **R.Z.** sent an SMS to **N.M.** that stated "Mr. **N.** an old Muslim saying goes 'When you make a friend you have one difficulty less, when you lose a friend you get one difficulty more'. Please, do it for us. A few days more with Dr. and we finish the obligation. **R.Z.**" At 13:30 and 13:34 **R.Z.** sent two further SMS messages to **N.M.**. The content of those SMS' is missing. At 17:25 **R.Z.** sent an SMS to **N.M.** that stated "Mr. **N.** may Allah give you always whatever you wish. Like a brother **R.Z.**".

During these exchanges between **N.M.** and **R.Z.** reference is made to "the job". The context of this exchange is such that the court finds this is not a discussion regarding the medical treatment of the son of **N.M.** Indeed, apart from the occasional passing enquiry by the **Z. brothers** regarding **N.M.** son, telephone communications are almost devoid of any conversation that might remotely be related to the son's medical condition or treatment.

On 24 December 2010 at 18:42 **R.Z.** sent an SMS to **N.M.** that stated "Respected **N.**, please, until Monday I cant finish the obligation. **R.Z.**"

On 25 December 2010 at 15:38 **R.Z.** sent an SMS to **N.M.** that stated "Mr. **N**, please, if you are with Dr. have patience until Tuesday, we will finish our obligation. **R.Z.**". At 15:48 **R.Z.** sent an SMS to **N.M.** that stated "**N.**, Tuesday, we finish the obligation. I'll bring you some whisky for the New Year. Regards to **Dr. S** too. **R.Z.**"

Again, the context of this exchange is such that the court finds this is not a discussion regarding the treatment of the son of **N.M.**

The 20,000 Euros that **L.N.** handed to **R.Z.** was to be repaid on or before 31 December 2010. An extension for repayment of the money was agreed. However, the money was never repaid.

L.N. gave evidence the **Z. brothers** had never refused to return the loan. They had simply failed to do so.

L.N. gave evidence **P.M.** told him "They have deceived us". He said "They asked for the money to return me to my previous job".

On 5 January 2011 at 19:03 **R.Z.** sent an SMS to **N.M.** that stated "**N**, its **R.Z.** Are you OK? Can you have a coffee with me tomorrow in X? Regards **R.**".

On 6 January 2011 at 16:35 **R.Z.** sent an SMS to **P.M.** that stated "Tonight also we can't do the job. Please understand us".

On 8 January 2011 at 17:25 **R.Z.** sent an SMS to **N.M.** that stated "Thanks for the big help you gave us. We appreciated it".

In January and February 2011 there were frequent telephone communications between **R.Z.**, **X.Z.**, **P.M.** and **N.M.**⁹⁶

On 10 January 2011 **Z.I.** sent a report⁹⁷ to **N.M.** requesting the prosecutor issue a Ruling for the Initiation of Investigation into the alleged offences involving **P.M.**

Between September 2010 and March 2011 **S.H.** worked as a legal officer in the SPRK. She has worked for various prosecutors including **N.M.**

She worked on the case involving the former Governor of X. Together with **L.Z-M.** she had reviewed the case and drafted an analysis of the evidence. In her opinion the evidence was insufficient to support the proposed charges. Their report was given to **N.M.**

S.H. gave evidence that in February 2011 she drafted the Ruling on Initiation of Investigation in the case against

⁹⁶ (04-12/01/2011, 17-18/01/2011, 27-28/01/2011, 31/01/2011, 02/02/2011, 07-08/02/2011, 12-13/02/2011, 15-16/02/2011, 18/02/2011, 21/02/2011 and 25-27/02/2011).

⁹⁷ Page 1916 of the main trial bundle.

P.M. She was satisfied there was sufficient evidence against **P.M.** to justify issuing such a Ruling.

On 24 February 2011 in case number PPS 87/10 **N.M.** issued a Ruling on Initiation of Investigation⁹⁸ against two suspects including **P.M.**

An order dated 24 February 2011 for the arrest of **P.M.** was signed by **N.M.**

On 24 February 2011 at approximately 3pm **P.M.** received a telephone call from the police instructing him to attend a meeting with the investigating officer at 10am on 28 February 2011. The person with whom **P.M.** spoke told him to attend the office of **Z.I.** He did not receive a formal summons.

P.M. gave evidence that, having received that telephone call, he called **R.Z.** The following day he met **R.Z.** and **X.Z.** in X.

P.M. gave evidence that when he met **R.Z.** and **X.Z.** in X on 25 February 2011 they told him that he would be asked to give a statement. They told **P.M.** they would contact their "friend" and that they would obtain "all information". They said "our friend will not do anything that is not good for you". He said they informed him of other persons who would be interviewed.

Indeed, the telephone evidence demonstrates that on 25

⁹⁸ Page 1922 of the main trial bundle.

February 2011 at 16:12, 16:40 and 17:50 **P.M.** telephoned **R.Z.** Between 17:43 and 17:56 **N.M.** made 5 attempts to contact **R.Z.** by telephone. At 18:05 **R.Z.** telephoned **N.M.**

On 26 February 2011 at 08:23 **P.M.** telephoned **R.Z.** At 09:40 **X.Z.** telephoned **N.M.** At 11:54 **N.M.** telephoned **X.Z.** Between 21:00 to 22:00 **N.M.** made 4 attempts to contact **R.Z.**

The telephone metering evidence demonstrates a pattern on communication between **P.M.**, **R.Z.**, **X.Z.** and **N.M.** on 25 and 26 February 2011.

On 27 February 2011 at 09:39 and 09:50 **R.Z.** telephoned **P.M.** At 10:21 and 21:00 **N.M.** telephoned **R.Z.**

On 28 February 2011 **P.M.** was examined as a Suspect by **Z.I.**⁹⁹. Thereafter **P.M.** was arrested.

A Ruling on Detention of an Arrested Person was issued on 28 February 2011¹⁰⁰.

On 1 March 2011 **N.M.** filed a Request to Order Detention on Remand against **P.M.**¹⁰¹

On 1 March 2011 **S.M.** arrived in Kosovo and instructed lawyer **T.G.** to represent **P.M.**¹⁰²

On 2 March 2011 there was a hearing before the Pre-Trial

⁹⁹ Page 1948 of the main trial bundle.

¹⁰⁰ Page 1937 of the main trial bundle.

¹⁰¹ Page 1967 of the main trial bundle.

¹⁰² Page 1966 of the main trial bundle.

Judge who ordered House Detention¹⁰³ to expire on 2 April 2011.

T.G. gave evidence that during the detention hearing **P.M.** had told him *"There are other reasons why the public prosecutor has detained me"*. **T.G.** said he told **P.M.** not to mention this to the judge.

T.G. said **P.M.** had told him that someone acting on behalf of the prosecutor had requested 50,000 Euros.

When **T.G.** was examined in April 2012 he did not say who had asked **P.M.** for 50,000 Euros. However, later in his evidence he said **P.M.** had stated that he did not give 50,000 Euros *"to these brothers"*¹⁰⁴. He said that although **P.M.** had mentioned the names of two brothers he could not now recall their names.

When he gave evidence before this court he said it was the two brothers who had demanded the 50,000 Euros on behalf of the prosecutor.

T.G. gave evidence that during a break in the detention hearing he spoke with **N.M.** He told him **P.M.** had stated *"somebody requested money on behalf of the Public Prosecutor"*. **N.M.** denied he had demanded any money.

T.G. said **P.M.** also referred to having given 20,000 Euros to two brothers from X as a loan. **P.M.** had stated that money would end-up in the hands of **N.M.**

¹⁰³ Page 1978 of the main trial bundle.

¹⁰⁴ Top of page 7 of the minutes of 12 March 2012.

The court found **T.G.** to be an honest, reliable witness.

The prosecutor did not appeal the Ruling replacing detention on remand with House Detention.

S.M. gave evidence that until July 2011 he was living in X. He said he was in daily contact with his family in Kosovo. He kept in touch with his brother, **P.M.** He said that during one conversation **P.M.** had referred to an "initiative" against against him by **N.M.** through the **Z. brothers** involving a 50,000 Euro bribe to make a case against him "disappear".

S.M. said he had been informed on 28 February 2011 of his brother's arrest and that he had immediately travelled to Kosovo, arriving on 1 March 2011. It was his evidence that upon his arrival in X he spoke with **R.Z.** by telephone. He said he "thanked" **R.Z.** for **P.M.** arrest and demanded the return of the money that he had received. **R.Z.** told him that he was in X. He said **R.Z.** denied he had anything to do with **P.M.**'s arrest. He said he would contact **N.M.**¹⁰⁵

S.M. gave evidence that during their telephone conversation **R.Z.** asked him to extend the deadline for repayment of the loan or to "withdraw the accusation". They agreed to meet upon **R.Z.** return from X.

S.M. attended court on the occasion Detention on Remand was replaced by House Detention. He gave evidence he saw **N.M.**

¹⁰⁵ See also email sent by **S.M.** on 3 April 2012 [pages 763 - 768 of the trial bundle].

outside the courtroom. He said he ignored **N.M.** This is interesting because later **R.Z.** referred to the fact that **N.M.** had been offended by the fact **S.M.** had ignored him outside the court.

S.M. said that two days after **P.M.** was released into House Detention he was present at a meeting at the home of **P.M.** at which he, **P.M.**, **R.Z.** and **X.Z.** were present. He said **R.Z.** told him that because of the threats he had made to **R.Z.** when they had spoken he was to blame for **P.M.** detention being extended by 24 hours. **R.Z.** stated **N.M.** had said "*since S. has threatened you P. shall suffer another 24 hours of arrest*"¹⁰⁶ **R.Z.** said **N.M.** had said that if **S.M.** made further threats he would have **S.M.** arrested.

The so-called 'threats' to which **R.Z.** referred were the demands by **P.M.** and **S.M.** for the return of the loan monies.

That evidence was supported by **P.M.**

It was his evidence that during that meeting both **R.Z.** and **X.Z.** had stated that they had been instructed by **N.M.** to inform **P.M.** that he would terminate the case against **P.M.** for payment of 50,000 Euros. They said they had a close family relationship with **N.M.** They said that because of their friendship they could make the case disappear.

S.M. said **R.Z.** mentioned **N.M.**'s son. He said his son was ill and that **N.M.** proposed sending him to **X** for treatment.

¹⁰⁶Top of page 30 of the Minutes of 16 January 2013.

S.M. said he asked to meet **N.M.** **R.Z.** said **N.M.** did not wish to meet him because he had apparently offended **N.M.** by not greeting him when they met outside the court on the day of **P.M.** detention hearing. That was consistent with the evidence given by **S.M.** and demonstrates not only the fact **R.Z.** was in communication with **N.M.** but the fact they had discussed this case.

S.M. gave evidence that at the conclusion of that meeting he told the **Z. brothers** that he would go to **X** and meet with **P.M.** lawyers. In response **R.Z.** stated that he and **X.Z.** would travel to **X** to meet **N.M.** **R.Z.** suggested they meet later in **X.** **S.M.** gave **R.Z.** his telephone number. It was a prepaid number. He thought the number was XXX XXX XXX.

S.G. gave evidence he travelled to **X** that day where he settled the lawyers' fees. He said he did not tell the lawyers about the involvement of the **Z. brothers** or **N.M.** in the alleged offences.

While in **X** he received a phone call from **R.Z.** who requested they meet. They met in a café. He said **X.Z.** was also present.

During that meeting **R.Z.** said he had spoken with **N.M.** **R.Z.** said *"It would have been better to pay the 50,000 to us to make the case go away rather than give that money to the lawyers"*.

S.M. gave evidence **P.M.** told him he had borrowed 20,000 Euros from **L.N.** to give to the **Z. brothers.** This money was to be given to **N.M.** for the treatment of his son. He said

it was a loan, to be repaid by the **Z. brothers** within 4 months.

However, in answer to a question regarding the status of the 20,000 Euros from **L.N. S.M.** said *"This had to do with the disappearing of the case against my brother in which case the money was not to be paid back by **Z. brothers**"*.

When he gave evidence before this court, referring to the sum of 20,000 Euros advanced by **L.N.** and the sum of 5,000 Euro's advanced by **G.H.** he said the sum of 25,000 Euros was *"to remain as a gift for reinstatement of **P.** in his previous job"*.

The court found **S.M.** to be an honest, reliable witness.

In respect of this and other witnesses the court accepts that the events in issue occurred several years ago. During the intervening period, witnesses have been, inevitably, influenced to some extent by what they have seen on television, read about in newspapers or discussed with other persons. That is a simple reality. When assessing the evidence of each witness, the court has had regard to these and other factors.

P.M. gave evidence that one evening during his house detention **R.Z.** and **X.Z.** arrived at his home and invited him to join them for coffee. **P.M.** told them he could not leave home because he was under house detention. **P.M.** gave evidence that **R.Z.** purported to telephone **N.M.** **R.Z.** said to the person on the telephone *"we are at our friend's house, can we take him out and have coffee?"* He could not hear the

person with whom **R.Z.** was talking. **R.Z.** informed him he could leave the house. He said **N.M.** had stated "*inform me when you finish*". **P.M.** refused to leave the house with them.¹⁰⁷

A few days after that visit **P.M.** telephoned the **Z. brothers** and asked them to arrange for him to give a statement to the prosecutor. **R.Z.** contacted him and said he should make a formal request through his counsel. He did and on 13 April 2011 he received a formal summons from the prosecutor.¹⁰⁸

In March 2011 the **Z. brothers** exchanged phone communications with **P.M.** and **N.M.** several times a day¹⁰⁹.

G.H. gave evidence that in March 2011 **P.M.** telephoned him and said "*I need 5000 Euros to be found immediately, you know how my situation is*".

G.H. gave evidence that **P.M.** told him the **Z. brothers** were connected with the prosecutor in the case in which he was charged. When he gave evidence before this court he said **P.M.** told him the prosecutor in question was **N.M.** He said **P.M.** told him the money was for **N.M.** However, he later conceded he had heard that name mentioned on television. Certainly, when he was interviewed by the prosecutor in March 2012 he did not mention the prosecutor by name. In fact, on that occasion he was asked if he had heard the name **N.M.** In reply he said "*It sounds familiar but I cannot*

¹⁰⁷ Page 17 of the Minutes of the main trial of 5 December 2012.

¹⁰⁸ Page 2023 of the Main trial bundle.

¹⁰⁹ 4-11 March 2011 and 13-22 March 2011.

remember”.

With the passage of time it is inevitable that exterior factors will have a subliminal effect on the coherency of witness testimony. That is certainly true in this case with this and other witnesses. The Court has considered that feature when assessing this and other evidence.

On 10 March 2011 at 10:31 **R.Z.** telephoned **P.M.** At 11:09 **P.M.** telephoned **R.Z.** At 11:40, 12:02 and 12:05 **R.Z.** telephoned **G.H.** At 12:20 **R.Z.** telephoned **P.M.**

On 10 March 2011 **G.H.** gave 5,000 Euros in cash to **R.Z.** at a petrol station in X. **G.H.** gave evidence that during their brief meeting **R.Z.** had stated *“I am trying to help **P.M.** in connection to his house arrest”.*

G.H. gave evidence that during their meeting **R.Z.** told him that he was going to X for a meeting with someone regarding **P.M.** house detention. He said this person would assist with **P.M.** house detention. He said the money was for that purpose. He did not mention that fact when he was interviewed by the prosecutor in March 2012.

He said that during that meeting **R.Z.** mentioned “prosecutor”. Again, he did not state that when he was examined by the prosecutor in March 2012.

G.H. gave evidence **R.Z.** was in a hurry. That is supported by the fact that **R.Z.** telephoned **G.H.** three times between 11:40 and 12:05. Clearly he was in a hurry to meet and take the money.

G.H. gave evidence **P.M.** mentioned both **R.Z.** and **X.Z.** in relation to the matters in issue.

G.H. gave evidence that on one occasion when he visited **P.M.** at his home both **R.Z.** and **X.Z.** were also present. He said they left upon his arrival.

The court found **G.H.** to be an honest, reliable witness.

On 11 March 2011 **P.M.** gave a statement to Police concerning his dealings with **R.Z.** and **X.Z.**

On 24 March 2011 **N.M.** filed an application to extend House Detention for a period of two months¹¹⁰.

P.M. gave evidence that sometime between 26 and 28 March 2011¹¹¹ he contacted **R.Z.** and requested they repay the loans in the total sum of 28,000 Euros before 5 April 2011.

The telephone metering evidence shows that in late March/Early April 2011 **N.M.**, **R.Z.**, **X.Z.** and **P.M.** were in frequent contact¹¹².

On 31 March 2011 the Pre-Trial Judge extended detention for a period of two months to expire on 31 May 2011¹¹³.

On 4 April 2011 lawyer **T.G.** filed an Appeal against House

¹¹⁰ Page 1994 of the Main Trial bundle.

¹¹¹ Page 19 of the Minutes of the main trial of 5 December 2012.

¹¹² 25 - 26 March 2011, 30 - 31 March 2011, 1 - 2 April 2011, 5 April 2011, 7 - 12 April 2011.

¹¹³ Page 2004 of the Main Trial bundle.

Detention¹¹⁴. That appeal was determined by the Supreme Court on 7 April 2011 and rejected¹¹⁵.

Pursuant to an order of the Court, on 16 April 2011 interception of telephonic communications commenced between **R.Z., X.Z., P.M.** and **N.M.**

On 13 April 2011 in case number PPS 87/10 **P.M.** was summonsed to appear at the offices of the SPRK at 10:30 on 19 April 2011¹¹⁶ in the capacity of a defendant.

P.M. gave evidence that upon receipt of the summons he contacted **R.Z.**, informed him of the summons and asked him how he could attend the prosecutor given the order for house detention. He said he called **R.Z.** and invited both brothers to come and see him. He said they both came and arranged for him to go to the offices of SPRK without the police coming. He said for this the **Z. brothers** demanded and additional "compensation" of 5,000 Euros.¹¹⁷

Having given a statement to police disclosing the course of events involving the **Z. brothers**, in consultation with police, it was agreed **P.M.** would contact **R.Z.** with a financial offer.

On 16 April 2011 at 13:43-13:44 **P.M.** called **X.Z.**

P.M.: *"My brother S called me last night and told me that he's got the money ready. I thought you could*

¹¹⁴ Page 2012 of the Main Trial bundle.

¹¹⁵ Page 2014 of the Main Trial bundle.

¹¹⁶ Page 2023 of the Main Trial bundle.

¹¹⁷ Page 17 of the Minutes of the main trial of 5 December 2012.

come to my place so that we could talk about something'. 'We have to solve this thing as we talked'. 'Ok, we will meet and talk'.

During this conversation **P.M.** pretends that he is willing to offer money in order to "solve this thing".

At 14:10-14:11 **R.Z.** called **N.M.**

R.Z.: "Can I stay in X longer?" "Tell me the time when you want to come".

N.M.: "About 6-7".

Given the timing of these telephone conversations the Court finds that the proposed meeting between **R.Z.** and **N.M.** was clearly for the purpose of discussing the offer made by **P.M.** during his telephone conversation with **X.Z.**

This is supported by the fact that at 14:41-14:42 **X.Z.** called **P.M.**

X.Z.: "I just talked to a friend and we agreed to meet. First I'm going there and when I come back I'll call you'. We'd better talk to him because I give him less time and quicker'. 'We need him too but we will also tell him about you concretely.' 'R. is coming too."

P.M.: 'It's important to solve the problems.' 'Come here for 5 minutes'.

This pattern of communication is replicated throughout much of the metering evidence. **P.M.** would speak with **X.Z.** and that conversation would be followed by a telephone call between **R.Z.** and **N.M.** and vice versa.

The "friend" to whom **X.Z.** referred was **N.M.** Indeed, he referred to the meeting that he had just arranged with **N.M.**

It is clear from that conversation that both **R.Z.** and **X.Z.** would attend the meeting with **N.M.** Further, it is again indicative of the pattern of communication between **R.Z.**, **X.Z.**, **P.M.** and **N.M.** The complementary roles played by **R.Z.** and **X.Z.** are a consistent theme of this scheme.

On 17 April 2011 at 16:35 **P.M.** called **X.Z.**. At 18:46 **X.Z.** called **N.M.** At 20:18 **P.M.** called **X.Z.** and stated "I saw **T.** and called him to come and talk.' 'I was just worried (about our thing?) During that conversation **X.Z.** stated: 'I called him and we should talk tomorrow once again. We talked.' 'We agreed about that thing, that thing is fixed'.

At 20:24-20:25 **X.Z.** called **P.M.**

X.Z.: "Did you tell **T.** about us and about what we told you?' 'For that thing'. 'If he finds out, we lose but you lose too.' 'It is a catastrophe because he is very sensitive."

P.M.: "No, man. 'We agreed about that thing, this is understood'."

The Court finds that reference during this conversation to

"**T.**" is reference to **T.G.** It is is clear from this exchange that **X.Z.** is worried that **P.M.** might have informed **T.G.** of their discussions, possibly exposing them to criminal proceedings.

On 19 April 2011, while in house detention, **P.M.** travelled in his own vehicle without a police escort to the offices of **T.G.** and from there they both went to the office of **N.M.**

T.G. said he was surprised when **P.M.** arrived in his office unescorted. He said he told **P.M.** he could be arrested for violating the terms of his house detention. In reply **P.M.** told him *"don't worry this has been taken care of"*. Presumably **P.M.** had also told him that it was the prosecutor who had "taken care" of this matter because when he gave evidence in April 2012 **T.G.** said he reminded **P.M.** that it was the Pre-Trial Judge who had ordered House Detention and not the prosecutor.

T.G. and **P.M.** went together to the prosecutor's office. They entered the building at 10:25. The interview lasted from 11:00 to 13:15. **P.M.** and **T.G.** left the office of SPRK at 13:25.

When he was examined by the prosecutor in April 2012 **T.G.** gave evidence that **N.M.** did not appear to be surprised that **P.M.** had arrived without a police escort¹¹⁸. Indeed, when he was examined by the prosecutor on 19 April 2012 **N.M.** was asked if he had authorized **P.M.** to go to his office without a police escort. In reply he said *"I think, yes, I*

¹¹⁸ Record of examination of 11 April 2012.

*authorized him, but I am not sure.*¹¹⁹"

During that interview **N.M.** received a telephone call. **P.M.** heard **N.M.** say "He is here. Everything is all right." **P.M.** said he assumed **N.M.** was talking with either **R.Z.** or **X.Z.**

P.M. gave evidence that during that meeting **N.M.** asked him "How are our friends?"

That evidence is consistent with the evidence of **T.G.** who said in evidence that when the interview concluded **N.M.** asked **P.M.** about two brothers. When he gave evidence in April 2012 **T.G.** stated **P.M.** replied "ironically" that they were fine. **T.G.** could not recall if **P.M.** had mentioned the names of these "brothers".

After he had left the offices of the SPRK on 19 April 2011 at 17:33 **P.M.** called **R.Z.** At 17:40 **X.Z.** called **P.M.** The conversation lasted for 1 minute.

P.M. stated "I was there and he received me well and he promised that he would file the request today but I don't know if he did it or he just promised that he will file the request today for the termination of the arrest. I don't know what he will do."

X.Z.: "I'm glad that he received you well". "We are coming to X".

At 19:26 **X.Z.** again called **P.M.** At 20:12 **R.Z.** called **N.M.**

¹¹⁹ Page 23 of minutes of 19 April 2012.

R.Z.: *"Is your son well?'," 'I'm in X. Can I come?"*

N.M. replied: *"Come"*.

At 21:30 **R.Z.** called again **N.M.**

R.Z.: *"I'm at the door"*.

N.M.: *"I'm coming"*.

Approximately half an hour after that telephone communication, at 22:07 **X.Z.** called **P.M.**

X.Z.: *"I just wanted to tell you that it is finished and over.'" 'For the others we will see but nothing is necessary in this direction'." 'He submitted it today. He said that he wrote it and that tomorrow it goes in its place"*.

P.M.: *'Thanks a lot'*.

On 21 April 2011 at 15:37 **R.Z.** called **N.M.**

On 22 April 2011 at 17:12 **P.M.** called **X.Z.**

On 23 April 2011 **P.M.** called **X.Z.** 3 times.

On 24 April 2011 at 19:36-19:36 **X.Z.** called **N.M.**

X.Z.: *"A friend of ours has a wedding tomorrow, could he go tomorrow?" 'Did you look into it?', 'Take it.*

Finish the thing."

N.M.: "I don't know if he can.' 'Ok".

The "friend" to whom **X.Z.** refers is **P.M.**

It is interesting that during this and other telephone conversations between **R.Z.**, **X.Z.** and **N.M.** reference is simply made to "friend". They each know to whom the other is referring. Again, this gives an indication of the extent of their knowledge and participation in the scheme.

P.M. gave evidence he contacted **R.Z.** Both **R.Z.** and **X.Z.** went to his house. During that meeting he told them to keep the money but terminate the house detention.¹²⁰

On or shortly after 24 April 2011 **N.M.** agreed to file a request to terminate house detention. The timing is significant because it follows the enquiry made by **X.Z.** regarding the wedding **P.M.** wished to attend and was followed by further telephone communications.

On 25 April 2011 **P.M.** and the **Z. brothers** called each other 4 times.

On 26 April 2011 **N.M.** submitted to the District Court in X an application to terminate the House Detention against **P.M.**

On 27 April 2011 the court issued the ruling on the

¹²⁰ Page 19-20 of the Minutes of the main trial of 5 December 2012.

termination of this measure (No GJPP 77/11).

On 28 April 2011 the Ruling terminating house detention was delivered to the SPRK.

On 28 April 2011 at 10:32-10:34 **R.Z.** called **N.M.**

R.Z.: *"...Look into the thing of the young man too because he wants to go to the wedding'. 'Will it be fixed?"*

N.M.: *"Ok."*

Reference by **R.Z.** to the "thing" is clear reference to the order terminating house detention. **P.M.** is chasing the order so that he can attend the forthcoming wedding.

Thereafter, at 10:36-10:38 **X.Z.** called **P.M.**

X.Z.: *"...I talked just now. 'That female who should have looked into it, she was not here' 'Today or tomorrow, but until 2.00 I will definitely give it to you'. Today or tomorrow this thing will be over' and also: 'I just wanted to call you and tell you that he called."*

In addition to the wedding, during this conversation **X.Z.** mentioned the issue of flour.

X.Z.: *"Those things of the mill that you have on sale? 'If I find you the buyer, would you help me? To sell it in X? You give the flour and I settle my situation*

a bit."

P.M.: *"Hey man there are 30 tons of flour there (...)"*

At 17:27-17:28 **R.Z.** called **P.M.**

R.Z.: *"Congratulations. Tomorrow we'll have coffee. I saw it, they signed it. Now wait, somebody will bring it to you home'. 'I'm now with this man here, He said that he sent it but he asked if he could deliver it to you home tomorrow. He said that he is free."*

P.M.: *"Ok".*

The Court finds that **R.Z.** was referring to the Ruling terminating house detention. He says he saw "it". The SPRK received the Ruling on 28 April 2011. If, indeed, he had seen the Ruling it is probable it was **N.M.** who had shown it to him.

At 18:02 **X.Z.** called **P.M.**

X.Z.: *"Congratulations!", 'Did you get it?"*

P.M.: *"Not yet. I got the news but not the paper."*

X.Z.: *"As soon as he left the office, but tomorrow at Oxygen we pay for coffee not you."*

On 29 April 2011 **P.M.** received the court ruling on the termination of House Detention. At 11:39 he called **R.Z.**

P.M.: *"I just got it now."*

R.Z.: *"Congratulations! I was surprised last night why that lawyer didn't take earlier. He has to take care of this thing'. 'Let's hope this is not the first joy. May all the joys come in a row!"*

In 2011 **R.Z.** and **X.Z.** received approximately 5 tonnes of flour worth approximately 2350 Euros. The Court finds that this was a material benefit in return for their facilitating the termination of house detention imposed against **P.M.** Referring to the flour **X.Z.** stated:

"If I find you the buyer, would you help me? To sell it in X? You give the flour and I settle my situation a bit."

When he was examined by the prosecutor on 17 April 2012¹²¹ **R.Z.** said he had not received any flour from **P.M.** However, that evidence was entirely contradicted by **X.Z.** when he was examined by the prosecutor on 18 April 2013.¹²²

House detention was terminated at the request of **N.M.** before the conclusion of the investigation.

A draft of the indictment in the case against **P.M.** created on 18 May 2011 was extracted from the official computer of **N.M.**

On 4 October 2011 **N.M.** signed a Ruling on Intiation of

¹²¹ Page 7.

¹²² Page 20.

Investigations in case PPS 99/10 against **L.K.** and **A.L.**¹²³

On 13 January 2012 in case PPS number 02/12 a summons was signed by **N.M.** for **P.M.** to appear at the offices of the SPRK at 10:30 on 2 February 2012¹²⁴ in the capacity of a defendant.

On 17 January 2012 a Ruling on Initiation of Investigation¹²⁵ in case PPS 02/12 signed by **N.M.** against **P.M.** was issued.

On 27 January 2012 case PPS 02/12 was transferred¹²⁶ to the District Prosecution Office.

On 16 February 2012 **P.M.** was examined by the District Public Prosecutor¹²⁷.

On 21 March 2012 the District Public Prosecutor filed a Ruling¹²⁸ terminating the investigation. In his reasoning the prosecutor stated there was "no manifestation of the essential elements in connection to the criminal offences on which the investigations have commenced".

R.Z. was the sole director of **X Impex**. However, both **R.Z.** and **X.Z.** were actively involved in the day-to-day activities of the business had both derived a financial benefit from the company. However, as noted above, the company was in considerable financial difficulties at the

¹²³ Page 2946 of the Main Trial bundle.

¹²⁴ Page 2914 of the Main Trial bundle.

¹²⁵ Page 2916 of the Main Trial bundle.

¹²⁶ Page 2915 of the Main Trial bundle.

¹²⁷ Page 2922 of the Main Trial bundle.

¹²⁸ Page 2938 of the Main Trial bundle.

time the offences herein were committed.

The case of V.L., A.L., L.K.

From March 2009 the SPRK was seized of a criminal investigation involving allegations against various bank officials, including **A.L.** That case was initially assigned to another SPRK prosecutor. However, it is almost inconceivable that **N.M.** would not have known of the identity of some very senior bank officials who were implicated in those investigations.

A.Lu., the brother of **A.L.**, gave evidence that in May 2010 **N.M.** asked him if he would speak with his brother regarding a loan application that had been made by the **Z. brothers.**

A.Lu. said **N.M.** described the **Z. brothers** as like his brothers.

Several days after that meeting, at the instigation of **N.M.**, **A.Lu.** met **X.Z.** He told **X.Z.** that he had discussed the matter with his brother who had informed him the loan could not be approved.

X.Z. portrayed his role within the firm as being that of a simple driver. However, clearly he was far more involved in the financial affairs of the business than he would have had the court believe.

Some time after his meeting with **X.Z.**, **A.Lu.** received a

telephone call from **N.M.** who asked him why the loan had not been approved. **A.Lu.** said he explained the reasons.

It was his evidence that **N.M.** told him that, if necessary, he could mortgage his own property as security for the loan.¹²⁹

A.Lu. gave evidence¹³⁰ that in May or June 2010 his brother **A.L.** asked him about a loan application that had been made by **R.Z.** and **X.Z.** The loan was for the company **X Impex.** **A.Lu.** told him that he had been approached by **N.M.** in relation to the loan.

On the evidence it appears the loan had been approved by the X branch of X bank but further approval had not been given by the credit committee of X. **A.L.** said he had informed the **Z. brothers** of the bank's decision.

The timing of these discussions regarding the loan is interesting when looked at in the context of steps taken by **N.M.** to take over investigations involving the very people who were influential in the formal approval of those loans.

On 23 June 2010 **N.M.** sent to the then Head of the SPRK **I.A.** a memo entitled 'Information for the actions taken on Case PPS 23/09'¹³¹. In this document **N.M.** informed his superior about the investigative steps that had already been taken. He concluded that separate investigations should be initiated against all of the suspects that had been

¹²⁹ Record of examination of 6 April 2012.

¹³⁰ Record of Examination on 13 April 2012.

¹³¹ Page 2113 of the Main Trial bundle.

identified in Police criminal reports. In his view, one of such separate cases should be the case against **V.L.**, **L.K.** and **A.L.**

This memo was sent within approximately one month of the discussion between **N.M.** and **A.Lu.** Regarding the loan application that had not been finally approved by the bank of which his brother, **A.L.**, was a senior official.

On 20 July 2010 Kosovo Police submitted to **N.M.** an Official Memorandum No 017-TFAK/2010¹³². That report contained allegations against **V.L.**, **L.K.** and **A.L.** This file was given case number PPS 99/10.

A.G. gave evidence that in March 2011 he was interviewed by police who were investigating allegations of corruption at X. Having heard nothing further regarding the case, in August 2011 he decided to contact the prosecutor directly.

A.G. went to the offices of the SPRK and asked to speak with **N.M.** He was told the prosecutor was not available. He left his business card but heard nothing more. Therefore, in September 2011 he telephoned **N.M.** **N.M.** told him that he was on holiday and that he would contact him upon his return. He heard nothing further.

V.L. gave evidence that in September 2011 he received a telephone call from **M.N.** who requested a meeting at the X Hotel in X. It appears she did not want to meet at the bank. She said she wanted to discuss a "confidential"

¹³² Page 2117 of the main trial bundle.

issue. **V.L.** had met **M.N.** previously.

M.N. gave evidence she wanted to inform **V.L.** that X had won a bidding process. That was hardly a 'confidential' matter. Clearly she wanted to meet in order to discuss something she was reluctant to discuss in his office.

V.L. gave evidence that when they met she referred to the criminal investigation that was ongoing against him and other officials of the Bank.

When she was examined before the prosecutor **M.N.** denied that she had discussed with **V.L.** any criminal investigation.

There was no dispute that **N.M.** and **M.N.** had a close relationship. **M.N.** described their relationship as "intimate".

It was correct that a criminal investigation was ongoing against **V.L.** and other bank officials. **N.M.** was the prosecutor in the case. The court finds that **N.M.** had told her of the fact of an investigation and the identity of some or all of the suspects.

V.L. gave evidence that during their meeting **M.N.** suggested that **V.L.** contact **A.G.** and tell him not to contact **N.M.**

When **M.N.** was interviewed by the prosecutor it was her evidence she "*never knew the existence of A.G.*". That was a lie. The evidence **V.L.** gave in this regard is consistent with the evidence of **N.M.** When **N.M.** was examined on 10 July

2012 he was asked by the prosecutor if he had ever informed **M.N.** about the fact **A.G.** had tried to contact him. In reply he said "...I asked her whether she had told **A.** to call me..." He said he thought she might know him. He said that he asked **M.N.** to tell **A.G.** not to contact him.

M.N. lied when she said that she had never heard of **A.G.** She mentioned **A.G.** by name and the fact that he had tried to contact **N.M.** in order to convince **V.L.** of her relationship with **N.M.**

Indeed, **M.N.** stated several times that she had a very good relationship with **N.M.** That was not in doubt. She said that because of her relationship with **N.M.** she could "*bring the case to a close*".

It seems unlikely that **V.L.** would know anything about the relationship between **M.N.** and **N.M.** unless she had told him.

V.L. stated that during the meeting with **M.N.** she had referred to **N.M.** working with a German prosecutor. That was correct. This information confirmed the closeness of her relationship with **N.M.** She would not have known that fact unless **N.M.** had informed her. Indeed, it is unlikely **V.L.** would have known that fact.

M.N. suggested to **V.L.** that he and his "friends" travel to X to "*finish the job*". It was his understanding they would meet **M.N.** in X. **V.L.** gave evidence **M.N.** did not specifically mention names but, given the subject of their discussion, he understood her to be referring to **A.L.** and **L.K.** He refused to cooperate with her.

During their meeting **M.N.** did not mention a specific amount of money.

A.L. gave evidence that in September 2010 police officers interviewed him at his office at X. In October 2010 he received a telephone call from police who asked him to attend a police station in order to give a statement. He subsequently gave a statement in the capacity of a witness.

L.K. gave evidence that in or about September 2011 **V.L.** told him about his meeting with **M.N.** **V.L.** told him that **M.N.** had referred to a prosecutor from X. **M.N.** told **V.L.** to tell **A.G.** not to contact **N.M.** **M.N.** invited **V.L.** and **A.G.** to meet her and **N.M.** in X for the purpose of having the investigation "terminated".

He said it was his impression the investigation would be terminated in return for some material benefit. He said **V.L.** did not refer to any specific sum of money having been mentioned. When he was interviewed in April 2012 he did not mention money or, indeed, any material benefit. In fact, when asked by the prosecutor on that occasion if any specific benefit had been mentioned he said "I am not sure". When he testified before this court and this inconsistency was put to him he said he simply assumed there would be some financial reward for terminating the proceedings. Indeed, somewhat colourfully he said "they were not going to X to ski!"

Within approximately one month of the meeting between **M.N.** and **V.L.**, on 4 October 2011 **N.M.** issued the Ruling on

Initiation of Investigation in case number PPS 99/10 against **V.L.**, **A.L.** and **L.K.** wherein they were suspected of having committed the criminal offences of Abusing of Official Position and Authority (Article 339 of the CCK) and Misappropriation in Public Office (Article 340 of the CCK).

The latest criminal report in this case was submitted to the SPRK on 20 July 2010. Therefore, having waited more than 1 year before issuing the Ruling on Initiation of Investigation within one month of the meeting between **M.N.** and **V.L.** at the X Hotel **N.M.** issued the Ruling on Initiation of Investigation.

A.L. gave evidence that he met **N.M.** in November 2010. He asked **N.M.** to instruct a financial expert to review the financial transactions of the Bank. During that conversation **N.M.** told **A.L.** *"I have got the arrest warrant for you which was in my possession when **H.R.** was arrested, even though I was under pressure to arrest you as well but didn't do this due to the consideration that I have for your family"*.¹³³

A.L. that some months after his discussion in May 2010 with **N.M.** he met **N.M.** who, referring to the issue regarding the loan, said he had not realized that at that time **A.L.** was under investigation.

A.Lu. gave evidence¹³⁴ that he met **N.M.** on 17 July 2011.

¹³³ Record of Examination on 13 April 2012.

¹³⁴ Page 4 of interview with prosecutor on 6 April 2012 (Page 431 of the Main Trial bundle).

During that meeting **A.Lu.** asked **N.M.** about the investigation involving his brother. **N.M.** told him he could have had **A.L.** arrested but that because of his respect for his family he had not done so.

A.Lu. expressed his concern about the pressure he felt was being applied to his brother and invited **N.M.** to either charge his brother or terminate the investigation.

A.Lu. gave evidence that in or about October 2011 **V.L.** went to his office and told him of his meeting with **M.N.** in the Nartel hotel. **V.L.** told him that **M.N.** appeared to know everything about the case. She referred to **A.G.** but **A.Lu.** could not recall the context. **V.L.** told him that **M.N.** had shown him a business card of a Swiss or German police officer who was working with **N.M.** She had suggested they meet in X in order to discuss how the case should be "closed". **V.L.** told him it would probably be necessary to give money to terminate the investigation against **A.L., A.G.** and **L.K.**

A.Lu. gave evidence he reported this matter to the Chief Prosecutor **I.K.** within a few days of his meeting with **V.L.**

A.G. said he had spoken with **V.L.** who had told him of his meeting with **M.N.** who had asked **V.L.** to tell **A.G.** not to contact **N.M.** **V.L.** told him **M.N.** had suggested their meeting in X.

Referring to the proposed meeting in X **A.G.** said it was his understanding that **N.M.** would be present for the purpose of discussing terminating the investigation in return for some

material benefit.¹³⁵

A.G. and **V.L.** discussed whether they should go to X. **A.G.** said they agreed that they should not enter into any agreement with the prosecutor.

On 2 December 2011 **N.M.** issued the Ruling on Initiation of Investigation in case number PPS 65/10 against **V.L.**, **A.L.** and **L.K.**

The criminal report in this case was submitted to the SPRK on 28 May 2010. The prosecutor waited more than 1 ½ years before issuing the Ruling on Initiation of Investigation within approximately one month of the meeting between **M.N.** and **V.L.** at the X Hotel.

On 11 February 2012 **V.L.** gave evidence that in February 2012 he was summonsed to the offices of the SPRK. He was examined by **N.M.** in March 2012.

B.B. gave evidence regarding an occasion he had accompanied **N.M.** to X Restaurant. He described how he had sat at a table with **N.M.**, **F.S.** and a person he knew as **L.** He could not recall his first name. He said that during their discussion Mr. **L.** referred to his brother who worked at a bank.

He said that two or three days after that meeting **A.L.** arrived at the offices of the SPRK and spoke briefly with **N.M.** who told him they had nothing to discuss. He said he

¹³⁵ Page 4 of the minutes of interview with the prosecutor on 28 June 2012 (Page 628 of the main trial bundle).

could not recall seeing any document in **N.M.** hand. He said **A.L.** was not abusive or threatening in any way.

B.B. gave evidence that in the autumn of 2011 he was with **N.M.** when he received a telephone call from one of the **Z. brothers**. He did not know which. He said the same brother called him twice. **N.M.** told **B.B.** the brothers had requested his help in connection with a company. **N.M.** met the brothers somewhere between X and X. He said he thought they were in difficulty. He never heard them mention **P.M.**

B.B. gave evidence **N.M.** told him the **Z. brothers** had offered to help him with the treatment of his son.

It was his evidence that in his presence **N.M.** met **M.N.** a few times. **N.M.** told him she was a friend. He accompanied **N.M.** when he met **M.N.** in the X Hotel or X. It appears most meetings took place at X. He could not recall **M.N.** coming to **N.M.** office.

The court found **V.L.**, **LK**, **A.Lu.**, **A.L.** and **A.G.** to be honest, reliable witnesses. They were all respectable professionals who impressed the court with the clear, logical and consistent manner in which they gave their evidence.

IX. FINDINGS ON THE RESPONSIBILITY OF THE ACCUSED

In relation to counts 1 and 2 against **N.M.**; count 2 against **R.Z.** and **X.Z.** and the single count against **M.N.**, the court found the sentencing powers in the new Criminal Code of the Republic of Kosovo more favourable to the defendants.

Therefore, pursuant to Article 3 of the new Criminal Code of the Republic of Kosovo, in convicting the defendants, the Court refers to the relevant Articles of the CCRK.

1. N.M.

Count 1

Between June 2010 and 27 April 2011 in X, **N.M.**, at all material times a prosecutor of the Special Prosecution Office of the Republic of Kosovo, while acting in the capacity of an official person, in case number PPS 87/10, an investigation involving **P.M.**, took advantage of his official position and authority thereby exceeding the limits of his authorisations, with intent to obtain an unlawful material benefit in the sum of 50,000 Euros for himself, **R.Z.** and **X.Z.**, offered to terminate the investigation in case number PPS 87/10 against **P.M.**, secured the termination of house detention against **P.M.** and revealed to **R.Z.** and **X.Z.** confidential information from case file PPS 87/10 thereby enabling **R.Z.** and **X.Z.** to extort from **P.M.** a material benefit in the sum of 30,250 Euros and in the course of which further abused his official position by allowing **P.M.** to leave the address at which he was then residing under the conditions imposed in a ruling on house detention, in breach of the terms of that ruling.

THEREBY committing the criminal offence of Abusing Official Position or Authority under Article 3 (2) and Article 422

(1) of the Criminal Code of the Republic of Kosovo (hereinafter the "CCRK")¹³⁶.

N.M. portrayed himself as the victim in this case. He pretended that he had been set-up by powerful people who, he said, were either the subject of his investigations or connected to such persons. That assertion is simply not supported by the evidence.

In the case involving **P.M.**, the **Z. brothers** were his friends. **N.M.** assisted them during their financial difficulties. He even offered to put his own property as collateral for a loan application made on behalf of **X Impex**. Indeed, it is clear on the evidence that **N.M.**, **R.Z.** and **X.Z.** in fact devised the scheme. They were not victims. Far from it.

Further, had this been an attempt by persons unknown to fabricate evidence against **N.M.** presumably **P.M.** was a party to that scheme. If he was, when he gave evidence about their meetings or the telephone conversation that he said he had with **N.M.**, why did **P.M.** not simply state that **N.M.** had demanded money?

The modus operandi in the case of **P.M.** was very similar to that used in the case of **V.L.** **N.M.** used intermediaries to contact the suspects in his investigations with the intention of extorting money from them.

¹³⁶ Law number 04/L - 082 in force since 1 January 2013.

The court found clear evidence that **R.Z.** and **X.Z.** received a material benefit in the total sum of 30,250 Euros. No convincing evidence was put before the court that **N.M.** had received any of that money. However, the court finds that he indirectly solicited money in return for his taking or refraining from taking action in ongoing criminal investigations.

Count 2

Before 11 September 2011 **N.M.**, at all material times a prosecutor of the Special Prosecution Office of the Republic of Kosovo, while acting in the capacity of an official person, with intent to obtain an unlawful material benefit for himself, abused his official position and authority in that he revealed to **M.N.** official information from case file number PPS 99/10, an investigation involving **V.L.**, **A.L.** and **L.K.** and further he revealed to **M.N.** official information from case file number PPS 65/10, an investigation involving **V.L.** and **A.G.**, with the intention that **M.N.** would contact the suspects in those investigations, whereupon she contacted **V.L.** and, upon his instructions, offered to terminate the investigations in return for them paying an unspecified and undetermined sum of money.

THEREBY he committed the criminal offence of Abusing Official Position or Authority under Article 3 (2) of the CCRK and Article 339 (1) of the CCK.

However, no evidence was put before the court that when **M.N.** met **V.L.** in the N. Hotel she solicited on behalf of **N.M.** a specified sum of money. Therefore, the most favourable law is Article 339 (1) of the (old) CCK.

C. Unauthorized Ownership, Control, Possession or Use of Weapons

At approximately 6pm on 2 April 2012 at No. X, X St., X he was unlawfully in possession of a 'Crvena Zastava' pistol, model M-70 of 7.65 x 17 mm caliber with no serial number, one magazine with 8 bullets of 7.65 x 17 mm caliber and a single bullet of 7.65 x 17 mm caliber for which he did not possess a valid Weapon Authorisation Card as required by law¹³⁷.

THEREBY he committed the criminal offence of Unauthorized Ownership, Control, Possession or Use of Weapons under Article 3 (2) and Article 374 (1) of the CCRK.

2. R.Z.

Count 1

Between June 2010 and 27 April 2011 in X and X, **R.Z.**, acting in co-perpetration with **X.Z.**, requested from **P.M.** an undue advantage in the sum of 50,000 Euros and received a material benefit in the total sum of 30,250 Euros comprising a payment of 20,000 Euros from **L.N.**, 3,000 Euros

¹³⁷ Law No. 03/L-143.

from **P.M.**, 5,000 Euros from **G.H.** and from **P.M.** a significant quantity of flour that realised a retail value of 2,350 Euros, all in consideration for the exertion of an improper influence by **R.Z.** and **X.Z.** over the decision-making of **N.M.**, a prosecutor of the Special Prosecution Office of the Republic of Kosovo and an official person, in order to achieve on behalf of **P.M.** the termination of house detention that had been imposed by the court on **P.M.** as well as the termination of the investigation against **P.M.** in case number PPS 87/10; the re-instatement of **P.M.** to his previous position as Liquidator of X in X and, further, to allow **P.M.** to leave the address at which he was residing under the conditions imposed in a ruling on House Detention.

THEREBY he committed the criminal offence of Trading in Influence under Article 3 (2) of the CCRK and Article 345 (1) in conjunction with Article 23 of the CCK.

Count 2

Between June 2010 and 27 April 2011 in X and X, **R.Z.**, acting in co-perpetration with **X.Z.**, intentionally incited **N.M.**, a Prosecutor of the Special Prosecution Office of the Republic of Kosovo and an official person, to commit the offence of Abuse of Official Position or Authority whereby the said **N.M.** took advantage of his official position and authority thereby exceeding the limits of his authorisations with intent to obtain an unlawful material benefit in the sum of 50,000 Euros for himself, **R.Z.** and **X.Z.** in that, within the context of his investigation in

case number PPS 87/10, he secured the termination of House Detention imposed upon **P.M.**; offered to terminate the said investigation; revealed to **R.Z.** and **X.Z.** confidential information from the case file thereby enabling **R.Z.** and **X.Z.** to extort from **P.M.** an unlawful material benefit in the sum of 30,250 Euros and allowed **P.M.** to leave the address at which he was residing under the conditions imposed in a ruling on House Detention.

THEREBY he committed the criminal offence of Incitement to Abusing Official Position or Authority under Article 3 (2) and Article 422 (1) in conjunction with Articles 31 and 32 (1) of the CCRK.

3. X.Z.

Count 1

Between June 2010 and 27 April 2011 in X and X, **X.Z.**, acting in co-perpetration with **R.Z.**, requested from **P.M.** an undue advantage in the sum of 50,000 Euros and received a material benefit in the total sum of 30,250 Euros comprising a payment of 20,000 Euros from **L.N.**, 3,000 Euros from **P.M.**, 5,000 Euros from **G.H.** and from **P.M.** a significant quantity of flour that realised a retail value of 2350 Euros, all in consideration for the exertion of an improper influence by **X.Z.** and **R.Z.** over the decision-making of **N.M.**, a prosecutor of the Special Prosecution Office of the Republic of Kosovo and an official person, in

order to achieve on behalf of the said **P.M.** the termination of house detention that had been imposed by the court on **P.M.** as well as the termination of the investigation against **P.M.** in case number PPS 87/10; the re-instatement of **P.M.** to his previous position as Liquidator of X in X and, further, to allow **P.M.** to leave the address at which he was residing under the terms of a ruling on House Detention.

THEREBY he committed the criminal offence of Trading in Influence under Article 3 (2) of the CCRK and Article 345 (1) in conjunction with Article 23 of the CCK.

Count 2

Between June 2010 and 27 April 2011 in X and X, **X.Z.**, acting in co-perpetration with **R.Z.**, intentionally incited **N.M.**, a Prosecutor of the Special Prosecution Office of the Republic of Kosovo and an official person, to commit the offence of Abusing of Official Position or Authority whereby the said **N.M.**, took advantage of his official position and authority thereby exceeding the limits of his authorisations with intent to obtain an unlawful material benefit in the sum of 50,000 Euros for himself, **X.Z.** and **R.Z.**, abused his official position in that, within the context of his investigation in case number PPS 87/10, secured the termination of House Detention imposed upon **P.M.**; offered to terminate the investigation; revealed to **X.Z.** and **R.Z.** confidential information from the case file thereby enabling **X.Z.** and **R.Z.** to extort from **P.M.** an unlawful material benefit in the sum of 30,250 Euros and

allowed **P.M.** to leave the address at which he was residing under the terms of a ruling on House Detention.

THEREBY he committed the criminal offence of Incitement to Abusing Official Position or Authority under Article 3 (2) and Article 422 (1) in conjunction with Articles 31 and 32 (1) of the CCRK.

X.Z. portrayed himself as a simple employee of X Impex. He was anything but that. He was clearly actively involved in the affairs of the business, even attending a meeting to discuss the loan application made on behalf of **X** Impex.

On the face of the evidence, **X.Z.** role in the scheme appeared less significant vis-à-vis that of **R.Z.** However, the court finds that his participation in the overall scheme was a substantial factor in extorting money from **P.M.** and is demonstrated by his participation in meetings and various telephonic communications.

4. M.N.

On 11 September 2011 in the X Hotel in X she intentionally assisted **N.M.**, a prosecutor of the Special Prosecution Office of the Republic of Kosovo, to commit the criminal offence of Abusing Official Position or Authority in that the said **N.M.**, while acting in the capacity of an official person, with intent to obtain an unlawful material benefit for himself, abused his official position and authority in that he revealed to **M.N.** official information from case file number PPS 99/10, an investigation involving **V.L.**, **A.L.** and **L.K.** and, further, revealed to **M.N.** official

information from case file number case file PPS 65/10, an investigation involving **V.L.**, **A.G.** (and others), whereupon he agreed with **M.N.** that she would contact the suspects in those investigations and, upon his instructions, offer to terminate the respective investigations in return for a material benefit, where after she contacted **V.L.**, a person she knew, informed him of the investigations and suggested that he and the other suspects meet her in X where, in return for the payment of an unspecified and undetermined amount of money, **N.M.** would terminate the said investigations against them, thereby enabling **N.M.** to commit the criminal offence.

THEREBY she committed the criminal offence of Assistance to Abusing Official Position or Authority under Article 3 (2) of the CCRK and Article 339 (1) in conjunction with Article 25 of the CCK.

X. SENTENCING

In relation to counts 1 and 2 against **N.M.**; count 2 against **R.Z.** and **X.Z.** and the single count against **M.N.**, the court found the sentencing powers in the new Criminal Code of the Republic of Kosovo more favourable to the defendants.

Accordingly, pursuant to Article 3 of the new Criminal Code of the Republic of Kosovo, the court imposed the new sentencing regime from the new Code in relation to those offences.

1. N.M.

At all material times he was a prosecutor who held high office within the Special Prosecution Office of the Republic of Kosovo. He was in a position of trust. He abused that trust for his own material gain. His actions served to seriously undermine confidence in the administration of justice.

The Court found that not only was the defendant prepared to terminate criminal investigations for his own personal gain but he pursued criminal investigations against persons in respect of whom he knew there was little substantive evidence.

No evidence was put before the court proving that he, in fact, received any financial or material benefit.

He has no previous convictions.

He has a wife and three children. The evidence suggests that his son has autism.

During the trial he behaved impeccably.

2. R.Z.

He received from or on behalf of **P.M.** an unlawful material benefit in the total sum of 30,250 Euros.

He is the director of **X** Impex. His arrest and subsequent incarceration will inevitably have had a substantial detrimental affect upon that business.

He is married with two children.

He has no previous convictions.

During the course of the trial he showed complete contempt for the court, police and prison officers and the administration of justice. He was disruptive during the proceedings and on several occasions was removed from the court.

3. X.Z.

He received from or on behalf of **P.M.** an unlawful material benefit in the total sum of 30,250 Euros.

He is married with three children.

He has no previous convictions.

During the course of the trial he showed contempt for the court, police and prison officers and the administration of justice. He was disruptive during the proceedings and on several occasions was removed from the court.

4. M.N.

No evidence was put before the court the defendant sought or received any material benefit for herself.

She described her relationship with **N.M.** as "intimate". It was clear from his description of their relationship that she was, to some extent, emotionally dependent on him. The court finds that he had a position of influence over her and he used that to his advantage.

She has three children.

She has no previous convictions.

She told the court that, as a result of these criminal proceedings, she had lost her job.

She works in the financial services industry. A conviction of this nature will have a severe detrimental effect upon her future employment prospects.

During the course of the trial she behaved impeccably.

XI. DISQUALIFICATION FROM OFFICE

At all material times **N.M.** was a prosecutor who held high office within the Special Prosecution Office of the Republic of Kosovo. He was in a position of trust. He abused that trust for his own material gain. His actions served to seriously undermine confidence in the administration of justice.

Therefore, pursuant to Article 56 (2) of the CCK **N.M.** is prohibited from exercising any public administration or

public service function for a period of three years after the term of Imprisonment imposed herein has been served.

XII. CONFISCATION OF ASSETS

On 2 April 2012, during a search of the properties occupied by **R.Z.** and **X.Z.** police seized the items set out at Annex III below. In a ruling dated 17 December 2012 this Court held these items should be returned to **R.Z.** and **X.Z.** The prosecutor appealed this.

In its' Ruling dated 24 January 2013 the Court of Appeals upheld the prosecutor's appeal.

Therefore, based upon the said Ruling of the Court of Appeals, pursuant to Article 493 of the KCCP items 1 (one) to 14 (fourteen) and 24 (twenty four) inclusive which were seized during a search of **R.Z.** and **X.Z.** house on 2 April 2012 can be realized to satisfy the unlawful material benefit that accrued to **R.Z.** and **X.Z.**

XIII. CONFISCATION OF FIREARMS

During a search of the home of **N.M.** at No. X, X Street, X on 2 April 2012 he was found to be unlawfully in possession of a 'Crvena Zastava' pistol, model M-70 of 7.65 x 17mm caliber with no serial number for which he did not possess a valid Weapon Authorisation Card as required by law, one magazine with 8 bullets of 7.65 x 17mm caliber and a single bullet of 7.65 x 17mm caliber.

By reason thereof he committed the criminal offence of

Unauthorized Ownership, Control, Possession or Use of Weapons under Article 374 (1) of the CCRK.

N.M. told the court the weapon had belonged to his father before coming into his possession. He described the weapon as a trophy. He said that he voluntarily surrendered the weapon to police during the search.

XIV. COSTS OF CRIMINAL PROCEEDINGS

Pursuant to Article 102 (1) of the KCCP the defendants shall pay the costs of the proceedings in an amount to be determined by the court in a separate ruling.

XV. INJURED PARTIES

The Injured Parties may pursue any claims for compensation through the civil courts.

For the reasons stated herein the court delivers this Judgment.

Dated this 23rd day of May 2013.

Judge Malcolm Simmons
Presiding Judge

Judge Darius Sielicki

Judge Elmaze Syka

Court Recorder
Christine Sengl

LEGAL REMEDY: Pursuant to Article 398 (1) of the KCCP, authorized persons may file an appeal against this Judgment within fifteen (15) days of the day the copy of the judgment has been served. The appeal must be filed in written form through the Basic Court of Pejë/Peć to the Appeals Court of Kosovo.

ANNEX I

The Court heard the following witnesses:

P.M.
V.L.
L.N.
G.H.
S.K.
L.Z-M.
S.H.
S.M.
T.G.
A.Lu.
A.G.
L.K.
A.L.
P.P.
B.B.

ANNEX II

| | Defendants' statements | Page Number |
|---|----------------------------------|-------------|
| 1 | N.M. statement - 19/04/12 | 1-49 |
| 2 | N.M. statement - 10/07/12 | 50-96 |
| 3 | R.Z. statement - 17/04/12 | 97-137 |
| 4 | R.Z. statement - 03/07/12 | 138-173 |
| 5 | X.Z. statement - 18/04/12 | 174-226 |
| 6 | X.Z. statement - 05/07/12 | 227-256 |
| 7 | M.N. statement - 12/07/12 | 257-276 |

| | <i>Witness</i> | |
|-----|---|---------|
| 8 | P.M. Police statement - 11/03/11 | 277-290 |
| 9 | P.M. Police statement - 15/04/11 | 291-299 |
| 10 | P.M. Prosecution statement - 01/02/12 | 300-337 |
| 11 | P.M. co-operative witness statement (copy) - 22/05/12 together with his declaration made under Art. 298 § 3 PCCK | 338-369 |
| 12. | L.N. Prosecution statement - 23/03/2012 | 370-383 |
| 13. | G.H. Prosecution statement - 26/03/12 (with documents attached - see List of evidence No 31 and 32) | 384-397 |
| 14 | S.K. Prosecution statement - 27/03/12 (with copy of document attached - see List of evidence No 33) | 398-413 |
| 15 | L.Z-M. Prosecution statement - 27/03/12 | 414-430 |
| 16 | A.Lu. Prosecution statement - 06/04/2012 | 431-446 |
| 17 | S.H. Prosecution statement - 10/04/12 | 447-466 |
| 18. | S.M. Prosecution statement - 10/04/12 | 467-485 |
| 19 | T.G. Prosecution statement - 11/04/12 | 486-508 |
| 20 | V.L. Prosecution statement - 12/04/12 | 509-529 |
| 21 | A.L. Prosecution statement - 13/04/12 | 530-553 |
| 22 | L.K. Prosecution statement - 24/04/12 | 554-571 |
| 23 | Confrontation between V.L. and M.N. dated 29/05/12 | 594-624 |
| 24 | A.G. Prosecution statement - 28/06/12 | 625-644 |
| 25 | Rulings on Initiation and Expansion of | 657-716 |

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| | Investigation dated 10/02/2012, 27/03/2012, 12/04/2012, 25/06/2012 and 02/07/2012 | |
| 26 | Police Official Memorandum on P.M. complaint, dated 11/03/11 | 717-722 |
| 27 | Motion of P.M. submitted to the President of EULEX Judges and Chief EULEX Prosecutor to take over the case and disqualify N.M. from the case PPS. 87/10 dated 05/10/11 | 723-728 |
| 28 | Request for the exclusion of N.M. submitted by A.L. , L.K. and V.L. of 13/02/12 | 729-734 |
| 29 | Receipt drafted for G.H. by R.Z. dated 10/03/11 for the sum of 5000 EUR | 735-736 |
| 30 | Bank statement from Raiffeisen Bank certifying the withdrawal of 10/03/11 made by G.H. | 737 |
| 31 | 2 pages from the notebook of S.K. dated 20/09/10 and 28/03/2012 | 738-739 |
| 32 | Documents concerning the loan/overdraft of 3000 EUR that P.M. took from Bank X. on 10/09/10 | 740-762 |
| 33 | E-mail of S.M. dated 03/04/12 concerning the case | 763-768 |
| 34 | Official Memorandum dated 23/03/12 together with the CD (4 - 'Raporti Final') - extracted content of the mobile phones belonging to X.Z. ; <ul style="list-style-type: none"> - NOKIA 7250 - containing numbers of N.M., P.M., R.Z. and S.M. in the address book; - NOKIA 6230i - containing numbers of N.M. and P.M. in the address book and photo of N.M. and his son) | 769-777 |
| 35 | 4 Photographs of N.M. and his son extracted from mobile phone NOKIA 6230i belonging to X.Z. | 778-781 |
| 36 | Evidence Examination Report dated 14/06/12 together with the CD (5 - 'Computer Forensic Report') - extracted content of the IT devices; | 782-790 |

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| | <p>computer Acer Power F5 belonging to the SPRK and used by N.M.</p> <ul style="list-style-type: none"> - mobile phone SAMSUNG C5212 belonging to N.M. (containing numbers of M.N. and R.Z. in the address book and also several SMSs exchanged with M.N. in 2012) - mobile phone NOKIA 1202 belonging to X.Z. (containing numbers of N.M. and P.M. in the address book and also one phone call to N.M. 2nd April 2011, 12:14) <p>Also: note of the EULEX prosecutor on the content of this computer and other IT devices dated 21/06/12</p> | |
| 37 | Lists of cases conducted in the SPRK by N.M. | 791-795 |
| 38 | Entry book to the SPRK building provided by Kosovo Police | 796-814 |
| 39 | Entry book to the SPRK building provided by 'EURO-SEC' | 815-821 |
| 40 | Memo of the Kosovo Forensic Agency concerning pistol 'Crvena Zastava', model M-70 seized from N.M. | 822-823 |
| 41 | Search of the house of R.Z. and X.Z. of 15/02/12 including prosecutorial request (copy), court order, record of the search (including photos), police memos | 940-993 |
| 42 | Certification on the temporary seizure of items of 20/02/12 Nokia 7250 (plus SIM card), Nokia 6230 (plus SIM card), | 994-997 |
| 43 | Search of the house of N.M. of 02/04/12 including prosecutorial request, court order, record of the search, police memos (plus photos) pistol with bullets, one separate bullet, plane tickets, passport, document on the pistol | 998-1138 |
| 44 | Search of the house of R.Z. and X.Z. of 02/04/12 including prosecutorial request, court order, record of the search, police memos | 1140-1195 |
| 45 | Search of the SPRK office of N.M. of 12/04/12 including prosecutorial | 1202-1301 |

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| | request, court order, record of the search, police memos, 1 flight ticket Malesia Reisen, ID card of N.M. , case file PPS 87/10, Computer Acer Power F5 | |
| 46 | Passport of N.M. [no.] | 1302 |
| 47 | ID card of N.M. [No.] | 1303 (N7) |
| 48 | 1 flight ticket Malesia Reisen of 16/12/11 X-Zurich and 5 used plane tickets | 1304 (EV. D#6) |
| 49 | Documents dated 16/08/99 on the pistol of N.M. | 1305 (EV. D#4) |
| 50 | Interception of SMS messages of R.Z. , X.Z. , N.M. and P.M. in the period 01/06/10 - 01/04/11 together with prosecutorial request and Pre-trial judge's order (including CDs) | 1306-1390 |
| 51 | Phone metering of the mobile phones of N.M. , R.Z. , X.Z. and P.M. in the period 01/06/10 - 01/04/11 together with prosecutorial request and Pre-trial judge's order (including CDs) | 1391-1673 |
| 52 | Interception of telecommunications of the phones of R.Z. and X.Z. in the period 16/04/11 - 24/04/11 together with prosecutorial request and Pre-trial judge's order | 1674-1763 |
| 53 | Roll of paper containing the analysis of phone communications between N.M. , X.Z. , R.Z. and P.M. in the period 01/06/10 - 01/04/11 | Attached to files of the case separately |
| 54 | Documents (extracted from Z's 'green binder') demonstrating financial problems of R.Z. , X.Z. and their company ' X Impex': <ul style="list-style-type: none"> - documents concerning loans of Raiffeisen Bank - documents concerning loans taken from private persons | 1764-1900 |
| 55 | Selected documents from the case PPS 87/2010 conducted by N.M. against P.M. : <ul style="list-style-type: none"> - Criminal report of L.B. - Decision of SPRK Head to take over | 1901-2053 |

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| | <p>the case from DPPO X of 23/09/10</p> <ul style="list-style-type: none"> - Confirmation of the delivery of the decision of SPRK Head - Police Official memorandum of 10/01/11 - ROII of 24/02/11 against P.M. - Authorization to arrest P.M. of 24/02/11 - Police documents relating to arrest of P.M. <ul style="list-style-type: none"> - Defendant's statement of P.M. of 28/02/11 - Authorization of S.M. of 02/03/11 - Request to order detention on remand of P.M. of 01/03/10 - Ruling of the DC X on the House Detention of P.M. of 02/03/11 - Additional letter of L.B. to the Police of 02/03/11 - Letters of entrustment of N.M. of 18/03/11 and 22/03/11 - Proposal for extension of House Arrest of 24/03/11 - Ruling of the DC X on the extension of House Detention of 31/03/11 - Appeal of T.G. of 04/04/11 - Ruling of the Supreme Court of 07/04/11 - Request of T.G. to terminate House Detention of 11/04/11 - Summons of P.M. of 13/04/11 - Record of the defendant's hearing (P.M.) of 19/04/11 - Request of N.M. to terminate House Detention of 26/04/11 - Ruling of DC X to terminate House Detention of 27/04/11 - Additional submission of L.B. submitted to SPRK on 16/05/11 | |
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| | - Letter of entrustment of N.M. of 25/05/11 | |
| 56 | <p>Selected documents from the case PPS 64/2010 conducted by N.M. against H.R. ET AL:</p> <ul style="list-style-type: none"> - Anonymous complaint dated November 2008 - Anonymous complaint submitted on 19/03/08 - Police official memorandum of 23/03/09 - Police official memorandum 27/03/09 - Letter of entrustment of I.A. of 12/05/10 (case No PPS 23/09) - Information for the actions to be taken on case PPS 23/09 of 23/06/10 - Police official memorandum of 20/07/10 - Police official memorandum of 13/08/10 - ROII issued by N.M. of 21/07/10 - Summons of P.M. of 06/09/10 | 2054-2162 |
| 57 | <p>Selected documents from the case PPS 65/2010 conducted by N.M. against A.G. ET AL:</p> <ul style="list-style-type: none"> - Police criminal Report of 28/05/10 - ROII dated 02/12/11 | 2163-2913 |
| 58 | <p>Selected documents from the case PPS 02/2012 conducted by N.M. against P.M.</p> <ul style="list-style-type: none"> - Summons of P.M. of 13/01/12 - Decision of the SPRK Head to transfer the case from N.M. to DPPO X of 27/01/12 | 2914-2915 |
| 59 | <p>Selected documents from the case PPS 68-2/2012 conducted by N.M. against H.R. ET AL:</p> <ul style="list-style-type: none"> - Ruling on Initiation of Investigation dated 17/01/12 | 2916-2945 |

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| | - Minutes of interrogation of the defendant P.M. of 16/02/12 - Ruling on Termination of Investigation dated 21/03/12 | |
| 60 | Selected documents from the case PPS 99/2010 conducted by N.M. against V.L. ET EL: - ROII dated 04/10/2011 | 2946-2953 |

Statements taken by the prosecutor but not relied on:

M.M.
Z.I.
Dr. M.R.
S.M.
S.Ma.
F.S.
L.Z.
R.A.

I. Evidence relevant for the case but not attached due to its volume

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| 1. | Two binders containing all SMS messages and phone calls exchanged between N.M. , R.Z. , X.Z. and P.M. | |
| 2. | Case file No PPS 68-2/2012 conducted by N.M. against H.R. et al | |
| 3. | Case file PPS 87/2010 conducted by N.M. against P.M. | |
| 4. | 'Green binder' temporarily confiscated from ' X Impex ' containing documents dealing with (among other things) financial situation of this company, R.Z. and X.Z. | |

**II. Exhibits relevant for the case but not attached
(stored in the police or prosecution evidence room)**

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| 5. | Mobile phone NOKIA 7250 of R.Z. with VALA SIM card | E#1 and E#1.1 |
| 6. | Mobile phone NOKIA 6230i of X.Z. with SIM card Plus | E#3 and E#3.1 |
| 7. | Computer Acer Power F5 of N.M. | EV. |
| 8. | Mobile phone SAMSUNG C5212 belonging to N.M. | EV |
| 9. | Mobile phone NOKIA 1202 belonging to X.Z. | EV. |
| 10. | Pistol 'Crvena Zastava', model M-70, caliber 7.65x17 mm together with one magazine with the capacity of 8 rounds and 8 rounds caliber 7.65x17 mm | EV. D#1 |
| 11. | Single pistol bullet 7.65x17mm | EV. D#3 |

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| 1 | Records of border crossings of R.Z. and X.Z. in March 2011 | |
| 2 | Records of border crossings of R.Z. , X.Z. and N.M. during the periods 1 September - 1 October 2010, 1 - 31 March 2011 and 1 April - 31 September 2011. | |
| 3 | Two prosecution binders containing Bank records, CD's relating to R.Z. X.Z./X Impex | Banking Data binders I and II |

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| 1 | Record relating to visits by M.N. to the offices of the SPRK | |
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ANNEX III

1. 1 Printer 'Canon'
2. 1 Microwave oven (serial No FAB -10916)
3. 3 music sets 'Delux' (serial No 080503426C)
4. 1 Keyboard 'Shadow' (serial No MM 935)
5. 1 monitor 'Samsung' (serial No LXB531TL)
6. 1 laundry machine 'Beko'
7. 1 TV set 'Panasonic'
8. 1 TV set 'Elkos'
9. 1 electric cooker
10. Computer Dell Optiplex GX260, serial number
J63FS0J
11. Computer HP DC7100, serial number CZC4502SJK
12. 1 mouse, monitor, keyboard
13. 3 cigarette boxes 'Boss'
14. One microwave oven 'Gorenje'
15. Car of X.Z. - Audi B5, [licence plates]