

Case No. 1/11-2006

July 31, 2006

Vanadzor, Republic of Armenia

**COURT VERDICT
IN THE NAME OF THE REPUBLIC OF ARMENIA**

COURT OF FIRST INSTANCE IN LORI REGION OF THE REPUBLIC OF ARMENIA

Presided by: Judge, B. Grigoryan

Assisted by: T. Kyureghyan

Participated by: Prosecutor, M. Vardanyan

An open-court hearing (on July 31, 2006 in Vanadzor, Armenia) of the case on charges against:

Vahan Madatyan: born on February 2, 1963 in Vanadzor, Armenia; Armenian national; citizen of the Republic of Armenia; with higher education; married; with three dependent persons under his care; with no previous convictions; physically unhealthy; founding president of "Vahan Madatyan" LLC; residing at Vardanants 47/40, Vanadzor, Armenia; charges are pressed pursuant to Part 1, Article 190 of the Criminal Code of the Republic of Armenia.

Based on the court investigation and the materials in the criminal case, the Court:

ESTABLISHES

Being the founding president of "Vahan Madatyan" LLC, Vahan Madatyan was running a wood processing business in the period from February 21, 2003 to March 7, 2005, in a warehouse located at 95 Aghayan Street, Vanadzor, Armenia. For these purposes, he acquired raw wood from different sources and processed it into high-quality parquet and plinth.

In September of 2003, the accused, Vahan Madatyan, purchased (without corresponding documents) 20 cubic meters of firewood and 9.5 cubic meters of timber from Janik Arsenyan, a resident of Vahagnadzor village in Lori region. He did not fill out any accounting documents on this purchase of 388,000 Armenian drams, transported the raw wood to his warehouse, processed it into parquet, plinth, and bars, and exported the final products to the USA, after filling out the corresponding

documents. Part of the products was also sold to "Aragats Berriutium" CJSC and "Gh-Telekom" CJSC.

The accused, Vahan Madatyan, did not plead guilty in the charges pressed against him and declared that he purchased the raw wood from different individuals, who wrote off the raw wood from the forestry with corresponding documents and transported it to his warehouse; he photocopied the documents issued by the forestry on writing off the raw wood and attached the photocopies to the documents kept with him. Oftentimes, he presented a letter of attorney issued by the director, Suren Aslanyan, whenever he went to purchase the raw wood himself; the raw wood was first transported to the warehouse and then processed.

In objecting the conclusion drawn by the expert, Senik Bekchyan, Vahan Madatyan declared that the calculations of the latter were wrong, since several aspects were neglected; for example, after drying the raw parquet (with a volume of 450 cubic meters) in the dryer, the volume would usually shrink to around 320-330 cubic meters, however, after drying it outdoors, the volume would shrink to around 420 cubic meters only. They had four types of machinery in the warehouse, which all produced different rates of loss after processing the raw wood. The quality of raw wood also varied. The raw wood from the forestry of Gugark had lower quality than that from the forestry of Lalvar or Noyemberyan.

He had receivables in the form of around 50 cubic meters of raw wood written off from the forestry, but he had not been able to get it since 2003. The witness, Janik Arsenyan, did not deliver wood in a truck to the warehouse. He gave the latter 100,000 Armenian drams and, instead, took only 3 cubic meters of firewood to his warehouse; he could not take the remaining part of the wood, since Janik Arsenyan was arrested and could not dispatch the wood.

The Court establishes that the testimony of the accused, Vahan Madatyan, on denying the charges is false and is given with an intention to avoid criminal liability; the testimony is proven false with the following evidences:

The witness, Suren Aslanyan, testified that, since 2003, he had worked as a director in "Vahan Madatyan" LLC, where a wood processing business was run. They acquired raw wood from different sources, registered it into the inventory with corresponding accounting documents, and exported the main part of the processed product to the USA. Vahan Madatyan was responsible for the search and transportation of raw wood, while he was responsible for the organization of works in the warehouse. He did not remember of a case, when raw wood was registered in the inventory of the LLC without the corresponding documents. He did not know how a factual surplus of 20 cubic meters of firewood and 9.5 cubic meters of timber could arise, as compared to the documents. (Records of judicial proceeding, cp 147-150)

The witness, Movses Shovgaryan, testified that he worked as a storekeeper in "Vahan Madatyan" LLC and, concurrently, regulated the works of the dryer. They acquired raw wood from different sources and filled out the corresponding documents. He was mainly busy with the dryer and he did not calculate the volume of wood entering the dryer. (Records of judicial proceeding, cp 259-260)

The expert, Senik Bekchyan, testified that the Department of Investigation in Lori Region provided him with the documents evidencing the movement of wood in and out of "Vahan Madatyan" LLC, and that he conducted an examination based on these documents. The production process was not in compliance with the current standards, and both domestic and international orders were accepted. Based on the documents made available to him, he calculated the total volume of raw wood that entered into production, the total volume of the final production, of the firewood, and of the wood waste. He conducted a time and motion study and drew an expert conclusion. The time and motion study was based on average-quality raw wood, despite the fact that various types of raw wood produced various volumes of final products. He concluded that the surplus of 20 cubic meters of firewood and 9.5 cubic meters of timber was normal and that it was just a question of registering inaccurate documents. (Records of judicial proceeding, cp 261-265)

The witness, Janik Arsenyan, testified that he had an employment agreement with the forestry of Eghegnut. As part of a team of laborers, he was responsible for collecting and storing the raw wood from trees broken by the wind. The forester, Ararat Barseghyan, told him that there was written off raw wood available, which was supposed to be picked up by Vahan Madatyan, and instructed him to separate a few cubic meters of sample wood for Vahan Madatyan to see. Vahan Madatyan gave him 100,000 Armenian drams in exchange for accepting a document on writing off the raw wood, but he did not take such a document; he learned that Vahan Madatyan took 2-3 cubic meters of wood, but he could not dispatch the rest of the wood because of his arrest. (Records of judicial proceeding, cp 273-274)

The Court establishes that the guilt of Vahan Madatyan is also proved with the following evidences:

The records of examining the site indicated that a large number of logs and boards from different trees were found in the production facility of "Vahan Madatyan" LLC, which was located in the north-eastern part of "Lusatekhnikakan" plant in Vanadzor, Armenia. (Records of judicial proceeding, cp 12-13)

The expert conclusion indicated that, in the period from 2003 to 2004, 20 cubic meters of firewood and 9.5 cubic meters of timber were registered into the inventory of "Vahan Madatyan" LLC without corresponding documents; later on, the wood was processed and sold in compliance with the law. (Records of judicial proceeding, cp 261-263)

The records of imposing an arrest on property indicated that 20 cubic meters of firewood and 15 cubic meters of timber, in equivalence of 388,000 Armenian drams, were arrested in the production facility of "Vahan Madatyan" LLC. (Records of judicial proceeding, cp 270)

The accused, Vahan Madatyan, testified in the course of the preliminary investigation that he had bought around 18-20 cubic meters of firewood and 9 cubic meters of timber from the witness, Janik Arsenyan, without any documents. (Records of judicial proceeding, cp 271-272)

The witness, Janik Arsenyan, testified in the course of the judicial investigation that, in the summer of 2003, he had sold around 18-20 cubic meters of firewood and 8-9 cubic meters of timber to Vahan Madatyan. (Records of judicial proceeding, cp 273-274)

The court verdict, issued by the Court of First Instance in Lori Region of the Republic of Armenia on February 4, 2004, indicated that the witness, Janik Arsenyan, was sentenced to correction with a term of one year for illegal logging in the period from August to September of 2003, pursuant to Part 1, Article 296 of the Criminal Code of the Republic of Armenia. (Records of judicial proceeding, cp 279-280)

Thus, upon examining the evidences obtained in the course of the judicial examination and kept accordingly in the criminal case, the Court establishes that the charges pressed against the accused, Vahan Madatyan, for legalizing illicit proceeds are proved; the offence is rightfully identified, pursuant to Part 1, Article 190 of the Criminal Code of the Republic of Armenia; and the accused, Vahan Madatyan, shall be subject to punishment accordingly.

In determining the punishment, the Court establishes that it is appropriate to determine a punishment in the form of a fine, since the accused, Vahan Madatyan, has a serious illness, a factor mitigating his liability.

In these circumstances, Sub-clause (f), Clause 1 of the Decision on Declaring Amnesty for the 15th Anniversary of the Declaration of Independence of the Republic of Armenia, issued on July 7, 2006 by the National Assembly of the Republic of Armenia, is applicable to the case of the offender, Vahan Madatyan, who, accordingly, shall be exempted from punishment.

The decision of the investigator on arresting the property shall be maintained.

Based on the foregoing and guided by Articles 357-360 of the Criminal Procedure Code of the Republic of Armenia, the Court:

DECIDES

To declare Vahan Madatyan guilty, pursuant to Part 1, Article 190 of the Criminal Code of the Republic of Armenia and to sentence him to a fine in the amount of 400,000 Armenian drams.

To apply Sub-clause (f), Clause 1 of the Decision on Declaring Amnesty for the 15th Anniversary of the Declaration of Independence of the Republic of Armenia, issued on July 7, 2006 by the National Assembly of the Republic of Armenia, and to exempt the offender, Vahan Madatyan, from the punishment.

To eliminate the provisional measures in the form of a written undertaking not to leave.

To maintain the decision of the investigator on arresting the property.

To confiscate 388,000 Armenian drams from the offender, Vahan Madatyan, for the benefit of the State Budget of the Republic of Armenia, as a compensation of the

losses caused. The confiscation is imposed on the arrested property in the form of 20 cubic meters of firewood and 15 cubic meters of timber.

This Court Verdict may be appealed to the Criminal and Military Court of Appeals of the Republic of Armenia within a period of 15 days.

JUDGE, B. GRIGORYAN