



**Instituti i Kosovës për Drejtësi**  
**Kosovo Law Institute**  
**Kosovski Institut Pravde**

**Policy analysis:**  
**No. 03/2018 - KLI**

# **Political interferences in the politicized prosecutorial system, alarm for the need of vetting in the police, prosecution and courts**

**(Policy analysis after political interferences and  
public threats against Special Prosecutor Elez Blakaj)**

**Pristina, August 2018**

Kosovo Law Institute (KLI)

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August 2018

Pristina, Republic of Kosovo

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## I. Executive summary

The ongoing criticisms of political and interest groups' influence on the work of prosecutors and the prosecutorial system have recently been proven to the general public by the protagonist of the law enforcement - the special prosecutor - Elez Blakaj. The latter in the role of law enforcement - as a prosecutor - and the signalers within the prosecutorial system while treating one of the biggest and most sensitive cases after the end of the war in Kosovo - the case of rogue veterans - has faced numerous challenges including ongoing threats and pressures of various forms to prevent the performance of the task in this case.

IKD has constantly raised public concerns about the atmosphere created in the justice system, namely the prosecutorial system, which prevents the proper exercise of the prosecutor's function independently, impartially and professionally.

Investigations and raise of indictment for the case of rogue veterans by Special Prosecutor Elez Blakaj and his resignation from the position of the prosecutor testify to the continuous findings of the KLI for the lack of legal and physical security of prosecutors with integrity in the exercise of their function.

The case of Prosecutor Blakaj represents the security situation in the prosecutorial system, which is influenced by policies and interest groups to prevent investigations and prosecutions independently. Blakaj had months spent conducting criminal investigations in the case of deceitful veterans, involving a large number of high profile persons who had served as Commanders during the war in Kosovo, while in the current government hold high positions such as Ministers, Deputies, Police Chiefs etc.

This profile of persons investigated by Prosecutor Blakaj has affected that during the entire investigation process faces all sorts of threats and demands of the chiefs, to be careful about what conclusions he will make and who will be accused.

All these threats and requests were made known for public after the resignation of the Prosecutor Blakaj and the public reactions of the Chief State Prosecutor, Aleksander Lumezi, Kosovo Prosecutorial Council, Prosecutors Association, Prime Minister Ramush Haradinaj, President of the Assembly Kadri Veseli, President Hashim Thaci and other deputies and government officials who showed the threats he had been facing in conducting investigations and also publicly threatened them in various forms. The threats were addressed to Prosecutor Blakaj and the entire

prosecutorial system, sending a clear message that whoever deals with the case of rogue veterans is "small to deal with" and will be considered "chicken thief and pishpirik".

On the other side, all the public reactions of all actors showed the professional, impartial and independent work carried out by the Prosecutor Elez Blakaj and at the same time was also proved by the protagonists of the KLA themselves that the entire process of recognition the status of veterans was developed illegally and the lists were fictitious with rogue veterans. Former

KLA commanders publicly appeared and supported indictment of Prosecutor Blakaj, confirming that the lists were inflated with rogue veterans.

In this created situation, in which the political influence and interest groups influence are evident in the process of Prosecutor Elez Blakaj and the prosecutorial system, there is a high risk for the legal and physical security of Prosecutor Blakaj and any prosecutor who attempts to address this case with integrity, without allowing political influences.

KLI as a result of systematic monitoring in the justice system has specifically addressed the topic of lack of legal and physical security for prosecutors and judges, who in isolated cases directly face physical threats, but that the phenomenon is facing with pressures, blackmails and different threats in performing their duties independently, impartially and professionally, as in the Blakaj case.

Furthermore, the political influence in the justice system, namely the judicial and prosecutorial system, is constantly emphasized in all the most relevant domestic and international reports, with particular emphasis on the Progress Report of the European Commission, Report of the US State Department, Freedomhouse etc. In this regard, one of the most important indicators that proves this political influence in the justice system is the credibility of citizens in the work of the judicial and prosecutorial system, which is among the lowest after the end of the war in Kosovo.

KLI insists on its public initiative, which has been recommended for as long as it is formulated as a policy based on continuous findings of systematic monitoring, that the justice system to be involved in a deep vetting, starting with the Police, the Prosecution and the Judiciary. This process should be preceded by constitutional changes and then the Law on Vetting, for which political will is needed in the Assembly of Kosovo. However, for now, it is imperative that the prosecutorial system recover in its steps, first to dismiss the politicized Chief Prosecutor Aleksander Lumezi, and then proceed to a transition that would prepare the vetting process.

## II. Investigations of rogue veterans

The Special Prosecutor of the Republic of Kosovo, Elez Blakaj, on 11 July, 2018, after several months of investigative work has raised one of the most important indictments since the end of the Kosovo war in 1999. Indictment of Prosecutor Blakaj is directed against members of the Government Commission for Recognizing and Verifying the Veterans Status of KLA, where most of them are involved in the indictment. This subject, which is considered to be the most voluminous and sensitive subject, is still in drawer of the Special Prosecution and is not being sent to the Court, although it was signed by Prosecutor Elez Blakaj.

The list of accused persons: Agim Ceku, followed by Nuredin Lushtaku, Sadik Halitjaha, Shkumbin Demaliaj, Qele Gashi, Shukri Buja, Ahmet Daku, Rrustem Berisha, Faik Fazliu, Smajl Elezaj and Xhavit Jashari.

This indictment, due to the high sensitivity and involved profile, was initially sent to Chief Prosecutor of the Special Prosecution, Reshat Millaku, to be sent to the Basic Court in Pristina. In the latter, this indictment has not yet been sent by the Special Prosecution Office. Meanwhile after the resignation of Prosecutor Blakaj, this case was assigned to the special prosecutor Afrim Shefkiu.

Based on indictment of Prosecutor Blakaj, his strategy in investigating and prosecuting this case is based on the provision of proves and evidence, which proves that the process of recognizing veterans as unlawful in which many individuals have consumed criminal offenses.

Further, in addition of raised indictment against high-profile, as competence of the Special Prosecution, after that Prosecutor Blakaj has deposited a notice for seven Basic Prosecutions together with proves and evidence to continue the investigation and prosecution of all other persons involved all levels of KLA Commanders who have compiled and approved inflated lists of rogue veterans who have paid in various forms to benefit from this status. This implies that seven Basic Prosecutions should have raised indictments against responsible persons who have allowed the inflated lists involving over 19,000 rogue veterans.

Another very important segment of the investigation of this veterans case worked by prosecutor Elez Blakaj is the criminal investigation initiated against police officers and superiors in the police, who at the same time receive income also as a invalid of the KLA.

Challenges in the investigation of this case by prosecutor Blakaj have been great due to pressure and threats by veterans themselves, influences of Chief Prosecutor Lumezi and Prime Minister Haradinaj.

During the investigation, Prosecutor Blakaj had invited to interview the President of Assembly, Kadri Veseli, for which the Chief State Prosecutor Aleksander Lumezi reacted, saying that there is no need to be invited because he enjoys immunity. This attitude Lumezi kept also in public in his justifications, despite the fact that since September 2011, according to the Constitutional Court Judgment, it turns out that nobody enjoys immunity from prosecution and from being invited to the role of a witness. President of Assembly Veseli was invited to be interviewed by prosecutor Blakaj because in the assembly, he had stated that the lists had been inflated with rogue veterans.

However, Blakaj has not stopped and has managed to compile the indictment 64 pages, with tens of thousands of pages of prove and evidence and for about 20,000 rogue veterans. Blakaj's formalized indictment has been signed, which is formally considered as a work done of prosecutor, while the raised indictment to be considered, should be submitted in the competent court.

In the latter, the Special Prosecution Administration did not yet send, because the indictment was forbidden by the Chief Prosecutor of this Prosecution, Reshat Millaku, on the grounds that it should be technically fulfilled with some information in the provision of the indictment so as not to have formal problems for admission by the Court. Special prosecutor Afrim Shefkiu has already been appointed for this process and representation of veterans' case. According to the responsible for communication with the public in the Special Prosecution Office, Prosecutor Syle Hoxha, this indictment is expected to be completed and sent to the Court for a month.

Following the resignation of Prosecutor Blakaj, Prime Minister Ramush Haradinaj through a facebook post has published the official communication regarding the investigation of case of war veterans between Prosecutor Blakaj and Prime Minister Haradinaj. Despite the fact that the case of veterans is still being dealt with by the prosecutorial system, this did not prevent Prime Minister Haradinaj from publishing on his official page in facebook the prosecutor Blakaj's letter to have access in the documentation of the governmental commission for recognizing and verifying the veteran status of the KLA and the response of Prime Minister Haradinaj in this letter.

This contradicts with the principles and procedures set in the Criminal Code, the Criminal Procedure Code and the Law on State Prosecutor. Article 3, paragraph 3 of the Law on State Prosecutor defines that "it is unlawful and contrary to the Constitution for any physical or legal person to interfere, hinder, influence or attempt to interfere, hinder or influence to the State Prosecutor during the commission of the prosecutorial functions regarding any investigation, proceeding or individual case".

In addition, Prime Minister Haradinaj, in response to Prosecutor Blakaj, stated in point three that the investigation in this case would last 30 days and that at the end of the investigation the prosecutor was obliged to hand over to the Prime Minister the investigation report and his findings. Such an approach and request of Prime Minister Haradinaj contradicts in the first place with the Constitution of the Republic of Kosovo, which in its Article 4 stipulates that Kosovo is a democratic Republic based on the principle of separation of powers and balancing control between them. According to the Constitution, the Assembly of the Republic of Kosovo exercises legislative power. The President of the Republic of Kosovo represents the unity of the people, the President of the Republic of Kosovo is the legitimate representative of the country inside and out and guarantees the democratic functioning of the institutions of the Republic of Kosovo. While, the Government of the Republic of Kosovo is responsible for the implementation of state laws and policies and is subject to assembly control, while the judicial power is unique, independent and exercised by the courts.

In this case, Prime Minister Haradinaj acting in contradiction to the values and principles on which functions the division of powers in the Republic of Kosovo, has requested from Prosecutor Blakaj to submit the investigation report to the Prime Minister and his findings regarding a case that was being investigated by prosecutor Blakaj.

Response of Prime Minister Haradinaj in Prosecutor Blakaj's file, also limited the deadline for investigations into a criminal proceeding. While, according to the Code of Criminal Procedure, in principle the investigations last for up to 24 months, the Prime Minister in his letter had given Blakaj a deadline of 30 days to investigate this case in the premises of the Government of Kosovo. Furthermore, according to the Code of Criminal Procedure, investigations conducted by the prosecutor are finalized by indictment and sent to the court or end with a decision to cease the investigations.

Interferences of Prime Minister Haradinaj regarding this case continued in the following days, following the resignation of Prosecutor Blakaj. On 23 August 2018, Prime Minister Haradinaj, through a Facebook post, informed the public that he had directed to accredited ambassadors and officials of the Liaison Offices in Kosovo, explaining with a letter his unconditional support to all requests filed by the resigned prosecutor, Elez Blakaj, for the entire investigation into the Office for Issues of categories derived from the KLA War regarding the issue of the Veterans List.

Even more concerning regarding this addressing of Prime Minister Haradinaj was the fact that the same correspondence with the foreign ambassadors in Kosovo had attached the official communication between him and the prosecutor Blakaj, respectively submitted to the foreign states prove or evidence of a case that still is in criminal proceedings. Such an approach proves

the intervention of Prime Minister Haradinaj in a criminal procedure, including foreign states in Kosovo, which itself includes the violation of a number of laws in Kosovo.

### III. Resignation of Prosecutor Blakaj evidence of political interference in justice

Prosecutor Elez Blakaj on 13 August 2018 has offered resignation letter to the Chair person of Kosovo Prosecutorial Council and Chief Prosecutor of SPRK, Reshat Millaku. In his letter Blakaj had informed that a month ago, respectively on 11 July 2018, raised an indictment in the case of KLA veterans, which he handed over to the Chief Prosecutor of the Special Prosecution of the Republic of Kosovo, Reshat Millaku.

"I would like to thank all the colleagues we have worked with all these years, highly appreciating the help of our collaborators and legal officers. How important co-operation is, in particular, it is worth mentioning the co-operation and tireless help of some colleagues in the last 10 months, in one of the most voluminous and complex cases, called 'The Case of Veterans', for which case by 11 July, 2018, I forwarded the indictment to the Chief Prosecutor Millaku, "Blakaj writes in his letter, emphasizing that it was honour to work in the prosecutorial system, despite many challenges that he had in his work.<sup>1</sup>

After Blakaj's letter of resignation was published, the chiefs of the prosecutorial system and the Special Prosecutor's Office appeared in the public, praising Blakaj's work as a professional and courageous prosecutor, denying that he was threatened in any form and that he had been offered protection and continued assistance from the prosecutorial system, but according to them, Blakaj had decided for personal reasons to resign. However, all the leaders of the prosecutorial system had denied that Prosecutor Blakaj had raised an indictment in the case of rogue veterans, claiming that the case was still in the investigation phase.

The "Oath for Justice" for the first time published the content of the indictment of rogue veterans and the names of 11 members of the Governmental Commission for Recognizing and Verifying the Status of Veterans, who were accused as high profile, starting from Head Agim Ceku to Xhavit Jashari.<sup>2</sup>

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<sup>1</sup> "Resigned Prosecutor Blakaj in July raised a high-profile indictment for veterans, led by Agim Ceku and ends with Xhavit Jashari, the indictment" sleeps "at the Special Prosecution," Musliu B., August 15, 2018, [www.betimiperdrejtesi.com](http://www.betimiperdrejtesi.com) See the link: <https://betimiperdrejtesi.com/prokurori-i-dorehequr-elez-blakaj-ne-korrik-e-kan-gritur-aktakuzen-e-profilite-larte-per-veteranet-te-ciles-i-prin-agim-ceku-dhe-perfundon-me-xhavit-jasharin-aktakuza-flene-ne-pr/>

<sup>2</sup> "Resigned Prosecutor Blakaj in July raised a high-profile indictment for veterans, led by Agim Ceku and ends with Xhavit Jashari, the indictment" sleeps "at the Special Prosecution," Musliu B., August 15, 2018, [www.betimiperdrejtesi.com](http://www.betimiperdrejtesi.com)

Following this published news, followed in public the reactions of the Chief Person of the Prosecutorial Council, Blerim Isufaj, Chief State Prosecutor Aleksander Lumezi and Chief Prosecutor of the Special Prosecution, Reshat Millaku, by denouncing the news for an raised indictment and claiming that the case was still just in the investigation phase.

After three days, "Koha Ditore"<sup>3</sup> on 17 August 2018 published an indictment of rogue veterans testifying that Special Prosecutor Elez Blakaj had raised an signed indictment with random number for rogue veterans, including high profile that were part of the Government Commission. The article showed all the details of the indictment, which was raised and signed by Prosecutor Blakaj, but which was submitted in the office of Special Prosecutor Reshat Millaku and was not sent to the Basic Court of Pristina.

Continuous contestation of the raised indictment in public by the heads of the prosecutorial system brought the first reaction in public of the resigned prosecutor Elez Blakaj, who on the social network facebook wrote a letter titled: *"My resignation has two messages: Protest and message"*.<sup>4</sup> In this letter, Prosecutor Blakaj explained his reasons for resignation, which are related to political influences, pressures and persistent threats in his work as a prosecutor.

*"As a protest, in the sense of expressing dissatisfaction and disagreement over an extremely politicized management, where high profile cases are very difficult to pass, and even when they reach to pass, the entire process is blackmailed so that at the later stages those cases fail, because they are the cotter of daily politics."*

*"As a message, this applies to colleagues, that at no cost we should not sell our principles and dignity before career advancement, or for sake of our bosses, wages we do not deserve, various threats, other favors with low motives, etc. because with our servile approach we are contributing to the destruction of our state and the hope to build a state of law, effort and sacrifice of many generations, with the support of our friends (let not God leave us without them!) whom we are losing every day and more! "*

In this reaction, the resigned prosecutor Elez Blakaj, states that during the exercise of his function as prosecutor but also his family were constantly threatened while he had dealt with

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betimiperdrejtesi.com See the link: <https://betimiperdrejtesi.com/prokurori-i-dorehequr-elez-blakaj-ne-korrik-e-kangritur-aktakuzen-e-profilit-te-larte-per-veteranet-te-whose-of-print-dawn-pointed-and-ends-with-xhavit-Jashari-indictment-sleep-on-pr/>

<sup>3</sup> "Indictment: The Commanding Chain of Fraud on behalf of the KLA", Ramaj, S. 17 August 2018, Koha Ditore.

See the link: <https://www.koha.net/arberi/111595/aktakuza-zinxhiri-komandues--mashtimit-ne-emer-te-uck-se/>

<sup>4</sup> "Elez Blakaj speaks, says that he had threats from veterans, cites the pressure of Chief Prosecutor Aleksander Lumezi for KLA veterans and the Pronto case," Oath for Justice, [www.betimiperdrejtesi.com](http://www.betimiperdrejtesi.com), August 20, 2018, See the link: <https://betimiperdrejtesi.com/flet-elez-blakaj-thote-se-kishte-kercenime-nga-veteranet-permend-presionin-e-kryeprokurori-aleksander-lumezi-per-veteranet-e-uck-se-dhe-rastin-pronto/>

sensitive cases, especially cases of high-profile politicians. In response, he explains that he has received all kinds of threats that he has overcome and has done his job with honesty and professionalism, saying that he has raised an indictment for rogue veterans, for which he does not understand the reason why it has not yet been sent to the Court by the Chief Prosecutor of the Special Prosecution, Reshat Millaku.

All of these threats and pressures, Blakaj says that he should have announced, but he publicly asked where to announce them, alluding that there was no address where he should be directed due to the system captured by politics and interest groups.

Further, the resigned prosecutor Blakaj has announced two cases in which Chief State Prosecutor Aleksander Lumezi, according to him, intervened in his work as a prosecutor. The first case is the case of "**Pronto**", while the second case is "**The case of rogue veterans**".

Blakaj's reaction was followed by threats and harsh public reactions of the Prime Minister Ramush Haradinaj, who publicly insulted him as "chicken thief and pishpirik." In response to Prosecutor Blakaj's reaction, Chief Prosecutor Aleksander Lumezi, who initially praised Blakaj as a professional and brave prosecutor, now considers him unprofessional and craven prosecutor. In a public appearance at RTK's central news edition, Aleksander Lumezi, confirmed the meetings with accused proponents in the "Pronto" case, with whom he had discussed for the indictment and after meeting he invited in meeting three prosecutors of the task force (*Drita Hajdari*, *Elez Blakaj* and *Lulezim Sylejmani*), who had reproached and threatened to send them to the Disciplinary Commission because of the raised indictment against certain individuals in the Pronto affair, who currently are also in positions of ministers in the Haradinaj Government.

Blakaj's reaction and reactions and threats of the politics and the prosecutorial system testify the constant findings of the systematic monitoring of KLI that political influence and interest groups in the justice system are evident, respectively in the prosecutorial system.

Political influence on the justice system has been constantly emphasized in the most relevant domestic and international reports, with special emphasis as the Progress Report of the European Commission, the US State Department report, Freedomhouse etc. In this regard, one of the most important indicators indicates this political influence in the justice system is the credibility of citizens in the work of the judicial and prosecutorial system, which is among the lowest after the end of war in Kosovo.

## IV. Profile of prosecutor Elez Blakaj: Hero VS Craven

### a) Elez Blakaj – hero prosecutor

The profile of the resigned special prosecutor Elez Blakaj for a few days was evaluated in two extremes, from the hero prosecutor, being professional and courageous to the coward and chicken thief. In a public reaction on Facebook social network, the publicist Veton Surroi has stated that from "caught state: or you are proclaimed craven if you are housed in America or you are proclaimed a good man during your burial day after suicide with 11 knife tingle."<sup>5</sup>

The evaluation of the performance of prosecutors by internal mechanisms of the prosecutorial system, brings prosecutor Elez Blakaj as one of the best prosecutors in the Republic of Kosovo. By the end of 2017, according to the Performance Evaluation Commission, Elez Blakaj was noted with 3.7 from grade 4 as it was the maximum. While in 2014, Blakaj was rewarded with a special award for good performance in the prosecutorial system. This award was given while he was Prosecutor at the Basic Prosecution of Pristina *"for the extraordinary contribution to justice in Kosovo through his professional work in the Basic Prosecution in Pristina"*.<sup>6</sup>

During his work as a prosecutor he has dealt with sensitive cases among the most specific cases treated as prosecutor in the Special Prosecution, such as cases of terrorism, war crimes, the case of "Pronto", the case of rogue veterans. The case of veterans is the biggest case after the end of the Kosovo war, which includes the high profile of the Commanders as well as about 20,000 rogue veterans. In this case, Prosecutor Blakaj, who raised an indictment against high-profile, which is in the competence of the Special Prosecution Office, has delegated the remaining case to the investigation and prosecution of seven Basic Prosecutions of the Republic of Kosovo. Among other things, Prosecutor Blakaj in this case initiated criminal investigation against a large number of police officers, who unlawfully had at the same time benefited from regular salaries in the police and veterans invalid.

The most positive assessments for the resigned prosecutor Elez Blakaj were given publicly by the Chairperson of the Prosecutorial Council, Blerim Isufaj, the Chief State Prosecutor, Aleksander Lumezi, Chief Prosecutor of the Special Prosecution, Reshat Millaku, US Ambassador Greg Delawie. The leaders of the prosecutorial system in the early days following the resignation praised Blakaj's profile, evaluating him as a very professional and courageous prosecutor, emphasizing that he has dealt with major cases, including the case of rogue veterans.

<sup>5</sup> "Surroi: Caught State Announces you Coward If You Are Housed in the US or a Good Man on the Burial Day," [www.koha.net](https://www.koha.net), 20 August 2018. See the link: <https://www.koha.net/arberi/112360/Surroi-state-of-the-catch-justifying-funk-if-refuge-in-uS-or-man-to-good-to-day-e-burial/>

<sup>6</sup> "The award for justice," Hero Sali Cekaj ". "Koha Ditore" newspaper, December 22, 2014. See the link: <https://archive.koha.net/?id=27&l=38151>

While, the American Ambassador Delawie after Blakaj's resignation, was expressed disappointed saying that *"it is a sad day for the rule of law in Kosovo, when a top prosecutor feels that he has to resign because of threats and lack of support, is particularly sad when he has worked in a huge case of pensions rogue."*

The US diplomat said he also felt disappointed for the fact that Blakaj was supported by the US government to study in Wake Forest where he had obtained the LLM degree and had investigated important cases in Kosovo. Further Delawie has said that Kosovo must demonstrate its commitment to the rule of law not only by supporting prosecutors, but also by ensuring that everyone who is sentenced to serve the sentence.

American Ambassador Delawie had reacted on 28 August, 2018, through a post on Twitter, where he had withdrawn the attention of politics and justice institutions to Kosovo. He had stated that he is carefully observing corruption investigations in providing benefits to veterans. Delawie had demanded that *"the issue be addressed without threats, intimidation and political interference. Citizens, and especially veterans, should see the system as it decides justice."*

#### **b) Elez Blakaj – craven prosecutor**

The same heads of the prosecutorial system, who publicly praised Elez Blakaj as a very professional and very courageous prosecutor, are the same protagonists who have tried to tarnish Elez Blakaj's profile, calling him now as unprofessional and coward prosecutor.

Following the public reaction to the social network Facebook, in which Prosecutor Blakaj, said his resignation had to do with protest against the prosecutorial system politically influenced and message to all those who hold prosecutorial functions not to be subjected to political influences, highlighting the concrete cases of political influence and direct interventions at work by the Chief State Prosecutor, Aleksander Lumezi, on cases of politicians, Aleksander Lumezi changed his attitude, publicly labeling Elez Blakaj as an unprofessional and coward prosecutor.

In the same form, they tried to label him through the lack of support from both the Kosovo Prosecutorial Council and the Kosovo Prosecutors Association, which came to the defense of the Chief State Prosecutor, and attacked Prosecutor Elez Blakaj.

After Chief Prosecutor Lumezi, the protagonist who most has labeled and threatened prosecutor Elez Blakaj is the Prime Minister of the Government, Ramush Haradinaj.

On 20 August, 2018, Prime Minister Haradinaj was guest at the Interactive TV show on KTV, in which he had seriously attacked prosecutor Blakaj regarding raised indictment in the case of rogue veterans of the KLA. Haradinaj had said that prosecutor Blakaj is "chicken thief and

pishpirik." Prime Minister Haradinaj further stated that this prosecutor has no right to speak about veterans, "when he himself was in Blace or Stankovec." He said that nobody should talk about the large number of veterans from the Dukagjin region because, according to him, there were actually many fighters out there.

I don't know where prosecutor was during the war, in Bllace or where? As far as what happened in Dukagjin for war, I stand behind. Those I signed are veterans. They have been mobilized big and small. Each settlement has been supplied with guns. Movement, circulation, escape, return from the place of war has at all times and in each war. It is not good to offend the participation in war of the people of Dukagjin because it was large number.

The number was large that were directly in the war or taking part in the war at a certain time. My attitude is clear; I do not deny anyone's contribution to freedom. What the law recognizes they deserve it. Do not complain after the law is done. If someone is not a veteran then the law should be dealt with him. If a 27-year-old man is a veteran today, he is unlawful and must be found by the prosecution, why he has entered and who did it. But to say that in Dukagjin they have entered many and have not been in the war, it is shame for those who speak.

People from Bllaca and Stankovec do not have the right to talk about who was at war in Dukagjin. How does he know who was in the war? I show that I never left the war. In Dukagjin, big and small, in hundreds of settlements, have been at war, from a hundred armed men. They have acquired the right by law. It was necessary to think over time whether we will succeed in their own right, but not to bring a person to offend their contribution, "said Haradinaj.<sup>7</sup>

Even the President of the Assembly of Kosovo, Kadri Veseli was involved in the debate regarding the resignation of the prosecutor Elez Blakaj. Veseli through a facebook posting on 20 August, 2018, admitted that there was a flare of KLA veterans' lists, and there is no dilemma about it. "Such a concern has been expressed by many of my friends, which has made me to request until the end the investigation of this process.

I have been asking since the beginning that justice to say its word. Any allegation of fraud in the veterans' lists should be investigated in a complete and impartial manner. I am sorry for the KLA fighters that someone is trying to stain their contribution and sacrifice. But even this battle, protecting the values of our war, fighters, we will win, putting before justice, names and surnames, all those who have entered in those lists without being fighters of freedom, "Veseli said.

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<sup>7</sup> Prime Minister Haradinaj's Interview on the Interactive show in Kohavision on August 20, 2018 at: <https://www.koha.net/arberi/112362/kryeministri-fyen-blakajn-thote-se-genjen-per-kercenime-nga-veteranet/>

"In this battle we need dedicated and courageous people in every institution. Elez Blakaj, a prosecutor that the state of Kosovo had given him confidence, did not have the courage to lead it to the end, for which he had my full support - as a man, as a warrior and as an institutional and political leader. He had thought to become a hero prosecutor without fighting the crime, just like these deceivers who want to become veterans without participation in the liberation war," Veseli said.

"With statements from the United States crime is not fought, as long as the war is not won by declarations without taking part directly. Either way, this is the morality that the individual chooses, on which he also educates his own children. This process will go to the end, as far as any claim made by this prosecutor goes to the end. The lists will be investigated.

The truth will come out. The state of Kosovo had trusted Mr Blakaj and his professionalism. With his escape, he says that he does not like the state of Kosovo. Prosecutors who love the state of Kosovo, that live in this country, will end this process. Elez Blakaj's escape from duty, should not be any discouragement for the people of this country, especially for justice professionals. I assure the citizens of Kosovo that deceivers of any kind, will not even be able to stain the glorious name of the Kosovo Liberation Army, nor can they harm the future of Kosovo. "

## **V. Concerns about threats and public labeling of politicians against prosecutor Blakaj**

Public reactions against the resigned prosecutor Elez Blakaj from the heads of the prosecutorial system itself, but also from politics, especially Prime Minister Ramush Haradinaj, have prompted numerous reactions to experts and civil society activists, who consider that these are direct threats to the work of independent prosecutors.

Through a press release, the Humanitarian Law Fund (HLF) states that, "regardless of Blakaj's decision to withdraw from his post due to the threats that have been made after investigating case of fake war veterans, to evaluate a prosecutor as a "chicken thief" and "pishpirik", which, since independence, has been the most serious insult that was made by one of the highest state officials in Kosovo on behalf of a member of the prosecutorial system."

Moreover, estimating that "people who were not in Bllaca or Stankovec during the war in Kosovo have no right to count veterans in the Dukagjin region," he has exercised a direct political influence on the prosecution.

"This constitutes a dangerous precedent, which, if it does not react to it, and if the statement is not withdrawn, opens the door for further direct mixing and pressure in the prosecutorial system,

which according to the Constitution and the law, is completely independent from politics, "it is said in the statement.

HLF Kosovo estimates that the Prime Minister of Kosovo, with his statement on behalf of former prosecutor Blakaj, has done a bad service of efforts to build an efficient and independent state legal system in Kosovo. "Where political officials give themselves the right to depreciate and offend officials of the state's judiciary, there is no rule of law, but the power of mighty politicians is in power," says the HLF statement.

HLF Kosovo demands from Prime Minister Haradinaj to withdraw his statement and publicly apologize to Blakaj, but also to the whole prosecutorial system. On the contrary, it is required by Assembly deputies to start the proposal for no confidence vote.

## **VI. Blakaj case, evidence of the right initiative of the KLI about the need for vetting in police, prosecution and courts**

### **a) Legal and physical security of prosecutors and judges**

The security of judges and prosecutors plays a decisive role in the administration of justice in a democratic society where there is rule and law, based on international values and best practices. Providing individual security for these categories is a prerequisite to ensure in practice the independence of the judiciary in the exercise of their functions in a fair, impartial, independent and based on law.

International practices and standards pay particular importance to the independence of the judiciary in exercising its functions in practice. For this reason, have been established high standards and practices associated with the independence of the judiciary. This independence must be guaranteed by the state through the Constitution and laws, as government and state institutions are obliged to respect and support the independence of the judiciary.

In the case of Prosecutor Elez Blakaj in a coordinated and organized manner there have been a series of statements by high state leaders who publicly intervene and publicly threaten prosecutor Blakaj regarding treating of war veteran case, seriously affecting the individual security of the prosecutor Blakaj and his family, violating the independence of the prosecutorial and judicial system.

Statement of Prime Minister Haradinaj, that prosecutor Blakaj is "chicken thief and pishpirik" and that this prosecutor has no right to talk about veterans, "when he was in Bllace or Stankovec" during the war in Kosovo, not only compose a threat to the individual security of

Prosecutor Blakaj and his family, but also seriously affect the independence of the entire justice system in Kosovo. Public judgment and humiliation that Prime Minister Haradinaj makes to a prosecutor should also be considered as a message to all potential prosecutors or judges who can handle the case of war veterans or similar cases affecting the profiles of commanders, politicians, or powerful people.

Approximate approach with Prime Minister Haradinaj also had the President of the Assembly Veseli, who stated that in this battle we need devoted and courageous people in every institution. "Elez Blakaj, a prosecutor that the state of Kosovo had given him confidence, did not have the courage to bring it to the end, for which he had my full support - as a man, as a fighter and as an institutional and political leader.

He thought to become a hero prosecutor without fighting the crime, just like these rogue veterans who want to become veterans without participation in the liberation war. "Even the President of the Assembly Veseli through his public statements judges and despises the personality of Prosecutor Blakaj, making efforts that in public to lose public confidence.

Chief State Prosecutor Aleksander Lumezi on 15 August, 2018, following his resignation, stated that Prosecutor Blakaj had not been withdrawn because of intimidation because he had been a decisive, uncorrupt and courageous prosecutor, investigating the case of deceitful veterans and preparing a draft indictment, which, according to him, had been reviewed together with Chief Prosecutor of the Special Prosecution, Reshat Millaku.

While on 20 August, 2018, Chief Prosecutor Lumezi has completely changed his approach to Blakaj, calling him coward and non-professional, sending a message to all other prosecutors for the consequences they might have if they choose to follow the way of whistleblower as Blakaj to report on the political influences of Chief Prosecutor Lumezi in individual cases.

In the same interview, Chief Prosecutor Lumezi has accepted his interventions in the work of the prosecutor Blakaj, emphasizing that "it is true that I have invited Blakaj in the office to tell me that why he invited the President of the Assembly of Kosovo Kadri Veseli for interviewing about case of war veterans". For Veseli's interview, Lumezi stated that "it is absurd to interview a deputy of the Assembly for something that speaks in the assembly." According to Chief Prosecutor Lumezi, "Prosecutor Blakaj calling on the interview Kadri Veseli, wanted to show bravery, regarding that I'm calling the President of Assembly."

This approach of the Chief State Prosecutor, Aleksander Lumezi, shows to his fears from the profile of politicians to whom it serves and who practically and not formally brought him to the position of Chief State Prosecutor. Proximity and co-operation of the Chief Prosecutor is evidenced in the Pronto affair, in which it is proved that although he had been exercising the function of the prosecutor at the former District Prosecution in Pristina, had held meetings at the

time with the protagonists of the “Pronto” affair to run for Pristina Mayor from the Democratic Party of Kosovo.

## **b) Citizens do not trust the justice system**

Rhetoric in fighting corruption and organized crime has never been missing from all the leaders of independent institutions and agencies in the Republic of Kosovo. However, corruption is endemic and Kosovo suffers from a lack of will to fight corruption. The only will to fight corruption successfully has remained the policies on paper and empty statements of the heads of justice system.

Systematic monitoring of KLI proves that there have never been neither procedural actions to offer spectacles before citizens and the international factor to create the impression of the fight against corruption and organized crime. Even investigations and indictments have been raised against several high-profile individuals, that have largely failed due to non-professionalism and political orders to treat those cases. Corruption that is being followed mainly belongs to a low profile, eventually middle, which in over 60% of indictments fail in the courts.

Over the last three years, has been raised high-profile indictments, which in over 90% of cases have failed to prove. Most of them have failed since the initial stage. This proves that most of these investigative cases or raised indictments have been deliberately initiated or persecuted or to build a permanent amnesty for these officials. The extreme politicization of independent institutions such as the Police, the prosecutorial and judicial system is serving as a perfect mean for cultivating the culture of impunity of high state officials, holders within the prosecutorial and judicial system, and at the same time serving for the promotion of these law violators.

The recruitment, promotion and selection of the holders of these important institutions can not be done without the practical intervention of the policy hand, interest groups inside and outside the system, which takes care that key positions to be guided by people with controversial integrity and completely manageable.

The extreme political impact and the lack of concrete results have seriously violated the integrity of the justice system, which has affected the loss of public and citizens confidence in the rule of law, respectively for the justice system in Kosovo, with which they are least satisfied.

According to the USAID and UNDP report published on 3 June 2018 - "Public Pulse XIV", it results that "the level of satisfaction with the work of the judiciary (courts and prosecution) has been reduced by 6 and 3 percentage points since October 2017, respectively. It should be noted that satisfaction levels with the Prosecution and central institutions are lower when compared to all other institutions. This suggests that the loss of confidence in the rule of law and governance has affected in overall levels of satisfaction with all other institutions." According to this report,

citizen satisfaction with the prosecution offices in April 2018 has fallen to 29.9%, which at the same time represents the lowest confidence of all public institutions in Kosovo.

### **c) Citizens protest for dismissal of the Chief State Prosecutor and for vetting in the judiciary**

As a result of public threats against the resigned prosecutor Elez Blakaj and political interference in the judiciary, a group of Kosovo citizens and civil society activists had organized a protest on 22 August, 2018 in Pristina with the motto "Dismissal for Chief Prosecutor, Vetting for Judiciary". According to the organizers of this protest, the reason for the protest was related to the fact that it is now clear that the prosecution is in the service of politics.

Even if there is a prosecutor, as Elez Blakaj who has the will to fight corruption, will be hindered by Chief Prosecutor Aleksander Lumezi and Prime Minister Ramush Haradinaj. The citizen of the Republic in such circumstances should be in charge of his civic responsibilities and duties. Now, it is a duty the request to dismiss the Chief Prosecutor Lumezi and start the vetting process for the Kosovo judiciary. At the protest organized on 22 August, 2018, had participated thousands of citizens of Kosovo.

Regarding the situation in the justice system in Kosovo, the threats against Prosecutor Blakaj and policy interventions in the justice system, had also reacted the Office of European Union in Kosovo. In the statement of this office issued on 22 August 2018, was expressed the European Union's position that "the independence and autonomy of the judiciary, including the prosecution, is of crucial importance in this context and should be ensured".

The European Union has invited everyone to refrain from any possible attack on the rule of law institutions, including any personal or defamatory comments on individual prosecutors or judges. "Statements of some Kosovo politicians and prosecutors in this regard undermine the main principles of the rule of law. Moreover, they also send discouraging signals to all judicial officials that deal with sensitive and important cases."

The organizers of the #Protest initiative have again held citizen protests on 29 August 2018, which was also attended by thousands of citizens, with requests for independent justice, for dismissal of Chief Prosecutor Aleksander Lumezi, for vetting to the judiciary as well as the request that lists of KLA veterans to be cleaned and to return the dignity of the true veterans.

The protest was supported by 14 civil society organizations, which supported the protest organized by the group of citizens for the dismissal of Chief State Prosecutor Aleksander Lumezi, saying that the letter of the former Special Prosecutor Elez Blakaj signals the weak

integrity of the justice system, in particular the state prosecution, before political interferences, blackmails and threats.

"After the resignation of former Special Prosecutor, Elez Blakaj, we as civil society organizations fully support the protest organized by the group of citizens for the dismissal of the Chief State Prosecutor, Aleksander Lumezi. Mr. Blakaj signals the weak integrity of the justice system, in particular the state prosecution before political interferences, blackmails and threats, which also come from the Chief State Prosecutor, "the announcement states. Among other things, civil society organizations have said that the intervention of Chief Prosecutor Lumezi to avoid confronting high figures of politics with the justice process is alarming for the justice in Kosovo.

"The resignation of Chief Prosecutor, Lumezi, would increase citizens' confidence in independent justice, therefore we support the civic protest, and we demand that besides its dismissal to begin the vetting process in the justice system as in all the countries of the region", notification. The announcement states that these organizations strongly believe that only an independent justice system with integrity and immunity from political interference can guarantee the rule of law, which is a prerequisite for the functioning of a democratic state.

#### **d) Vetting as a non-alternative solution**

Despite that the SPRK in Kosovo has been operating since 2008, this prosecution has not proved that is ready and has will to exercise its powers and responsibilities under the Constitution and the Law. From 2008 to 2014, EULEX international prosecutors in SPRK had exclusive mandate to deal with the most complicated and complex cases in Kosovo. Even so, in 2017, Kosovo is synonymous of a state where the rule of law is lacking, and where the culture of impunity in cases of high-level corruption is also a standard of living. Corrupted and law violators are constantly promoted and transformed into a "model of success" for achievement in Kosovo. From 2014, powers reserved for EULEX in prosecuting and adjudicating the most serious, complicated and complex cases in Kosovo have been transferred to local prosecutors and judges, except in cases involving 22 prosecutors and international judges of EULEX before 2014.

Since the transfer of competencies to locals in 2014, suspicions of organized crime and high-level corruption have been reported in Kosovo. In cases involving high political figures, interest groups, or people from powerful business groups, the Prosecution did not have the will and did not find the courage to exercise the constitutional and legal competences and responsibilities to initiate criminal proceedings in these cases.

Reports from local and international organizations that monitor the justice system in Kosovo have consistently reported on extreme politicization of the judicial and prosecutorial system in

Kosovo. European Commission Progress Reports on Kosovo, US State Department Reports, conclusions of the subgroups meetings regarding the MSA between the European Commission and Kosovo conclude the lack of results in the fight against organized crime and high-level corruption in Kosovo, the politicization of independent institutions, including the justice system, the installing a culture of impunity, etc.

Public in Kosovo, media, NGOs, citizens, civil servants, state administration in those cases when dealing with corruption phenomena in Kosovo do not have a reliable address to report the same. Installing the culture of impunity has increased the lack of confidence that these occurrences to report to the competent institutions that these cases to be treated independently, impartially and professionally.

KLI, continuously through systematic monitoring reports of the justice system, has revealed the problems with which is faced the justice system in Kosovo, with lack of efficiency, accountability, transparency, internal corruption and lack of public confidence. In this regard, a vetting process is uncompromised and the only path to depoliticizing the justice system in Kosovo. Citizens and the public do not have the luxury to endure the violation of their rights and freedoms by a system which instead of the division of justice has become the greatest violator of the rights and freedoms of the citizen.

The latest case of the resignation of the Special Prosecutor Elez Blakaj has witnessed through concrete cases the political interferences to the Chief State Prosecutor Aleksander Lumezi, who has continued the same impacts to his subordinates. This whole situation has definitely witnessed the capture of the justice system, especially the prosecutorial system from politics in the style of the "Pronto" affair, where some of the protagonists of this affair are at the head of the prosecutorial system, starting from Chief Prosecutor Lumezi to Bahri Hyseni formerly part of the PDK, and now in the role of a member of the Kosovo Prosecutorial Council.

IKD estimates that in this created situation, which is hopeless, is a necessary for Kosovo to start concrete actions towards the vetting process in the Police, Prosecution and the Court. Through this process citizens should be assured that vetting will be done independently, fair and in impartial manner. The integrity of the whole process would be guaranteed if it were to be realized under the leadership of friendly states that have supported the state building of Kosovo over the years as the United States, Great Britain and Germany.