



Number: KPV-05/07
Sarajevo, 26 June 2007

IN THE NAME OF BOSNIA AND HERZEGOVINA

The Court of Bosnia and Herzegovina, in the panel composed of Judges Zoran Božić, as the Presiding Judge, and Mirza Jusufović and Izo Tankić, as members of the panel, with participation of the Legal Advisor Sedin Idrizović as the record-taker in the criminal case against the Defendants Gojko Radić, Ivan Ivanković, *Gojan Ltd. Ljubuški, Comex Stojić Ltd. Široki Brijeg*, for the criminal offence of Money Laundering, in violation of Article 209, paragraph 2, in conjunction with paragraph 1 of the Criminal Code of Bosnia and Herzegovina, criminal offence of Forgery of a Document, in violation of Article 373, paragraph 1 and the criminal offence of Tax Evasion, in violation of Article 273, paragraph 1 of the Criminal Code of the Federation of Bosnia and Herzegovina, under the Indictments of the Prosecutor's Office of Bosnia and Herzegovina number KT- 23/03 of 5 December 2003 and KT- 139/04 of 11 September 2006, following a hearing for deliberation about the plea agreement and the hearing for pronouncement of the criminal sanction, in the presence of the Prosecutor of the Prosecutor's Office of BiH Ismet Šuškić, the Defendants Gojko Radić and Ivan Ivanković and their Defense Counsel, Attorneys Ankica Hristić and Gavrilo Gunjak, under the power of attorney to substitute for Defense Counsel Zdravko Rajić, Attorney from Mostar, and the representatives of the legal entities *Gojan Ltd. Ljubuški and Comex Stojić Ltd. Široki Brijeg*, Minadir Aščerić and Momo Čerić, rendered and on this 26th day of June 2007 publically announced the following

VERDICT

Defendants:

- 1. Gojko Radić** aka Gojan, son of Marko and Slavka nee Bandur, born on 2 June 1949 in Ljubuški, maintaining permanent residence in Ljubuški- Radišići, Croat, citizen of BiH, a driver and a trader by occupation, director of the company *Gojan Ltd. Ljubuški*, married, father of two adult children;
- 2. Ivan Ivanković**, son of Stojan and Iva, born on 29 September 1957 in Široki Brijeg-Kočer, maintaining permanent residence at Trn, no number, Široki Brijeg, Croat, citizen of BiH, a trader by occupation, director of the company *Comex Stojić Ltd. Široki Brijeg*, married, father of four;
- 3. Gojan Ltd. Ljubuški, Bana Jelačića St. no number. Ljubuški;**
- 4. Comex Stojić Ltd. Široki Brijeg, Fra Didaka Buntića St. 59, Široki Brijeg.**

ARE GUILTY

Because:

The Defendant Gojko Radić

I

1. As the director and the responsible person in the company *Gojan* Ltd. Ljubuški, in May and June 2003, for the purpose of concealing the real source of cash which he used freely and for the purpose of evading payment of the sales tax, he disposed of goods through wholesale in a manner that he previously contacted a trustworthy person who was in agreement with Ranko Pilić, the owner of the company *Uzdah* Ltd. Doboj, who agreed to launder money for a number of legal entities through a direct transfer account of his company so that they would evade payment of tax, and to this trustworthy person the Defendant gave cash in the amount of 58,133 KM and two forged invoices in the total amount of 58,133 KM, along with forged order forms of the company *Uzdah* with the statement according to which the alleged placer of order *Uzdah* was relieved from payment of the sales tax, even though he knew that the goods stated in the invoices he did not sell to the company *Uzdah* because of which he, pursuant to Article 13 of the Law on Sales Tax, became a taxpayer of this tax, so the trustworthy person took the money and orders for money transfer to Lukić in Banjaluka, who according to the previous agreement with Pilić, received the money and deposited it on the accounts of their company *Uzdah* and on the same day transferred the deposited money in a manner that he certified the transfer orders with the stamp of the company *Uzdah* and his signature and with these orders transferred the money to the transaction account of the company *Gojan* Ltd. In this way the Defendant Gojko Radić legalized the cash in the amount of 58,133 KM because by paying through the direct transfer account he returned the cash to the account of his company, even though he knew that it was acquired through the commission of the criminal offense – tax evasion and through issuance of the forged invoice and order and, at the same time, evaded the payment of tax for the said amount assessed at 11,627 KM.

2. As the owner and responsible person in the legal entity *Gojan* Ltd. Ljubuški, in the course of 2003, with the intention to launder the proceeds acquired through sale of goods for cash, for which he did not pay the tax and which goods were falsely recorded in the business books as sale exempt from the sales tax, he disposed of the goods through wholesale by handing over cash to persons known to him to launder it through accounts maintained by the companies *Sumrak Group* Ltd. Laktaši, *Ploter* Ltd. Laktaši, *Delta Prom* Ltd. Banja Luka and *Mustang* Ltd. Ilijaš and thus evade the payment of tax. With this aim in mind, he handed over the amount of 101,289.51 KM and forged invoices, along with forged purchase orders of the mentioned companies with the statement that those companies as buyers were exempt from the payment of the sales tax, even though he knew that the goods stated in those invoices he did not sell to those companies because of which he, pursuant to Article 13 of the Law on Sales Tax, became a taxpayer of this tax, so the persons known to him deposited the received money on the accounts of the mentioned companies and on the same day transferred it to the Defendant's accounts by issuing transfer orders. In this way the

Defendant legalized the cash proceeds in the amount of 101,289.51 KM because by paying through the direct transfer account he returned the cash to the account of his company, even though he knew that the money was acquired through sale of goods for which tax in the amount of 21,783.39 KM was not collected, by issuing forged invoices based on the forged purchase orders and attached statement.

The second named Defendant Ivan Ivanković

II

1. As the director and the responsible person in the company *Comex Stojić Ltd.* Široki Brijeg, in May 2003, for the purpose of concealing the real source of cash which he used freely and for the purpose of evading payment of the sales tax, he disposed of the goods through wholesale in a manner that he previously contacted a trustworthy person who was in agreement with Ranko Pilić, the owner of the company *Uzdah Ltd.* Doboj, who agreed to launder money for a number of legal entities through the direct transfer account of his company so that they would evade payment of tax, and to this trustworthy person the Defendant gave cash in the amount of 92,352 KM and two forged invoices in the total amount of 92,352 KM, along with forged order forms of the company *Uzdah* with the statement according to which the alleged placer of order *Uzdah* was relieved of payment of the sales tax, even though he knew that the goods stated in the invoices he did not sell to the company *Uzdah* because of which he, pursuant to Article 13 of the Law on Sales Tax, became a taxpayer of this tax, so the trustworthy person took the money and orders for money transfer to Lukić in Banjaluka, who according to the previous agreement with Pilić, received the money and deposited it on the accounts of their company *Uzdah* and on the same day transferred the deposited money in the manner that he certified the transfer orders with the stamp of the company *Uzdah* and his signature and with these orders transferred the money to the transaction account of the company *Comex Stojić Ltd.* In this way the Defendant legalized cash in the amount of 92,352 KM because by paying through the direct transfer account he returned cash to the account of his company even though he knew that the money was acquired through the commission of the criminal offense –tax evasion and through issuance of the forged invoice and order and, at the same time, evaded the payment of tax for the said amount assessed at 18,471 KM.

2. As the owner and responsible person in the legal entity *Comex Stojić Ltd.* Široki Brijeg, in the course of 2003, with the intention to launder the proceeds acquired through sale of goods for cash, for which he did not pay the tax and which goods were falsely recorded in the business books as sale exempt from the sales tax, he disposed of the goods through wholesale by handing over cash to persons known to him to launder it through accounts maintained by the companies *Santos invest Ltd* Laktaši, *Sirius Ltd.* Brčko, *Sumrak Group Ltd.* Laktaši, and thus evade the payment of tax. With this aim in mind, he handed over the amount of 120,349.59 KM and forged invoices, along with forged purchase orders of the mentioned companies with the statement that those companies as buyers were exempt from payment of the sales tax, even though he knew that the goods stated in those invoices he did not sell to those companies because of which he, pursuant to Article 13 of the Law on Sales

Tax, became a taxpayer of this tax, so the persons known to him deposited the received money on the accounts of the mentioned companies and transferred it by issuing transfer orders to Defendant's accounts. In this way the Defendant legalized cash in the amount of 120,349.59 KM because by paying through the direct transfer account he returned cash to the account of his company, even though he knew that the money was acquired through sale of goods for which tax in the amount of 31,450.18 KM was not collected, by issuing forged invoices based on the forged purchase orders and the attached statement;

By doing so,

the first named Defendant Gojko Radić, under Counts 1 and 2, committed a continued criminal offence of Tax Evasion in violation of Article 273, paragraph 2 of the CC of the Federation of BiH, in conjunction with Article 54 of the CC of BiH and under Count 2 the criminal offence of Money Laundering, in violation of Article 209, paragraph 2, in conjunction with paragraph 1 of the CC of BiH and the criminal offence of Forging of a Document, in violation of Article 373, paragraph 1 of the CC of the Federation of BiH, as read with Article 53 of the CC of BiH.

the second named Defendant Ivan Ivanković, under Counts 1 and 2, committed a continued criminal offence of Tax Evasion, in violation of Article 273, paragraph 2 of the CC of the Federation of BiH, in conjunction with Article 54 of the CC of BiH and under Count 2 the criminal offence of Money Laundering, in violation of Article 209, paragraph 2, in conjunction with paragraph 1 of the CC of the Federation of BiH, as read with Article 53 of the CC of BiH.

Wherefore the Court imposes on the Defendants Gojko Radić and Ivan Ivanković

- **for the criminal offence of Money Laundering, in violation of Article 209, paragraph 2, in conjunction with paragraph 1 of the CC of BiH, based on the quoted provision and having applied Article 40, 41, paragraph 2, 48 and 49 of the CC of BiH, a sentence of imprisonment in the duration of 3 (three) months as a principle punishment which shall not be enforced unless the Defendants commit a new criminal offence within the period of 1 year as of the day the Verdict becomes final, and a fine in the amount of 14,000 KM (fourteen thousand KM) as an accessory punishment to be paid by each Defendant;**
- **for the criminal offence of Forging of a Document, in violation of Article 373, paragraph 1 of the CC of the Federation of BiH, a fine in the amount of 3,000 KM (three thousand KM) to be paid by each Defendant.**
- **for the continued criminal offence of Tax Evasion, in violation of Article 273, paragraph 1 of the CC of the Federation of BiH, a fine in the amount of 7,000 KM (seven thousand KM) to be paid by each Defendant;**

and in application of Article 53, paragraph 2, sub-paragraphs b) and d) of the CC of BiH, for the criminal offences in concurrence, the Court pronounces against the Defendants Gojko Radić and Ivan Ivanković a

**SUSPENDED PRISON SENTENCE
of 3 (three) months**

which shall not be enforced unless the Defendants commit a new criminal offence within the period of 1 (one) year as of the day the Verdict becomes final and a compound

FINE IN THE AMOUNT OF 15,000 KM

to be paid by each Defendants within 3 (three) months.

Should the Defendants fail to pay the fine within the set deadline, the Court shall render a decision forthwith to replace the fine with imprisonment in the manner that each 50 KM of the fine shall be replaced by one day in prison.

Pursuant to Article 188, paragraph 1 of the CPC of BiH, the Defendants are obliged to cover the costs of the criminal proceedings relative to the financial expert analysis in the amount of 150.00 KM each and the scheduled amount of 100.00 KM each within 30 days as of the day the Verdict becomes final under the threat of distraint.

III

1. Legal entity *Gojan Ltd. Ljubuški, Bana Jelačića St. no number*

is liable

because:

as a legal entity it disposed of the illegal proceeds acquired by the Defendant Gojko Radić, as the director and responsible person, on its behalf, in its name and for its benefit, in the manner and amount specified in Count 2 of the operative part of the convicting part of the Verdict (pertaining to the Defendant Gojko Radić).

Therefore,

the legal entity *Gojan Ltd. Ljubuški* is found liable for the criminal offence of Money Laundering, in violation of Article 209, paragraph 2, in conjunction with paragraph 1 of

the CC of BiH, the criminal offence of Forging of a Document, in violation of Article 373, paragraph 1 of the CC of the Federation of BiH and the criminal offence of Tax Evasion, in violation of Article 273, paragraph 2 of the CC of the Federation of BiH, as read with Article 53 of the CC of BiH.

IV

The second named legal entity *Comex Stojić Ltd. Široki Brijeg, 59 Fra Didaka Bundića St.*

is liable

because:

as a legal entity, it disposed of the illegal proceeds acquired by the Defendant Ivan Ivanković, as the director and responsible person, in its name and for its account, upon his approval, in the manner and amount specified in Count 2 of the operative part of the convicting part of the Verdict (pertaining to the Defendant Ivan Ivanković).

Therefore,

the legal entity *Comex Stojić Ltd. Široki Brijeg* is found liable for the criminal offence of Money Laundering, in violation of Article 209, paragraph 2, in conjunction with paragraph 1 of the CC of BiH, the criminal offence of Forging of a Document, in violation of Article 373, paragraph 1 of the CC of the Federation of BiH and the criminal offence of Tax Evasion, in violation of Article 273, paragraph 2 of the CC of the Federation of BiH, as read with Article 53 of the CC of BiH,

wherefore the Court imposes on the legal entities ***Gojan Ltd. Ljubuški and Comex Stojić Ltd. Široki Brijeg***

- for the criminal offence of Money Laundering, in violation of Article 209, paragraph 2, in conjunction with paragraph 1 of the CC of BiH, a

FINE IN THE AMOUNT OF 4,000 (four thousand) KM TO BE PAID BY EACH LEGAL ENTITY

- for the criminal offence of Forging of a Document, in violation of Article 273, paragraph 2 of the CC of the Federation of BiH, a

FINE IN THE AMOUNT OF 2,000 (two thousand) KM TO BE PAID BY EACH LEGAL ENTITY

- for the criminal offence of Tax Evasion, in violation of Article 273, paragraph 2 of the CC of the Federation of BiH, a

**FINE IN THE AMOUNT OF 3,000 (three thousand) KM TO BE PAID BY
EACH LEGAL ENTITY.**

In application of Article 53, paragraph 2, sub-paragraph d) and Article 131 of the CC of BiH, for the criminal offences in concurrence, the Court pronounces against the said legal entities

A COMPOUND FINE IN THE AMOUNT OF 5,000.00 KM (five thousand KM)

to be paid by each Defendant within 2 (two) months as of the day the Verdict becomes final or otherwise the fine shall be forcefully collected.

Explanation

Under the Indictments number KT- 23/03 of 5 December 2003 and KT 139/04 of 11 September 2006, the Prosecutor's Office of BiH charged Gojko Radić, Ivan Ivanković and the legal entities *Gojan Ltd. Ljubuški* and *Comex Stojić Ltd. Široki Brijeg* and others with the commission of the criminal offence of Money Laundering, in violation of Article 209, paragraph 2, in conjunction with paragraph 1 of the Criminal Code of BiH, the criminal offence of Forging of a Document, in violation of Article 373, paragraph 1 of the Criminal Code of the Federation of BiH and the criminal offence of Tax Evasion, in violation of Article 273, paragraph 1 of the Criminal Code of the Federation of BiH, moving the Court to convict and punish the Defendants and the indicted legal entities pursuant to the law.

Following confirmation of the said Indictments by the preliminary hearing judge of the Court and the plea hearing during which the Defendants entered a plea of not guilty, the case file was forwarded to the panel for the scheduling of the main trial. Considering that two separate proceedings number KPV- 08/04 and X-K-06/267 were already pending before this Court against the same Defendants, under the said Indictments for the same criminal offences, the Court issued a decision number KPV 08/04 on 25 May 2007, upon a motion filed by the Prosecutor's Office, to merge the criminal proceedings and conduct single proceedings under number KPV 08/04 assigned by this Court and render one verdict.

On 25 May 2007, the Defendants Gojko Radić, Ivan Ivanković and the legal entities *Gojan Ltd. Ljubuški* and *Comex Stojić Ltd. Široki Brijeg*, together with their Defense Counsel and representatives of the legal entities, entered into respective plea agreements with the Prosecutor. As a result of the concluded plea agreements between the Defendants Gojko Radić, Ivan Ivanković and the legal entities *Gojan Ltd. Ljubuški* and *Comex Stojić Ltd. Široki Brijeg* and the Prosecutor's Office, the proceedings against the Defendants were severed at the hearing held on 26 June 2007 and continued under number KPV 05/07.

The Court had taken under advisement the said plea agreements in light of Article 231 of the CPC of BiH and accepted them at the hearing held on 26 June 2007. The Court was

satisfied that the plea agreements were concluded willingly, conscientiously and with full understanding, after the Defendants were advised of the possible consequences, including those related to property claims and costs of the criminal proceedings. Having established that there was sufficient evidence on the Defendants' guilt, the Court determined that the Defendants understood that by entering into plea agreements they would waive their right to trial and appeal from the criminal sanction to be pronounced against them. The plea agreements were thereafter accepted and made an integral part of the record.

By accepting the plea agreements, the Court found the Defendants guilty of the criminal offences charged against them and established that the Defendants were aware of their actions and wanted the forbidden consequences to occur when they undertook to commit those offences. Therefore, the Defendants had committed the criminal offences charged against them with direct intent. After the Prosecution and Defense presented each their facts and evidence of importance for the decision-making on the type and amount of punishment, the Court proceeded with sentencing. Based on the quoted provision and Article 40, 41, paragraph 2, 48 and 49 of the CPC of BiH, the Court imposed on the Defendants Gojko Radić and Ivan Ivanković, for the criminal offence of Money Laundering, in violation of Article 209, paragraph 2, in conjunction with paragraph 1 of the CC of BiH, a sentence of imprisonment in the duration of 3 (three) months as the principal punishment which shall not be enforced unless the Defendants commit a new criminal offence within 1 (one) year as of the day the Verdict becomes final, and a fine as an accessory punishment in the amount of 14,000 (fourteen thousand) KM to be paid by each Defendant, for the criminal offence of Forging of a Document, in violation of Article 373, paragraph 1 of the CC of the FBiH, a fine in the amount of 3,000.00 (three thousand) KM to be paid by each Defendant, for the continued criminal offence of Tax Evasion in violation of Article 273, paragraph 1 of the CC of the FBiH, a fine in the amount of 7,000.00 (seven thousand) KM to be paid by each Defendant. Having applied Article 53, paragraph 2, sub-paragraphs b) and d) of the CC of BiH, for the criminal offences in concurrence, the Court pronounced against the Defendants Gojko Radić and Ivan Ivanković a suspended prison sentence of 3 (three) months, which shall not be enforced unless the Defendants commit a new criminal offence within 1 (one) year as of the day the Verdict becomes final and a compound fine in the amount of 15,000.00 KM to be paid by each Defendant within 3 (three) months. Should the Defendants fail to pay the fine within the set deadline, the Court shall issue a decision forthwith to replace the fine with imprisonment in the manner that each 50 KM of the fine shall be replaced by one day in prison.

The Court decided to pronounce against the Defendants Gojko Radić and Ivan Ivanković a suspended sentence for the criminal offences under Article 209, paragraph 2, holding that the suspended sentence, that is, a warning with the threat of enforcement, would achieve the purpose of the sanction and that a non-suspended sentence would not be necessary to ensure protection under criminal law.

Having meted out the respective prison sentences and fines and having decided on the length and the amount of the pronounced compound sentences, the Court is satisfied that the imposed punishments were proportionate to the committed criminal offences and the degree of the Defendants' criminal liability.

A number of mitigating factors on the side of each Defendant were taken into consideration while meting out the punishment. The Court first took into consideration the fact that both Defendants admitted to the perpetration of the criminal offences and concluded plea agreements with the Prosecutor. This contributed to a quicker and more efficient completion of the complex proceedings and reduction of costs which would have been substantive had the trial proceeded. The Court also took into account the fact that a rather long time has passed since the commission of the criminal offences, the fact that the Defendants were frank and behaved correctly before the Court, that they cooperated with the Prosecutor's Office throughout the proceedings and the fact that they were family men. The Defendant Gojko Radić is a father of two and the Defendant Ivan Ivanković of four children. There were no aggravating circumstances on the part of either Defendant. While meting out individual prison sentences, the Court was especially mindful of the fact that the Defendants had already paid their taxes, as indicated in Item IV of the Plea Agreement, and considered this to be a particularly mitigating circumstance. The Court thus decided to apply provisions on the reduction of punishment under Article 49 of the CC of BiH and to impose imprisonment on the Defendants below the prescribed minimum for the criminal offence referred to in Article 209, paragraph 2, in conjunction with paragraph 1 of the CC of BiH and to pronounce a suspended sentence in application of Articles 58 and 59 of the CC of BiH.

Based on Article 188, paragraph 1 of the CPC of BiH, the Defendants are obliged to cover the costs of the criminal proceedings relative to the financial expert analysis in the amount of 150.00 KM each and the scheduled amount of 100.00 KM each within 30 days as of the day the Verdict becomes final under the threat of distraint.

With regards to the indicted legal entities, the Court was governed by Article 124 and 131 of the CC of BiH in making its decision and decided to declare *Gojan* Ltd. Ljubuški and *Comex Stojić* Ltd. Široki Brijeg liable for the acts described in the operative part of the convicting part of the Verdict (in relation to the Defendants Gojko Radić and Ivan Ivanković) and impose for the criminal offence of Money Laundering, in violation of Article 209, paragraph 2, in conjunction with paragraph 1 of the CC of BiH, a fine in the amount of 4,000.00 KM for each Defendant, for the criminal offence of Forging of a Document, in violation of Article 373, paragraph 1 of the CC of the FBiH, a fine in the amount of 2,000.00 KM for each Defendant and for the criminal offence of Tax Evasion, in violation of Article 273, paragraph 2 of the CC of the FBiH, a fine in the amount of 3,000.00 KM for each Defendant. Having applied provisions on concurrence of criminal offences, the Court pronounced against these liable legal entities a compound fine in the amount of 5,000.00 KM to be paid by each legal entity, to be paid within 2 (two) months as of the day the Verdict becomes final under threat of distraint.

Record-taker:
Sedin Idrizović

Presiding Judge
Zoran Božić

Legal Remedy: No appeal lies against the pronounced sanction under the terms of the Plea Agreement (Article 231 of the CPC of BiH).

Translator's note:

I hereby confirm that this document is a true translation of the original written in Bosnian/Croatian/Serbian language.

Sarajevo, 2 February 2010

Mersiha Džajić, certified court interpreter for English language