

*Duke Mbështetur Qeverisjen e Mirë dhe Qytetarinë Aktive  
Supporting Good Governance and Active Citizenry*

# Corruption Monitor 2011

Annual Monitoring report on Kosovo Public Institutions activity in  
fight against corruption

*“...fight against corruption and organized crime is an essential pre-  
condition for Kosovo's membership in the European Union...”*



British Embassy  
Pristina

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**List of Acronyms/Abbreviations**

**AAK** - Alliance for the Future of Kosova

**ACA** - Anti - Corruption Agency

**AKR** - Alliance New Kosova

**ECCID** - Economical Crimes and Corruption Investigations Department

**KC** - Kosovo Customs

**EULEX**- European Union Rule of Law Mission in Kosovo

**FH** - Freedom House

**KDI** - Kosovo Democratic Institute

**KJC** - Kosovo Judicial Council

**NACC** - National Anti-corruption Council

**CEC** - Central Election Commission

**LDK** - Kosovo Democratic League

**PDK** - Democratic Party of Kosova

**KP** - Kosovo Police

**PR** - Progress Report

**VV** - Lëvizja Vetëvendosje! (Self Determination Movement)

**DPO** - Disciplinary Prosecutor's Office

**TI** - Transparency International

## Executive Summary

Government of Kosovo during 2011 has approved a total of 367 verdicts. Among these only 10 have been regarding prevention and fighting corruption. Within these verdicts are approval of the draft law on Public Procurement, Declaration, Origin and Control of property and gifts of Senior Public officials, the one on the Prevention of Conflicts of Interest, the draft law on protection of informants (whistle blowers law), draft law on witness protection, the one on financing of political parties, draft law of amendment of the law for the benefit of former senior officials.

Also, the Kosovo government has supported the request of Kosovo Special Prosecutor for reimbursement of allowances and financial support to its employees, the chief executive officer at the Agency of Management of Seized Property has been appointed and the draft Criminal Code of the Republic of Kosovo has been approved.

Assembly of Kosovo during 2011 has held a total of 37 sessions. During this period several anti-corruption laws have been approved, which are expected to affect directly or indirectly in fight against corruption, organized crime and the informal economy. The laws that have been approved during this year are: Law on Witness Protection, Law on Protection of informers, the Law on Declaration, Origin and control of property of Senior Public Officials, Law on Preventing Conflict of Interest, Law on public procurement, law on political parties finance and the amending and supplementing law for the benefit of former senior officials.

In the sessions held during this time the most voiced members were: Visar Ymeri (VV), Ardian Gjini (AAK), and less voiced were: Uke Rugova, Ibrahim Rugova List and Azem Syla (PDK).

Judicial Council has not been completed yet. The Assembly is expected to appoint three Council members, including two judges from minority communities. According to the statistics of this institution, we find out that during 2011 have been undertaken several decisions and measures in fight against corruption. During the reporting period District Court had inherited 45 cases, 24 cases summoned and 16 cases solved. Among 9 cases with court sentence, 6 cases were with imprisoning sentence, 3 with a suspended sentence, other sentences 1, 2 with the acquittal verdict and 5 cases in other sentences. At the end of the reporting period 53 cases remain unsolved.

In municipal courts 206 cases are inherited from the reporting period, 132 cases have been summoned and 120 cases have been solved. Among 82 cases with court verdict, 14 cases have are imprisoning sentence, 45 cases with a fine, suspended sentence 22 cases, 1 case other sentences. With acquittal verdicts have been pronounced 6 cases, with trial rejecting 3 and 29 in other ways. The year 2011 has been closed with 218 unsolved cases.

Prosecutions of the Republic of Kosovo during 2011 have submitted 959 criminal charges of corruption against 1862 people. During the period January-December 2011 the country's prosecutions have solved 538 criminal charges against 1038 people, while 421 criminal charges against 824 people remain unsolved. Among the solved cases, 107 charges were filed against 139 people, 107 charges against 478 people, 165 criminal charges against 216 people and the investigations have been pended in 31 cases against 71 people.

According to statistics of the Department of Investigation of Economic Crimes and Corruption we find out that during the year 2011, they have conducted investigations against 739 people, 97 have been arrested, 319 have been sent to Prosecution with identified suspects, 11 cases have been sent to the prosecution with the N / N suspects and 192 cases have been sent with Prosecutor's reports.

Anti-Corruption Agency has completed the process of declaration of the property of senior public officials. More than 95 percent of senior public officials have declared their assets to the Anti-Corruption Agency, while 84 officials have not declared their property. In addition, 26 other officials have declared their property, but the form was not filled in accordance with the law and standards and criteria provided by the ACA.

ACA has taken the initiative for drafting the Strategy and Action Plan against Corruption (2012-2016), a state document for preventing and fighting corruption.

Kosovo Customs have announced a total of 41 disciplinary actions: 25 written/verbal warning, 9 cases of ban of promotion, 1 recommendation for non-extension of the contract, 2 cases recommendation for training, 3 cases of compulsory transfer, 1 case of downgrading of the rank, 1 case cancellation of performance and another case compensation of the damaged property of the Customs. Meanwhile, within the Professional Standards department, Kosovo Customs initiated a total of 21 cases: 3 cases abuse of authority, 2 cases of negligence in the performance of official duty, 7 cases of unprofessional conduct, 2 cases for failure to declare, 4 cases Custom property damage, 1 case of non-appearance at work, 1 case of bribery and 1 case of drug misuse.

During the year 2011 have been published several International Reports on the situation in Kosovo: Progress Report, Freedom House, State Department, Public Pulse Report, Transparency International, etc.

Civil society has conducted several activities in its fight against corruption; they have published several important reports on corruption and have held various table discussions regarding the rule of law in Kosovo.

## Introduction

Kosovo as a country most affected by corruption in 2001 was faced with a lack of willingness to fight against corruption. Actions taken in the fight against corruption, as the one of establishment of institutional mechanisms and approval of anti-corruption laws could be seen as failures, even though it is early to speak of their concrete effect. The same is regarding prosecution of corruption cases. Although there are cases of corruption, they do not have the proper treatment by the justice system in Kosovo. Our findings show that during 2011 there have been three substantial developments in the fight against corruption, but their effects in preventing and fighting corruption cannot be measured within the term of this report.

First, Kosovo institutions have approved two anti-corruption laws: the Law on Declaration of property and the Prevention of Conflict of Interest. Although adoption of these laws marks a qualitative advancement in the legal codification of the fight against corruption, yet the legal package against corruption remains poor. This makes the legal codification of the war against corruption to be away real needs facing Kosovo. Second, the Anti-Corruption Agency during the year 2011 has taken the initiative for drafting the strategic document against corruption, the Strategy and Action Plan against Corruption (2012-2016). The initiative for drafting the anti-corruption strategic documents have been undertaken by ACA, despite the fact that this institution had not previously made a study on the real effects of the Strategy

and Action Plan against Corruption 2009-2011.<sup>1</sup> ACA began to analyze the document of the strategy against corruption for 2009-2011, only after some reactions of some civil societies.

ACA has begun the process of drafting these strategic documents without a preliminary empirical research on corruption and without a detailed analysis of the weaknesses of legal and institutional stuff against corruption. However, the real effects of these strategic documents against corruption remain to be seen in the years ahead.

Another aspect that has characterized the year 2011 has been the initiative of the President to establish the National Council against Corruption (NCAC), a coordinating forum of institutions in the fight against corruption in Kosovo. The Council established with the initiative of the President comes at a time when Kosovo is facing insurmountable difficulties in consolidating the internal rule of law and democratic institution building. Also the initiative of the President comes at a time when the country has serious obstacles in terms of international representation, particularly European, not only due to not recognition of the declaration of the independence by five European Union member countries, but also because of the political leadership who is accused of direct involvement in organized crime and corruption.

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<sup>1</sup> Movement FOL, Policies research: The Weaknesses of the strategy and action plan against corruption 2009-2011, November 2011

In this context, seeing this phenomenon with a great concern, the movement FOL supported by the British Embassy in Pristina, has implemented the project "Corruption Monitor" since March of 2011. Through this Project FOL has tried to bring to light the (non) performance of institutions against corruption, affecting that this fight be on the top of the agenda of all institutions of the Republic of Kosovo ".

FOL considers that the fight against corruption must move from rhetoric in the field of concrete actions, serious approach and tangible results. This is the only way for Kosovo to improve its domestic and international legitimacy. Establishing democracy, the rule of law and be comparable to western countries and free societies.

**TIME is NOW!**

## Government of Kosovo

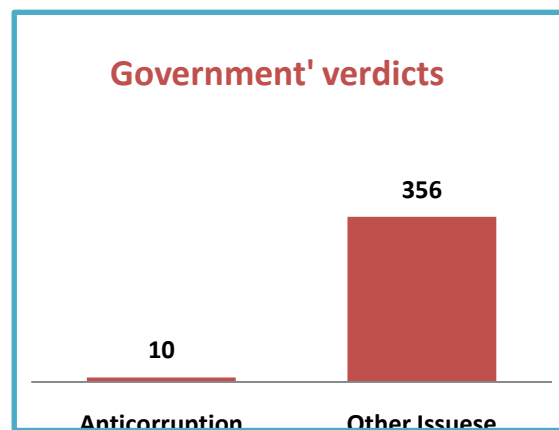
The level of corruption continues to be one of the main concerns in our country. Transparency International report on the Corruption Perceptions Index for 2011 ranks Kosovo as the most corrupted country in the region, respectively the 112<sup>th</sup> global level.<sup>2</sup> Government should set as a priority the fight against corruption. "The great scale of the presence of corruption indicates a failure of government", that's what the Deputy Executive of Transparency International, z.Miklos Marschall has stated in an interview for the newspaper "Daily Time".<sup>3</sup>

Also, according to a survey conducted with the citizens of Kosovo by the UN Development Programme indicate that corruption is the main concerns of citizens.<sup>4</sup> Progress report for 2011 among the main challenges for Kosovo ranks the organized crime and corruption. According to this report very little has been done fighting these negative phenomena.<sup>5</sup>

On the other hand the rhetoric of the Government of Kosovo, respectively of Prime Minister Hashim Thaci continues, while the tangible results in fight against corruption are missing. The head of Kosovar executive and other institutional providers have promised to fight "harshly"

and "ruthlessly" against corruption practices.

However, when monitoring the work of Government during 2011 FOL movement noted a limited progress in fighting corruption. This monitoring has shown that the fight of the government is rather focused in the field of rhetorics then in concrete actions and tangible results. During 2011, 367 verdicts have been approved. Of these, 11 against corruption, while 356 on other issues.



If we analyze such verdicts in chronological order, we see that during the first two months of 2011, January-February, three verdicts have been approved, of which none in the area against corruption. In two months, March-April, the government has approved a total of 50 verdicts, one of them in the sphere of anti-corruption: the verdict on the legislative strategy for 2011. this strategy include: Draft law on Amendments to the Law on Declaration, Origin and Control of property and gifts of Senior Public officials, the one on the Prevention of Conflicts of Interest, the draft law on protection of reporters (whistle blowers Law ), Draft Law on Preventing and fighting Or-

<sup>2</sup>Transparency International, November 2011; [http://www.transparency.org/publications/publications/other/corruption\\_perceptions\\_index\\_2011](http://www.transparency.org/publications/publications/other/corruption_perceptions_index_2011)

<sup>3</sup>Corruption in Kosovo is part of the system ; Koha Ditore; 10.12 2011

<http://www.kohaditore.com/?page=1,10,80208>

<sup>4</sup>Economy, poverty and corruption, main problems in Kosovo; Voice of America; 06.07.2011 <http://www.voanews.com/albanian/news/Ekonomi-varferi-korrupsion-probleme-Kosove-2011-07-06-125082699.html>

<sup>5</sup>Progress Report for Kosovo is published; Alb Info; 12.10.2011 <http://www.albinfo.ch/ch-ballkani/aktuale/publikohet-raporti-i-progresit-p%C3%ABr-kosov%C3%ABn-41254>



ganized Crime, Draft Law on Amending the Law on Public Procurement and the one on Financing Political parties. The amendment of existing laws and the approval of other draft laws are the most important step for the completion of anti-corruption package, which will then significantly reduce legal gaps that exist in existing laws to prevent and fight corruption. In May of this year have been approved a total of 27 verdicts, one of them in the field against corruption. With this verdict the Government has supported the request of Kosovo Special Prosecutor for reimbursement of allowances and financial support for its employees.<sup>6</sup> In June, a total of 58 verdicts have been approved, one of them is regarding the completion of anti-corruption legislation. With this verdict the Government has approved the draft law (with comments) on Public Procurement. The amendment of this law was a result of the recommendations of the Progress Report of the European Commission and by civil society. In 5<sup>th</sup> amendment of this draft law it has been given the responsibility of senior state officials, the president, prime minister, head of the parliament, ministers and mayors to sign any contract that exceeds the value of public procurement on 10 thousand euros.

Government of Kosovo during the months of July-August has approved 88 verdicts, 51 in July, 37 in August. While in July were only 3 verdicts against corruption, August was even worse: with only one verdict. Within these verdicts are the draft-Law on Prevention of Conflict of Interest, Declaration, Origin and Control of the Property of the Senior Public Offi-

cers, Protection of informants, and Financing Political Parties. Changing these laws has been the result of numerous legal gaps - which are identified by civil society, the Anti-Corruption Agency and many international mechanisms. However, changes are still not in compliance with international regulations, standards and practices. Furthermore, according to the legislative strategy of the Government such draft laws had to be processed earlier in the Assembly of Kosovo. If we analyze the timing of this strategy shows that Draft law on Declaration, Origin and Control of the Property of senior public officials had to be approved in May, while the government has approved it in July. Also, the draft law on Prevention of Conflict of Interest had to be approved in May, but this happened in July. While the draft law on Protection of informers, who had to be approved in March, was approved by the end of July.

On the other hand, the Draft Law on financing of political parties has been approved as required by the strategy time; but it is still not in line with international practices, leaving a possibility to businesses and political parties to be involved in possible corruption scandals.

During September-October, the Government of Kosovo has approved 61 verdicts, 25 in September, 36 in October. Only 3 of them have been in favor of fighting corruption. In September, respectively, on September 28, 2011, the Kosovo Government approved a verdict that Mr. Rahim Rama gets appointed Chief Executive of the Agency of management of seized property.<sup>7</sup> During the Government Meet-

<sup>6</sup> For further detail see the verdict of the government, no. 05/14, 4 May, 2011, p. 1

<sup>7</sup> Kosovo Government, verdict No.03/39 (28.09.2011)

ing held on October 10, 2011 it was decided to approve the draft Criminal Code of the Republic of Kosovo, which has been designed and sponsored by the Ministry of Justice in cooperation with representatives of local and international institutions. The approval of this draft law represents a direct engagement of the Ministry of Justice to complete legal infrastructure regarding criminal justice and the elimination of gaps and weaknesses in this field. The recent verdict of the Government regarding the fight against corruption for the period September-October 2011 is the decision to amend the Legislative Strategy of 2011 of the Government of Kosovo. With this decision the Government of Kosovo has decided that the draft law on the confiscation of the property to be part of the 2011 Legislative Strategy, thus, completing legislative package against corruption.

November and December 2011 have been more passive months in the fight against corruption by the Government. Among the 80 verdicts approved by the government none has been on corruption or organized crime.

### Assembly of Kosovo

Kosovo Assembly during 2011 held a total of 37 plenary sessions<sup>8</sup>. During these sessions have been approved several laws that could affect directly or indirectly fighting corruption, organized crime and the informal economy.

<sup>8</sup> A solemn session, 4 extraordinary sessions, 1 commemorative meeting and another constitutive session of legislation IV

#### Approved Laws:

- Law on protection of witnesses;<sup>9</sup>
- Law on protection of Informants;<sup>10</sup>
- Law on Declaration, origin and control of the property of senior public officials and declaration, origin and control of gifts of all public officials;<sup>11</sup>
- Law on Prevention of Conflict of Interest on public positions;<sup>12</sup>
- Law on Public procurement in Republic of Kosovo;<sup>13</sup>
- Law on Financing Political Parties<sup>14</sup>
- Law on amending the Law for the benefit of former senior officials;<sup>15</sup>

It is expected that these laws directly or indirectly will contribute somehow in preventing and fighting corruption.

Laws that are provided by the Government Legislative Strategy for 2011<sup>16</sup> regarding corruption are: law on confiscation of illegal property; Anti-Mafia Law, the Law on preventing and fighting organized crime, and amandament / completion of the law on financing of political parties which are not approved within

<sup>9</sup> No.04/L-015,29 July 2011, decret no. DL-020-2011, announced on 12.08.2011

<sup>10</sup> No. 04/L-043, 31 August 2011, decret no. DL-031-2011, announced on 31.08.2011

<sup>11</sup> No. 04/L-05, 31 August 2011, decret no. DL-028-2011, iannounced on 31.08.2011

<sup>12</sup> No. 04/L-051, 31 August 2011, decret no. DL-029-2011, announced on 31.08.2011

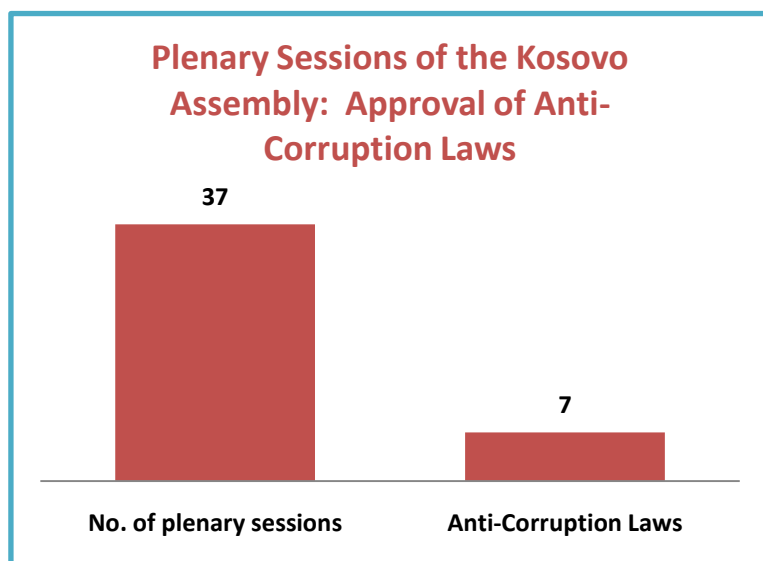
<sup>13</sup> No. 04/L-042, 29 August 2011, decret no. DL-032-2011, announced on 31.08.2011

<sup>14</sup> The law has been approved in Assembly on 21.12.2011, while it has been announced with the president's decret no.DL-055-2011, Date 30.12.2011

<sup>15</sup> No. 04/L-038, 1 November 2011, decret no. DL-041-2011, announced on 1.11.2011

<sup>16</sup> [http://www.kryeministriks.net/repository/docs/Strategia\\_Legjislative\\_2011-finale\\_e\\_miratuar\\_me\\_16\\_mars\\_2011.pdf](http://www.kryeministriks.net/repository/docs/Strategia_Legjislative_2011-finale_e_miratuar_me_16_mars_2011.pdf)

the time foreseen by the Government, thus, they are expected to be approved following months of this year.



FOL movement during 2011 has attended the work of Kosovo Assembly and has reported every two months. Kosovo Assembly had its first meeting last February, during the first session of the Parliamentary oath and was elected vice chairman of the Assembly, in the second session was elected President and Government of the Republic of Kosovo. Opposition parliamentarians (LDK, AAK and Self-Determination) have abandoned the second session, while other parties (PDK, the Coalition for New Kosovo and minority parties) have attended the meeting. The process of electing the president has been accompanied by numerous irregularities and inconsistencies.

In the first round, the president collected only 54 votes, in the second round 58 votes, so the session was interrupted, this pause was considered unconstitutional and contrary to the Rules of Procedure of the Assembly. In the third round, with 62 votes the president was elected,

the third president of the State of Kosovo.<sup>17</sup> In this session has been voted the Government of Kosovo with 65 votes pro, 1 con and no abstentions.<sup>18</sup> Assembly of Kosovo during the month of March has held four sessions. In the first session was approved the verdict of the Government on extending the share of the budget for March 2011. In the second session it has been discussed about talks between Pristina and Belgrade. In the third session was approved the resolution authorizing the Government of Kosovo for talks with Serbia. In this session, has been approved also the forma-

tion of parliamentary committees: 4 standing committees and 9 functional ones. While in the last session of March has been approved the draft law on state budget and the committee for registration of inhabitants, housing and households. In April, the Assembly held three sessions, two plenary sessions and one extraordinary session. In the first session of April the president has been elected, with 80 votes pro Atifete Jahjaga became the first female president in Kosovo.

In the second one was discussed the need to establish a parliamentary commission on investigation of SHIK activity, including the legal basis of its functioning, financing tools, mechanisms, responsibilities, etc.. In this session, was approved the establishment of the Commission for amendment of the Constitution of the Republic of Kosovo and the Commission for amending the Law on General Elec-

<sup>17</sup> Former President Behxhet Pacolli

<sup>18</sup> Movement FOL; Five-month report of Institutional activities in fight against corruption; May 2011  
<http://levizjafol.org/al/publikimet>

tions of the Republic of Kosovo. Also, during this session Gani Gërguri has been elected the new governor of the Central Bank of Kosovo (CBK). While in the last session of this month were approved several laws on commercial and a resolution to express the affirmative attitude of Kosovo for its integration into the European Union was approved.

Meanwhile, in the plenary sessions of May were reviewed a number of draft laws, but none of them has been relating corruption. Kosovo Assembly June held 4 plenary sessions. In the first session of June were approved several draft laws, principally the report on the functioning of internal audit in the public sector for the year 2010 has been considered.

In the second session mostly has been discussed the Medium Term Expenditure Framework (2012-2015). The only member who has raised concerns about the high level of corruption has been Haki Demolli of the Democratic League of Kosovo. In this session he has addressed the findings of the report of the Movement FOL on "declaration of the property of the parliamentarians to ACA and CEC," who has identified the large discrepancy between the statements in the Anti-Corruption Agency and the Central Election Commission. In this session several draft laws and reports were approved and several members of Kosovar authorities and agencies have been elected. In the third session a commemorative meeting was held paying tribute to the death of parliamentarian Nekibe Kelmendi (LDK)<sup>19</sup>. Meanwhile, at the last session of June

were approved draft laws that have been approved in principle.

Assembly of Kosovo during the months July and August has held a total of 8 plenary sessions: 2 emergency sessions and 6 regular sessions. 7 were held in July and only 1 in August. In the plenary sessions of July these draft laws have been reviewed:

- Protection of informers;
- Public Procurement;
- Declaration, Control and Origin of the Property of Senior Public Officials;
- Prevention of Conflict of Interest;

These laws are necessary for preventing and fighting corruption in the country.

At the July session it has been examined in the first reading the draft law on the protection of informants, which provides that officers who report to various corruption affairs will not be punished by their superiors who are in higher public-political positions. According to the deputy Prime Minister Kuci this draft law "will have a preventive role against corruption". Meanwhile, the second party in the Assembly LDK has given its observations and recommendations. According to the parliamentarian of this party, Haki Demolli, the name and content are wrong. He further argued that "none of the provision of this draft law regulates the conditions for protection, procedures and tools, measures and possible penalties for institutions that do not offer protection to the reporter of corruptive affairs".<sup>20</sup> However, in the second review-

<sup>19</sup> Kosovo Assembly Transcript, June 20 2011

<sup>20</sup> Kosovo Assembly; Assembly session transcript; 28.07.2011; [http://ëëë.assembly-kva.org/common/docs/proc/trans\\_s\\_2011\\_07\\_28\\_10\\_al.pdf](http://ëëë.assembly-kva.org/common/docs/proc/trans_s_2011_07_28_10_al.pdf)

ing the parliamentarian of the PDK, Nait Hasani, said that "the entire law is inconsistent", pointing out similarities between the spy and informer. Meanwhile, the parliamentarian of AAK, Ardian Gjini, said that the draft law "is about the rule of law and not espionage". With 54 votes pro, 2 against and 2 abstentions, the Assembly approved the draft law on witness protection.

In the session of July 28 was reviewed the draft law on Public Procurement. With this draft law it is ensured the integrity and accountability of senior public officials, civil servants and other persons involved in procurement activities. Also, besides the signature of the official responsible for public procurement, contracts with medium and large value will be signed by the respective ministers. One such recommendation has consistently been given by the European Commission, but also civil society - in order to influence the establishment of transparency and accountability of public institutions in the field of public procurement. However, the Democratic League of Kosovo has identified numerous weaknesses in this draft law, ranging from the opportunity of (Prime) Minister to keep hidden the prices of contracts signed, the terms of contracts, options that ministers have to manipulate tenders, etc. However, despite remarks made by some parliamentarians Assembly has approved in principle the draft law.

Also, the Assembly has reviewed the draft law on Declaration, Origin and control of the property of Senior Public officials. The parliamentary group of the Kosovo Democratic Party has supported

the draft law entirely; members of opposition parties (LDK, AAK and VV) have raised numerous objections and recommendations. During this plenary session is examined also another draft law on Prevention of Conflicts of Interest. This draft law sets mandatory rules for senior public officials, who while on duty must prevent potential conflict of interest between public and private interest.

During the period from September to October, the Assembly held a total of five plenary sessions, only 1 in September and 4 in October. Regarding anti-corruption they spoke only only in the September session. In the Assembly on 22 September 2011, was considered the recommendation of the Committee on Legislation relating to the election of the director of the Anti-Corruption Agency. The head of this commission Arben Gashi presented to the Assembly two candidates for director of the agency, in his opinion they meet all the formal-legal criteria required by the Law of the Agency against Corruption<sup>21</sup>. 94 parliamentarians were present in the parliament that day, 30 voted pro Bashkim Zeqiri, while 54 voted pro Hasan Preteni, 10 votes were spoiled. The chairman of the Assembly announced that Hasan Preteni will be director of Anti-Corruption Agency for next 5 years.<sup>22</sup>

In November, the Assembly held four sessions. At the session in November 8 LDK

<sup>21</sup> Law on Anti-Corruption Agency; Law No. 03/L-159

<sup>21</sup> Law on Anti-Corruption Agency, article 8, paragraph 6 ; the director is elected for five-year term and can be re-elected only for another term.

<sup>22</sup>Ligji për Agjencinë kundër Korrupsion, neni 8, paragrafi 6 ; Drejtori zgjidhet për mandat pesë (5) vjeçar dhe mund të rizgjedhet vetëm edhe për një mandat tjetër.

parliamentary group asked the Assembly to discuss the progress report for Kosovo.

In the next session of the Assembly held on November 11, on the 11 issues of the agenda was reviewed the annual audit report of the Office of the General Audit, in 2010, after some opinions, comments and suggestions the report was voted for approval. 64 votes pro, 3 cons and no abstentions, the annual audit report was approved.

During the month of December were held 3 plenary sessions and one solemn session. In the session of December 8, the President, Mrs. Atifete Jahjaga addressed to the parliamentarians<sup>23</sup>. During the last session of 2011, were reviewed three issues related to anti-corruption field. The Draft law on Amendments of the Law on financing political parties<sup>24</sup> was reviewed, revision of the report of the Committee on Legislation and Judicial supervision of law enforcement for the administration of seized or confiscated<sup>25</sup> property and Review of the revision of the Recommendations of the Commission on Legislation and Judicial regarding the appointment of members of the Kosovo Judicial Council.

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<sup>23</sup> Kosovo Constitution, article 84, paragraph 30; President of the Republic of Kosovo at least once a year must address to Assembly members with an annual speech.

<sup>24</sup> The law with proposed amendments had been approved with 73 votes pro, 0 con and 2 abstentions.

<sup>25</sup> The report of the Commission on Legislation has been approved regarding the supervision of administration of seized or confiscated property in spite of some remarks made by parliamentarians during the plenary session

According to a report issued every 6 months by Kosova Democratic Institute<sup>26</sup> the most active members in the first 6 months of the year 2011 (January-June) are Visar Ymeri of VV and Ardian Gjini of AAK, and the most passive members are Azem Sylja of Democratic Party of Kosovo and Uke Rugova of Rugova list. Always referring to Kosovo Democratic Institute and their report on Kosovo Assembly for the period July - December, the most active parliamentarian was Sabri Hamiti of LDK while the most passive one Azem Sylja of PDK.

### Judicial System

One of the most important powers within any political system is the power of judiciary (system). If this power is impartial and independent, a priori prevents and limits any possibility of misuse of public money or abuse of authority.

In general, Kosovo has made progress regarding the judicial system in comparison with the previous year. One such thing is mentioned in the progress Report on Kosovo for 2011, which further states that the Kosovo authorities have continued to apply the legislation to reform the judiciary, especially the Law on Judicial Council and Prosecutorial Council, courts and prosecution. The annual budget for the judiciary has been increased to around 3 million euros for this year. Salaries for judges and prosecutors have been increased thus reinforcing the independence of judges. The Constitutional Court has taken a number of verdicts which

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<sup>26</sup> Kosovo Democratic Institute, Notes; August 2011, <http://www.kdi-kosova.org/publications/FletnotimiCL012011.pdf>



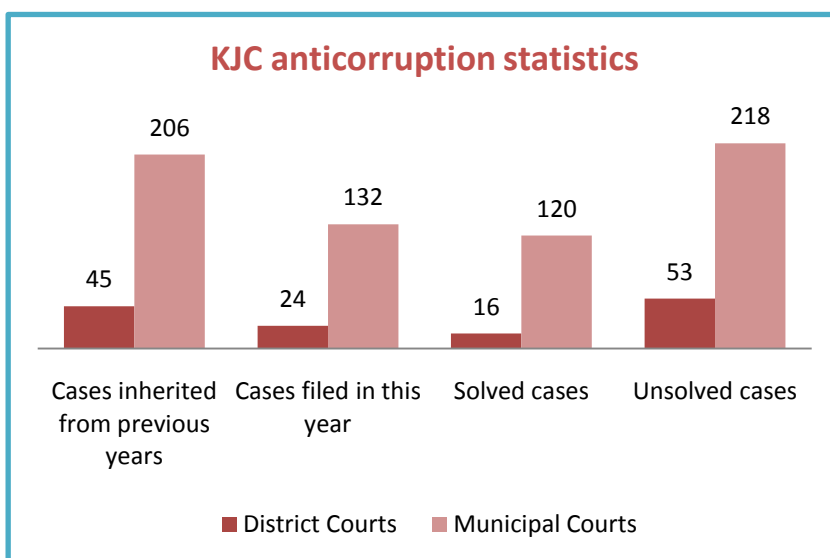
have had a considerable impact. The law on criminal responsibilities of legal individuals for their criminal offenses, the law on international legal assistance in criminal matters, extradition and transfer of sentenced persons, and the law on the Special Chamber of the Supreme Court, were approved in late August. In order to implement the law on mediation, mediation commission has certified 74 mediators, 50 of them have been submitted to the Ministry of Justice to get the license. According to this report the Department responsible for international legal assistance within the Ministry of Justice has continued to perform his duties professionally and efficiently. Law on the Kosovo Prosecutorial Council has become applicable in January 1, 2011. Nine members of Prosecutorial Council have been appointed, this Council has taken some responsibility from the Ministry of Justice and the Kosovo Judicial Council, and two bodies have been functionalized: disciplinary committee and the college of recruiting young prosecutors, to fill in 45 vacancies.<sup>27</sup>

However the judicial system remains one of the systems most criticized and most politically influencing. 224 thousand cases are pending and that number keeps growing.

### Kosovo Judicial Council

Kosovo's judiciary consists of: Supreme Court, the High Court of Minor Offences, five District Courts, Commercial Court, 26 Municipal Court, 25 Municipal Court of Minor Offenses. Kosovo Judicial Council consists of 13 members who ensure that the courts in Kosovo be independent, professional and impartial.<sup>28</sup> Chairman of the Judicial Council of Kosovo, Mr. Enver Peci during a press conference said that decrease of the number of the cases will be done in case of increasing the number of judges as well as with the implementation of the new Law on Courts, the law which provides that Kosovo judiciary will face the full restructuring of the judiciary, all courts in Kosovo shall be submitted to an entire transformation based on the structure and jurisdiction.

Judicial Council has not yet reached its full composition. Parliament is expected



to appoint three members of the Council, including two judges from Minority Communities.<sup>29</sup>

<sup>27</sup>Komisioni Evropian; Raporti i Progresit 2011 për Kosovën; Tetor 2011; [http://mei-ks.net/repository/docs/Raporti\\_i\\_Progresit\\_per\\_Kosoven\\_2011\\_-\\_Shqip.pdf](http://mei-ks.net/repository/docs/Raporti_i_Progresit_per_Kosoven_2011_-_Shqip.pdf)

<sup>28</sup> Kosovo Constitution; article 108Kosovo Judicial Council, 15 June, 2008, p. 42

<sup>29</sup> European Commission; Progress Report on Kosovo 2011, October 2011

According to the statistics of this institution we find out that during 2011 this institution had undertaken several verdicts and measures to fight corruption. Statistics ranked by courts for offenses against official duty<sup>30</sup>:

District Court during the reporting period has inherited 45 cases, 24 cases received, 16 cases solved. From 9 trial sentence, 6 cases are sentenced with imprisoning, 3 suspended sentence, 1 case other sentences, 2 cases with acquittal verdict, and 5 cases in other ways. At the end of the reporting period 53 cases remained unsolved.

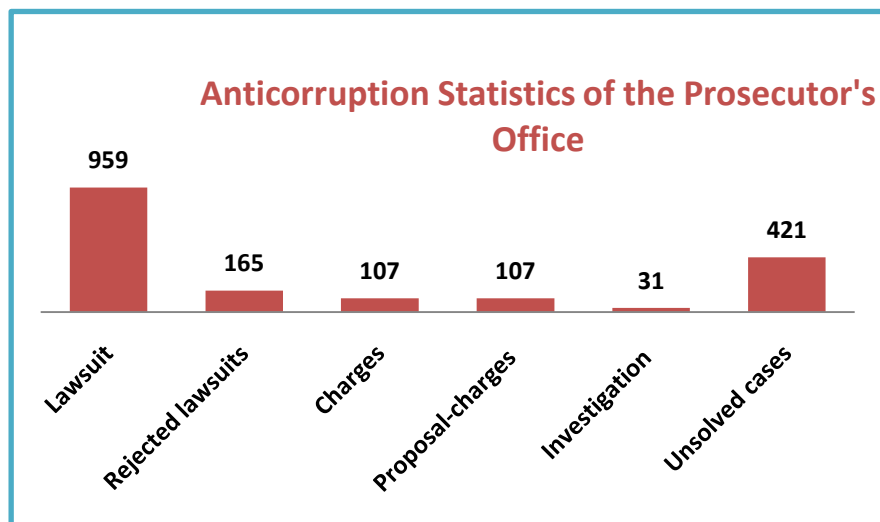
If we compare the number of cases received during this period with the number of cases that are solved, it appears that District Courts have been effective to the extent of 66.6%. Municipal Courts have inherited 206 cases, 132 were received during this period, while 120 cases have been solved. Of 82 cases with court verdict, 14 cases are with imprisoning sentence, 45 cases with a fine, 22 suspended sentences, and one case other penalties. With acquittal sentence are 6 cases, rejecting trial 3 cases, 29 cases in other ways. At the end of this year 218 cases have remained unsolved.

<sup>30</sup> Kosovo Penal Provisional Code sanctions 13 kinds of corruption affairs: abuse of authority, embezzlement while on duty, fraud on duty, taking bribe, giving bribe, unauthorised use of property, influence, illegal court verdicts, discovering official secrets, counterfeiting documents, illegal payments, illegal release of a sentenced person etc.

If we compare the number of the cases received early this year with the number of cases that were solved during the latest reporting period appears that municipal courts have been 91.6% effective.

### Kosovo Prosecution

Law on the Kosovo Prosecutorial Council has become applicable since January 1, 2011. The nine members of Prosecutorial Council have been appointed, until the Council had started work. It has taken some responsibility from the Ministry of Justice and the Kosovo Judicial Council, and has already functionalized two main bodies: the disciplinary committee and the college to recruit new prosecutors. The Council has appointed special prosecutors to deal with organized crime, economic crime, corruption and human trafficking in all district and municipal courts.<sup>31</sup>



Prosecution of the Republic of Kosovo during 2011 have submitted 959 criminal charges against 1862 people, cases related to corruption. During the period January-December 2011 the country's

<sup>31</sup> European Commission; Progress Report on Kosovo 2011, October 2011



prosecutions have solved 538 criminal charges against 1038 people, while 421 criminal charges are unsolved against 824 people. Among the solved cases, 107 cases were filed against 139 persons, 107 charges against 478 individuals, 165 criminal charges against 216 people and 31 investigations were dismissed against 71 persons.

### Kosovo Police

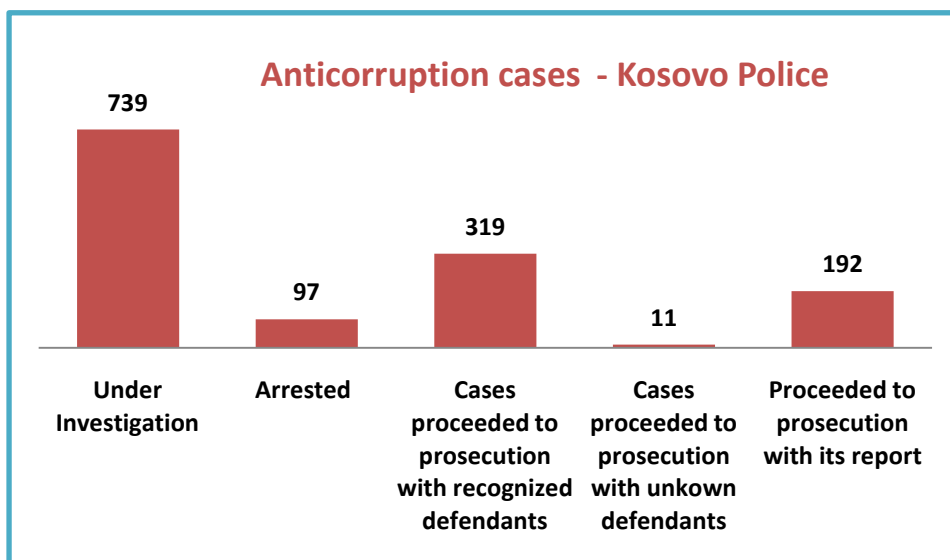
In Kosovo, there is a general lack of communication between the Kosovo Police, prosecution offices and municipal and county courts. Police investigators and prosecutors and judges in particular face an overwhelming burden of work versus their capacities<sup>32</sup>. Although Kosovo Police continues to be perceived by the citizens of Kosovo as the most trusted institution and less corrupted.

to the Prosecution with identified suspects, 11 cases were sent to the prosecution with N/N suspects and 192 cases with prosecutor’s report.

Meanwhile, the alleged damage from such criminal offenses against official duty is estimated to be around 11,237,667.00 euro.

### Anti-Corruption Agency

Anti-Corruption Agency (ACA) in 2011 reported an increase of corruption, based on the information it received and those sent by prosecutions<sup>33</sup>. More than 95 percent of senior public officials have declared their property to the Anti-Corruption Agency, within the time limit, which is defined by the Law on Declaration, Origin and Control of property and gifts<sup>34</sup>.



According to this report the number of those who have not declared the property is 84 officers or 4.60%, while 26 other officials have declared their wealth but in fact the form is not filled in accordance with

According to the statistics of the Department for Investigation of Economic Crimes and Corruption we find out that during the year 2011, investigations have been conducted against 739 people and 97 of them were arrested. 319 were sent

<sup>33</sup> A more substantial comparison of these data would be only by comparing the data of 2010 with those of 2011, ACA’s report of 2011 will be published in March 2011.

<sup>34</sup> Anti-corruption Agency; [www.akk-ks.org](http://www.akk-ks.org)

<sup>32</sup> KIPRED; *Trekëndëshi i brishtë; shkurt 2010*

the law and standards and criteria that the Agency has determined.

This institution has taken the initiative for drafting the Strategy and Action Plan against Corruption (2012-2016), state documents for preventing and fighting corruption. Strategy and Action Plan have already been designed by ACA, while its approval is expected by the Government and Assembly. Concrete effects of these documents are expected to be seen the following years.

Strategy and Action Plan 2009-2011, have not given any concrete effects in preventing and fighting corruption. This is partially, because the process of drafting these strategic documents against corruption has substantial defects and weak content<sup>35</sup>. But this is also due to the lack of political leadership to deal with corruption.

During the year 2011, two laws against corruption package were approved, the Law on Declaration of Property and one on the Prevention of Conflict of Interest, which apparently enabled ACA to successfully fight against corruption. ACA during the year 2011 has made an analysis on the prosecution and adjudication of corruption cases in Kosovo<sup>36</sup>. This analysis shows a high lag of institutional mechanisms to track and prosecute corruption cases.

<sup>35</sup> Movement for Freedom of Information, Strategy against Corruption; Policies Research: Weaknesses of the Anti-Corruption strategy and Action Plan

<sup>36</sup>Anti-Corruption Agency "analysis on the prosecution and adjudication of corruption cases in Kosovo"

## Kosovo Customs

Kosovo Customs statistics show that during 2011, 41 disciplinary measures were announced, 25 written / oral warnings, banning 9 cases of promotion, a recommendation for non-extension of work contract, 2 cases recommendation for training, 3 cases of compulsory transfer, 1 case of downgrade, 1 case performance annulment and another case Customs property damage compensation. Meanwhile, within the Department for Professional Standards, Kosovo Customs have initiated a total of 21 cases: 3 cases for misuse of official duty, 2 cases of negligence in the performance of official duty, 7 cases unprofessional conduct, 2 cases for failure to file, Custom property damage 4 cases, a case for failure to appear at work, one case taking bribe and another case for drug misuse.

On June 8, 2011 Kosovo Special Prosecution had filed charges against Naim Hurglica (director of Kosovo Customs) and Lulzim Rafuna (legal official in Kosovo Customs). The charges were suspicions of abuse of official duty. During the month of September in Pristina District Court was held the hearing on the confirmation of the charges. The defendants were accused of abuse of authority and misuse of authority in the economy, charges which are sanctioned by sections 236 and 339 paragraph 1 of KPC. According to the charges the defendants in 2008 have enabled and allowed the companies: "GEKOS", "Buqaj", "Tobacco" and "Kosovo Tobacco", to import a large quantity of tobacco, after the verdict of the Government of Kosovo to increase taxes on the import of tobacco from January 2009.

With this verdict was banned import of large quantities of tobacco. The defendants by their actions have enabled these companies to import large quantities of tobacco, thus causing damages to Kosovo's budget in an amount of 500,000 euros. Preliminary hearing judge objected the charges of the Kosovo Special Prosecution against the two defendants in accordance with Article 316, paragraph 1, 2 and 4 of KPC. The court's reasoning was that in this case there are no criminal offenses and the actions described in the charges do not pass beyond suspicion. This is because the defendants did not benefit anything materially<sup>37</sup>

### International Reports

Year 2011 was characterized by serious difficulties since the country's independence. International reports have presented Kosovo as a country sunk in corruption and organized crime and the involvement high political level in these illegal activities. The country has stagnated in almost all relevant international reports that measure the progress of the rule of law and strengthening democratic institutions. As such, Kosovo has not made any progress in its fight against organized crime and corruption, but the fight against these illegal activities is limited to declarative terms. Regression presented in these reports made that Kosovo become isolated as a state in its international participation and its leadership left without credibility and limited legitimacy.

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<sup>37</sup> Newspaper jeta ne Kosove (Life in Kosovo)

### Progress Report<sup>38</sup>

Progress Report of the European Commission even though identifies a little headway in fighting corruption, acknowledges that Kosovo should do more in this direction. According to the report there is a limited qualitative progress in anti-corruption legislation. The report also states that limited progress has been made in prosecuting corruption cases. Moreover, the report criticizes the limited progress in building structures to fight corruption. Also, in terms of prosecution of corruption cases, except initiating investigations, raising some charges, in 2011 there was no trial of any case of high level corruption.

### Transparency International<sup>39</sup>

The main and only index, which measures the perception of corruption, shows that during 2011, Kosovo has decreased by a ranking of 112th. This ranking put Kosovo the last regarding corruption among the countries of the region. Also, according to the Index Kosovo is compared to the countries that have major problems with corruption, classifying as "highly corrupt".

### Freedom house

Freedom House in the report entitled "Nations in Transit" means that democratic progress has been decreasing since 2010. Kosovo in all categories either marked regression or remained the same

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<sup>38</sup> European Commission, Progress Report on Kosovo; October 2011;

[http://ec.europa.eu/enlargement/press\\_corner/key-documents/reports\\_oct\\_2011\\_en.htm](http://ec.europa.eu/enlargement/press_corner/key-documents/reports_oct_2011_en.htm)

<sup>39</sup> Transparency International, November 2011

<http://cpi.transparency.org/cpi2011/results>

as in 2010<sup>40</sup>. If seen in years, since 2002, when Freedom House began to measure democratic progress, Kosovo except in 2003, has always declined. With this ranking, according to FH Kosovo is classified as a "half free".

### Departamenti i Shtetit

Even the State Department report reflected a number of gaps in the overall advancement of democracy and strengthening the rule of law in Kosovo. The report, mentioned that Kosovo has problems with "government corruption". The report also identifies the stagnation in the area of judiciary and human rights.

### Public Pulse Report<sup>41</sup>

United Nations, since the installation of the UNMIK administration, made researches with the aim of reflecting the situation of citizens towards political developments, social and economic situation in general. These researches have provided empirical data which show that the credibility of the citizens of the country's public institutions has declined continuously. Indeed, all indicators since 2005, the data show a steady decline of citizen satisfaction. Here corruption is mentioned as one of the biggest concerns of citizens which in case of employment in public institutions, nepotism seems to be the main imperative for employment. In this research indicated that 33% of citizens think that, to be employed in

public administration or public company one must have a family relationship, 19% think that the bribe helps employment, 10% think that similar political ideology help getting employed. Only 15% of citizens believe that education helps to be employed, 8% of them think that professional experience provides employment and only 1% of citizens believe that professional education enables employment in public institutions.

### Civil Societies Reports

Even civil society in Kosovo, which is widely accepted that it is essential for the democratization processes in our country, has undertaken several activities in fight against corruption and other corrupt practices. The purpose of civil society activities has been the denunciation of corrupt practices and misrule.

### Organization "Çohu"

Organization for Democracy, Anticorruption and Dignity, COHU! during the year 2011, has compiled an analysis<sup>42</sup> of the legal framework against corruption.

COHU! in this analysis has identified that anti-corruption legal framework remains incomplete and with serious defects in the content. According to this organization, the legal and institutional anti-corruption framework, since it has been designed in 2004 has not shown any qualitative progress. Therefore, according to COHU! efforts to establish an effective and adequate institutional and legal anti-corruption framework, have not created

<sup>40</sup> Ariana Qosaj-Mustafa for Freedom House ; Nations in Transit, 2011.

[www.freedomhouse.org/sites/default/files/inline\\_images/NIT-2011-Kosovo-0.pdf](http://www.freedomhouse.org/sites/default/files/inline_images/NIT-2011-Kosovo-0.pdf)

<sup>41</sup> UNDP; Public Pulse Report ; September 2011  
[www.kosovo.undp.org/repository/docs/Public-Pulse-ëëb-sq.pdf](http://www.kosovo.undp.org/repository/docs/Public-Pulse-ëëb-sq.pdf)

<sup>42</sup> Organization COHU, Policies analyses Anti-corruption legal framework "Weaknesses and the need to be revised", December 2011

any substantial impact in the fight against corruption.

Also, the organization has published an investigative report<sup>43</sup> on the prescription of criminal cases. This report reflects the difficult situation in terms of limitation of criminal cases. The report shows that in total, from 2001 to 2011, about 7000 thousand criminal cases have been prescribed in absolute terms relative as well.

### **Kosovo Democratic Institute**

Kosovo Democratic Institute during the year 2011, among others, has been focused mainly in the field of political party funding. This institute has made the publication of a series of reports<sup>44</sup> in this area, which has identified shortcomings in the legislation for the financing of political parties violating the law on financing political parties and non-transparency in political financing.

KDI also has published a report on legislation and practices of the countries in fight against organized crime and money laundering. Here KDI has provided a comparative analysis of laws and practices of the region in fight against organized crime and money laundering.

### **Kosovar Institute for Policy Research and Policy Development - KIPRED**

KIPRED Institute during the year 2011 has been focused in several directions, among other things they made the analysis of legislation on confiscation of property acquired illegally<sup>45</sup>. Here, KIPRED has discussed the shortcomings and confusion in the legislation for the confiscation of property. According to the Institute the current legislation is based on the confiscation of property acquired illegally.

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<sup>43</sup> Organization COHU, Monitoring Report "Prescription of Criminal Persecution and Criminal Executions, January 2012

<sup>44</sup> Kosovo Democratic Institute, [www.kdi-kosova.org](http://www.kdi-kosova.org)

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<sup>45</sup> KIPRED - confiscation of property acquired illegally

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### About Movement FOL

Movement FOL is engaged to empower the civilian impact on decision - making process, responsible and efficient governance. FOL is deeply devoted to work on improvement and attainment of a better civil representation in public life. FOL works for a good governance and grounded on democratic principles, for responsible, transparent and accountable institutions, and for application and compilation of laws with participation. Therefore, expenditure of public funds, conflict of interest, negligence and institutional responsibility and access to official information, are the main components of FOL engagement. FOL attempts to fulfill these goals by fighting the citizens' apathy and indifference and make citizens more active and more voiced, in order to serve the community interests and always alert to oppose abuse, misuse, corruption and other malpractices of governance.

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