



Supporting Good Governance and Active Citizenry

Corruption Monitor

Monitoring Report on Kosovo Public Institutions activities on
Fight against Corruption
January-May 2011



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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

EULEX - European Union Rule of Law Mission in Kosovo

ISC - Institute for Sustainable Communities

KEK - Kosovo Energy Corporation

KJC - Kosovo Judicial Council

CEC - Central Election Commission

LDK - Kosovo Democratic League

WM - Well understanding Memorandum

MTPT - Ministry of Transport, Post and Telecommunication

FIB - Fiscal Inspection Body

PDK - Kosovo Democratic Party

KP - Kosovo Police

DP - District Prosecution

PTK - Kosovo Post- Telecom

PR - Progress Report

TI - Transparency International

USAID - United States Agency for International Development

VV - Movement Vetëvendosje!

Executive Summary

Government of Kosovo has approved 80 verdicts during last five months (January-May). Among these verdicts only one was on struggle against corruption. With this verdict, the government has supported Kosovo Special Prosecution's request for additional payments and financial stimulation for its employees. Among these verdicts there was also the one for establishment of the International Cooperation Unit for Law Enforcement and the one on Legislative Strategy for 2011. Within this strategy will be: the draft-law on changing and completion of the law on Declaration, Origin and Control of the Wealth and Presents of High Public Officials, Interest Conflict Prevention law, draft law on Protection of the Reporters (Whistle Blowers Law), draft -law on Prevention and Fighting Organized Crime, draft-law on changing and completion of Law on Public Finances and Financing Political Parties.

Kosovo Assembly during five months has held 13 plenary sessions. Two of them were in February, 7 in March and April and 6 in May. During this time the Assembly has approved several international agreements, had an interpellation about Kosovo - Serbia talks, three parliamentarian debates and approved several reports. Among these approved reports one of them is the one of Anti Corruption Agency for 2010

Kosovo Judicial Council during the first three months was not productive solving cases against corruption. Regarding the category "Abuse of authority", there were 81 unsolved cases at the beginning of reporting period, 17 cases filed, 98 ongoing cases, and only 14 solved cases, thus altogether 84 unsolved cases. In the category "Taking bribe" there were 21 unsolved cases at the beginning of reporting period, 2 cases filed, 23 ongoing cases, none solved, and 23 were unsolved. In the category "Giving bribe" there were 9 unsolved cases at the beginning of reporting period, no cases filed, 9 ongoing cases, no cases solved and 9 remained unsolved.

District Prosecutions while conducting investigations have raised 15 criminal charges: 4 criminal charges by District Prosecution in Prishtine, 8 by District Prosecution in Peja, 1 in Gjilan, 1 in Prizren and another 1 in Mitrovica. Whereas, Municipal Prosecutions have raised 16 criminal charges and 40 suspected criminal charges: 3 criminal charges and 19 suspected criminal charges by Municipal Prosecution in Prishtine, 2 criminal charges in Peja, 1 criminal charge and 5 suspected criminal charges in Gjilan, 2 criminal charges and 4 suspected criminal charges in Prizren, 7 criminal charges and 4 suspected criminal charges in Mitrovica, 3 suspected criminal charges in Gjakova and 1 criminal charge and 5 suspected criminal charges in Ferizaj.

According to Economical Crimes and Corruption Investigations Department statistics (EC-CID) from January till May Kosovo Police has conducted 245 investigations: 120 cases in January and February, 108 cases in March and April, and 17 cases in May. As a result of these investigations 36 officials have been arrested: 16 in January and February, 3 in March and April and 17 in May. Estimated damage value is supposed to be 4,807,984.00:

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2,603,591.00 € in January and February, 141,455.00 € in March and April, and 2,062,938.00 € in May.

Anti Corruption Agency, during this period was mostly focused on the process of wealth declaration of high public officials, publication of the annual report for 2010 and its approval by the Kosovo Assembly. The number of high public officials who were obliged to declare their wealth to this agency was 1830. Only 1746 of them or 95.40%, declared their wealth. The number of those who didn't declare their wealth was 84 officials or 4.60%, whereas 26 officials didn't fill in the form in accordance with legal provisions and standards/criteria set by ACA. According to the Annual Report for 2010 published by the agency, we find out that the total number of the cases filed in the agency, where agency's investigators had legal grounds to investigate, was 193 cases: 27 cases against courts, 44 cases against government, 22 cases in municipal level, 3 cases against prosecutions, and 47 cases against other institutions - mostly public ventures.

Kosovo Customs during five months have announced 19 disciplinary measures. Among these disciplinary measures three of them were announced in January, 8 in February, 5 in April and 3 in May. Among these disciplinary measures 7 cases are written/verbal warnings, 5 cases promotion prohibition, 2 cases transfer into another assignment, 2 cases recommendation for training, 1 case downgrading, 1 case cancellation of performance and another case refund of damaged property of customs. Meanwhile Professional Standards Department has initiated 17 cases: 4 cases in January, 5 cases in February, 4 cases in March, 4 cases in April and 1 case in May. There were more cases in February, while in May there were fewer cases. Professional Standard Department has announced three cases for non - professional behavior while on duty, 1 case for non-declaration of wealth, 4 cases for lost/damage of custom's property, and 1 case for absence on duty.

Introduction

The high level of corruption¹ and its wide spread in higher and lower instances of institutions make the main hazard in the process of state foundation², economical development³, democratic transition⁴, and good governance⁵. This conclusion is widely accepted from local and international segments. There is a general admittance that corruption is harming not only Kosovo citizens' interests but also Kosovo's integration process to European Union⁶. The high level of corruption and organized crime has also alarmed the parliamentarians of German Bundestag. Some of them have claimed that 'German citizens' money is being invested in Kosovo Politicians villas'⁷. Similar to this statement are international reports as

well. They have shown a high level of corruption, organized crime and informal economy. Grounded on their findings Kosovo is listed among the most corrupted states and failed states. While the heads of institutions have promised that in 2010 they will fight corruption and organized crime, the opposition has criticized, has accused and has been skeptic. Thus, being very concerned about this endemic phenomenon, Movement FOL, supported by USAID through the Empowerment of Civil Society Program implemented by ISC is implementing its project Corruption Monitor since January 2010. Through this project FOL attempts to bring to light the inactivity of institutions fighting corruption, trying to make this issue on the agenda of all institutions of Republic of Kosovo⁸. FOL considers that the fight against corruption should be converted from rhetorical to concrete actions, should have a serious approach and show obvious results. This is the only way for Kosovo in order to improve its internal and international legitimacy, to establish democracy, the state of rights and be comparable to western countries and free societies.

TIME is NOW!

¹ Kosovo General Penal Code prevents 13 kinds of corruptive actions: abuse of authority, embezzlement while on duty, fraud on duty, unauthorized use of property, taking bribe, practice of influence, unlawful court verdicts, discovering official confidentiality, fraud of official documents, unlawful cashing and payments, unlawful release of detainee, unlawful embezzlement of property during harassment or execution of court verdicts.

² This thesis is a result of empiric observations, because the high level of corruption seriously impairs the internal and international legitimacy of Kosovo.

³ More on negative and harmful effects of corruption see: <http://www.oecd.org> and TI reports and website <http://www.transparency.org>.

⁴ James B. Jacobs: Corruption and Democracy, Kappa Phi Journal, Volume 84, 2004, p.21.

⁵ USAID - Fighting corruption: http://www.usaid.org/our_work/democracy_and_governance/technical_areas/anti-corruption/

⁶ Renzo DAVIDDI: Corruption is impairing Kosovo's integration process to European Union, Koha Ditore, 11 June, 2010, p.6

⁷ Florian HAHN, published in Koha Ditore: German Parliamentarians accuses Kosovo Government for crime and corruption, 11 June 2010, p.4

⁸ Hasan PRETENI - News show (19.30) RTK, 6 June 2010

Government of Kosovo

Government of Kosovo during five months (January - May) has approved altogether 80 verdicts. Among these verdicts only one was fighting corruption. During first two months the government "Thaçi 2" has approved three verdicts which none is against corruption, organized crime or informal economy. Among these verdicts there was also the one for raise of the salary of martyr's families; war disabled persons, Kosovo Police, Correction Service, civil servants, custom's officers and ATK, Health Department, firefighters and minors.⁹ This raise was not lined with defined objectives of International Monetary Fund.¹⁰ Disrespect of this agreement caught by surprise not only IMF but also the World Bank and European Union.¹¹ With this verdict the government endangered financial aids. The largest part of these aids would come from IMF, World Bank and EU.¹² IN this month the Government of Kosovo was remanded for the second time: 65 pro votes, 1 contray

⁹ For further details see government's verdict, no. 02/151, 6 January 2011

¹⁰ International Monetary Fund communication: <http://www.imf.org/external/np/sec/pr/2011/pr1180.htm>, 15 March 2011

¹¹ Radio Free Europe: interview with executive director of Riinvest Institution Lumir Abdixhiku - <http://www.evropaelire.org/content/article/2298506.html?s=1>, 5 February, 2011

¹² For further details see: <http://www.riinvestinstitute.org/index.php?gjuha=al&action=meshume&cid=10&sid=38&id=143>, 5 February, 2011

vote and no neutral votes.¹³ In March and April, the government approved 50 verdicts. None of them was against corruption, organized crime or informal economy. Among these verdicts there was also the one for establishment of the International Cooperation Unit for Law Enforcement.¹⁴ This unit is going to work with Kosovo Police and will cooperate with Ministry of Internal Affairs, Ministry of Justice, Ministry of Financies and State Prosecution. Exept this verdict there is another one, Legislative Strategy for 2011.¹⁵ Within this strategy will be: the draft-law on changing and completion of the law on Declaration, Origin and Control of the Wealth and Presents of High Public Officials, Interest Conflict Prevention law, draft law on Protection of the Reporters (Whistle Blowers Law), draft - law on Prevention and Fighting Organized Crime, draft-law on changing and completion of Law on Public Finances and Financing Political Parties.¹⁶ Changing existing laws and approval of other draft laws is an important step toward completion of anti-corruption package, which later will reduce law gaps which actually are in present laws on prevention and fighting corruption. During May 27 verdicts were approved, one of them was against corruption. With verdict the Government agreed with the request of Kosovo Special Prosecution for additional

¹³ For further details see: <http://www.koha.net/index.php?cid=1,7,50386>, 24 February, 2010

¹⁴ Government of Kosovo, verdict no. 04/02, 2 March 2011, p. 1

¹⁵ As above, no. 02/05, 16 March 2011, p.1

¹⁶ For further details see: http://www.kryeministri-ks.net/repository/docs/Strategjia_Legjislative_2011-finale_miratuar_me_16_mars_2011.pdf

payments and financial stimulation for its employees. The total amount is €130,000.00. Divided to these categories:

- 900.00 € for deputy prosecutor
- 800.00 € for 9 special prosecutors
- 130.00 € for 12 officials
- 100.00 € for 21 officials as supportive staff¹⁷

Kosovo Assembly

Kosovo Assembly during five months has held 13 plenary sessions. Two of them were in February, 7 in March and April and 6 in May. In May Kosovo Assembly held 2 plenary sessions: one constitutive session and another extraordinary session. In the first session the parliamentarians took the oath and selected the chairman and deputy chairmen of the assembly, in the second session the President and the Government were selected. The second session was abandoned by the opposition (LDK, Vetëvendosje, and AAK) while other parties like PDK, Coalition for New Kosova and minority parties were in the assembly hall. President election process was accompanied by many irregularities and debates. After two rounds when he didn't even collect the minimum of the required votes - in the first round 54 votes and in the second round 58 votes, from the 67 parliamentarians who were present, after a long pause, considered as anti constitutional and against the Work Regulation of the Assembly¹⁸, in the third round he collected 62 votes and was declared the third president of Kosovo.

¹⁷ For further details see government verdict, no. 05/14, 4 May 2011, p.1

¹⁸ This remark was made by the chairman of Kosov Assembly, Jakup Krasniqi, 22 February 2011

vo.¹⁹ During this session the Government of Kosovo was voted as well, there were 65 votes pro; one was contrary and no neutral votes.²⁰ During March and April Kosovo Assembly held 7 plenary sessions. Four of them were held in March and three were held in April. In the first session was approved the government's verdict for prolongation of budget division for March 2011.²¹ In the second session was discussed about talks between Prishtine and Belgrade about Kosovo. Parliamentarians of opposition, (LDK, Vetëvendosje, and AAK) have criticized the beginning of these talks and the way they were going on, on the other hand the majority of parliamentarians supported these talks.²² In the third session the resolution that authorizes Kosovo Government for talks with Serbia was approved. In this session was approved also the establishment of parliamentary commissions: 4 permanent commissions and 9 finctional commissions.²³ In the last session of March were approved draft-law on Kosovo Budget and the commission for registration of population, residences and family economies. Opposition's parliamentarians have criticized the government Thaçi why he incorporated the privatization of PTK within budget. In spite of this appositionists have criticized him also because of raise of the salaries; ac-

¹⁹ For further details about president election see: <http://www.kohaditore.com/index.php?cid=1,22,50332>, 22 february, 2011

²⁰ As above

²¹ This verdict even with many criticism was approved by all parliamentarians who were present – 114 votes were pro, there was no contrary votes and no neutral votes

²² Kosovo Assembly, Plenary Sessions Transcript, 7 March 2011

²³ As above, Plenary Sessions Transcript, 10 March 2011

cluding him he did that only because of election campaign impact. In the first session of April, the president has been elected. With 80 votes pro Atifete Jahjaga was elected president, 10 votes were pro Suzan Novberdaliu and 10 votes were spoilt.²⁴ In the second session was discussed about the possibility of establishing a parliamentary commission to investigate SHIK (Kosovo Intelligence Service) activities, including its legal ground of activity, finances, mechanisms, responsibilities, etc. in this session was approved establishment of Amendment Commission of Constitution of Republic of Kosovo and Amendment Commission of Central Elections Law of Republic of Kosovo.²⁵ During this sessions was selected the new Governor of Kosov Central Bank, Gani Gerguri. He collected 58 votes from 99 possible ones, 15 votes were for his contestant and 26 votes were spoilt.²⁶ In this session several reports were approved such as OSHP and KRPP. In the last session of this month were approved several commercial laws and a resolution which expresses the affirmative attitude of Kosovo for European Union Integration. In the sessions of May, several draft-laws were reviewed, but none of them was against corruption. During this month the Assembly approved several international agreements, organized a interpellation about Kosovo - Serbia talks, held three parliamentary debates and approved several reports. Among the approved reports was the one of Anti Corruption Agency for 2010

²⁴ As above, Plenary Sessions Transcript, 7 April 2011

²⁵ 76 votes were pro, 6 contra and 4 neutral

²⁶ Movement FOL, Monitoring Kosovo Assembly, 22 April 2011

Judicial System

One of the most important powers within any political system is the power of judicial. This power, if impartial, a priori prevents and limits any possibility of public money misuse or abuse of authority. One of the reasons why corruption and organized crime is wide spread in institutions is because the judicial itself is corrupted and this is because of pressures and political interferences. Such a conclusion is made also by last report of EULEX, which stresses that Kosovo Justice System still shows signs of weakness. Furthermore political interferences in different levels are identified.²⁷ Kosovo Judicial keeps remaining the institution that citizens are least satisfied of. Even the Early Warning Report has recorded a decrease of 10% which marks the lowest level ever recorded.²⁸ While democracies cannot function without a judicial system because it controls and guarantees other powers, thus even Kosovo should undertake serious and immediate actions for its deep reformation.

Kosovo Judicial Council - Kosovo Judicial Council during the first trimester was not very successful solving cases regarding anti-corruption. On the category "abuse of authority" there were 81 unsolved cases at the beginning of reporting period, 17 cases filed, 98 cases ongoing, only 14 cases solved and 84 cases un-

²⁷ Program Report 2010, Joint Building of a Sustainable Change, EULEX, June 2010, p.9

²⁸ Early Warning Report, UNDP Kosovo, 27 March 2010, p.2

solved. On the category “taking bribe” there were 21 cases unsolved at the beginning of reporting period, 2 cases filed, 23 cases ongoing, none solved, and 23 cases unsolved. On the category “giving bribe” there are 9 cases unsolved at the beginning of reporting period, no cases filed, 9 cases ongoing, none cases solved, and 9 cases remain unsolved.

Prosecution of Kosovo made an obvious progress during this period of time. According to its statistics for first five months in 2011 we find out that in Prishtina District Court, 89 cases were brought up from previous years, whereas 95 cases were filed in 2011. In Peja District Court 5 cases were brought up from previous years and five are file in 2011. In Gjilan 4 cases are brought up from previous years and 8 cases are file in 2011, in Prizren 13 cases are brought up and 9 cases are filed in 2011 and finally in Mitrovica 13 cases are brought up and no cases are filed in 2011. By reviewing these cases and investigations conducted we find out that altogether there are 4 criminal charges in Prishtina District Court, 8 in Peja, 1 in GJilan, 1 in Prizren and another 1 in Mitrovica. In municipal level, in Prishtina prosecution, 112 cases were brought up from previous years and 38 are filed in 2011; in Peja 4 cases are brought up from previous years and 15 cases are filed in 2011; in Gjilan 4 cases are brought up from previous years and 12 filed in 2011, in Prizren 72 cases are brought up from previous years and 20 filed in 2011, in Mitrovica 40 cases are brought up from previous years and 2 filed in 2011, in Gjakova 3 cases are brought up from previous years and 4 filed in 2011, in Ferizaj 4 cases are

brought up from previous years and 5 filed in 2011. Reviewing these cases and investigations conducted have shown that there are three criminal charges and 19 suspected criminal charges in Prishtina Prosecution, two in Peja, one criminal charge and five suspected criminal charges in Gjilan, two criminal charges and four suspected criminal charges in Prizren, 7 criminal charges and 4 suspected criminal charges in Mitrovica, 3 suspected criminal charges in Gjakova, and one criminal charge and five suspected criminal charges in Ferizaj.

Kosovo Police

Kosovo Police keeps remaining the most credible and least corrupted institution according to citizens’ observations. Even EULEX report has shown a progressive result of KP regarding the struggle against corruption and organized crime.²⁹ According to Economical Crimes and Corruption Investigations Department statistics (EC-CID) during January until May Kosovo Police has conducted 245 investigations: 120 cases in January and February, 108 cases in March and April and 17 cases in May. After these investigations 36 officials have been arrested: 16 during January and February, 3 in March and 17 in May. During this time, according to police statistics 263 cases have been preceded to prosecutions. Among the cases sent to prosecutions 151 cases are with identified suspects: 120 cases have been sent in January and February, 20 in March and April and 11 in May. Among the cases sent

²⁹ Program Report 2010: Joint Building of a Sustainable Change, EULEX, June 2010, p. 13-23

to prosecution with unidentified suspects are only 6 cases (January and February). Whereas among the cases sent with prosecutor's reports are altogether 106 cases: 72 cases sent in January and February, 26 in March and April and 8 cases in May. Estimated damage value is supposed to be 4,807,984.00: 2,603,591.00 € in January and February, 141,455.00 € in March and April, 2,062,938.00 € in May.

Anti Corruption Agency

Anti Corruption Agency (ACA) during this time has been mostly focused on the process of wealth declaration of high public officials, publication of the annual report 2010 and its approval in the Kosovo Assembly. More than 95% of high public officials have declared their wealth to Anti Corruption Agency. According to the Law on Declaration, Control and Origin of the Wealth³⁰ The number of high public officials who were obliged to declare their wealth to the agency was 1830. The number of officials who fulfilled this legal obligation was 1746 or 95.40%. The number of officials who didn't fulfill this legal obligation was 84 or 4.60%, while the number of the officials who declared their wealth but the form was not filled in accordance with law and standards/criteria set by ACA was 26. On the other hand, based on the article 16 of the above mentioned law ACA must initiate a procedure about this violation against all 84 officials who did not declare their wealth. Regarding the officials who did not fill in the form properly ACA according the law must require them to do that

withing 15 days, otherwise the agency must initiate a procedure against them.³¹ During this time ACA has published its annual report for 2010. According to this report we find out that the total number of cases filed in the agency, where agency's investigators have legal ground to begin investigations, is 139. In the reported cases and those investigated regarding official assignments, the suspected officials were judged and staff members of the **Courts of the Republic of Kosovo**, there were 17 cases. In the reported cases and those investigated about corruption, in the category **Other Institutions**, (Prishtina International Airport, Kosovo Post and Telecommunication, Kosovo Electroenergy Corporation, RTK, Kosovo Privatization Agency, former Public Ventures, Other public Ventures, Independent Institutions, NGOs, etc), there are 47 suspects about corruption. In the reported cases and those investigated about corruption activities of officials in the category of public officials of **Government of Kosovo** (Ministries and agencies which operate withing respective ministries), in the reporting period 44 cases are identified. **Local level** (municipalities of Republic of Kosovo) respectively officers in the local level suspected for corruption were 28 in the reporting period. In the **Prosecutions of Republic of Kosovo** there are 3 cases against prosecutors as suspected for corruption.³²

³⁰ Nr. 03/L-151, 11 February, 2010, Dekreti n0. DL-008-2010, Date 02.03.2010

³¹ For further details see: <http://www.akc-ks.org/?cid=1.4.287>

³² ACA: Annual report 2010, p.8

Kosovo Customs

Kosovo Customs during five months has announced 19 disciplinary measures, three in January, eight in February, five in April, and three in May. Seven cases are written/verbal warnings, five cases cancelation of promotion, two cases transfer into another assignement, two cases recommendation for training, one case downgrade, one case annulment of performing, and one case and another case refund of damaged property of customs. Meanwhile Professional Standards Department has initiated 17 cases: 4 cases in January, 5 cases in February, 4 cases in March, 4 cases in April and 1 case in May. There were more cases in February, while in May there were fewer cases.

Professional Standard Department has announced three cases for non - professional behavior while on duty, 1 case for non-declaration of wealth, 4 cases for lost/damage of custom's property, and 1 case for absence on duty. As the chart below shows the larger number is of that neglect on duty.

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About Movement FOL

Movement FOL is engaged to empower the civic impact on decision - making process, responsible and efficient governance. FOL is deeply devoted to work on improvement and attainment of a better civic 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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