



The Monthly Monitoring Report on Institutional Activities in the Fight against Corruption

First Report | February 2010

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The opinions expressed in this document are those of the author and do not necessarily reflect the views of the American Agency for International Development (USAID)

About FOL movement

Page | 2

FOL is engaged for empowering the influence of the citizens for decision-making, accountable and effective governance. FOL works to improve and achieve a better level of representation of citizens and their interests in decision-making institutions. FOL is working for good governance based on democratic principles, for responsible institutions, transparent and accountable as well as for drafting and implementation of laws with citizen's participation.

The main work of FOL is to monitor the spending of public funds, conflict of interest, negligence and institutional responsibility and access to official information. In order to fulfill these goals, FOL aims to fight apathy and civic indifference in decision making process and make the voice of the citizens more active and more obedient, make it an active part of community's interest and always willing to oppose the abuse, misuse, corruption and other forms of government's distortion. FOL through research, mobilization and networking, will implement activities that will increase public pressure on decision-making processes, political, economic and social issues to push forward with other alternatives and better opportunities for solving the problems of the citizens.

FOL means a call for critics and constructive opposition against dysfunctional policies, abuse of power and political power. FOL requires from citizens of already an independent state to react to protect the state by themselves for which they have sacrificed and worked.

FOL provides and supports individuals and organizations working to advance efforts to develop and build open and democratic society. We will deliver and support non-violent and constructive actions to oppose actions that degrade and threaten the individual rights, groups, ethnicities and communities regardless of their religion and national background.

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Page | 3

About the project:

Corruption and its wide dispersal in decision-making institutions and in society in general present's a serious obstacle for the development and the country's integration into the European Union. This phenomenon is damaging the essential services for citizens and is increasing in continuity their level of distrust for the local institutions.

The Progress Report of 2009 made by the European Commission considers corruption as a serious issue with Kosovo authorities criticized for not engaging enough in the fight against this phenomenon. According to this document, Kosovar institutions lack strategy for combating organized crime and corruption, on the other hand judicial system also has major deficiency. Moreover, there is no functional structure that would include the main institutions to coordinate and work in harmony. Lack of communication makes it even harder for these institutions to coordinate.

The project "The Monitoring of the Activities against Corruption" is supported by the Institute for Sustainable Communities (ISC) and the USAID. The main purpose of this report is monitoring the responses of various institutions in the fight against corruption. In the context of this report is respectively included the monthly monitoring of activities against corruption of the Assembly of Kosovo, the Kosovo Government, Institutions for the rule of law and the Anti-Corruption Agency. This project also seeks greater public support for these activities and strengthening of relations between institutions in combating this phenomenon.

Summary of responses will be included in the monthly report published by the FOL Movement. The project also includes media conferences, round table meetings and creation of the website with the latest developments. The project began since January 2010 and will last until the end of December, 2010.

Executive summary

During the February monitoring we noticed a small commitment of members of the Assembly of the Republic of Kosovo to discuss corruption issues. In various parliamentary committees specific cases of corruption have not been mentioned. During February the Assembly of Kosovo has adopted the Law for Declaring, the origin and Property Control and of Gifts to Public Senior. In early March the Law was promulgated by the Decree of the President of the Republic of Kosovo. On the other hand the Government of Kosovo, although its priority is the rule of law, fight against corruption and organized crime, its activities in that direction have not been noticed. At the very end of the month the government of Kosovo has decided to establish a task force which would help the fight against corruption and organized crime.

The Anti-Corruption Agency as an independent institution for receiving of various information about corruption in local and central levels during February, have not warned about the cases they are investigating. They have promised to publish the annual report of 2009, but not for cases received during the first two months of this year. On the other hand the judiciary showed to be less attentive towards government's priority. It may be that something was done in the fight against corruption; it may be that someone was convicted for it, but cases that FOL has encountered were only seen in the media and not by statistics of courts or prosecutors'.

The Kosovo Judicial Council (KJC) manages the courts and as such is liable to have the statistics of

proceeded cases or those that have been resolved in court. In February KJC has published the statistical report only for the year 2009 on the work of the regular courts. This institution is not in possession of any statistics for the first two months of 2010.

The Ministry of Justice as an institution that deals with the prosecution and their administration has no monthly data for the work of prosecutors throughout Kosovo. In the context of their work the media with different themes they have researched, they published several cases of suspected abuse even millions of Euros. Although the media work was seen, institutional work was not noted for further elaboration of these cases, whether launching investigations or something similar. Kosovo Customs is the only institution from which FOL has achieved to ensure monthly data on anti-corruption cases.

Recommendations

In addition to creating new institutions to fight corruption, local and International institutions should focus on building a strong legal infrastructure. Kosovo does not yet have laws that sanction corruption or make the penalty very affordable.

Court should give an answer for not sending to trial the corruption cases and should create court mechanisms, who must report on a monthly basis for their investigations.

Prosecutors must ensure that cases of abuse received should start with investigations within the time foreseen with the law.

The Judicial and Prosecutorial Council of Kosovo and the Ministry of Justice should provide statistics on the cases that they proceed to court respectively to prosecutor and classify them not as a whole, but separated depending on the penal acts and category.

The work of the Assembly against Corruption

The latest news regarding the anti-corruption legal infrastructures are: Adoption and entry into force of the Law on Anti-Corruption Agency; adoption and entry into force of the law to amend the Law on Prevention of Conflict of Interest in Public Function exercise; beginning of the process of amendment of the Criminal Code of Kosovo, the beginning of the implementation of the Strategy and Action Plan against Corruption. During the month of February, the Kosovo Assembly deputies have approved only the Declaration Law, Property Control and origin of the senior public officials. In early March the Law was promulgated by Decree of the President of the Republic of Kosovo. Such law was not empowered with all the pressures coming from the Anti-corruption chief, Hasan Preteni, such a law should enter into force before March, because 31 March is set as the deadline when senior officials of Kosovo institutions are obliged to declare the property that is on their name.

The law on declaration of wealth and lineage for high public officials regulates their public control property, income and other material benefits, financial liabilities by public officials, their families and persons connected with them, including here the sanctions set forth in this law.¹ While the approval of the law on financing political parties, is considered as a next immediate need that would prevent the funding of political entities by criminal suspicious sources. So, finally, after the delay and its circulation office to office during February this law that comes within the frame of laws to fight corruption has gained attention.

The Kosovo Assembly, respectively the Budget and Finance Committee of the Assembly has held a public hearing which was aimed at determining the scope of financing of political parties. Public

¹ <http://evropaelire.org/content/article/1964179.htm>

Hearing was led by the chairman of this committee, Gani Koci where it was said that its intention was to make as better law as possible. But it is still not known when this law will be finalized.² Despite the invitation, the absence of representatives of major political parties was felt significantly. Other committees during their meetings have discussed about various issues. After the meeting several representatives of these committees have accused some political representatives that had been invited, but did not participate in the committee meeting. For example, Minister of Post and Telecommunications, Fatmir Limaj did not respond to the invitation of the Committee on Economics, Trade, Industry, Energy, Transport and Telecommunications of the Assembly. Limaj was invited by the committee to notify members about the current situation regarding the project for the highway, Morin-Merdare.³

On the other hand the civil society, among them the FOL movement in one of their weekly statements as part of the project Truth Meter, has considered all the negotiations and the entire process of the highway project, Morine-Merdare as not transparent. The Minister of Internal Affairs respectively MIA officials did not respond to the invitation sent by the Committee on Security and Internal Affairs. Officials of the Ministry of Internal Affairs had been invited with the aim of providing explanations about the means marked for Kosovo police officers after the strike of Kosovo Police Specialized Units. After the meeting members of the opposition of this committee stated that the MIA, respectively the government of Kosovo with the division of these funds has violated the Law on Budget, the law according to which the executive of the country has adopted on its own.⁴

Government's work against Anti-Corruption

During the month of February, the Government in cooperation with EULEX has established the "Task Force" against corruption and organized crime. In the regular meeting the 110 in a row, the Government of the Republic of Kosovo has approved the decision to support the strengthening of the Special Prosecutor of the Republic of Kosovo. A strengthening of such special prosecutors was also mentioned in the fifteenth meeting of the Coordinative Board for the rule of law in which meeting participated also the heads of the government and EULEX. Another institution for combating corruption will be added respectively to the Anti-corruption, inter-ministerial Commission for combating corruption, to the Special Prosecutor, to the Office of the Auditor General, and to the Center for International intelligence. The decision to establish this Task Force was taken in late February, though such a thing, officially or unofficially was mentioned throughout the month.

According to government's decision this Task Force will work within Kosovo's Special Prosecutor. This prosecutor is led by an international while its deputy is a local individual elected at the first phase of the process of reappointment. The Task Force foresees to have eight prosecutors among them five local prosecutors of the special prosecutor and three internationals. The establishment of this Task Force not only it has received the support of the locals it was welcomed also by international institutions. International institutions including, EULEX, the International Civilian Office, etc, have expressed their readiness to support the fight of the government of Kosovo. However, it remains to be seen how functional these prosecutors will be and how much the politics will not have an impact on them having in mind the fact that this Task Force was established by the Prime Minister of the Republic of Kosovo, Hashim Thaçi. In fact, the general impression is that the government's decision to form a Task Force on Special Prosecutor against corruption and organized crime may be the violation and interference in the affairs of the body of the prosecution. So far practice has proven that these Task Forces were established more for public relation purposes. The latest case of theft of proofs and drugs at the Police and the creation of the Task Force led by Sheremet Ahmeti himself has not given any result. In addition, locals have no competences in the

² From the public hearings monitored by the FOL activists

³ <http://assembly-kosova.org/?cid=1,128,2860>

⁴ From the meetings of the Commission monitored by FOL

Special Prosecutor's Office, because this prosecutor is led by the EULEX and it works under directives of this mission. On the other hand, civil society considers that the establishment of new institutions on one hand means additional burden for the Kosovo budget and increase the confusion about who is responsible for fighting corruption. Also, they claim that the creation of new institutions shows only one way to hide the lack of action and the will to make physical changes in the war.

The Anti-Corruption Agency

In February the Anti Corruption Agency has signed a memorandum of cooperation with customs. The website of this agency, writes that the purpose of this cooperation is that parties to provide each other information about issues that are of mutual interest in the field of prevention, investigation and prevention of corruptive phenomena and criminal acts; will exchange information and fully cooperate in implementing the Anti-Corruption Law. Also in terms of statistics and cases that have been processed, this institution did not mention the cases that being investigated or the number of information received during the first months of 2010. They are committed for publishing an annual report in 2009, but not for cases received during the first two months of this year. In an interview given for the show "Life in Kosovo", the director of this agency has confirmed that since the establishment of this agency from all cases that this institution has reported no trial was held and no one was sent to prison. According to him, there is no pressure from the government but there is no support either.⁵

EULEX

The EULEX Mission has continued with its work. Although it has not provided full statistics, officials within this institution have confirmed for FOL movement that there are investigations going on with corruption cases. According to official sources from this institution 33 cases of organized crime are waiting to be processed in court. Three cases have arrived to the main phase of the trial and three decisions about organized crime have been taken. The EULEX Judges also have processed four decisions relating to anti-corruption. Although FOL was not officially informed about the epilogue trials held by EULEX for corruption cases. FOL has learned from the media that during February the punishment was given for perpetrators of means of "Haradinaj Fund". Jahja Lluka, was sentenced for ten months under condition and the additional penalty of 10 thousand Euros while two other accused Hashim Sejdiu and Milazim Abazi were released as innocent. Meanwhile, the chief prosecutor of EULEX, Theo Jacobs, in a media interview said during February that there are hundreds of different investigations going on. He has denied that he has ever said that during this time the arrest of "great fish" is expected to happen. He has reported that EULEX prosecutors and investigators in cooperation with the locals are conducting good investigations whose outcome is expected to be seen in the spring of this year.

Judiciary

As called for investigating the crime of different people who have fallen in conflict with the law, and to give epilogue for different cases, including corruption, courts and prosecution, have shown less effective in this fight that country's government has priority. The media in Kosovo have even reported a total blockade of the prosecutors and in courts, for the fact that the Reappointment Process has lost their will to work. During the monitoring of the work of these courts, FOL movement has not noticed any specific case tried or investigated. It is possible that something was done in this

⁵ Exclusive interview with Christopher Dell and Hasan Preteni from the show "Jeta në Kosovë, 18.02.2010

way, but at least the movement activists have failed to have access to monthly statistics of these institutions for strengthening the rule of law. The Kosovo Judicial Council, as an institution for managing the work of the judiciary in Kosovo, they have no monthly data about the work being done in these courts. The official request from FOL was refused with the argument that data collection is in the ongoing process. During February the Kosovo Judicial Council has published statistics of the year 2009, but not the statistics for the first two months of 2010. The Ministry of Justice as an institution that deals with the prosecution and their administration has no monthly data for the work of prosecutors throughout Kosovo. Also officials from this institution have reported only the annual statistics of 2009, but not for the first months of 2010. As it seems even the month of February has passed without even a significant case proceeded against corruption. In one of the Kosovo daily newspapers, which quoted the Anti-Corruption Agency director, Mr. Hasan Preteni, has written that thousands of information of this specific Agency remained in the drawer of the prosecutors and the courts of the country. While those for which a criminal act was filed, expect trial. With the demand that FOL movement has done for several days in a row from the Kosovo Judicial Council and Prosecutors was impossible to get a statement, many of them have even ignored the request.

Kosovo Customs

The Kosovo customs is one of the institutions which possessed a monthly review of cases of corruption. This institution under the engaged plans against corruption for 2010 among others has included the investigation of cases, the development of disciplinary procedures (local procedures and Disciplinary Board) and monitoring of disciplinary cases (in the prosecutors, courts and other relevant bodies). According to the report provided by this body from the period January to mid February the following measures were reviewed: In total there was one disciplinary measure for suspension from work. Starting from January 6 cases were initiated in the Professional Standards Section. Three of these cases were initiated by the parties, among them, 1 case for corruption charges, two cases for unprofessional conduct. Three other cases were initiated by customs, among them 1 case - suspicion of misuse of the official position; 1 case – damage of customs property and 1 case - unprofessional conduct.

Media

In February the printed media in Kosovo have been focused on different issues, not over passing also the cases of corruption allegations and detection of affairs and various files about this issue. Several times during the last month the daily newspaper "Koha Ditore", reported about one case of corruption in the Ministry of Internal Affairs of Kosovo. It is about the million Euros tender for plates of this Ministry. The newspaper reported that in the opening day of the mentioned tender, according to the newspaper the company that won the tender "Karposh Kos & UTSCHE", has competed with the price of 14.3 Euros for a pair of tables. The newspaper reported later on that in the day when a winner was selected from the MIA, the price had risen and had gone up to 20.5 for a pair of tables, which according to the newspaper is 6, 20 more than the price given in the beginning.⁶ The tender which according to the newspaper has foreseen the production of 250,000 tables within a year with the announcement of the winner with the most expensive price and leaving aside the cheaper offers has caused harm to the ministry about 1.4 million Euros. During the month of February the Alliance of the Future of Kosovo has reacted about this tender, assessing that "extreme abuse" and this government with high corruption, according to AAK is directly affecting the departure of investors from Kosovo. The Ministry of Internal Affairs has rejected all these accusations, saying that the winner of the tender has not yet been declared. On the other hand, the newspaper "Koha Ditore", from its confidential sources within the international mission for rule of

⁶ www.koha.net

law, EULEX have announced that this mission has opened an investigation about the alleged abuse made.⁷

During this month the media reported about four additional arrests on suspicion of misuse of funds during the asphaltting of a road in Mitrovica. Irregularities in the paving of the road has paid 180,000 Euros, which according to the newspaper "Zeri", has put four people in handcuffs. One of the detainees, according to the newspaper is employee of the Ministry of Transport, another businessman and two other employees, respectively former employees in the Mitrovica Municipal Assembly.⁸

They were arrested by the Kosovo police after an investigation that was conducted by the Economic Crimes Unit, while according to the Chief of Anti-Corruption Agency, Hasan Preteni the case was initiated by investigators from the agency he leads. The same newspaper in late February has indicated that the case is in the hands of international prosecutors of EULEX. The same paper, referring to defense counsel of one of the suspects has reported that the four arrested after a months stay in custody have been released. According to the newspaper they will be on house arrest for another month while their investigations are continuing. During the month the economic crimes sector in the Kosovo Police respectively by the acting leader of this unit it was said that also other tenders of road paving's are being investigated, however, nothing concrete has been seen in this regard.

The same newspaper reported this month for another abuse. It is about the Kosovo Termokos Director, Fëllanza Pula. According to the newspaper she receives two salaries, one in a bank and another in the other bank. The paper also reported that in Termokos, this director has employed many of her relatives. Pula has denied these giving a reason which the newspaper called it as a ridiculous excuse. According to the newspaper, she said that "Kosovo is a small place and it is impossible not to have someone from relatives working in the same institution". Although FOL Movement had no access to data from the prosecution, the newspaper "Zëri" has announced that the Kosovo Special Prosecutor's Office is investigating the University of Prishtina about some millions allegedly been misused at the University of Prishtina during years 2005/06. But the newspaper reported that concrete results of the investigation or when will indictment is expected to be raised is still unknown. During February Zëri has reported abuses at the Prishtina Public University. The newspaper has warned that the centralization of the UP mentioned before allows Rectors office the abuse and misuse of his position.

Different organizations on the fight against corruption Global Integrity Report

Kosovo during the month of February has continued to be perceived by foreign institutions as a place with high-level of corruption. The organization with it's headquartering in the U.S., "Global Integrity," which assesses the level of governance and anti-corruption mechanisms at the national level, it has come out with its report for 2009. According to the report Kosovo was estimated with a grade of 67points, which is considered a weak grade. The weakest grade was given to the Kosovo Assembly with 36 points. A very weak grade was given to the executive which is only 44 from 100 as is the maximum. The responsibility of the Kosovo judiciary received a weak grade of 56. It positively praised the civil society work and that of the Anti Corruption Agency. In this report Kosovo has been in front of Serbia and behind Macedonia.

Kosovo Democratic Institute (KDI)

In early February we came across a reaction from civil society. Respectively, the Kosovo Democratic Institute (KDI) in a table with the topic "Transparency in the process of budgeting and management

⁷ www.koha.net

⁸ "Zeri" newspaper (04.02.2010)

of public money" it has estimated that there is no transparency in budget composition for 2010. It was said that this raised the doubts about the management and budget spending.

Kosovo Democratic Institute (KDI) and the FOL Movement:

The FOL Movement together with Kosovo Democratic Institute in February have introduced in front of the civil society and political parties in Podujevo and Mitrovica the Bill for financing of political parties, in which case concrete recommendations were underlined in order to have a appropriate law. These round table debates were developed under the program "Basic Law and Functional mechanisms of Good Governance".

The included recommendations from the debate:

Limits from private donors should be determined by law;

There is a need for organizing debates with associations of lawyers who should be open and address these issues;

Parliamentary groups should not be financed from state budget;

the law should anticipate the funding of the party branches.

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