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CORRUPTION MONITOR

Monitoring Report of Activities of Public Institutions in the Fight against
Corruption in Kosovo

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CORRUPTION MONITOR

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Contents

| | |
|--|----|
| Summary..... | 3 |
| Kosovo Judicial Council (KJC)..... | 5 |
| State Prosecution..... | 6 |
| Office of Disciplinary Council (ODC)..... | 7 |
| Audit Unit of Kosovo Judicial Council (AUKJC)..... | 8 |
| Kosovo Anti-Corruption Agency..... | 9 |
| Kosovo Customs..... | 9 |
| Kosovo Police..... | 9 |
| Acknowledgments..... | 10 |
| About SPEAK UP Movement..... | 10 |

CORRUPTION MONITOR

Activities of Public Institutions in the Fight against Corruption in Kosovo

SUMMARY

1. A small dedication in fighting the phenomenon of corruption by the state institutions has been noticed in April. However, April will be remembered for the raid of the Ministry of Transport and Telecommunication from the EU mission for the rule of law, EULEX. The latter has started to undertake apparent and concrete measures in fighting organized crime and corruption also in high political levels.
2. In the courts of Kosovo there have been reported 143 unsolved cases of corruption which have to do with misusing the official position and bribery. During March, there have been received four new cases and eight cases have been resolved; whereas, at the end of this month a total of 143 corruption cases have remained unsolved.
3. For April, what can be highlighted is the lack of prosecutors in fighting corruption cases of high political profile. The raid for suspicion of misuse of the budget and corruption in the Ministry of Transport and Post Telecommunication, that has been done to the private properties of the minister Fatmir Limaj and the head of procurement of this ministry Nexhat Krasniqi, the Kosovar prosecutors have not even had an idea of what was going on, let alone getting involved in these actions.
4. The initiative of the Head Prosecutor Kabashi during March, for the meeting of the college of prosecutors in the beginning of each month to report for the activities and concrete results in fighting corruption has failed in April.
5. According to official data of the State Prosecution, also in April, work has not been done on any case of corruptive profile. There are in total nine cases of high political profile, on which the prosecution of the municipality of Prishtina has slept on. Moreover, this situation is not expected to improve since there will not be a new structure of the re-selected prosecutors in this prosecution, who would be in a much greater number and would add to the capacity to handle the great number of cases, including the corruptive ones.
6. In the mandate of ODC is included the investigation of the complaints against judges, lay judges and prosecutors. These complaints are presented with recommendations in issuing disciplinary measures from Kosovo Judicial Council (KJC). During April, this institution, has received a total of 30 complaints.
7. Kosovo Anti-Corruption Agency has not conducted any special activity during April. In the same manner that has been highlighted in the information about the State Prosecution, for this important and necessary institution, the memorandum for infra-institutional collaboration still has not been finalized with a signature.

CORRUPTION MONITOR

Activities of Public Institutions in the Fight against Corruption in Kosovo

8. The officials of the Kosovo Police (KP) also during April have not expressed their willingness to create collaboration and become informed with the attempts made by the responsible mechanisms in the fight against corruption. SPEAK UP movement, although it has addressed since January 2010 some official requests for access and collaboration in the Office for Public Relations in the Kosovo Police still has not received a response, be this a negative one.

CORRUPTION MONITOR

Activities of Public Institutions in the Fight against Corruption in Kosovo

Kosovo Judicial Council

Kosovo Judicial Council, as a part of the judicial system, has not taken any specific activity in striving to fight corruption during the month of April. This institution, which now functions with a new composition of the members of the council in the recent months, in its policies, has not undertaken any activity or specific decision regarding fighting the corruption in the country. KJC, which manages the courts, works in inappropriate working conditions which make impossible the timely and electronic collection of data.

In the same manner, this month, SPEAK UP has insisted on this information, for each trial that has been held in the courts of Kosovo which are related to penal acts that are connected to corruption. But all that can be offered in these conditions from the officials of the Statistics Office in this institution, are the data related to the work of courts in the trial of only three kinds of corruptive penal acts: bribery, as well as misusing of the official duty. This data has been assured only for March 2010.

According to these data, it results that in March there have been received four new cases, have been resolved eight, whereas at the end of this month have remained unsolved in total 143 corruptive cases. But since there doesn't exist an appropriate manner for securing the data for the trial of these cases, as a result it's impossible to make a real presentation of the work or inactivity of the courts. The reason for this continues to be the fact that the data from the courts of Kosovo are still ensured manually, and their collection is not conducted every month.

| Article | Depiction of the acts | Pending cases at the beginning of the reporting period | Subjects received at work | Total cases at work | Resolved cases during the reporting period | Pending cases at the end of the reporting period |
|-----------------|--|--|---------------------------|---------------------|--|--|
| 339 | Abusing official position or authority | 116 | 0 | 116 | 6 | 110 |
| 343 | Accepting bribes | 18 | 4 | 22 | 0 | 22 |
| 344 | Giving bribes | 13 | 0 | 13 | 2 | 11 |
| In Total | | 147 | 4 | 151 | 8 | 143 |

State Prosecution

What can be highlighted about April is the lack of prosecutors in the country fighting corruptive cases of high political profile. In the case of the raid due to suspicion of budget misuse and corruption, in the Ministry of Transport and Telecommunications, more specifically the raid that has been done also to the private property of the minister Fatmir Limaj and the Head of Procurement Office of this ministry Nexhat Krasniqi, the Kosovar prosecutors have not had any idea of what was going on, let alone be involved in these actions. Attempts to fight corruption during April have been made exclusively from the EULEX prosecution which has not collaborated at all with the State Prosecution of the Republic of Kosovo. Additionally, the Kosovar prosecutors have not marked any special activity during this month.

Moreover, the warnings for the solution of the inter-institutional problems the Prosecutor of the State and the Kosovo Anti-Corruption Agency have not resulted yet in the signing of a memorandum of cooperation. The latter according to the Head Prosecutor, Ismet Kabashi, during April has been finalized and the memorandum has been written, and during May is expected the signing from the two leaders of the two institutions: The state prosecutor and of Kosovo Anti-Corruption Agency.

The initiative of the head prosecutor Kabashi during March, for the meeting of the college of prosecutors in the beginning of each month to report on the activities and concrete results of prosecutors in the fight against corruption, has failed in April.¹ The reason for this is that situation that has been created in the judicial of Kosovo, where the present judges and prosecutors still do not know of their destiny- if they will be re-selected for nomination, or will be excluded by the judicial. And in this situation, the irresponsibility of the judicial workers, more specifically the prosecutors in their work, is very high.

An important segment, which concrete activities have continued to create conditions to fight corruption effectively, is the investment in the Special Prosecution in Kosovo, in the anti-corruption sector. In this department it's now being worked in recruiting staff of specialized investigative police, there have been accepted in a small number, whereas the competition has been opened for the recruitment of 25 investigative police, who will deal specifically with corruptive cases. So, this investment will result in the creation of an efficient prosecution that will treat corruptive cases solely, a practice which is used also in other countries with a high presence of corruption.

During March, SPEAK UP has reported the number of corruption cases that have been made public for the first time by the State Prosecution, which have been accepted by the Public Prosecutions from the Kosovar Agency of Anti-Corruption. This agency, since 2007 had sent to the prosecutions in Kosovo around 150 corruptive cases, in which are suspected to be involved different officials that serve in public functions. Since that time, the reports of KAA and the State Prosecution had never been good, since the officials of both institutions had exchanged accusations for lack of work and professionalism.

¹ The Head Prosecutors of the State, Ismet Kabashi, in a talk for SPEAK UP movement, made known that, in general, the present situation in the judicial of Kosovo has made the responsibility of judges and prosecutors not to be in the appropriate level. According to him, this is because of the re-nomination phase, which is being prolonged and as a result has caused a sense of despair to the judges and prosecutors who don't know of their destiny; if they will be re-selected or if these are their last days as workers of the judicial. Head Prosecutor Kabashi has said that until the re-selection of the head prosecutors of the municipality level has been done, he will not hold the meetings on a monthly basis since they are not giving any effect due to the created situation.

CORRUPTION MONITOR

Activities of Public Institutions in the Fight against Corruption in Kosovo

The Agency had not received answers by the State Prosecution on a large number of cases. SPEAK UP has reported in March that the prosecutions had not undertaken any action in some corruptive cases of high political profile. According to official information from the State Prosecution, neither in April these cases have been worked on. There are in total nine cases of high political profile, which the Prosecution of the Municipality of Prishtina has slept on. Osman Kryeziu, said the reason is the lack in the staff of prosecutors and the inappropriate working conditions in this prosecution.² Moreover, this situation is not expected to improve since there will not be a new re-selected structure of prosecutors in this prosecution, who would be in a much greater number and would add to the capacity to handle the great number of cases at work, including corruptive ones. But not only that in the Prosecution of the municipality of Prishtina, but also in other prosecutions, for which SPEAK UP has reported in the previous month, according to the Head Prosecutor of the state, Ismet Kabashi, there has not been worked upon, because of the insufficient number of prosecutors.

Office of Disciplinary Council (ODC)

The mandate of ODC includes the investigation of the complaints against judges, lay judges and prosecutors and they are presented with recommendations for the issuance of disciplinary measures from Kosovo Judicial Council. ODC, based on legal competencies deals with the investigation of improper behavior which are defined as ethical violation, penal acts, and the corruptive ones. During April, this institution, has accepted in total 30 complaints.³

According to the ODC coordinator, Kadri Begolli, during April, the Disciplinary Council has not set any hearing session regarding the disciplinary case, for which ODC has submitted the files with the violations of judges and prosecutors. Also, this institution has not received any written verdict from the Disciplinary Council for the processing of any case during this month. So, KJC has not been efficient in resolving the cases of misuse that the officials of ODC have presented.

The latter, have closed four of the cases they have had since they haven't been able to find elements of misuse by the officials of the judicial. This institution has 17 cases under investigation, for which evidence is being collected to prove the alleged violations of judges and prosecutors. For 13 cases, ODC has refused to conduct investigations, because the presented complaints don't have necessary arguments. The officials of this institution continually react to the negligence of KJC in processing cases that they are presented by the Disciplinary Council for KJC to resolve.⁴

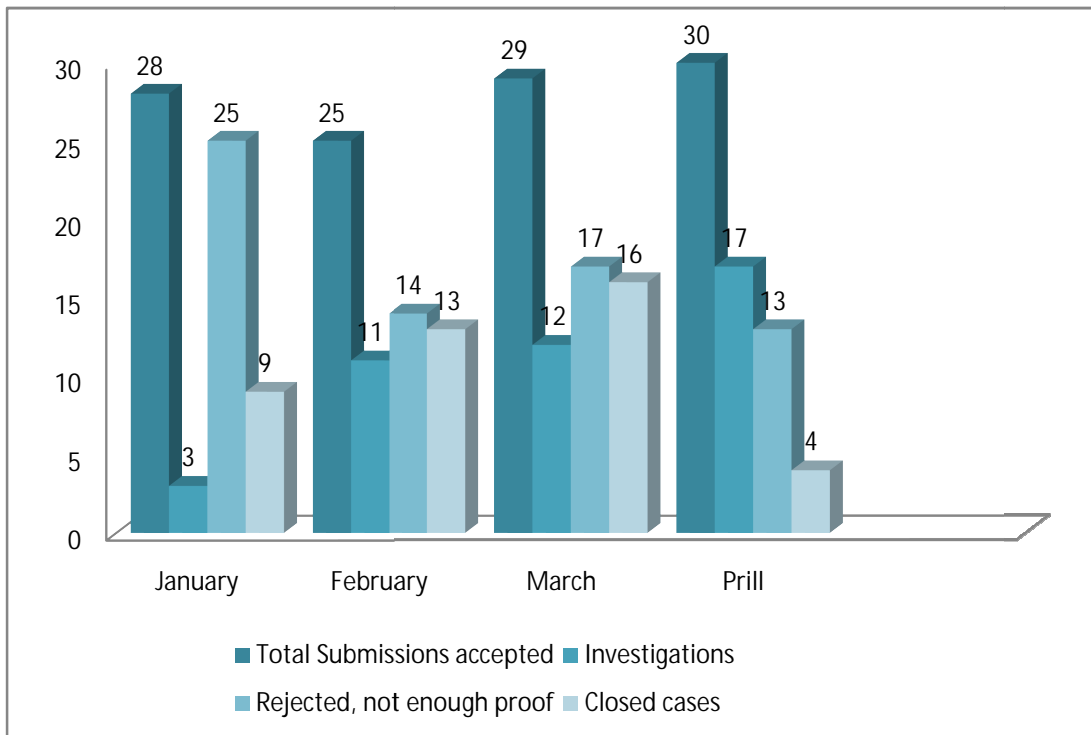
² In a meeting that SPEAK UP has conducted with the Head Prosecutors of the Municipality of Prishtina, Osman Kryeziu, he said that this prosecution has some months that has collapsed because of the lack of prosecutors. "There are only three prosecutors with whom I have to cover half of Kosovo. We are collapsing, because with this number of prosecutors it's impossible to cover the work of all the cases. We are only working with urgent cases, or pre-imprisonment cases. According to Kryeziu, the cases received by the Kosovo Anti-Corruption Agency no activity has been undertaken. The prosecutors have not slept on the corruptive files, but the lack of work on these cases is the result of lack of prosecutors.

³ Based on legal competences, ODC deals with the investigation of cases of improper behavior that are defined as: completing illegal acts, ignoring the judicial/prosecutor function, actions that are not in accordance with the duty of a judge to be independent and unbiased. Whatever

⁴ Mr. Kadri Begolli, the ODC coordinator, said that similarly to KJC, even ODC was un-functional for a significant time period. Due to this backlogs over thousands of cases remained untouched by specific responsible commissions. Additionally, a series of cases were decided to be thrown at garbage can with an argument of being already aged. This was decision was heavily criticized by ODC which warned that in case it happens they will suit KJC.

CORRUPTION MONITOR

Activities of Public Institutions in the Fight against Corruption in Kosovo



Audit Unit of Kosovo Judicial Council (AUKJC)

AUKJC which analyses and assesses the functioning of general and specific activities of the courts and prosecutions has continued its routine audit during the month of April. This mechanism has made apparent the main setbacks in the functioning of the judicial, information which will be made public in the months to come. In this framework, AUKJC has elaborated concrete problems of the lack of implementation of the legal acts, which in one form or another are related with illegal and corruptive activities.

Kosovo Anti-Corruption Agency

During April, the officials of the Anti-Corruption Agency have conducted the usual activities, by being an open door for the declaration by the citizens of corruptive activities. As it was highlighted on the report on the State Prosecution, the memorandum for inter-institutional cooperation has not been finalized with this important and necessary institution. This memorandum is expected to be signed during May. Mentor Borovci, Head of Investigations at KAA said that through this memorandum is expected to strengthening the cooperation between these two state mechanisms for fighting corruption.

During April, KAA, has worked on the selection and scanning of all the forms; a process which is expected to end before June 1st. After this date, the data is expected to be made public on the website of KAA. According to Borovci, all the names of those who have not declared their property will be made known and sanctioning procedures provisioned in the Law on Property Declaration will be taken. The officials of this agency have notified that after the provisioned deadline, the officials have continued to declare their property and all these forms are being scanned. The representatives of KAA have not wanted to declare officially the developments and the contribution that this institution has been able to give in the investigations for misuse and corruption in the MTT.

Kosovo Customs

Based on the official anti-corruption data of April of this year, Kosovo Customs has issued 18 disciplinary measures for its employees, who are “guards” in the work place, where illegal and corruptive activities are frequent. For violation of working regulations, the Kosovo Customs has issued in April 4 written warnings, 4 oral ones, 2 demotions, 4 prohibitions for promotion for a defined time period, performance annulment and 2 obligatory trainings. According to the officials of the Kosovo Customs, these measures have been issued for unprofessional behavior, negligence and lack of declaration of property.

Kosovo Police

During April, the officials of Kosovo Police have not expressed their willingness in creating cooperation to identify and become informed with the attempts made by the mechanisms responsible in the fight against corruption. Since January 2010, SPEAK UP movement has addressed several official requests for access and collaboration to the Office of Public Relations in Kosovo Police and has not received a response yet, be that a negative one. SPEAK UP movement through this project aims to make apparent the work and the inactivity of the institutions which are obliged to fight corruption in order for these issues to be brought up to the right level of responsibility with the sole purpose of being efficient in the fight against corruption. SPEAK UP remains with the hope that the Kosovo Police will also offer its cooperation to identify the real fight which it conducts daily in the fight against the phenomenon of corruption.

CORRUPTION MONITOR

Activities of Public Institutions in the Fight against Corruption in Kosovo

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About SPEAK UP Movement

SPEAK UP is engaged in strengthening the impact of citizens in decision making for responsible and efficient governance. SPEAK UP works to improve and bring to a better level the representation of citizens and their interests in decision making institutions. SPEAK UP works for a better governance based on democratic principles, for responsible, transparent and accountable institutions and for implementation and compilation of the law based on participation.

The expenditure of public funds, interests' conflict, negligence and institutional responsibility as well as access to official information make the main interests of the work of SPEAK UP. In fulfilling these objectives, SPEAK UP aims to fight the apathy and indifference of citizens toward decision making, as well as make more active and heard the voice of the citizens- make them an active part of the community interest and always willing to oppose abuse, misuse, corruption and other kinds of deformed governance.