



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

The Corruption Monitor

Monitoring Report on Institutional Activities in the Fight Against
Corruption
September-October 2011



British Embassy
Pristina

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List of Acronyms/Abbreviations

AAK - Alliance for the Future of Kosova

ACA - Anti - Corruption Agency

ECCID - Economical Crimes and Corruption Investigations Department

KC - Kosovo Customs

EULEX- European Union Rule of Law Mission in Kosovo

KJC - Kosovo Judicial Council

LDK - Kosovo Democratic League

PDK - Democratic Party of Kosova

KP - Kosovo Police

VV - Lëvizja Vetëvendosje! (Self Determination Movement)

Executive Summary

Government of Kosovo during the two months (September-October) has approved a total of 61 (sixty one) verdicts, 25 have been approved in September, 36 in October. In September, only 1 out of 25 verdicts is associated with the sector against corruption, while October was slightly better than the previous month, with the approval of two verdicts regarding areas against corruption.

Assembly of Kosovo during September-October 2011 has held 3 plenary sessions, one of them was held during September and two others in October. In these three plenary sessions during these two months, only in the September's session has been discussed about corruption, respectively, during the September's session the director of the Anti Corruption Agency has been elected.

Kosovo Judicial Council (KJC) - Based on the statistics of this institution for the months of August and September we see that in the context of "abuse of authority" 14 cases have been filed, no cases were on the process, and only 9 cases have been solved. In the context of "receiving bribes" 2 cases have been filed and only 1 case was solved at the end of the reporting period. Whereas in the context of "giving bribes" only one case has been filed and another case has been solved at the end of the reporting period.

According to statistics from the Economical Crimes and Corruption Investigations Department (ECCID) we find out that in the months September-October 44 cases have been sent to the Prosecutor: 16 cases in September and 28 other cases in October. Thanks to investigations of the Kosovo Police 13 officials have been arrested: 4 in September and 9 in October. And the value of alleged damages calculated is € 679,285.00: € 398,170.00 in September and € 281,115.00 in October.

Kosovo Customs over the past two months have announced a total of 11 disciplinary actions. 2 of them have been in September and nine others in October. Within these disciplinary actions 9 cases are written warning, one case is ban of promotion and one is verbal warning.

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 Kosovan 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 Ko-

sovo 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.

¹ Kosovo Provisional 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 theses is a result of empiric observations, because the high level of corruption seriously impairs the internal and international legitimate 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

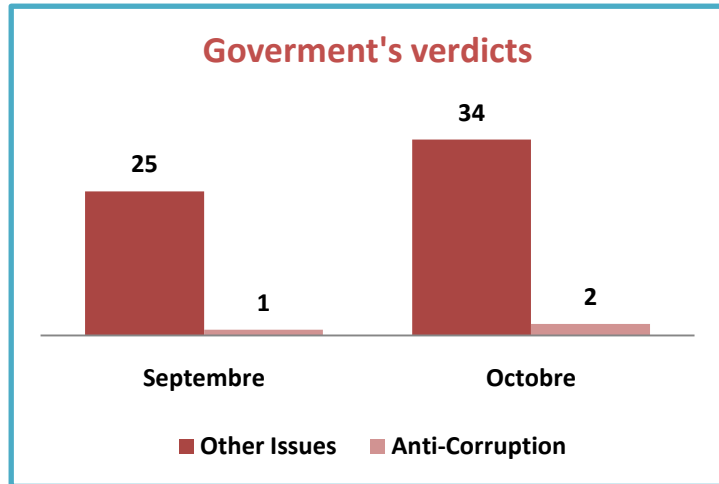
⁷ Florian HAHN, published in Koha Ditore: German Parliamentarians accuses Kosovo Government for crime and corruption, 11 June 2010, p.4

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

Government of Kosovo

Government of Kosovo during the two months (September-October) has approved a total of 61 (sixty one) verdicts, 25 have been approved in September, 36 in October. In September, only 1 out of 25 verdicts is associated with the sector against corruption, while October was slightly better than the previous month, with the approval of two verdicts regarding areas against corruption. In September, 28 September 2011 respectively, the Kosovo Government took a decision to assign Mr. Rahim Rama as Chief Executive of the Agency for the management of seized property⁹. Law on the Agency for the administration of seized property became applicable on January 1, 2010¹⁰. The Agency is a body, which operates under the Ministry of Justice and headed by the Chief. Even though it's been almost two years since the approval of this law, there is no progress / serious action in its implementation. In addition, the primary problem for implementation of the law is the lack of a fundamental law that would oblige the authorities to confiscate the property acquired illegally, making it an integral part of the investigation, prosecution and punishment of corruption and organized crime. Thus, the state instead of approving the legal basis to codify and sanction actions that enable the acquisition of property unlawfully, a practice that is followed by almost all other countries, they have approved a secondary law on

administration of the seized property¹¹. Kosovo has not yet approved the frame legislation to confiscate the property, even though the Prime Minister Hashim Thaci has claimed to have initiated such a thing from mid-2010. Perhaps the election of the new chief will accelerate some things for better.



In the Government's meeting held on October 10, 2011 was made a decision to approve the draft penal code of Republic of Kosovo¹², a code which is designed and sponsored by the Ministry of Justice in cooperation with representatives of local and international institutions. The approval of this draft code represents one of the direct engagements of the Ministry of Justice, to amend the legal infrastructure in the field of criminal justice and the elimination of gaps and insufficiencies in this field¹³. Even though the Government of Kosovo has approved this project - code, Draft Criminal Code of Kosovo is still not in **compliance** with the recommendations given by Civil Society, which has required that under this Code,

⁹ Government of Kosovo, verdict no 03/39 (28.09.2011)

¹⁰ Kosovo Assembly, Law No. 03/ L-141 (10.07.2009)

¹¹ Movement FOL, report "Analyses on legal frame against property acquired illegally. April 2011

¹² Government of Kosovo, verdict no .01/41 (10.10.2011)

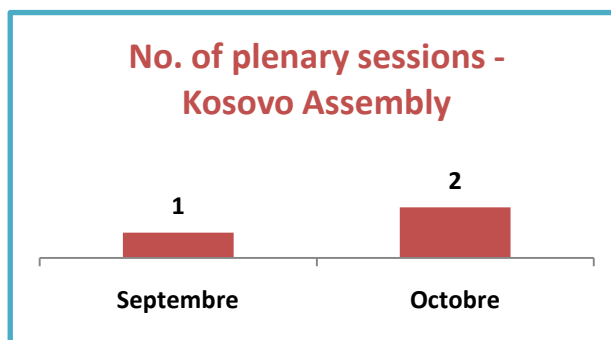
¹³ Ministry of Justice, <http://www.md-ks.org/?page=1,8,464>

the law for false declaration of the property be considered a criminal offense, but even this time the requests and recommendations of civil society have been ignored. The recent verdict of the Government of Kosovo regarding the fight against corruption for the period September-October 2011 is the verdict to amend the Legislative Strategy of the year 2011 of the Government of Kosovo¹⁴. Legislative Strategy for 2011 was approved with the verdict no. 02/05, date March 16, 2011, then was met amended with verdicts no 03/16, no. 07/32 and finally with the verdict no. 09/43 date 19 October 2011¹⁵. With the recent verdict of the Government, it was decided that the draft-law on seizure of the property be part of the Legislative Strategy 2011, and with this verdict will hopefully the legislative package against corruption be completed, which will significantly reduce legal gaps that exist in existing laws to prevent and combat corruption¹⁶.

Assembly of Kosovo

Assembly of Kosovo during September-October 2011 has held 3 plenary sessions, one of them was held in September and two others in October. In these three plenary sessions during these two months, only in the September's session has been discussed about corruption, respectively, during the September's session the director of the Anti Corruption Agency has been elected. At the Assembly meeting of September 22, 2011, was considered the recommendation of the

Legislation Committee 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, who according to his opinion both of them meet all the formal-legal criteria required by the Law of the Agency against Corruption¹⁷. The interviewed candidates for this position were Hasan Preteni and Bashkim Zeqiri, who came to vote for the position of Director of the Anti-Corruption Agency. That day 94 parliamentarians were present in the Assembly, 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 the Anti Corruption Agency for next 5 years¹⁸. Responsibilities of the Director of the Agency according to the Law of the Anti-Corruption Agency are: to manage and organize the work of the Agency, to supervise the work of employees of the Agency, to represents the agency within the country and abroad, manages the budget of the Agency, signs cooperation agreements with local and international institutions, etc.



¹⁴ Government of Kosovo, verdict no. 09/43 (19.10.2011)

¹⁵ http://www.kryeministri-ks.net/repository/docs/Strategjia_Legjislative_2011-finale-e_plotesar_me_19_10_2011.pdf

¹⁶ Movement FOL, Corruption Monitor, March - April 2011, p 5

¹⁷ Law on Anti-Corruption Agency, article 8, paragraph 3 (http://akk-ks.org/repository/docs/Ligji_per_Agjencine_kunder_Korrupsionit_nr_03_L_159.pdf)

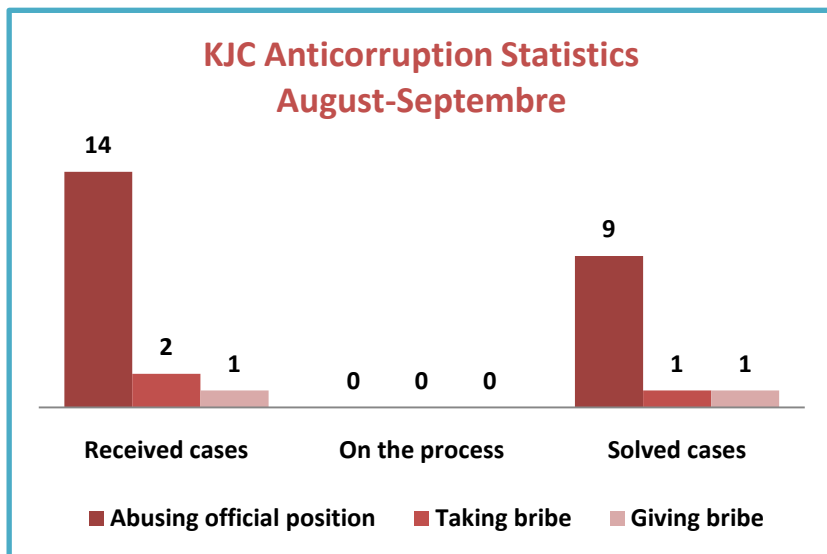
¹⁸ Law on Anti - Corruption Agency, article 8, paragraph 6 (the director is elected for a 5 years mandate and can be reelected for another mandate)

Judicial system

One of the most important powers of any political system is judicial power. If this power is neutral and independent, then a priori ensures and limits any possibilities of public money misuse or abuse of authority. One of the reasons why corruption and organized crime is widespread in institutions is that the judicial system itself is sunk in corruption and trapped with pressures and political interferences. Such a conclusion is confirmed also in the last report of EULEX, which stresses that judicial system in Kosovo still shows signs of weaknesses. Furthermore it reads that there were identified interferences in different levels and different assortments¹⁹. Judiciary of Kosovo continues to be the institution that citizens are the least satisfied with. Early Warning Report also has recorded a descent of 10% which shows the lowest level ever recorded²⁰. Therefore, as democracies by no means can function without a judicial system, because it guarantees and controls other powers, Kosovo should act quickly and seriously to reform deeply the judicial system.

Kosovo Judicial Council - It is consisted of 13 members and ensures that courts in Kosovo are independent, professional and

impartial²¹. Grounded on the statistics of this institution we find out that in August and September, in the category “abuse of authority” 14 cases have been filed in the beginning of the reporting period, and only 9 have been solved. In the context of “receiving bribes” 2 cases have been filed and only 1 case was solved at the end of the reporting period. Whereas in the context of “giving bribes” only one case has been filed and another case has been solved at the end of the reporting period.



¹⁹ Program Report 2010: Building a Stable Joint Change, EULEX, June 2010, p 9

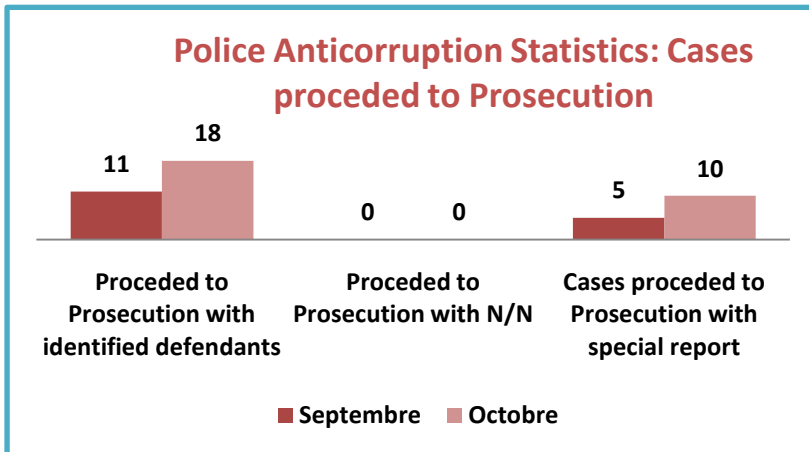
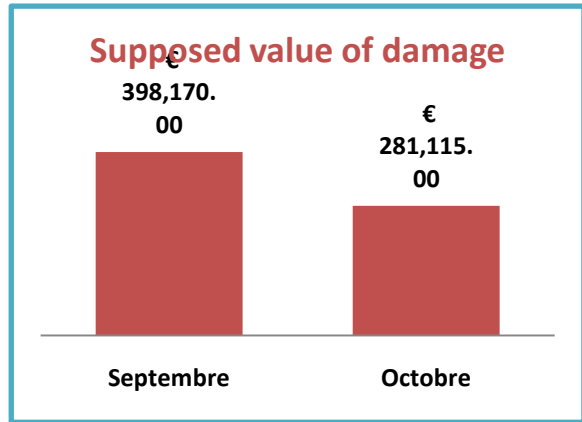
²⁰ Early Warning Report, UNDP Kosovo, 27 March 2010, p2

²¹ Constitution of Republic of Kosovo: article 108, Kosovo Judicial Council, June 15, 2008, p.42

Kosovo Police

398,170.00 in September and € 281,115.00 in October.

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.²² According to statistics from the Economical Crimes and Corruption Investigations Department (ECCID) we find out that in the months September-October 44 cases have been sent to the Prosecutor: 16 cases in September and 28 other cases in October.



Kosovo Customs

Kosovo Customs over the past two months have announced a total of 11 disciplinary actions. 2 of them have been in September and nine others in October. Within these disciplinary actions 9 cases are written warning, one case is ban of promotion and one is verbal

Among these cases, 29 cases have been sent to prosecution with identified suspects, whereas no case with N/N suspects. While case sent with prosecutors report, altogether are 15 cases: 5 cases sent in September and 10 other cases sent in October. Thanks to investigations of the Kosovo Police 13 officials have been arrested: 4 in September and 9 in October. And the value of alleged damages calculated is € 679,285.00: €

warning.

These actions were taken because of not showing on duty, non-professional behaviour and violation of the procedures by Kosovo Custom’s officials, while during September and October no cases were initiated by the Department of Professional Standards.

²² Program Report 2010: Joint Building of a Sustainable Change, EULEX, June 2010, p. 13-23

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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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